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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. **4013**

03/02/2020 Authored by Fischer, Wazlawik and Becker-Finn

The bill was read for the first time and referred to the Committee on Health and Human Services Policy

03/09/2020 Adoption of Report: Amended and re-referred to the Health and Human Services Finance Division

1.1 A bill for an act
1.2 relating to health; modifying requirements for conducting lead risk assessments
1.3 and the issuance and content of lead orders; amending Minnesota Statutes 2018,
1.4 sections 144.9501, subdivision 17; 144.9502, subdivision 3; 144.9504, subdivisions
1.5 2, 5; 256B.0625, subdivision 52.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. Minnesota Statutes 2018, section 144.9501, subdivision 17, is amended to read:

1.8 Subd. 17. **Lead hazard reduction.** "Lead hazard reduction" means abatement or interim
1.9 controls undertaken to make a residence, child care facility, school, ~~or~~ playground, or other
1.10 location where lead hazards are identified lead-safe by complying with the lead standards
1.11 and methods adopted under section 144.9508.

1.12 Sec. 2. Minnesota Statutes 2018, section 144.9502, subdivision 3, is amended to read:

1.13 Subd. 3. **Reports of blood lead analysis required.** (a) Every hospital, medical clinic,
1.14 medical laboratory, other facility, or individual performing blood lead analysis shall report
1.15 the results after the analysis of each specimen analyzed, for both capillary and venous
1.16 specimens, and epidemiologic information required in this section to the commissioner of
1.17 health, within the time frames set forth in clauses (1) and (2):

1.18 (1) within two working days, by telephone, fax, or electronic transmission as prescribed
1.19 by the commissioner, with written or electronic confirmation within one month as prescribed
1.20 by the commissioner, for a venous blood lead level equal to or greater than 15 micrograms
1.21 of lead per deciliter of whole blood; or

2.1 (2) within one month, in writing or by electronic transmission as prescribed by the
2.2 commissioner, for any capillary result or for a venous blood lead level less than 15
2.3 micrograms of lead per deciliter of whole blood.

2.4 (b) If a blood lead analysis is performed outside of Minnesota and the facility performing
2.5 the analysis does not report the blood lead analysis results and epidemiological information
2.6 required in this section to the commissioner, the provider who collected the blood specimen
2.7 must satisfy the reporting requirements of this section. For purposes of this section, "provider"
2.8 has the meaning given in section 62D.02, subdivision 9.

2.9 (c) The commissioner shall coordinate with hospitals, medical clinics, medical
2.10 laboratories, and other facilities performing blood lead analysis to develop a universal
2.11 reporting form and mechanism.

2.12 Sec. 3. Minnesota Statutes 2018, section 144.9504, subdivision 2, is amended to read:

2.13 Subd. 2. **Lead risk assessment.** (a) Notwithstanding section 144.9501, subdivision 6a,
2.14 for purposes of this subdivision, "child" means an individual under 18 years of age.

2.15 ~~(a)~~ (b) An assessing agency shall conduct a lead risk assessment of a residence, residential
2.16 or commercial child care facility, playground, school, or other location where lead hazards
2.17 are suspected according to the venous blood lead level and time frame set forth in clauses
2.18 (1) to (4) for purposes of secondary prevention:

2.19 (1) within 48 hours of a child or pregnant female in the residence, residential or
2.20 commercial child care facility, playground, school, or other location where lead hazards are
2.21 suspected being identified to the agency as having a venous blood lead level equal to or
2.22 greater than 60 micrograms of lead per deciliter of whole blood;

2.23 (2) within five working days of a child or pregnant female in the residence, residential
2.24 or commercial child care facility, playground, school, or other location where lead hazards
2.25 are suspected being identified to the agency as having a venous blood lead level equal to
2.26 or greater than 45 micrograms of lead per deciliter of whole blood;

2.27 ~~(3) within ten working days of a child in the residence being identified to the agency as~~
2.28 ~~having a venous blood lead level equal to or greater than 15 micrograms of lead per deciliter~~
2.29 ~~of whole blood; or~~

2.30 ~~(4)~~ (3) within ten working days of a child or pregnant female in the residence, residential
2.31 or commercial child care facility, playground, school, or other location where lead hazards
2.32 are suspected being identified to the agency as having a venous blood lead level equal to
2.33 or greater than ten micrograms of lead per deciliter of whole blood; or

3.1 (4) within 20 working days of a child or pregnant female in the residence, residential or
3.2 commercial child care facility, playground, school, or other location where lead hazards are
3.3 suspected being identified to the agency as having a venous blood lead level equal to or
3.4 greater than five micrograms of lead per deciliter of whole blood.

3.5 ~~(b)~~(c) Within the limits of available local, state, and federal appropriations, an assessing
3.6 agency may also conduct a lead risk assessment for children with any elevated blood lead
3.7 level.

3.8 ~~(e)~~(d) In a building with two or more dwelling units, an assessing agency shall assess
3.9 the individual unit in which the conditions of this section are met and shall inspect all
3.10 common areas accessible to a child. If a child visits one or more other sites such as another
3.11 residence, or a residential or commercial child care facility, playground, or school, the
3.12 assessing agency shall also inspect the other sites. The assessing agency shall have one
3.13 additional day added to the time frame set forth in this subdivision to complete the lead risk
3.14 assessment for each additional site.

3.15 ~~(d)~~(e) Within the limits of appropriations, the assessing agency shall identify the known
3.16 addresses for the previous 12 months of the child or pregnant female with venous blood
3.17 lead levels of at least 15 micrograms per deciliter for the child or at least ten micrograms
3.18 per deciliter for the pregnant female; notify the property owners, landlords, and tenants at
3.19 those addresses that an elevated blood lead level was found in a person who resided at the
3.20 property; and give them primary prevention information. Within the limits of appropriations,
3.21 the assessing agency may perform a risk assessment and issue corrective orders in the
3.22 properties, if it is likely that the previous address contributed to the child's or pregnant
3.23 female's blood lead level. The assessing agency shall provide the notice required by this
3.24 subdivision without identifying the child or pregnant female with the elevated blood lead
3.25 level. The assessing agency is not required to obtain the consent of the child's parent or
3.26 guardian or the consent of the pregnant female for purposes of this subdivision. This
3.27 information shall be classified as private data on individuals as defined under section 13.02,
3.28 subdivision 12.

3.29 ~~(e)~~(f) The assessing agency shall conduct the lead risk assessment according to rules
3.30 adopted by the commissioner under section 144.9508. An assessing agency shall have lead
3.31 risk assessments performed by lead risk assessors licensed by the commissioner according
3.32 to rules adopted under section 144.9508. If a property owner refuses to allow a lead risk
3.33 assessment, the assessing agency shall begin legal proceedings to gain entry to the property
3.34 and the time frame for conducting a lead risk assessment set forth in this subdivision no
3.35 longer applies. A lead risk assessor or assessing agency may observe the performance of

4.1 lead hazard reduction in progress and shall enforce the provisions of this section under
4.2 section 144.9509. Deteriorated painted surfaces, bare soil, and dust must be tested with
4.3 appropriate analytical equipment to determine the lead content, except that deteriorated
4.4 painted surfaces or bare soil need not be tested if the property owner agrees to engage in
4.5 lead hazard reduction on those surfaces. The lead content of drinking water must be measured
4.6 if another probable source of lead exposure is not identified. Within a standard metropolitan
4.7 statistical area, an assessing agency may order lead hazard reduction of bare soil without
4.8 measuring the lead content of the bare soil if the property is in a census tract in which soil
4.9 sampling has been performed according to rules established by the commissioner and at
4.10 least 25 percent of the soil samples contain lead concentrations above the standard in section
4.11 144.9508.

4.12 ~~(f)~~ (g) Each assessing agency shall establish an administrative appeal procedure which
4.13 allows a property owner to contest the nature and conditions of any lead order issued by
4.14 the assessing agency. Assessing agencies must consider appeals that propose lower cost
4.15 methods that make the residence lead safe. The commissioner shall use the authority and
4.16 appeal procedure granted under sections 144.989 to 144.993.

4.17 ~~(g)~~ (h) Sections 144.9501 to 144.9512 neither authorize nor prohibit an assessing agency
4.18 from charging a property owner for the cost of a lead risk assessment.

4.19 Sec. 4. Minnesota Statutes 2018, section 144.9504, subdivision 5, is amended to read:

4.20 Subd. 5. **Lead orders.** (a) An assessing agency, after conducting a lead risk assessment,
4.21 shall order a property owner to perform lead hazard reduction on all lead sources that exceed
4.22 a standard adopted according to section 144.9508. If lead risk assessments and lead orders
4.23 are conducted at times when weather or soil conditions do not permit the lead risk assessment
4.24 or lead hazard reduction, external surfaces and soil lead shall be assessed, and lead orders
4.25 complied with, if necessary, at the first opportunity that weather and soil conditions allow.

4.26 (b) If, after conducting a lead risk assessment, an assessing agency determines that the
4.27 property owner's lead hazard originated from another source location, the assessing agency
4.28 may order the responsible person of the source location to:

4.29 (1) perform lead hazard reduction at the site where the assessing agency conducted the
4.30 lead risk assessment; and

4.31 (2) remediate the conditions at the source location that allowed the lead hazard, pollutant,
4.32 or contaminant to migrate from the source location.

5.1 For purposes of this subdivision, "pollutant or contaminant" has the meaning given in section
5.2 115B.02, subdivision 13, and "responsible person" has the meaning given in section 115B.03.

5.3 ~~(b)~~ (c) If the paint standard under section 144.9508 is violated, but the paint is intact,
5.4 the assessing agency shall not order the paint to be removed unless the intact paint is a
5.5 known source of actual lead exposure to a specific person. Before the assessing agency may
5.6 order the intact paint to be removed, a reasonable effort must be made to protect the child
5.7 and preserve the intact paint by the use of guards or other protective devices and methods.

5.8 ~~(e)~~ (d) Whenever windows and doors or other components covered with deteriorated
5.9 lead-based paint have sound substrate or are not rotting, those components should be repaired,
5.10 sent out for stripping or planed down to remove deteriorated lead-based paint, or covered
5.11 with protective guards instead of being replaced, provided that such an activity is the least
5.12 cost method. However, a property owner who has been ordered to perform lead hazard
5.13 reduction may choose any method to address deteriorated lead-based paint on windows,
5.14 doors, or other components, provided that the method is approved in rules adopted under
5.15 section 144.9508 and that it is appropriate to the specific property.

5.16 ~~(d)~~ (e) Lead orders must require that any source of damage, such as leaking roofs,
5.17 plumbing, and windows, be repaired or replaced, as needed, to prevent damage to
5.18 lead-containing interior surfaces.

5.19 ~~(e)~~ (f) The assessing agency is not required to pay for lead hazard reduction. The assessing
5.20 agency shall enforce the lead orders issued to a property owner under this section.

5.21 Sec. 5. Minnesota Statutes 2018, section 256B.0625, subdivision 52, is amended to read:

5.22 Subd. 52. **Lead risk assessments.** (a) Effective October 1, 2007, or six months after
5.23 federal approval, whichever is later, medical assistance covers lead risk assessments provided
5.24 by a lead risk assessor who is licensed by the commissioner of health under section 144.9505
5.25 and employed by an assessing agency as defined in section 144.9501. Medical assistance
5.26 covers a onetime on-site investigation of a recipient's home or primary residence to determine
5.27 the existence of lead so long as the recipient is under the age of 21 and has a venous blood
5.28 lead level specified in section 144.9504, subdivision 2, paragraph ~~(a)~~ (b).

5.29 (b) Medical assistance reimbursement covers the lead risk assessor's time to complete
5.30 the following activities:

5.31 (1) gathering samples;

5.32 (2) interviewing family members;

6.1 (3) gathering data, including meter readings; and

6.2 (4) providing a report with the results of the investigation and options for reducing
6.3 lead-based paint hazards.

6.4 Medical assistance coverage of lead risk assessment does not include testing of
6.5 environmental substances such as water, paint, or soil or any other laboratory services.

6.6 Medical assistance coverage of lead risk assessments is not included in the capitated services
6.7 for children enrolled in health plans through the prepaid medical assistance program and
6.8 the MinnesotaCare program.

6.9 (c) Payment for lead risk assessment must be cost-based and must meet the criteria for
6.10 federal financial participation under the Medicaid program. The rate must be based on
6.11 allowable expenditures from cost information gathered. Under section 144.9507, subdivision
6.12 5, federal medical assistance funds may not replace existing funding for lead-related activities.
6.13 The nonfederal share of costs for services provided under this subdivision must be from
6.14 state or local funds and is the responsibility of the agency providing the risk assessment.
6.15 When the risk assessment is conducted by the commissioner of health, the state share must
6.16 be from appropriations to the commissioner of health for this purpose. Eligible expenditures
6.17 for the nonfederal share of costs may not be made from federal funds or funds used to match
6.18 other federal funds. Any federal disallowances are the responsibility of the agency providing
6.19 risk assessment services.