Lead-Based Paint
The Law in Indiana

2008 Supplement[1]

This 2008 Supplement reflects all changes in relevant law, regulation and policy since the original publication of the Manual in 2006. It includes (and can replace) the 2007 Supplement.

There have been several significant changes in since this manual was issued in 2006, including the issuance of federal regulations requiring lead safety training and lead safe work practices for renovators, the passage of a Childhood Lead Poisoning Prevention bill in Indiana in 2008, an administrative transfer of responsibility for implementation of Indiana's lead paint training program from IDEM to ISDH and regulatory changes to Indiana's case management regulations. This supplement describes those changes as well as a few others.[2]

Since the Manual was issued, the issue of lead in toys has risen to national prominence as the US Consumer Product Safety Commission issues recall after recall. The best way to keep up to date with recalls is to request to be put on the CPSC's email notice list. You can register and specify the types of recalls about which you would like to be notified at http://www.cpsc.gov/cpsclist.aspx.

The spate of recalls has generated high level discussions at the national and state levels about how to address lead in imported products and it is very important that we do so. However, it is important to remember that the vast majority of children with elevated blood lead levels were exposed at home, not through a toy or other product. A second, equally important, result of the recalls is to greatly increase public awareness of childhood lead poisoning, increase the number of parents having their children screened and therefore the number of children with elevated blood lead levels being identified and treated.

Rights and Responsibilities of Tenants and Landlords

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[1] This Supplement was prepared by Janet McCabe, JD, of Improving Kids' Environment, Inc., August 2008. A copy of *Lead-Based Paint: The Law in Indiana* (2006) is available for download http://www.ikecoalition.org/Lead/index.htm or in hard copy (for the cost of copying and postage) from IKE at 317-902-3610 or mccabe@ikecoalition.org. Publication of this document is funded by a grant from the United States Environmental Protection Agency and does not necessarily represent the views of that agency. The document is entirely the product of Improving Kids' Environment, Inc.

[2] The organization of this document follows the section headings of the Manual; only sections with updated information are included.

A. Before the Tenant Moves In; the Landlord's Duty to Disclose Information About Lead-Based Paint

1. The Duty to Disclose

Indiana court decision affirms the right of a child to bring an action under the federal disclosure law for the landlord's failure to disclose.

On September 16, 2006, a judge for the United States District Court of the Southern District of Indiana (Evansville) issued a decision in a case brought by tenants on behalf of their lead poisoned child against their landlords. The parents' suit alleged that the landlord had violated the federal Residential Lead-Based Paint Hazard Reduction Act by failing to provide them with the required lead hazard information disclosure before they signed the lease. The home had significant amounts of peeling paint and was in general disrepair. The parents also claimed a violation of the Indiana Landlord-Tenant statute, IC § 32-31-3, because the property was not safe, clean and habitable and did not comply with applicable housing and health codes. The landlord asked the court to dismiss the case, arguing that the poisoned child was not a "lessee" as defined by the federal law and that they had failed to state a claim under state landlord-tenant law. *McCormick v. Kissel*, No. 3:06-cv-64-WGH-RLY, September 16, 2006.

The court found that the child did have standing to bring the lawsuit, even though the Lead-Based Paint statute itself does not explicitly give minor children that right. The court found that there "is a causal connection between Defendants' failure to make the disclosures required under RLPHRA and [the child's] injury" and that the child's injury "falls within the zone of interests sought to be protected by Congress under RLPHRA." Opinion at 7. The court also noted that the exact purpose of the statute is to protect children from lead poisoning so to preclude them from bringing an action would be contrary to the intent of Congress. *Id.*

On the state law claim, the court found that the tenants had failed to give the landlords notice of the alleged violations, as required by the Landlord-tenant statute, and therefore dismissed the claim.

A copy of the opinion is attached as Appendix A.

Federal administrative opinions on USEPA cases enforcing the disclosure rule.

When USEPA takes enforcement action against a property owner for violations of the lead-based paint disclosure requirements, property owners can ask for review initially by EPA Administrative Law Judges and Regional Presiding Officers and then through further appeal to the Environmental Appeals Board (EAB). These decisions provide interpretations of the federal law. Appendix B summarizes four EAB decisions issued since 2000 and provides a weblink for the full opinions.

B. After the Tenant Moves In: the Right to Healthy Housing

2.b. Local Health and Housing Codes

Several Indiana cities are considering or in the process of adopting changes to their local codes to address lead hazards explicitly or provide further definition of the responsibilities of owners of rental property. Improving Kids' Environment has produced a Menu of Options for local government considering changes to local codes or efforts to improve enforcement of existing codes, available at http://www.ikecoalition.org/Lead/Model_Housing_Code_Provisions_May2007.pdf

8. How and Where to Bring a Claim

In *McCormick v. Kissel,* discussed above, the court ruled that the tenants had not properly brought a claim under state landlord-tenant law because they had failed to notify the landlord of unsafe conditions, as provided in IC 32-31-8-6.[3] Tenants should be advised, therefore, to notify their landlords in writing, of unsafe and unhealthy conditions, including lead paint hazards, in the residence.

Cleaning Up the Hazard; Maintenance and Repairs Where Hazards May Exist

ISDH has assumed responsibility for all state-level lead paint programs.

Effective October 1, 2007, the Indiana Department of Environmental Management and the Indiana State Department of Health entered into a Memorandum of Understanding whereby ISDH assumed responsibility for implementing and enforcing Indiana's lead paint abatement statute and regulations.

ISDH will also become the state grantee for federal funds from USEPA to implement these programs. ISDH has now become the state agency delegated by USEPA for accreditation of lead training providers, the licensing of abatement contractors, and the licensing of all lead professional disciplines. ISDH will also be responsible for monitoring lead-based paint activities such as abatement, assessment/ inspection, and lead safe work practices (where required). ISDH will receive abatement notifications and monitor regulatory compliance at abatement

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[3] The statute provides:

Sec. 6. (a) A tenant may bring an action in a court with jurisdiction to enforce an obligation of a landlord under this chapter.

(b) A tenant may not bring an action under this chapter unless the following conditions are met:

(1) The tenant gives the landlord notice of the landlord's noncompliance with a provision of this chapter.

(2) The landlord has been given a reasonable amount of time to make repairs or provide a remedy of the condition described in the tenant's notice. The tenant may not prevent the landlord from having access to the rental premises to make repairs or provide a remedy to the condition described in the tenant's notice.

(3) The landlord fails or refuses to repair or remedy the condition described in the tenant's notice.

projects. ISDH will ensure that non-abatement activities comply with applicable regulations.

The Role of Government

A. What Does Local Government Do?

As a result of the new state regulations promulgated by ISDH effective February 1, 2007, local health departments (LHDs) have clear authority and responsibility to follow-up on children with elevated blood lead levels.

Key elements of the requirements for LHDs include:

- Outreach and community awareness on lead issues;
- Identification of community resources;
- Required training for case managers;
- Screening of at-risk children and identification of children with elevated blood lead levels;
- Child case management for all screened children including lead education;
- Additional child case management activities for confirmed elevated BLLs, including:
    - a home visit
    - reporting and coordination with medical care providers;
    - nutritional, developmental, and behavioral history of the child;
    - referral to other appropriate social services;
    - screening of other children or pregnant women in the home;
    - an environmental inspection, including an investigation into all potential sources of lead poisoning, and a full risk assessment of the child's primary and secondary residences;
    - a report to the property owner of any lead hazards found and options for the remediation of those within a reasonable time; and
    - a clearance examination to ensure remediation of the lead hazards.
- Clear guidelines on case closure;
- Retesting protocols.

B. What Does State Government Do?

In February 2007, the Indiana State Department of Health promulgated new regulations at 410 IAC 29. The regulations are reproduced in Appendix C. These regulations were required to be developed by Senate Enrolled Act 538, passed in 2005, and establish specific responsibilities for local health departments upon discovery of a child with an elevated blood lead level. The main elements of the rules are as follows:

- Require electronic submission of lab reports of blood lead levels from any lab that submits more than 50 reports a year;

- Establish clear and consistent guidance for local health departments to do case management and environmental follow-up of children with elevated blood lead levels; and
- Incorporate in one place in the Indiana Administrative Code the various provisions addressing childhood lead poisoning.

As noted above, as of fall 2007, the Indiana Department of Environmental Management no longer has any responsibility for lead paint abatement programs, training, licensing or enforcement. The Indiana State Department of Health has assumed the responsibilities outlined in the original Manual roles with respect to the training, licensing and enforcement programs for lead-based paint abatement.

Appendix A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
EVANSVILLE DIVISION

TIM and JESSICA McCORMICK, INDIVIDUALLY and as PARENTS and NEXT FRIENDS of D.M., Plaintiffs,	)
v.	) 3:06-cv-64-WGH-RLY
DONALD E. KISSEL and SARAH W. KISSEL,	)
Defendants.	)

ENTRY ON DEFENDANTS' MOTION TO DISMISS

Introduction

This matter is before the Honorable William G. Hussmann, Jr., United States Magistrate Judge, on Defendants' Motion to Dismiss filed May 12, 2006. (Docket Nos. 10-11).[ξ] Plaintiffs filed their Memorandum Opposing Motion to Dismiss on June 15, 2006. (Docket No. 17). Defendants filed their Reply Brief on July 10, 2006. (Docket No. 21).

Background

Plaintiffs Tim McCormick and Jessica McCormick filed suit individually and as parents and next friends of their infant son, D.M. (Complaint ¶ 2). Plaintiffs allege that they entered into a lease with Defendants, Donald E. Kissel and Sarah W. Kissel on November 9, 2004, to lease property owned by Defendants located at 213 Taylor Avenue in Evansville, Indiana. (Complaint ¶ 1). Plaintiffs contend that, at the time the lease was executed, Defendants were aware that a very young child would be living at the esidence. (Complaint ¶ 4). According to Plaintiffs, several layers of paint were pealing in both the interior and exterior, and the property's paint cover was in significant disrepair. (Complaint ¶ 5). Plaintiffs moved out of the leased property on July 1, 2005. (Complaint ¶ 11). Based on tests conducted by the Vanderburgh County Health Department on July 20, 2005 and September 30, 2005, D.M.'s blood contained significant amounts of lead. (Complaint ¶¶ 9-10). Plaintiffs allege that D.M. has been subjected to lead poisoning as a

[ξ] The parties consented to Magistrate Judge jurisdiction in this case in their Case Management Plan filed July 5, 2006. (Docket No. 20). District Judge Richard Young entered an Order of Reference on July 11, 2006. (Docket No. 22).

direct and proximate result of living at the leased property, and that lead poisoning has been found to contribute to significant brain damage that is permanent and irreparable. (Complaint ¶¶ 12-13). Plaintiffs argue that D.M. will require special assistance and therapy for many years, and that he has been permanently and seriously injured because of the lead paint exposure. (Complaint ¶ 14).

Plaintiffs filed suit claiming a violation of the Residential Lead-Based Paint Hazard Reduction Act ("RLPHRA"), 42 U.S.C. § 4852d(a). Plaintiffs contend that, based on RLPHRA and related regulations, the rental property was "target housing," and because Defendants were leasing such "target housing" to Plaintiffs, they were required to provide an EPA approved lead hazard information disclosure. (Complaint ¶¶ 21-26). Plaintiffs further contend that they are entitled to treble damages as well as costs and attorney's fees because Defendants knowingly violated RLPHRA. (Complaint ¶¶ 28-32). Plaintiffs also claim a violation of Indiana's Residential Landlord-Tenant statutes. IND. CODE § 32-31-3 *et seq*. Plaintiffs allege that the property was not delivered in a safe, clean and habitable condition and did not comply with all applicable health and housing codes. (Complaint ¶¶ 45-48). According to Plaintiffs, Defendants' actions were in violation of the Indiana Code and Plaintiffs are entitled to recover actual damages, consequential damages, attorney's fees, court costs, injunctive relief and any other remedy appropriate under the circumstances. (Complaint ¶ 49).

Defendants filed the pending Motion to Dismiss arguing that Plaintiffs' RLPHRA claim on behalf of their minor son must be dismissed because D.M. was not a "purchaser" or "lessee" as defined by the Act, and he, therefore, does not have standing to sue under RLPHRA. Defendants also claim that Plaintiffs' Complaint does not state a cause of action under the Indiana Residential Landlord-Tenant statutes because Plaintiffs' Complaint fails to allege facts sufficient to support a claim.

The Court concludes that, for the following reasons, Defendants' Motion to Dismiss should be **GRANTED, in part,** and **DENIED, in part.**

Legal Standard

When ruling on a Rule 12(b)(6) motion to dismiss for failure to state a claim, the court must accept as true all well-pleaded factual allegations contained in the complaint, as well as the inferences reasonably drawn therefrom. *See Baxter by Baxter v. Vigo County School Corp.,* 26 F.3d 728, 730 (7th Cir. 1994). A dismissal is only appropriate if the plaintiff can establish no set of facts, even if hypothesized, consistent with the allegations of its complaint that would entitle it to relief. *See Sanjuan v. American Bd. of Psychiatry and Neurology, Inc.,* 40 F.3d 247, 251 (7th Cir. 1994), *cert. denied,* 516 U.S. 1159 (1996). Moreover, the court must only examine the complaint, and not the merits of the lawsuit. *See Autry v. Northwest Premium Services, Inc.,* 144 F.3d 1037, 1039 (7th Cir. 1998).

Analysis

1. D.M. Does Not Lack Standing to Pursue a Claim under RLPHRA

Defendant's first argument is that the portion of Plaintiffs' claim in Count I of their Complaint alleging a cause of action on behalf of D.M. must be dismissed because D.M. does not have standing to sue.

A. RLPHRA

RLPHRA was enacted in 1992 to develop the means to "eliminate lead-based paint hazards in all housing as expeditiously as possible"[ξ] while also educating the public about the "hazards and sources of lead-based paint poisoning and steps to reduce and eliminate such hazards." 42 U.S.C. §§ 4851a(1) & (7). In light of these needs, Congress provided disclosure requirements for lessors or sellers of certain property. These disclosure provisions of RLPHRA specifically state that the Secretary of the Department of Housing and Urban Development ("HUD") and the Administrator of the Environmental Protection Agency ("EPA") shall promulgate regulations concerning the disclosure of lead-based paint hazards in "target housing," defined as housing built prior to 1978 with limited exception, which is offered for sale or lease. §§ 4851b(27) & 4852d(a)(1). RLPHRA provides that:

> . . . The regulations shall require that, before the purchaser or lessee is obligated under any contract to purchase or lease the housing, the seller or lessor shall--
> (A) provide the purchaser or lessee with a lead hazard information pamphlet, as prescribed by the Administrator of the Environmental Protection Agency under section 406 of the Toxic Substances Control Act [15 U.S.C.A. § 2686];
> (B) disclose to the purchaser or lessee the presence of any known lead-based paint, or any known lead-based paint hazards, in such housing and provide to the purchaser or lessee any lead hazard evaluation report available to the seller or lessor; and
> (C) permit the purchaser a 10-day period (unless the parties mutually agree upon a different period of time) to conduct a risk assessment or inspection for the presence of leadbased paint hazards.

§ 4852d(a)(1). Violations of RLPHRA can lead to penalties including a monetary penalty for knowingly violating the statute, an injunction enforced by the Secretary of HUD, civil liability for knowingly violating the statute in "an amount equal to 3 times the amount of damages incurred by [a purchaser or lessee]," and cost and

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[ξ] A lead-based paint hazard includes "any condition that causes exposure to lead from lead-contaminated dust, lead-contaminated soil, lead-contaminated paint that is deteriorated or present in accessible surfaces, impact surfaces, or friction surfaces that would result in adverse human health effects. . . ." 42 U.S.C. § 4851b(15).

attorney's fees. § 4852d(b).

B. Standing to Sue Under RLPHRA

Defendants are correct when they argue that RLPHRA does not explicitly state that a tenant's minor child has standing to sue for failure to provide the requisite disclosure of lead-based paint hazards. Additionally, the regulations promulgated in accordance with RLPHRA define lessee as "any entity that enters into an agreement to lease, rent, or sublease target housing, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes, and nonprofit organizations." 24 C.F.R. § 35.86.

Two Circuit Courts of Appeals have examined the issue of whether the language in RLPHRA, and its accompanying regulations, confers standing on a minor child, and have come to different conclusions. *See Cudjoe ex rel. Cudjoe v. Department of Veterans Affairs,* 426 F.3d 241 (3rd Cir. 2005); *Mason ex rel. Heiser v. Morrisette,* 403 F.3d 28 (1st Cir. 2005). In *Heiser*, the First Circuit simply concluded that a minor child did not qualify as a lessee and, therefore, could not enforce the disclosure provisions of RLPHRA. *Heiser,* 403 F.3d at 31-32. In *Cudjoe*, the Third Circuit came to the conclusion that a minor child's claim would not be dismissed because "a person without express statutory standing may still have standing to sue if the person meets the minimum requirements for Article III standing as well as the additional elements of prudential standing." *Cudjoe,* 426 F.3d at 250. The Seventh Circuit has not yet had the occasion to visit this issue.

We conclude that, because an individual's standing to sue may go beyond what is explicitly stated in a statute, D.M. does have standing under RLPHRA. An individual may demonstrate standing to sue by meeting the standing requirements of both Article III of the United States Constitution and prudential standing. For Article III standing, an individual must have suffered an "injury in fact" that is actual, concrete and particularized, which has a causal connection with Defendants' actions, and is redressable in court. *Lujan v. Defenders of Wildlife,* 504 U.S. 555, 560-61, 112 S.Ct. 2130, 119 L.Ed.2d 351 (1992). The additional requirement of prudential standing requires Plaintiffs to show that D.M.'s injury falls within "the 'zone of interests' sought to be protected by the statutory provision whose violation forms the legal basis for [their] complaint." *Lujan v. National Wildlife Federation,* 497 U.S. 871, 883, 110 S.Ct. 3177, 111 L.Ed.2d 695 (1990).

In this case, Congress has clearly created a private right of action under RLPHRA. A lessee may sue for three times the damages incurred as a result of a lessor's failure to make the appropriate disclosures provided in 42 U.S.C. § 4852d(a)(1). Hence, D.M.'s alleged injury (lead poisoning) is an actual, concrete, particularized injury which is redressable in court, and there is a causal connection between Defendants' failure to make the disclosures required under RLPHRA and D.M.'s injury.

Prudential standing also exists because D.M. falls within the zone of interests

sought to be protected by Congress under RLPHRA. Congress explained that a lessee may sue a lessor for failure to make the proper lead-based paint hazard disclosures. And, the definition of a lessee includes an "individual," and does not explicitly exclude children. D.M. is an individual who, but for the legal impediment of age, would have been a signatory to the lease. The Court also notes that the language of RLPHRA is replete with references to protecting children from lead-based paint hazards. In the Findings section, Congress noted the following:

> The Congress finds that–
> (1) low-level lead poisoning is widespread among American children, afflicting as many as 3,000,000 children under age 6, with minority and low-income communities disproportionately affected;
> (2) at low levels, lead poisoning in children causes intelligence quotient deficiencies, reading and learning disabilities, impaired hearing, reduced attention span, hyperactivity, and behavior problems;
> (3) pre-1980 American housing stock contains more than 3,000,000 tons of lead in the form of lead-based paint, with the vast majority of homes built before 1950 containing substantial amounts of lead-based paint;
> (4) the ingestion of household dust containing lead from deteriorating or abraded lead-based paint is the most common cause of lead poisoning in children;
> (5) the health and development of children living in as many as 3,800,000 American homes is endangered by chipping or peeling lead paint, or excessive amounts of lead-contaminated dust in their homes;
> (6) the danger posed by lead-based paint hazards can be reduced by abating lead-based paint or by taking interim measures to prevent paint deterioration and limit children's exposure to lead dust and chips;
> (7) despite the enactment of laws in the early 1970's requiring the Federal Government to eliminate as far as practicable lead-based paint hazards in federally owned, assisted, and insured housing, the Federal response to this national crisis remains severely limited; and
> (8) the Federal Government must take a leadership role in building the infrastructure–including an informed public, State and local delivery systems, certified inspectors, contractors, and laboratories, trained workers, and available financing and insurance–necessary to ensure that the national goal of eliminating lead-based paint hazards in housing can be achieved as expeditiously as possible.

42 U.S.C. § 4851 (emphasis added). By placing such an emphasis on a need to protect children, Congress clearly indicated that D.M. was in the zone of interests sought to be protected by RLPHRA. Children's injuries from exposure to lead-based paint were the exact injuries that Congress intended to be abated by the passing of RLPHRA. For this Court to rule that only Tim McCormick and Jessica McCormick had standing to sue, we would be ruling that the only damages recoverable would be for the medical care of D.M. until the McCormicks no longer had to take care of him.

That would prohibit taking into consideration any of the permanent injuries D.M. might have suffered which were the types of injuries (permanent neurological damage, learning disabilities, impaired hearing, etc.) that Congress explicitly sought to abate. We, therefore, conclude that D.M. was within the zone of interests sought to be protected by Congress.

Because Plaintiffs have satisfied the requirements of both Article III and prudential standing, Defendants' Motion to Dismiss must be **DENIED.**

2. Plaintiffs Have Not Stated a Cause of Action Under Indiana's Residential Landlord-Tenant Statutes

The Indiana Residential Landlord-Tenant statutes place certain specific obligations on a landlord. Section 32-31-8-5 of the Indiana Code states that:

> A landlord shall do the following:
> (1) Deliver the rental premises to a tenant in compliance with the rental agreement, and in a safe, clean, and habitable condition.
> (2) Comply with all health and housing codes applicable to the rental premises.
> (3) Make all reasonable efforts to keep common areas of a rental premises in a clean and proper condition.
> (4) Provide and maintain the following items in a rental premises in good and safe working condition, if provided on the premises at the time the rental agreement is entered into:
> (A) Electrical systems.
> (B) Plumbing systems sufficient to accommodate a reasonable supply of hot and cold running water at all times.
> (C) Sanitary systems.
> (D) Heating, ventilating, and air conditioning systems. A heating system must be sufficient to adequately supply heat at all times.
> (E) Elevators, if provided.
> (F) Appliances supplied as an inducement to the rental agreement.

IND. CODE § 32-31-8-5. However, there are prerequisites to a tenant filing suit. According to IND. CODE § 32-31-8-6(b), a tenant is prohibited from bringing suit unless:

> (1) The tenant gives the landlord notice of the landlord's noncompliance with a provision of this chapter.
> (2) The landlord has been given a reasonable amount of time to make repairs or provide a remedy of the condition described in the tenant's notice. The tenant may not prevent the landlord from having access to the rental premises to make repairs or provide a remedy to the condition described in the tenant's notice.
> (3) The landlord fails or refuses to repair or remedy the condition described in the tenant's notice.

IND. CODE § 32-31-8-6(b).

In this instance, Plaintiffs' Complaint contains no allegations that Plaintiffs gave Defendants the notice required in IND. CODE § 32-31-8-6(b) or that Plaintiffs, after providing Defendants with notice, gave Defendants a reasonable amount of time to remedy the problems. Absent such allegations in the Complaint, the Court concludes that Plaintiffs have failed to state a claim under the Indiana Residential Landlord-Tenant statutes, and Count II of Plaintiffs' Complaint must be **DISMISSED.**

Conclusion

For the reasons outlined above, Defendants' Motion to Dismiss is **GRANTED, in part, and DENIED, in part.** The entirety of Count I of Plaintiffs' Complaint remains, while Count II of Plaintiffs' Complaint is **DISMISSED**.

SO ORDERED.

Dated: September 18, 2006

Appendix B

U.S. Environmental Protection Agency
Environmental Appeals Board
Rulings on the Federal Lead-based Paint Disclosure Rule

Background

The U.S. Environmental Protection Agency's (EPA's) Environmental Appeals Board (EAB) has issued four opinions concerning violations of the federal Lead-based Paint Disclosure Rule (LBP Disclosure Rule, or Rule), promulgated pursuant to Section 1018 of the Residential Lead-based Paint Hazard Reduction Act (RLBPHRA). The EAB reviews Initial Decisions by EPA Administrative Law Judges (ALJs) and Regional Presiding Officers (RPOs) in civil enforcement actions, and renders Final Decisions on behalf of EPA's Administrator. Respondents may appeal EAB Final Decisions to federal court. The EAB Final Orders discussed below are available at http://yosemite.epa.gov/oa/EAB_Web_Docket.nsf/TSCA~Decisions?OpenView

***In re:* Ronald H. Hunt, 12 E.A.D. __ (Aug. 17, 2006).**

This ruling illustrates that, notwithstanding purported compliance with a local LBP abatement order, a person must still comply with the federal LBP Disclosure Rule, and may face sizable penalties for failing to do so.

In 2006, the EAB upheld an ALJ's $84,224 civil penalty assessment against five respondents (four owner/lessors and one property management agent) for 32 LBP Disclosure Rule violations based on ten leases for properties in Richmond, VA. The EAB rejected all of the respondents arguments on appeal, including respondents' claim that they should have received a lower penalty since they'd already complied with a local health department order by conducting lead encapsulation. The health department had sent correspondence to the property owners and management agent citing lead paint conditions and/or hazards in the properties, but this information was not disclosed to prospective tenants as required by the Rule. Several of the tenants had children under the age of six when they entered into the leases. Children under age six are especially vulnerable to the risk of neurological injury from lead poisoning.

***In re:* Harpoon Partnership, 12 E.A.D. __ (May 19, 2005); *dismissed*, Harpoon Partnership v. EPA, No. 05-2806 (7th Cir., Aug. 24, 2005).**

The EAB affirmed an ALJ's assessment of a $37,037 civil penalty for LBP Disclosure Rule violations involving nine leasing transactions in an apartment building owned by Harpoon Partnership. Two transactions involved children, one of which was younger than six years of age. Harpoon had argued that it was a "passive owner," and that its property management agent was the "lessor" for purposes of the Rule. The ALJ disagreed, concluding that the term "lessor" includes owners that hire management companies to act as their agents.

On appeal to the EAB, Harpoon argued that (1) it did not have fair notice of its status as a lessor under the Rule, and (2) the lessor/agent's certification (required by the Rule) as to

the accuracy of its statements need not occur before a tenant becomes obligated under a lease. The EAB disagreed and upheld the ALJ's decision in its entirety, finding that Harpoon (1) had fair notice that it was a "lessor," and (2) was liable because all requirements applicable to lessors must be completed before a tenant becomes obligated under a lease. Harpoon appealed to the U.S. Seventh Circuit Court of Appeals, which dismissed Harpoon's petition after the United States argued that Harpoon failed to timely file its appeal.

***In re:* Billy Yee, 10 E.A.D. 1 (May 29, 2001); *dismissed*, Billy Yee v. EPA, No. 01-2627 (8th Cir. Jan. 24, 2002).**

An EPA RPO assessed a $29,700 penalty against Missouri landlord Billy Yee for violating the LBP Disclosure Rule. Yee leased premises to tenants that included six children under the age of 13, four of which were diagnosed with severe lead poisoning. The RPO rejected Yee's defense that the operative provisions of the LBP Disclosure Rule was not in effect at the time of the violations due to an "editorial note" in the official regulation. The EAB affirmed the RPO ruling and found that (1) Yee had waived this defense by failing to raise it below, and (2) even if the defense had not been waived, an editorial note did not obviate the effectiveness of the Rule, nor Yee's obligation to comply with it.

***In re:* U.S. Department of the Navy, Kingsville Naval Air Station, 9 E.A.D. 19 (Mar. 17, 2000).**

The EAB took an interlocutory appeal by the Navy, which argued that the RPO erred in ruling that the Residency Occupancy Agreements the Navy used for its personnel constituted "contracts to lease" within the meaning of the RLBPHRA and LBP Disclosure Rule. The EAB reversed the RPO's determination and dismissed the Region's complaint, finding that a fair reading of the LBP Disclosure Rule indicates that the Rule had not contemplated encompassing Residency Occupancy Agreements.

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Appendix C

ARTICLE 29. REPORTING, MONITORING, AND PREVENTIVE PROCEDURES FOR LEAD POISONING

Rule 1. Definitions

410 IAC 29-1-1 Applicability

Authority: IC 16-41-39.4-1
Affected: IC 16-41-39.4
Sec. 1. The definitions in this rule apply throughout this article. *(Indiana State Department of Health; 410 IAC 29-1-1; filed Jan 2, 2007, 2:49 p.m.: 20070131-IR-410050189FRA)*

410 IAC 29-1-2 "At-risk" defined

Authority: IC 16-41-39.4-1
Affected: IC 16-41-39.4
Sec. 2. "At-risk" means a child is at-risk if that child:
(1) lives in or regularly visits a house or other structure built before 1978;
(2) has a sibling or playmate who has been lead poisoned;
(3) has frequent contact with an adult who:
(A) works in an industry; or
(B) has a hobby;
that uses lead;
(4) is an immigrant or refugee or has recently lived abroad;
(5) is a member of a minority group;
(6) is a Medicaid recipient;
(7) uses medicines or cosmetics containing lead; or
(8) lives in a geographic area that increases the child's probability of exposure to lead.
(Indiana State Department of Health; 410 IAC 29-1-2; filed Jan 2, 2007, 2:49 p.m.: 20070131-IR-410050189FRA)

410 IAC 29-1-3 "Capillary blood lead test" defined

Authority: IC 16-41-39.4-1
Affected: IC 16-41-39.4
Sec. 3. "Capillary blood lead test" means a blood lead test for which the blood sample was drawn using a finger lance to break the skin, followed by:
(1) drawing the blood from the cut into a capillary tube or other collection device; or
(2) placing drops of blood onto a piece of filter paper.
(Indiana State Department of Health; 410 IAC 29-1-3; filed Jan 2, 2007, 2:49 p.m.: 20070131-IR-410050189FRA)

410 IAC 29-1-4 "Case management" defined

Authority: IC 16-41-39.4-1
Affected: IC 16-41-39.4
Sec. 4. "Case management" means the process of providing, overseeing, and coordinating lead poisoning services, including, but not limited to, the following:
(1) Outreach and identification of children with EBLLs.
(2) Child case management service planning and resource identification.
(3) Child case management service implementation and coordination.
(4) Monitoring of child case management service delivery, program advocacy, and program evaluation.
(Indiana State Department of Health; 410 IAC 29-1-4; filed Jan 2, 2007, 2:49 p.m.: 20070131-IR-410050189FRA)

410 IAC 29-1-5 "Case manager" defined

Authority: IC 16-41-39.4-1
Affected: IC 16-41-39.4

Sec. 5. "Case manager" means a person authorized by a health department and trained by the department or its designated representative within six (6) months of hire or the effective date of this rule to perform case management protocols developed by the state. *(Indiana State Department of Health; 410 IAC 29-1-5; filed Jan 2, 2007, 2:49 p.m.: 20070131-IR-410050189FRA)*

410 IAC 29-1-6 "Child case management service implementation and coordination" defined

Authority: IC 16-41-39.4-1
Affected: IC 16-41-39.4

Sec. 6. "Child case management service implementation and coordination" means the following:
(1) For confirmed blood lead levels between zero (0) and nine and nine-tenths (9.9) µg/dL, the following:
(A) Notify the child's primary medical provider within ten (10) working days of receipt of test results by the local health officer.
(B) Provide educational materials to the parents or family of the child regarding prevention of lead poisoning.
(C) Any additional actions the local health officer believes will assist the family in preventing the child's blood lead level from increasing.
(2) For confirmed elevated blood lead levels between ten (10) and fourteen and nine-tenths (14.9) µg/dL, begin child case management services within ten (10) working days after receipt of test results, including the following:
(A) Notify the child's primary medical provider within five (5) working days of receipt of test results and ensure coordination of long term services and retesting.
(B) Arrange for testing of all children under seven (7) years of age living in the home.
(C) Conduct an initial home visit to include the following:
(i) A medical, developmental, and behavioral history.
(ii) Lead education, including medical effects and environmental sources.
(iii) A determination of potential household exposures.
(iv) An evaluation of the risk of other family members, including pregnant women.
(v) A nutrition assessment or referral for nutrition assessment.
(vi) A developmental assessment or referral for developmental assessment.
(vii) Referrals to other social services as appropriate.
(D) Provide an environmental inspection to include the following:
(i) A risk assessment of the child's primary and secondary addresses within ten (10) working days after receipt of test results if the structure was built before 1978, to include the following:
(AA) A complete risk assessment including recommendations to mitigate identified lead hazards.
(BB) A written report to the family and the owner if the family does not own the home.
(CC) Education of the family and the owner on lead hazards in the home and measures to protect the child from further poisoning.
(ii) An environmental investigation, including the following:
(AA) Identification and evaluation of nonstructural exposure sources within the child's environment.
(BB) Presentation of results of the environmental investigation, including recommendations for reducing or eliminating exposure.
(CC) Education of the family on hazards found and education on temporary and permanent measures to protect the child from further exposure.
(E) If the risk assessment finds lead hazards, immediately provide written notice to the property owner of the lead hazards and required remediation options. The notice should include the risk assessment. The property owner is given a reasonable time to implement recommendations for remediating lead hazards within sixty (60) days. A clearance examination is conducted to establish the efficacy of remediation.
(F) Provide continuing child case management services until case closure as appropriate to the child's case and not less frequently than one (1) contact every three (3) months, to include the following:
(i) Monitoring blood lead levels by retesting according to subdivision (2) *[this subdivision]* and notification of the primary medical provider of the results and ensuring blood lead testing of other children and pregnant women residing in the home.
(ii) Monitoring and evaluation of other aspects of the child's case, including, but not limited to, the following:
(AA) Additional home visits to monitor the child's progress and to identify needs that may arise from changes in primary and secondary addresses, housing condition, family composition, occupations of family

members, child's activities, child's development, medical condition, nutrition, and use of nonprescription medications or household goods.
(BB) Contacts with other service providers to monitor and evaluate service delivery, appropriateness, and efficacy.
(3) For confirmed elevated blood lead levels between fifteen (15) and nineteen and nine-tenths (19.9) µg/dL, initiate actions as in subdivision (2), and child case management services begin within five (5) working days after receipt of test results.
(4) For confirmed elevated blood lead levels between twenty (20) and forty-four and nine-tenths (44.9) µg/dL, initiate child case management services within five (5) working days after receipt of test results and all actions as in subdivision (2) with the following changes:
(A) Notify the child's primary medical provider immediately and ensure coordination of long term services and followup testing.
(B) Initiate risk assessment of the child's primary and secondary addresses within five (5) working days after receipt of test results if the structure was built before 1978.
(5) For confirmed elevated blood lead levels between forty-five (45) and sixty-nine and nine-tenths (69.9) µg/dL, initiate child case management services within twenty-four (24) hours after receipt of test results and all actions as in subdivision (2) with the following changes:
(A) Notify the child's primary medical provider immediately and ensure coordination of long term services and followup testing.
(B) Initiate a risk assessment of the child's primary and secondary addresses within two (2) working days after receipt of test results if the structure was built before 1978.
(C) Chelation therapy followed by a venous blood lead test one (1) month after completion of therapy as follows:
(i) Chelation therapy may be conducted at the child's home if the home does not have any lead hazards.
(ii) If the home has lead hazards, the child must be admitted to a hospital and chelation therapy performed at the hospital.
(6) For confirmed elevated blood lead level greater than or equal to seventy (70) µg/dL, initiate child case management services immediately after receipt of test results and all actions as in subdivision (2) with the following changes:
(A) Notify the child's primary medical provider immediately and ensure coordination of long term services and followup testing.
(B) Initiate a risk assessment of the child's primary and secondary addresses within twenty-four (24) hours after receipt of test results if the structure was built before 1978.
(C) Treatment of the child's EBLL as a medical emergency.
(D) Admission of the child to a hospital for chelation therapy.
(E) Obtain a venous blood lead test one (1) month after completion of therapy.
(Indiana State Department of Health; 410 IAC 29-1-6; filed Jan 2, 2007, 2:49 p.m.: 20070131-IR-410050189FRA; errata filed Mar 29, 2007, 9:58 a.m.: 20070411-IR-410050189ACA)

410 IAC 29-1-7 "Child case management service planning and resource identification" defined
Authority: IC 16-41-39.4-1
Affected: IC 16-41-39.4
Sec. 7. "Child case management service planning and resource identification" means:
(1) implementing a system to provide child case management services; and
(2) identifying resources and services in the community that can be utilized in child case management.
(Indiana State Department of Health; 410 IAC 29-1-7; filed Jan 2, 2007, 2:49 p.m.: 20070131-IR-410050189FRA)

410 IAC 29-1-8 "Clearance examination" defined
Authority: IC 16-41-39.4-1
Affected: IC 16-41-39.4
Sec. 8. "Clearance examination" means an activity as defined in 326 IAC 23 conducted to establish proper completion of remediation. *(Indiana State Department of Health; 410 IAC 29-1-8; filed Jan 2, 2007, 2:49 p.m.: 20070131-IR-410050189FRA)*

410 IAC 29-1-9 "Confirmatory testing" defined

Authority: IC 16-41-39.4-1
Affected: IC 16-41-39.4
Sec. 9. "Confirmatory testing" means conducting additional blood lead level tests on children with initial capillary blood lead tests as follows:
(1) Initial blood lead level zero (0) to nine and nine-tenths (9.9) µg/dL requires no confirmatory test.
(2) Confirm initial blood lead levels of ten (10) to nineteen and nine-tenths (19.9) µg/dL within two (2) months of receiving test results by the venous or capillary method.
(3) Confirm initial blood lead levels of twenty (20) to forty-four and nine-tenths (44.9) µg/dL within one (1) week of receiving test results by the venous or capillary method.
(4) Confirm initial blood lead levels of forty-five (45) µg/dL and over with a venous test within twenty-four (24) hours of receiving test results.
(Indiana State Department of Health; 410 IAC 29-1-9; filed Jan 2, 2007, 2:49 p.m.: 20070131-IR-410050189FRA)

410 IAC 29-1-10 "Confirmed blood lead test" defined
Authority: IC 16-41-39.4-1
Affected: IC 16-41-39.4
Sec. 10. "Confirmed blood lead test" means either of the following:
(1) Two (2) consecutive capillary blood lead tests not more than twelve (12) weeks apart.
(2) A single venous blood lead test.
(Indiana State Department of Health; 410 IAC 29-1-10; filed Jan 2, 2007, 2:49 p.m.: 20070131-IR-410050189FRA)

410 IAC 29-1-11 "Confirmed elevated blood lead level" or "CEBLL" defined
Authority: IC 16-41-39.4-1
Affected: IC 16-41-39.4
Sec. 11. "Confirmed elevated blood lead level" or "CEBLL" means a blood lead level of ten (10) µg/dL or higher that has been verified by a confirmed blood lead test. *(Indiana State Department of Health; 410 IAC 29-1-11; filed Jan 2, 2007, 2:49 p.m.: 20070131-IR-410050189FRA)*

410 IAC 29-1-12 "Department" defined
Authority: IC 16-41-39.4-1
Affected: IC 16-41-39.4
Sec. 12. "Department" means the Indiana state department of health. *(Indiana State Department of Health; 410 IAC 29-1-12; filed Jan 2, 2007, 2:49 p.m.: 20070131-IR-410050189FRA)*

410 IAC 29-1-13 "Elevated blood lead level" or "EBLL" defined
Authority: IC 16-41-39.4-1
Affected: IC 16-41-39.4
Sec. 13. "Elevated blood lead level" or "EBLL" means a blood lead level of ten (10) µg/dL or higher.
(Indiana StateDepartment of Health; 410 IAC 29-1-13; filed Jan 2, 2007, 2:49 p.m.: 20070131-IR-410050189FRA)

410 IAC 29-1-14 "Environmental inspection" defined
Authority: IC 16-41-39.4-1
Affected: IC 16-41-39.4
Sec. 14. "Environmental inspection" means the following:
(1) An environmental investigation.
(2) A risk assessment of the child's primary and secondary addresses.
(Indiana State Department of Health; 410 IAC 29-1-14; filed Jan 2, 2007, 2:49 p.m.: 20070131-IR-410050189FRA)

410 IAC 29-1-15 "Environmental investigation" defined
Authority: IC 16-41-39.4-1
Affected: IC 16-41-39.4

Sec. 15. "Environmental investigation" means an identification of lead hazards from any nonstructural source, including the following:
(1) Identification and evaluation of nonstructural exposure sources within the child's environment.
(2) Presentation of results of the environmental investigation, including recommendations for reducing or eliminating exposure.
(3) Education of the family on:
(A) hazards found; and
(B) temporary and permanent measures;
to protect the child from further exposure.
(Indiana State Department of Health; 410 IAC 29-1-15; filed Jan 2, 2007, 2:49 p.m.: 20070131-IR-410050189FRA)

410 IAC 29-1-16 "Family" defined
Authority: IC 16-41-39.4-1
Affected: IC 16-41-39.4
Sec. 16. "Family" means the caregivers and household of a child. *(Indiana State Department of Health; 410 IAC 29-1-16; filed Jan 2, 2007, 2:49 p.m.: 20070131-IR-410050189FRA)*

410 IAC 29-1-17 "Local health officer" defined
Authority: IC 16-41-39.4-1
Affected: IC 16-41-39.4
Sec. 17. "Local health officer" means the local health officer or the local health officer's designated representative. *(IndianaState Department of Health; 410 IAC 29-1-17; filed Jan 2, 2007, 2:49 p.m.: 20070131-IR-410050189FRA)*

410 IAC 29-1-18 "Monitoring of child case management service delivery, program advocacy, and program evaluation" defined
Authority: IC 16-41-39.4-1
Affected: IC 16-41-39.4
Sec. 18. "Monitoring of child case management service delivery, program advocacy, and program evaluation" means the following:
(1) Tracking the provision of case management services.
(2) Securing resources adequate to support local efforts.
(3) Measuring program outputs.
(Indiana State Department of Health; 410 IAC 29-1-18; filed Jan 2, 2007, 2:49 p.m.: 20070131-IR-410050189FRA)

410 IAC 29-1-19 "Outreach and identification" defined
Authority: IC 16-41-39.4-1
Affected: IC 16-41-39.4
Sec. 19. "Outreach and identification" means the following:
(1) The promotion of awareness of the health effects of lead, techniques for preventing lead poisoning, and techniques for treating lead poisoning and providing lead hazard education in the local health officer's jurisdiction through activities including, but not limited to, training staff on issues relevant to lead poisoning effects, prevention, and treatment, including, but not limited to, the following:
(A) Housing.
(B) Environment.
(C) Testing.
(2) Raising awareness in the community of lead hazards for those included in at-risk categories.
(3) Providing consultation and education to the local medical community.
(4) Providing consumer alerts and consumer education regarding lead hazards, including products for purchase in the community.
(5) Determining the magnitude of lead poisoning in the local health officer's jurisdictions through activities including, but not limited to, the following:
(A) Ensuring blood lead testing of children at risk for lead poisoning.
(B) Partnering with:

(i) children's and maternal nutrition and health programs;
(ii) education programs and institutions;
(iii) community action agencies;
(iv) housing authorities;
(v) physicians; and
(vi) other partners, such as schools and community and faith-based organizations;
involved in the care of children to ensure screening and testing of all at-risk children.
(C) Partnering with local officials to determine high-risk geographic areas in order to target testing of children at risk for lead poisoning.
(Indiana State Department of Health; 410 IAC 29-1-19; filed Jan 2, 2007, 2:49 p.m.: 20070131-IR-410050189FRA; errata filed Mar 29, 2007, 9:58 a.m.: 20070411-IR-410050189ACA)

410 IAC 29-1-20 "Remediation" defined
Authority: IC 16-41-39.4-1
Affected: IC 16-41-39.4
Sec. 20. "Remediation" means actions that constitute either:
(1) abatement; or
(2) interim control;
of a lead hazard as defined in 326 IAC 23. *(Indiana State Department of Health; 410 IAC 29-1-20; filed Jan 2, 2007, 2:49 p.m.: 20070131-IR-410050189FRA)*

410 IAC 29-1-21 "Retesting" defined
Authority: IC 16-41-39.4-1
Affected: IC 16-41-39.4
Sec. 21. "Retesting" means additional testing to monitor a child's blood lead level over time, with specific intervals depending on whether a child's blood lead level has or has not decreased, as follows:
(1) If the child's blood lead level has not decreased by at least three (3) µg/dL within at least a three (3) month period, retest as follows:
(A) In three (3) months for results between zero (0) and fourteen and nine-tenths (14.9) µg/dL.
(B) In two (2) months for results between fifteen (15) and nineteen and nine-tenths (19.9) µg/dL.
(C) In one (1) month for results between twenty (20) and twenty-four and nine-tenths (24.9) µg/dL.
(D) In two (2) weeks for results between twenty-five (25) and forty-four and nine-tenths (44.9) µg/dL.
(E) By the venous method one (1) month after completion of chelation therapy for results greater than forty-five (45) µg/dL.
(2) If the child's blood lead level has decreased by at least three (3) µg/dL within at least a three (3) month period, retest as follows:
(A) In six (6) months for results between zero (0) and fourteen and nine-tenths (14.9) µg/dL.
(B) In three (3) months for results between fifteen (15) and nineteen and nine-tenths (19.9) µg/dL.
(C) In two (2) months for results between twenty (20) and twenty-four and nine-tenths (24.9) µg/dL.
(D) In one (1) month for results between twenty-five (25) and forty-four and nine-tenths (44.9) µg/dL.
(E) By the venous method one (1) month after completion of chelation therapy for results greater than forty-five (45) g/dL.
(Indiana State Department of Health; 410 IAC 29-1-21; filed Jan 2, 2007, 2:49 p.m.: 20070131-IR-410050189FRA)

410 IAC 29-1-22 "Risk assessment" defined
Authority: IC 16-41-39.4-1
Affected: IC 16-41-39.4
Sec. 22. "Risk assessment" means an assessment of lead hazards from any structural source by a licensed risk assessor consistent with 326 IAC 23 to include the following:
(1) A complete risk assessment including recommendations to mitigate identified lead hazards.
(2) A written report to the family and the owner if the family does not own the home.
(3) Education of the family and the owner on the following:
(A) Lead hazards in the home.
(B) Measures to protect children from further poisoning.

(Indiana State Department of Health; 410 IAC 29-1-22; filed Jan 2, 2007, 2:49 p.m.: 20070131-IR-410050189FRA)

410 IAC 29-1-23 "Risk assessor" defined
Authority: IC 16-41-39.4-1
Affected: IC 16-41-39.4
Sec. 23. "Risk assessor" means a person licensed by the state to conduct risk assessments consistent with section 15 of this rule. *(Indiana State Department of Health; 410 IAC 29-1-23; filed Jan 2, 2007, 2:49 p.m.: 20070131-IR-410050189FRA)*

410 IAC 29-1-24 "Unconfirmed elevated blood lead level" or "UEBLL" defined
Authority: IC 16-41-39.4-1
Affected: IC 16-41-39.4
Sec. 24. "Unconfirmed elevated blood lead level" or "UEBLL" means a blood lead level of ten (10) µg/dL or greater that has not yet been subject to confirmatory testing. *(Indiana State Department of Health; 410 IAC 29-1-24; filed Jan 2, 2007, 2:49 p.m.: 20070131-IR-410050189FRA)*

410 IAC 29-1-25 "Venous blood lead test" defined
Authority: IC 16-41-39.4-1
Affected: IC 16-41-39.4
Sec. 25. "Venous blood lead test" means a blood lead test for which the blood sample was drawn using venipuncture. *(Indiana State Department of Health; 410 IAC 29-1-25; filed Jan 2, 2007, 2:49 p.m.: 20070131-IR-410050189FRA)*

Rule 2. Case Management and Testing

410 IAC 29-2-1 Case management
Authority: IC 16-41-39.4-1
Affected: IC 16-41-39.4
Sec. 1. Local health officers shall ensure the provision of case management to all children under seven (7) years of age in their jurisdictions, including the following:
(1) Outreach and identification of EBLL children.
(2) Child case management service planning and resource identification.
(3) Confirmatory testing.
(4) Child case management service implementation and coordination.
(5) Retesting.
(6) Monitoring of child case management service delivery, program advocacy, and program evaluation.
(Indiana State Department of Health; 410 IAC 29-2-1; filed Jan 2, 2007, 2:49 p.m.: 20070131-IR-410050189FRA)

410 IAC 29-2-2 Case closure
Authority: IC 16-41-39.4-1
Affected: IC 16-41-39.4
Sec. 2. The department or local health officer may close cases under either of the following conditions:
(1) A case may be designated "case complete" if:
(A) referrals have been made to individuals and agencies for long term developmental, environmental, and medical follow-up; and
(B) the child has two (2) or more consecutive confirmed blood lead tests for which the BLL is less than ten (10) µg/dL in a six (6) month period, and environmental lead hazards have been remediated and passed a dust clearance test.
(2) A case may be designated "administratively closed" for any of the following reasons:
(A) The child moves to another state and a case referral has been made to the appropriate state lead poisoning prevention program. This referral must be made not later than ten (10) working days after the case manager learns of the move, and the department shall keep the case open until the case is confirmed as received by the state to which it has been transferred.
(B) The child moves to another county in Indiana and a case referral has been made to the appropriate local health department. This referral must be made not later than ten (10) working days after the case manager

learns of the move, and the department shall keep the case open until the case is confirmed as received by the local health department to which it has been transferred.
(C) The child reaches his or her seventh birthday and referrals have been made to individuals and agencies for long term developmental, environmental, and medical follow-up.
(D) The child can no longer be located or contacted and five (5) attempts have been made to contact the child during a twenty-six (26) week closure window according to the following action periods:
(i) At least one (1) telephone call to the parent or guardian after the first four (4) weeks of the twenty-six (26) week closure window.
(ii) At least one (1) letter to the parent or guardian between nine (9) and thirteen (13) weeks into the twenty-six (26) week closure window.
(iii) At least one (1) certified letter to the parent or guardian between thirteen (13) and twenty-one (21) weeks into the twenty-six (26) week closure window.
(iv) At least one (1) attempted home visit to the child's last known address after twenty-four (24) weeks into the twenty-six (26) week closure window.
Actions completed later than the action period shall be recorded against the twenty-six (26) week closure window in the week in which they were performed.
(E) Case management is blocked for religious or other legally recognized reasons, and documentation of these reasons is on file.
(F) The death of the child.
(Indiana State Department of Health; 410 IAC 29-2-2; filed Jan 2, 2007, 2:49 p.m.: 20070131-IR-410050189FRA)

Rule 3. Reporting

410 IAC 29-3-1 Reporting of blood lead test results

Authority: IC 16-41-39.4-1
Affected: IC 16-41-39.4
Sec. 1. (a) A person that examines the blood of an individual for the presence of lead must report to the department the results of the examination not later than one (1) week after completing the examination. The report must include at least the following:
(1) With respect to the individual whose blood is examined, the following:
(A) Full name.
(B) Date of birth.
(C) Gender.
(D) Full address, including street address, city, and zip code.
(E) County of residence.
(F) Race and ethnicity.
(G) Parent's or guardian's name and phone number, where applicable.
(H) Any other information that is required to be included to qualify to receive federal funding.
(2) With respect to the examination, the following:
(A) The date.
(B) The type of blood test performed.
(C) The person's normal limits for the test.
(D) The results of the test.
(E) The person's interpretation of the results of the test.
(3) The names, addresses, and telephone numbers of the following:
(A) The person examining the blood.
(B) The attending physician, hospital, clinic, or other specimen submitter.
(b) If a person required to report under subsection (a) has submitted more than fifty (50) results in the previous calendar year, the person must submit subsequent reports in an electronic format determined by the department. *(Indiana State Department of Health; 410 IAC 29-3-1; filed Jan 2, 2007, 2:49 p.m.: 20070131-IR-410050189FRA)*

410 IAC 29-3-2 Reporting of case information

Authority: IC 16-41-39.4-1
Affected: IC 16-41-39.4

Sec. 2. (a) Local health officers shall ensure that case information is reported to the department for children less than seven (7) years of age who have an elevated blood lead level.
(b) Case management activities shall be reported electronically or using the forms designated by the department.
(c) Case closure activities shall be reported electronically or using forms designated by the department. *(Indiana State Department of Health; 410 IAC 29-3-2; filed Jan 2, 2007, 2:49 p.m.: 20070131-IR-410050189FRA)*

410 IAC 29-3-3 Reporting of housing information
Authority: IC 16-41-39.4-1
Affected: IC 16-41-39.4
Sec. 3. Local health officers shall ensure that addresses associated with children with elevated blood lead levels and gathered after July 1, 2002, are provided to federal, state, and local organizations covered by 24 CFR 35.82. *(Indiana State Department of Health; 410 IAC 29-3-3; filed Jan 2, 2007, 2:49 p.m.: 20070131-IR-410050189FRA; errata filed Mar 29, 2007, 9:58 a.m.: 20070411-IR-410050189ACA)*

Rule 4. Prevention and Remediation
410 IAC 29-4-1 Prevention or remediation
Authority: IC 16-41-39.4-1
Affected: IC 16-41-39.4
Sec. 1. Local health officers may do the following:
(1) Enter upon and inspect private property, at proper times after due notice, in regard to the possible presence, source, and cause of lead poisoning and lead hazards.
(2) Order what is reasonable and necessary to prevent lead poisoning or remediate lead hazards. Remediation shall be followed by dust clearance examination. *(Indiana State Department of Health; 410 IAC 29-4-1; filed Jan 2, 2007, 2:49 p.m.: 20070131-IR-410050189FRA)*