Date of Hearing: May 18, 2020

ASSEMBLY COMMITTEE ON HEALTH
Jim Wood, Chair
AB 2277 (Salas) – As Amended May 5, 2020

SUBJECT: Medi-Cal: Blood lead screening tests.

SUMMARY: Requires if a Medi-Cal managed care (MCMC) plan enrollee who is a child misses a required blood lead screening test at 12 and 24 months of age, the MCMC plan to notify the parent, parents, guardian, or other person charged with the support and maintenance of that child about those missed blood lead screening tests. Requires a contract between the Department of Health Care Services (DHCS) and a MCMC plan to identify, on a monthly basis, every enrollee who is a child without any record of completing required blood lead screening tests at 12 and 24 months of age, and to remind the contracting health care provider who is responsible for performing a periodic health assessment of a child pursuant to existing state regulation of the need to perform required blood lead screening tests. Specifically, **this bill**:

1) Requires, if a MCMC plan enrollee who is a child misses a required blood lead screening test at 12 and 24 months of age, the MCMC plan to notify the parent, parents, guardian, or other person charged with the support and maintenance of that child about those missed blood lead screening tests.

2) Requires this notification to be included in an annual notification to each family of a child who has not used preventive services over the course of the year.

3) Requires contract between DHCS and a MCMC plan to impose both of the following requirements on the Medi-Cal managed care plan:
   a) Identify, on a monthly basis, every enrollee who is a child without any record of completing required blood lead screening tests at 12 and 24 months of age; and,
   b) Remind the contracting health care provider who is responsible for performing a periodic health assessment of a child pursuant to existing state regulation of the need to perform required blood lead screening tests.

4) Requires DHCS to develop and implement procedures, and take enforcement action pursuant to the existing penalty-related provisions for plan, to ensure that a Medi-Cal managed care plan is held accountable for the requirements in 4) above.

5) Defines a health care provider" by reference to the existing definition in the lead-testing provisions in regulation, as a person licensed to practice medicine, a person licensed to practice as a nurse practitioner, or a person licensed to practice as a physician's assistant.

EXISTING LAW:

1) Requires the Department of Public Health (DPH), under the Childhood Lead Poisoning Prevention (CLPP) Act of 1991, to adopt regulations establishing a standard of care, at least as stringent as the most recent federal Centers for Disease Control and Prevention (CDC) screening guidelines, whereby all children are evaluated for risk of lead poisoning by health care providers during each child's periodic health assessment.

2) Establishes the Medi-Cal program, which is administered by DHCS and under which qualified low-income individuals receive health care services.

3) Makes children age 18 and under with incomes up to 266% of the federal poverty level eligible for Medi-Cal.

4) Authorizes the Director of DHCS to contract, on a bid or non-bid basis, with any qualified individual, organization, or entity to provide services to, arrange for, or case manage the care of Medi-Cal beneficiaries.

5) Establishes a schedule of benefits in the Medi-Cal program, which includes the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) program for any individual under 21 years of age, consistent with the requirements of a specified EPSDT provision of federal Medicaid law.

6) Requires, under federal Medicaid law, EPSDT services to include screening, vision, dental, hearing and other Medicaid health care, diagnostic services, treatment, and other measures to correct or ameliorate defects and physical and mental illnesses and conditions discovered by the screening services. Includes an EPSDT services laboratory tests, including blood lead level (BLL) assessment appropriate for age and risk factors.

7) Requires the governing body of each county to establish a community child health and disability prevention (CHDP) program for the purpose of providing EPSDT assessments of the health status of children in the county. Makes the CHDP program the responsibility of DHCS for all counties that contract with the state for health services.

8) Requires, pursuant to state CHDP program regulation, every health care provider who performs a periodic health assessment of a child at the ages below to comply with the following standard of care:
   a) Provide oral or written anticipatory guidance to a parent or guardian of the child, including, at a minimum, the information that children can be harmed by exposure to lead, especially deteriorating or disturbed lead-based paint and the dust from it, and are particularly at risk of lead poisoning from the time the child begins to crawl until 72 months of age;
   b) If the child receives services from a publicly funded program for low-income children, order the child screened for lead poisoning as the child is presumed to be at risk of lead poisoning; and,
   c) If the child does not receive services from a publicly funded program for low-income children, evaluate the child's risk of lead poisoning by asking a parent or guardian of the child the following question: "Does your child live in, or spend a lot of time in, a place built before 1978 that has peeling or chipped paint or that has been recently renovated?" If the parent or guardian answers "yes" or "don't know" to the question, order the child screened for lead poisoning.

9) Requires the health care provider to perform the actions above at each of the following times:
   a) Requires the anticipatory guidance required 8a) to be performed at each periodic health assessment, starting at six months of age and continuing until 72 months of age; and,
   b) Requires the screening and evaluation required by 8c) to be performed:
      i) When the child is 12 months of age;

ii) When the child is 24 months of age;
iii) Whenever the health care provider performing a periodic health assessment becomes aware that the child is 12 months to 24 months of age and the actions specified in 8b) and c) above were not taken at 12 months of age or thereafter;
iv) Whenever the health care provider performing a periodic health assessment becomes aware that the child is 24 months to 72 months of age and the actions specified in 8b) and c) above were not taken when the child was 24 months of age or thereafter; and,
v) Whenever the health care provider performing a periodic health assessment of a child 12 to 72 months of age becomes aware that, in the professional judgment of the health care provider, a change in circumstances has put the child at risk of lead poisoning.

FISCAL EFFECT: This bill has not been analyzed by a fiscal committee.

COMMENTS:

1) **PURPOSE OF THIS BILL.** According to the author, a report released by the state auditor on January 7, 2020 entitled "Childhood Lead Levels: Millions of Children in Medi-Cal Have Not Received Required Testing for Lead Poisoning" found that more than 1.4 million 1- and 2-year-old children did not receive any of the required tests, and another 740,000 children missed one of the two tests that determine whether they have elevated lead levels. California ranked 31st among states in the nation for providing lead tests to one and two-year-old children. The failure to ensure that millions of children enrolled in Medi-Cal receive the required lead testing puts the health and safety of our most vulnerable populations at risk for lead poisoning. This bill would implement recommendations from the state auditor's report to ensure that children are receiving required blood lead screening tests to improve lead poisoning prevention efforts for our most vulnerable populations.

2) **BACKGROUND.** According to the CDC, at least four million households include children that are being exposed to high levels of lead. Children are exposed to lead from different sources (such as paint, gasoline, solder, and consumer products like candy, artificial turf, and toys) and through different pathways (such as air, food, water, dust, and soil). Although there are several exposure sources, lead-based paint is the most widespread and dangerous high-dose source of lead exposure for young children. There are approximately half a million U.S. children ages one to five years with BLLs above five micrograms per deciliter (µg/dL), a level at which CDC recommends public health actions be initiated. No safe BLL in children has been identified, and exposure can affect nearly every system in the body. Because lead exposure often occurs with no obvious symptoms, it frequently goes unrecognized. Children at higher risk for lead exposure are poor, are members of racial-ethnic minority groups, are recent immigrants, live in older, poorly maintained rental properties, or have parents who are exposed to lead at work.

   In California, the Childhood Lead Poisoning Prevention Program (CLPPP), within DPH, provides services to the community for the purpose of increasing awareness regarding the hazards of lead exposure, reducing lead exposure, and increasing the number of children assessed and appropriately blood tested for lead poisoning. The CLPPP program offers home visitation, environmental home inspections, and nutritional assessments to families of children found to be severely lead poisoned. The CLPPP provides telephone contacts and educational materials to families of lead-poisoned and lead-exposed children. The CLPPP

provides information and education to the general public, medical providers, and community-based organizations.

3) **CALIFORNIA STATE AUDITOR AUDIT ON CHILDHOOD LEAD LEVELS.** In January 2020, the California State Auditor (CSA) released an audit entitled "Childhood Lead Levels – Millions of Children in Medi-Cal Have Not Received Required Testing for Lead Poisoning." The CSA audit is critical of DHCS and DPH, stating that millions of children who should have been tested for elevated lead levels have not received all of the tests they should have because DHCS and DPH have failed to adequately accomplish the duties with which they have been entrusted. The Auditor found children enrolled in Medi-Cal often have not received the medical tests needed to identify elevated lead levels even though the State mandates such testing. With limited exceptions, California requires that children enrolled in Medi-Cal receive tests for elevated lead levels at the ages of one and two years. However, according to DHCS' data, millions of children in Medi-Cal did not receive the lead tests they should have. These data show that from fiscal years 2009–10 through 2017–18, more than 1.4 million of the 2.9 million one- and two-year old children enrolled in Medi-Cal did not receive any of the required tests and another 740,000 children missed one of the two tests. According to DHCS' data, the rate of eligible children receiving all of the tests that they should have was less than 27 percent. CSA states that many of these children live in areas of the State with high occurrences of elevated lead levels, making the low testing rates even more troubling. Related to what MCMC plans could do to improve lead screening, the CSA stated DHCS could:
   a) Require MCMC plans to identify children who have not received lead tests and remind their health care providers of the need to provide the tests—a method other states have successfully used to increase testing rates;
   b) Prioritize its effort to adopt a performance standard for lead tests and ensure that this standard is specifically designed to monitor its success in meeting the State's requirements for the lead testing of one- and two-year-old children; and,
   c) Incorporate into its contracts with MCMC plans a requirement that the plans identify each month all children without records of required lead tests and remind the responsible health care providers of the need to test those children.

4) **PERCENTAGE OF MEDI-CAL CHILDREN UP TO AGE THREE RECEIVING BILL SCREENING.** In 2018, DHCS and DPH provided the Assembly Environmental Safety and Toxics Material Committee with an updated percentage of the number of children in Medi-Cal who have received a BLL screening test for an oversight hearing by that committee conducted in February 2018. BLL data collected by DHCS and DPH is very different. Medi-Cal data is based on the submittal of a claim or encounter that includes specific procedure and diagnosis codes that indicate a BLL screening has been performed. DHCS receives administrative data in the forms of claims (for fee-for-service beneficiaries) or encounter data (for Medi-Cal managed care enrollees). Such data only indicates a BLL test occurred if Medi-Cal was billed specifically for a BLL test. DHCS' data would not indicate the completion of a BLL test if a primary care provider performed the test but only billed for an office visit. In contrast, DPH receives data on BLL tests performed at laboratories, including those in a physician's office. DPH has limited data on who is and who is not a Medi-Cal beneficiary. When the data from DPH is added to the data from DHCS, the percentage of children 12 to 23 months old who were continuously enrolled in Medi-Cal for a year for a year and who were screened for lead was 48.8%. Among those 24 to 35 months old, the percentage of children screened was 40.5%.

5) **SUPPORT.** This bill is jointly sponsored by the Environmental Working Group and the Coalition of California Welfare Rights and Organizations, which write that lead is a severe neurotoxin that even in small doses can lower a child's IQ and cause behavior and learning disorders. All children can be exposed to lead, but DPH states that the vast majority – 88% -- of California's lead-poisoned kids are enrolled in Medi-Cal. Low-income children are more apt to be lead-poisoned because they are more likely to live in older housing with lead paint, and be malnourished, which causes them to absorb lead faster. If not stopped, a child's ongoing exposure to lead will continue to harm their nervous system, and cause damage that can last a lifetime. Because lead exposure happens silently, and disproportionately affects low income kids, state and federal regulations require all Medi-Cal toddlers to receive blood lead tests when they are one and two years old. Unfortunately, many of these children are not tested as required. A recent state audit of state data found that an estimated 70% of the state's 12 and 24-month old children who are enrolled in Medi-Cal do not receive blood lead screenings each year in accordance with federal and state regulations. This finding supports several other analyses, including one published in the peer-reviewed journal *Pediatrics*. This analysis found that more than 63% of California's children with elevated blood lead levels above 10 mcg/dL are not identified. California must and should identify as many lead-exposed children as the law requires. At the minimum, DHCS should ensure that the established lead-testing requirement for Medi-Cal recipient children is met, and DHCS should develop a case management system that will allow the state to track these childrens' blood lead tests. In addition, parents of Medi-Cal children should be informed about the federal childhood blood lead screening requirements, as well as the risks associated with childhood lead exposure. This bill addresses these needs and will bring California many steps closer to ensuring that our most vulnerable children receive protective lead screening services and information.

6) **RELATED LEGISLATION.** AB 2060 (Holden) would amend the California Safe Drinking Water Act (CSDWA) to define "lead free," for purposes of manufacturing, industrial processing, or conveying or dispensing water for human consumption, to mean not more than one microgram of lead under certain tests and meeting a specified certification when used with respect to end-use devices. The CSDWA requires the State Water Resources Control Board to administer provisions relating to the regulation of drinking water to protect public health, and the CSDWA prohibits, with certain exceptions, the use of any pipe, pipe or plumbing fitting or fixture, solder, or flux that is not lead free in the installation or repair of any public water system or any plumbing in a facility providing water for human consumption. The CSDWA currently defines "lead free" for purposes of manufacturing, industrial processing, or conveying or dispensing water for human consumption to mean not more than 0.2% lead when used with respect to solder and flux and not more than a weighted average of 0.25% lead when used with respect to the wetted surfaces of pipes and pipe fittings, plumbing fittings, and fixtures. AB 2060 is awaiting hearing in the Assembly Appropriations Committee.

   AB 2276 (Reyes, Cristina Garcia, Quirk, and Reyes) establishes statutory state goals for blood lead screening tests for children, and requires DHCS to annually post on its internet website a report detailing its progress toward the goals. Requires a contract between DHCS and a MCMC plan to ensure that the MCMC plan and its contracting health care providers who are responsible for the period health assessment of a child pursuant to state regulation meet the standard of care for lead-related anticipatory guidance, screening and evaluation required pursuant to state law and regulation. Requires the MCMC plan to notify the child's

health care provider when the child misses a required blood lead screening test within 30 days of the missed test. AB 2276 is pending in the Assembly Health Committee.
AB 2278 (Quirk) requires an analyzing laboratory that performs a blood lead analysis to also report to DPH the person's telephone number in addition to the person's address and ZIP code if the analyzing laboratory has that information, and the Medi-Cal identification number and medical plan identification number, if available. Requires the existing "within 30 calendar day" timeframe for an analyzing laboratory to report less to CDHP a blood lead test of less than 10 micrograms per deciliter begins from the date of the analysis. AB 2278 is in the Assembly Health Committee but is no longer being pursued by the author.

AB 2279 (Cristina Garcia, Quirk, Reyes, and Salas) add several additional risk factors required to be considered as part of the standard of care for a lead poisoning evaluation of children required to be established by the DPH in regulation, such as a child's residency in or visit to a foreign country, their residency in a high-risk ZIP Code, a child's proximity to current or former lead-producing facilities. Requires DPH to develop, by January 1, 2021, the regulations on the additional risk factors, in consultation with the specified individuals in existing law. Requires DPH to update its formula for allocating funds to any local agency that contracts with DPH to administer the CLPPP, and to revise funding allocations before each contract cycle. AB 2279 is pending for hearing in the Assembly Health Committee.

AB 2422 (Grayson) would add to the information that a laboratory is required to report to DPH when it performs a blood lead analysis test to include the Medi-Cal identification number, or other equivalent medical identification number of the person tested. Requires, if the person tested is a minor, that the laboratory include the person's contact information and a unique identifier, in a form to be determined by DHCS, as specified. Requires DPH to develop and maintain on its internet website a public registry of lead-contaminated locations reported to DPH pursuant to the provisions relating to lead hazards in buildings. Requires DPH to ensure that personally identifiable information, including medical information, is not disclosed or ascertainable from the information available on the registry. AB 2422 is no longer being pursued by the author.

AB 2488 (Gonzalez) is a spot bill amending the Lead-Safe Schools Protection Act (the Act requires the DPH to perform various activities related to reducing the risk of exposure to lead hazards in public schools, as defined, including, among other activities, conducting a sample survey to determine the likely extent and distribution of lead exposure to children from paint on the school, soil in play areas at the school, drinking water at the tap, and other potential sources identified by DPH for this purpose, as provided). AB 2488 is in the Assembly Rules Committee.

AB 2677 (Santiago) would create in the California Environmental Protection Agency, under the direction of the Secretary for Environmental Protection, the position of community liaison, the duties of which would include, but are not limited to, community outreach and dissemination of information relating to cleanup of the lead contamination in the areas surrounding the Exide Technologies facility in the City of Vernon and coordination with the Department of Toxic Substances Control to address issues raised by residents affected by the lead contamination in the areas surrounding the Exide Technologies facility. AB 2677 is awaiting hearing in the Environmental Safety and Toxics Materials Committee.

SB 1008 (Leyva) would require DPH to: a) design, implement, and maintain an online lead

information registry on its internet website that enables the public to determine the lead inspection and abatement status for properties; and, b) use information it maintains for the registry to the extent that CDHP ensures that any personally identifying information, including medical information, is made unavailable to the public. SB 1008 is awaiting hearing in the Senate Health Committee.

7) **PREVIOUS LEGISLATION.** AB 2122 (Reyes) of 2018 would have: a) established requirements DHCS and MCMC care plans to ensure children receive blood lead screening, information about lead exposure and testing, and follow-up services for children with an elevated blood lead level, including a contractual requirement for plans and their contractors to meet the standard of care for lead testing; b) establishes state goals for children at risk of lead exposure and for blood testing for children under age who are eligible for Medi-Cal; c) requires DHCS to include blood lead screening tests as a plan performance measure in its annual External Accountability Set, and requires DHCS to annually create a report detailing the DHCS' progress toward the state goals; and, d) require DPH to prepare provider training guidelines, curriculum, and resources that are required to be used to educate providers about childhood lead poisoning prevention, childhood lead exposure risks, childhood lead exposure health effects, and sources of childhood lead exposure at the state, regional, and local levels.

   AB 2122 was vetoed by Governor Brown, who stated that "lead exposure in children is a serious health concern and I share the author's desire to increase the number of Medi-Cal children who are screened. The department, however, already requires in its contracts with managed care plans and providers that children receive screenings in accordance with federal and state regulations. Updated and more thorough data on periodic screening tests is being developed with DPH to assist in tracking compliance. I believe the department should continue its current efforts working with managed care plans, health care providers and public health officials to determine what additional policies and practices may be necessary to improve screening rates.

   SB 1097 (Hueso), Chapter 691, Statutes of 2018 requires CDHP's report regarding the effectiveness of appropriate lead poisoning case management efforts to include additional data and information, as specified

   AB 2976 (Quirk) would have required DPH to coordinate with the state entities, including DHCS, that are responsible for administering specified publicly funded programs to gather data to determine whether children are being screened for lead poisoning, as required pursuant to existing regulation. AB 2976 was held on the Senate Appropriations Committee suspense file.

   SB 775 (Ridley-Thomas) of 2007 would have, among other provisions, required DPH to make available on its Web site the most current information on lead, as specified, and would have required providers primarily responsible for providing prenatal care to explain to pregnant women that lead poisoning prevention information is available on the Web site or provide other information about lead poisoning prevention. SB 775 was vetoed by the Governor who indicated: "While I support programs to reduce lead exposure for children, this bill is duplicative of existing state requirements and may jeopardize overall funding for lead poisoning prevention. Many of the bill's provisions are unnecessary and are already being accomplished administratively."

AB 247 (Garcia) of 2017 would have established a Statewide Lead Advisory Taskforce to review and provide recommendations regarding policies and procedures to reduce lead poisoning in the state. AB 247 was vetoed by the Governor who indicated: "The responsibilities of this task force would be duplicative of ongoing work by the Office of Environmental Health Hazard Assessment, DPH, the State Water Resources Control Board, and the Department of Toxic Substances Control. Coordination and evaluation of procedures to reduce childhood lead poisoning is being accomplished administratively amongst these agencies so there is no reason to divert resources to a task force."

AB 1316 (Quirk), Chapter 507, Statutes of 2017 requires DPH to revise its regulations for the CLPPP to redefine the assessment of risks for the purposes of evaluating a child's risk for lead exposure.

8) **PROPOSED AUTHOR'S AMENDMENT**. The author is proposing an author's amendment to change the requirement that plans identify a child who is without any record of complete required blood screening test at 12 and 24 months of age to be quarterly, instead of monthly as the bill currently requires.

REGISTERED SUPPORT / OPPOSITION:

Support

Environmental Working Group (sponsor)
Association of Regional Center Agencies
California Coalition of California Welfare Rights Advocates
California League of Conservation Voters
California Pan-Ethnic Network
CalPIRG
Children Now
Clean Water Action
Environmental Health Coalition
Friends Committee on Legislation of California
Healthy Black Families
National Health Law Program
Natural Resources Defense Council
Sierra Club California
Smart Oakland
Western Center on Law & Poverty, Inc.

Opposition

None received

Analysis Prepared by: Scott Bain / HEALTH / (916) 319-2097