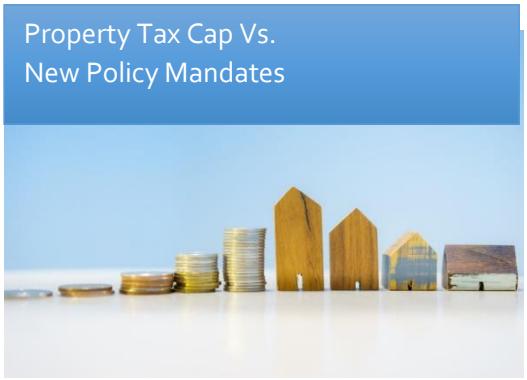
NYSACHO Position Statement of 2019-20 Executive Budget Lead Poisoning Prevention Proposals

NYSACHO supports, with concerns, lowering the definition of elevated blood lead level (BLL) to 5 µg/dL. When considered solely on the public health protections it provides the children in our community, this proposal is the type of science-based public policy action that we should strive for as a public health community. Lowering the BLL aligns with the science regarding lead poisoning and with the Centers for Disease Control and Preventions recommendations. Earlier identification and intervention will protect children from lifelong damaging health effects posed by exposure to lead. A number of local health departments already use a lower BLL when conducting follow-up with children and families regarding lead test results.

NYSACHO equally recognizes that the best approach to reducing the incidence of childhood lead poisoning is through primary prevention – that is, to remediate and mitigate lead hazards before exposure can occur. Again, a number of counties with high incidence of lead poisoning receive additional funding support to undertake a variety of primary prevention activities.

Unfortunately, NYSACHO must temper our public health ideals in light of the current budgetary realities facing New York State's local health departments. Flint, Michigan has become the cautionary tale of the harm that can occur when fiscal austerity and public health needs collide. NYSACHO's support for lowering the BLL to 5 µg/dL, is predicated on our state leaders' willingness to provide the sustainable and flexible fiscal resources needed to expand the current mandate. We must further, oppose the Governor's Lead Safe housing initiative as a new unfunded mandate for which no new resources exist or are provided.

Public Health policy requires public health resources. Because public health services are a shared state/local expense, state level public health policy changes that require a fiscal investment must also consider local governments' ability to support the policy change, and the proportionality of where the costs for the policy change mainly falls – on state revenues, or on local taxpayers. A frank and thorough assessment of the full fiscal implications of any new policy is crucial if the state wishes to maintain the promise made to local taxpayers through the state property tax cap, and if the state wishes to deliver on new public health promises that they wish to implement through state statute and regulations.



Contact: Sarah Ravenhall, Executive Director, sarah@nysacho.org; (518) 456-7905, x. 108

Public health work is rapidly moving from prevention to triage. With each new state mandated public health policy, local health departments grapple with legal, fiscal and ethical choices. Do they cut back on restaurant inspections to monitor cooling towers for legionella? Will they have to delay lead remediation interventions for a child with elevated blood lead levels because the mandated costs of the Early Intervention program have forced them to eliminate or leave public health positions unfilled? Will they reduce or eliminate maternal-child health home visits because they need public health nurses to address communicable disease outbreaks? These are real life decisions that can have long-term, life-altering, and potentially deadly consequences. As it stands, this ongoing trend of implementing public health policies without sufficient, sustainable resources leaves our citizens at risk and exposes local governments, through no fault of their own, to significant and potentially ruinous liability.

RECCOMENDATIONS

- Restore proposed cuts to Article Six State Aid for New York City. We cannot jeopardize the public health infrastructure that supports and protects the citizens of our largest municipality. New York City already implemented a lower BLL of 5 µg/dL. The proposed reductions to their state aid reimbursement threatens their ability to maintain this standard and other core public health services.
- Reallocate the additional proposed resources for this proposal from the Department of Health aid for general public health work (PHL Article 6 state aid) to the allocation in the Department of Financial Services for the lead poisoning prevention and assistance program.
- The total workload cost for this program statewide is estimated at $34.9M. This figure will cover the increased costs of the expanded BLL state mandate through flexible, sustainable funding. Local health departments must be resourced with sufficient and, flexible funding if they are to implement the expanded work this will require on the local level. The Governor's investment of $9.4 million is a first step, but is insufficient in both the dollar amount and funding structure. Adopting this policy without providing the full funding local health departments will need for effective implementation would doom the policy to certain failure.
- Include language to protect local governments so that no governmental unit or agency shall be subjected to civil liability arising from the expanded workload demands. Recommended language: "*Immunity from liability, No governmental unit or agency shall be subjected to civil liability arising from this section.*"
- If the state requirements for environmental interventions are to be stricter than the recommended national standards, consider a multi-year phase-in approach, again, to allow sufficient time to address budget and workforce needs.
- Set the effective date to lower the definition of elevated BLL to 5 µg/dL to January, 2, 2020, to allow local governments time to address how they will include any associated increased costs in their budgets.

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