



Owner's Guide for Responding to Report of an Assisted Unit with Occupant Child <6 with an EBLL

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Introduction: Changes in the regulations

HUD has modified the Lead Safe Housing Rule (LSHR) to enhance the protections from lead-based paint hazards - enforceable since 7/31/2017. These regulations place responsibilities on owners of HUD-assisted housing built before 1978. The important changes for when a child under 6 years old with an Elevated Blood Lead Level (EBLL) is identified are:

- *Enhance* the assessment in that child's unit (the Index Unit) from a Risk Assessment to an Environmental Investigation
- *Add* a requirement that if LBP hazards are found in the Index Unit then every assisted unit in the property occupied by a child under 6 years old receive a Risk Assessment and control of any lead-based paint hazards.
- *Add* a requirement that HUD be notified when these events occur.

EBLL Response Process

Who is responsible for implementing the process?

The essential and immediate responsibility is that whoever learns of an EBLL child **MUST** take steps to inform and engage the public health department, the grantee, the owner, and HUD.

HUD currently identifies an EBLL child as a child under the age of 6 who has a confirmed concentration in whole blood of 5 micrograms of lead per deciliter of blood (5 µg/dL) or more. HUD is considering lowering the level to 3.5 µg/dL. While you may use the 5 µg/dL level, and you must use a level at least as low as your jurisdiction's level if it has one, HUD encourages you to use the 3.5 µg/dL level (and requires you to use your jurisdiction's level if even lower).

- In Public Housing programs, the regulations state that the public housing agency is responsible for all parts of the EBLL response process.
- In Project Based Assistance (PBA) programs the regulations state that the property owner is responsible for all parts of the process.
- For Tenant Based Rental Assistance (including Housing Choice Vouchers) programs responsibilities are divided between the grantee and the owner. It is important that grantees and owners clarify responsibilities. By default, initial verification and evaluations are the responsibility of the grantee. The lead hazard control work and related notices are the responsibility of the owner unless the grantee has explicitly assumed that responsibility. The grantee could also explicitly assign responsibility for evaluations (Environmental Investigation and Risk Assessments) to the owner.

Verification and Notice

- Once there is an EBLL case reported for a child under age six in an assisted housing unit there are verification and notice requirements.
- If original EBLL report did not come from a **health care provider** or local **public health department**, immediately verify the child's blood lead level with one of those sources.
- Responsible party: PBA – Owner; TBRA-PJ, Grantee, PHA, Owner
- Need not be written verification.

What if no initial medical verification is received?

Owner or PHA/Grantee must...

- Contact your HUD Program Representative (HUD Rep) regarding the no response.
 - The HUD Rep will either proceed to verify independently or contact OLHCHH to assist with verification.
 - You may also continue to attempt to verify the EBLL.
- Keep records of all attempts (yours and HUD's) to verify the EBLL with the public health department or health care provider.
- Avoid unnecessary delays that slow down the response.

What if the child with an EBLL has moved by the time the Designated Party receives notification?

Public Housing/PBA Index Unit

- The EBLL response requirements apply regardless of whether the child is or is not still living in the unit.

TBRA Index Unit

- If any other household receiving TBRA is living in the unit or is planning to live there, EBLL response requirements still apply to the unit.

Information Privacy

Information emailed/shared with HUD/PHA should not include the child's name or blood result, unless done in a secure manner.

- This is considered personally identifiable information (PII) and is also confidential medical information that must be maintained in accordance with the PHA's/grantee's policy for private medical information.
- If the PHA/grantee must transmit PII, it shall be done in a secure manner or in an encrypted email.
- For more information on Privacy Protection Guidelines for PHAs, see Notice PIH 2015-06.

Notification

The responsible party (TBRA: owner or grantee; PBA: owner) must notify the local health department, local HUD Field Office, and HUD OLHCHH (LeadRegulations@hud.gov) within five business days of verification

HUD recommends using email, but do NOT include the child's name or test results

What to include in notification to HUD Field Office and HUD Office of Lead Hazard Control and Healthy Homes:

- PHA code and name (if PHA providing info) OR owner name and address (if owner providing info)
- Date of EBLL test result
- Housing program (e.g., public housing, PBA, TBRA)
- Unit address and (if in multi-unit property) the development name
- Whether the PHA or owner has notified the local health department of the EBLL, or been notified by the local health department, and the date of that notification

Investigation of the Index unit

The responsible party must ensure that a certified lead risk assessor performs an **Environmental Investigation (EI)** within 15 calendar days of verification of EBLL child. (By default the regulations assign this to owners in PBA programs and to PHA/grantees in TBRA programs)

Risk Assessors and Inspectors

- The EI must be performed by a certified risk assessor.
- Certified risk assessors may perform environmental investigations, inspections, post-abatement clearances, lead hazard screens, and risk assessments.
- The PHA/grantee can rely on results of health department's evaluation of the EBLL child's home and environment.
- Many local public health departments conduct its lead poisoning prevention services or can arrange for such services.
- The health department may evaluate a child's home for lead-based paint hazards and other possible sources of lead exposure when a child is found with an EBLL.

Notification of EI Results

The responsible party must notify local HUD Field Office and the index unit occupant family

of the results. If LBP hazards were identified, also notify all assisted residents that an EI was completed. The HUD Field Office must be notified within 10 business days and the occupants within 15 calendar days.

Notices of evaluation to HUD and residents must include the date the investigation was completed, because the investigation is only valid for one year.

If the EI does not identify LBP hazards (**of paint, dust or soil**) in the index unit, but does identify other possible sources of lead exposure, then:

- Residents should be encouraged to follow the EI's recommendations for controlling other household sources of lead (for example, water, tub leaching, ceramic tile chipping and dusting, take-home exposures from work or hobbies, imported jewelry, pottery, and folk remedies).
- PHAs/grantees and owners may assist the family directly or coordinate with the health department to encourage the family to eliminate non-LBP hazards identified in the EI.
- EBLL response for the index unit is complete after the grantee (for TBRA) notifies the family of the results. PHA/grantee should maintain records.

If the EI also identifies lead-based paint hazards in the index unit...

- Within 30 days of the EI results, the owner (for TBRA and PBA) is responsible for controlling and clearing all hazards from housing sources in the index unit and common areas, using a certified LBP abatement firm or certified lead renovation firm

Other covered units

If an Index unit with LBP hazards is in a property with multiple federally assisted units, then:

- Risk Assessment is required for other assisted target housing units in the property where children under age six reside or are expected to reside (known as other "covered units"), AND
- Those units are likely to need hazard control work, so you might want to identify all the work needed before you start on one.
- Residents of other covered units can be notified of risk assessment results through a central posting or individual notifications.

Note: Exception to the requirement for risk assessments in other covered units: The regulations grant an exception to this requirement if: "The owner has documentation of compliance with evaluation, notification, lead disclosure, ongoing lead-based paint maintenance, and lead-based paint management requirement" for these units for the 12 months preceding the EI and provides such documentation to HUD within 10 days of receiving the results of the EI.

Guidelines for Sampling Other Covered Units for Risk Assessments

- Sampling of units is permitted for:
 - Properties built before 1960 and with more than 20 covered units
 - Properties built between 1960 and 1977 and with more than 10 covered units
- Table 7.3 in HUD's Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing provides guidance on the sample sizes required.
- The certified lead-based paint risk assessor will design and implement the sampling protocol.

Sampling Detail for Other Covered Units

- If lead-based paint hazards are found in a sample of covered units, they are presumed

- to exist in all the other covered units that were not sampled.
- The hazards are presumed to be present on the same type of building components (e.g., bedroom window sills) as had hazards in the sampled units.
- Components that were found not have hazards in sampled units do not have to be treated.
- If risk assessments did not identify LBP hazards in other covered units, PHA/owner must:
 - ✓ **Notify** covered unit residents and HUD Field Office of results
 - ✓ *EBLL response complete regarding other covered units*

Timing

If unit in a property with multiple federally-assisted units and index unit is found to contain LBP hazards then:

- Hazards in the index unit must be addressed and clearance completed by certified firm(s) within **30 calendar days** of the receipt of EI results by Designated Party.
- Risk assessments of other covered units must be conducted within
 - **30 days** for a property with ≤ 20 other covered units, and
 - **60 days** for a property with > 20 other covered units
- Interim control of other LBP hazards in other covered units must be conducted within
 - **30 days** for a property with ≤ 20 other covered units with LBP hazards, and
 - **90 days** for a property with > 20 other covered units with LBP hazards

Best Practices

- Plan ahead with your risk assessor for contingencies
- Assure risk assessor understands all of the timing and scope implications
- Discuss sampling options and the cost implications of sampling plus presumption
- If possible, discuss risk assessor recommendations before final report to assure that timing and cost are addressed and viable, but then follow the recommendations re staging of work, protections, relocation, etc.
- Some types of work require complete isolation, or containment, of work area and/or full evacuation of residents and their belongings.
 - Other jobs require much less site preparation and containment.
- Temporary relocation is necessary if residents do not have access to kitchens or bathrooms during non-work hours.
 - Relocate to a lead safe unit (i.e. constructed after 1978; passes visual assessment and dust sampling)

Abatement vs. Interim Controls

For TBRA/PBA: Decision is up to the owner, but PHA/grantee can advise the owner that abatement reduces need for future reevaluation and hazard control work.

When is Control Work Complete?

- All lead hazards identified in the course of the investigation should be eliminated or controlled.
- No interim control or abatement project is complete until compliance with clearance standards has been achieved, if required, and final report prepared.

Notify Work Complete & Clearance Achieved

Notify all assisted residents and provide documentation to HUD Field Office within 15 calendar days and 10 business days, respectively, when work on index and other covered

units is complete. For property residents notice may be by central posting or distribution to each unit.

Remember, in no case should EBLL children or the index unit be identified.

Summary of Actions if LBP Hazard Found

If risk assessments did identify LBP hazards in **ANY** assisted units, PHA/grantee/owner must:

- ✓ **Notify** all residents in assisted units and HUD Field Office
- ✓ **Protect** families in those units
- ✓ **Control** (and clear)
- ✓ **Notify** residents and HUD Field Office
- ✓ **Maintain** housing as lead-safe
- ✓ **Reevaluate** units
- ✓ *EBLL response complete*

All records must be retained for the life of the property and disclosed.

EBLL Response Activity	Timeframe
Notify Public Health Dept. and HUD FO of EBLL case	Within 5 business days after verification of EBLL
Conduct Environment Investigation for Index Unit	Within 15 calendar days after verification of EBLL
Notify HUD FO of results of EI	Within 10 business days of receiving results of the EI
Conduct Risk Assessment for Covered Units	a. Within 30 calendar days for property with ≤ 20 covered units after EI results b. Within 60 calendar days for property with > 20 covered units after EI results
Complete lead hazard control work and clearance	Within 30 calendar days of receiving results of EI
Interim control of other LBP hazards in other covered units	a. Within 30 calendar days for property with ≤ 20 covered units w/ LBP hazards after RA results b. Within 90 calendar days for property with > 20 covered units after RA results
Notify HUD FO of clearance	Within 10 business days after clearance
Notify assisted resident of clearance	Within 15 calendar days after clearance

Steps to Ensure Full Compliance with the Lead Safe Housing Rule

Ensure that all lead-based paint testing required under the existing LSHR is already completed and that records are securely stored at the property and are available for inspection and disclosure.

- Determine whether lead evaluations and hazard control work will be performed by trained, certified staff or through certified contractors.

- Identify a current contact person at the local or state health department for communication.
- Inform residents of the risks of lead-based paint and encourage them to have young children tested.

Resources

- OLHCHH homepage
www.hud.gov/lead
- LSHR (24 CFR part 35, subparts B – R):
www.hud.gov/program_offices/healthy_homes/enforcement/lshr
- LSHR EBLI amendment (1/13/2017):
www.federalregister.gov/d/2017-00261
- EBL Amendment Notice PIH 2017-13:
www.hud.gov/sites/documents/17-13PIHN_OHHLHC.pdf
- OLHCHH Grantees
www.hud.gov/sites/dfiles/HH/documents/HUD_OLHCHH_Lead_Hazard_Control_Grantees.pdf
- Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing:
www.hud.gov/program_offices/healthy_homes/lbp/hudguidelines
- Resources for PHAs
www.hud.gov/program_offices/public_indian_housing/leadbasedpaint
- LBP Compliance Advisor:
<https://portalapps.hud.gov/CORVID/HUDBLPAdvisor/welcome.html>
- Interpretive Guidance on HUD's LSHR:
https://www.hud.gov/sites/documents/DOC_25476.PDF
- Interpretive Guidance on HUD-EPA Lead Disclosure Rule (three parts):
www.hud.gov/program_offices/healthy_homes/enforcement/disclosure

Email any questions to leadregulations@hud.gov