THOMAS P. DiNAPOLI
STATE COMPTROLLER

110 STATE STREET
ALBANY, NEW YORK 12236

STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

January 14, 2010

Richard F. Daines, M.D.
Commissioner
Department of Health
Corning Tower
Empire State Plaza
Albany, NY 12237

Re: Report 2008-F-31

Dear Dr. Daines:

Pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution; and Article II, Section 8 of the State Finance Law, we have followed up on the actions taken by officials of the Department of Health (Department) to implement the recommendations contained in our audit report, *Oversight of the Childhood Lead Poisoning Prevention Program* (Report 2004-S-49).

Background, Scope and Objective

According to the State's Public Health Law, the Department is responsible for establishing and coordinating activities to prevent lead poisoning and to minimize the risk of exposure to lead. Specifically, the Department is required to: promulgate and enforce regulations for screening children and pregnant women and to follow up on those with elevated blood lead levels; coordinate lead poisoning prevention with other federal, State, and local agencies; and establish a statewide registry of children with elevated blood lead levels.

The Department's Bureau of Child and Adolescent Health, Bureau of Community Environmental Health and Food Protection, and Bureau of Occupational Health, as well as the Department's four regional offices, are responsible for overseeing the Childhood Lead Poisoning Prevention Program (Program). County health departments play a major role in implementing the Program. In addition, community-based organizations and regional lead poisoning prevention resource centers play an important role. Lead poisoning has irreversible effects including lower IQ, growth problems, kidney damage, behavioral problems, hearing loss, anemia and death. In addition, lead poisoning in pregnant women has been linked with pregnancy-induced high blood pressure, miscarriage, preterm birth, and low birth weight.

Our initial audit report, which was issued on June 14, 2007, determined whether the Department provided effective oversight of the Program to ensure that children under the age of six years are properly screened, that pregnant women are assessed for elevated blood lead levels, and that proper follow-up actions are taken when warranted. We concluded that the Department could make better use of the resources available to it, to ensure that all children are screened for lead poisoning, as required. We also found that the Department needs to better monitor county activities to ensure the Program is functioning as intended at the local level. The objective of our follow-up was to assess the extent of implementation as of September 24, 2009, of the 18 recommendations included in our initial report.

Summary Conclusions and Status of Audit Recommendations

We found that Department officials have made significant progress in correcting the problems we identified. Of the 18 prior audit recommendations, 15 recommendations have been implemented, two have been partially implemented and one recommendation has not been implemented.

Follow-up Observations

Recommendation 1

Use available databases and/or other resources to identify children who have not been screened for lead poisoning and refer these children to their provider or county health department for screening.

Status - Partially Implemented

Agency Action - The Department has initiated two projects to use existing databases and resources to identify children who have not been screened for lead poisoning. One project involves matching the information in LeadWeb, the Department database which contains information on all children currently being monitored for lead exposure, with the Medicaid system to identify additional children who have not been tested. The second project involves a similar match with the New York State Immunization Information System (NYSIIS), the immunization registry where physicians are required to report all immunizations given to children. When fully implemented, these links will help to identify to state and Local Health Departments (LHD) those children who have not been tested for lead and provide an opportunity for physicians to see if children under their care have been tested. When both linkages are in place, the Department will be able to use the analysis and notification features of the LeadWeb database to alert the LHDs and physicians to those children who need testing and follow-up.

Recommendation 2

Develop a process to enable counties to use the databases available to identify children who have not been screened and to refer them to their providers.

Status - Implemented

Agency Action - In 2007 the Department implemented a new report capability from the LeadWeb database that allows LHDs to identify children who are due for two-year old lead tests and in 2008 implemented the ability for LHDs to generate letters to parents and health care providers reminding them of the need for these tests.

Recommendation 3

Enforce lead screening and risk assessment requirements.

Status - Implemented

Agency Action - The Department has developed a written protocol to enforce lead screening requirements. This protocol includes providing educational and technical assistance to health care providers from LHDs, Department regional offices, and regional lead resources centers. The Department also considers referrals to the Office of Professional Medical Conduct and assessment of penalties for violations of the Public Health Law, as warranted. In addition, the Department continues to implement a wide range of strategies to improve lead testing which includes expanded surveillance, data analysis and reports. The previously mentioned link between the LeadWeb lead registry and the NYSIIS statewide immunization information system will support more systematic assessment and follow-up of provider lead testing practices at both state and local levels to assist with targeting compliance improvement efforts to specific providers.

Recommendation 4

Require providers to follow up on those children for whom they do not receive lead screening results.

Status - Not Implemented

Agency Action - The Department has not implemented this recommendation. Department officials state that they prefer to understand the barriers that prevent physicians from obtaining all lead screening test results and work to resolve these issues. For example, the Department recently implemented key actions to allow providers to test children for lead in their offices or clinics. Officials believe that in-office testing will correct much of this problem.

Recommendation 5

Work with the counties to expand the use of PBII visits statewide and increase these visits to reach more providers.

Status - Partially Implemented

Agency Action - Department officials stated the Provider Based Immunization Initiative (PBII) visits are a resource intensive approach and may not be the most effective or efficient means of improving screening practices in all communities. Therefore, the Department uses PBII visits only when warranted. Department officials believe that alternative strategies based upon education and various follow-up activities will be more effective. Department staff work with LHD staff to assure that all LHDs are carrying out effective lead screening promotion activities that result in measurable improvements in lead screening rates, with an established statewide benchmark of at least 80 percent of children tested at both ages one and two years.

Recommendation 6

Identify laboratories who do not report results of blood lead analysis to the Department within five business days as required and follow-up to ensure the laboratories comply in the future.

Status - Implemented

Agency Action - The Department conducts a quarterly analysis of the timeliness of laboratory reporting through LeadWeb. If a laboratory is identified as deficient in the meeting reporting requirements, a letter is sent to the laboratory notifying them of the results and requesting a written corrective action plan. Department officials follow up with the laboratory as needed. Department staff have worked with the Wadsworth Clinical Laboratory Evaluation Program (CLEP) to cite laboratories with significant or repeated deficiencies in complying with laboratory reporting regulations. CLEP is copied on all notifications of deficiencies sent to laboratories. Laboratories with persistent deficiencies identified in 2008 will be referred to CLEP for further follow-up.

Recommendation 7

Obtain necessary information to determine whether laboratories report the results of blood lead analysis equal to a greater than 45 mcg/dl to providers within 24 hours.

Status - Implemented

Agency Action - The Department has written new procedures to assess laboratory reporting timeframes. Under the new procedures, a lead program laboratory liaison checks the LeadWeb Prescreen Page of incoming blood lead laboratory results daily. When reports of blood lead level greater or equal to 45 mcg/dl are reported, the laboratory is contacted to obtain evidence as to when the health care provider was notified.

Recommendation 8

Lower the threshold of non-compliance used in its quality assurance analysis and refer those laboratories repeatedly identified as not reporting timely to the Clinical Laboratory Evaluation Program for follow-up.

Status - Implemented

Agency Action - Department officials have lowered the threshold for identifying a laboratory as non-compliant in their quality assurance analysis. These lower thresholds are used to trigger two Department actions. If a laboratory is identified as taking more then seven business days to report 15 percent or more of its test results in any calendar quarter, they receive a letter advising them that they have failed to meet Department standards. In addition, the Department also identifies laboratories that take more then seven business days to report its test results for 10 percent or more of the lead screening tests in two consecutive quarters. These laboratories are referred to the Clinical Laboratory Evaluation Program (CLEP) at the Wadsworth Lab for further follow up.

Recommendation 9

Require counties to follow up on children with elevated blood lead levels until levels fall to an acceptable level.

Status - Implemented

Agency Action - In October 2007 the Department sent a letter to all LHDs that clarified the criteria for closing cases on children with elevated blood lead levels. The letter included administrative criteria for case closure, and clarified that cases could not be closed solely on the basis of a child turning six years old. Department officials advised that they have also met with county leaders on several occasions to clarify these case closure criteria. In addition, the officials said they have incorporated the criteria into the LHD guidelines for follow-up of children with elevated lead levels. The officials expect the guideline distribution to be complete by the end of 2009.

Recommendation 10

Monitor county performance toward meeting the specific timeframes for follow-up activities set forth in their policy and procedure manuals.

Status - Implemented

Agency Action - Department officials help develop LHD annual work plans and monitor them on a quarterly basis. The Department compares the annual plans with prior years to ensure progress is being achieved and new goals are being developed. Where progress is not made, assistance is provided by the Department and the regional resource centers to reach those goals. In 2007 the officials developed procedures for the regional offices to conduct on-site monitoring visits for LHD

lead programs once every three years. During the visits, regional officials review a sample of case records to assure that all required follow-up services were provided within required timeframes. The procedures were updated in January 2009 to align with minor changes made to the current work plan. According to Department officials, monitoring visits are currently up to date. Additional applications of the data system to inform monitoring of LHD coordination of follow-up services is under development, with project initiation targeted for later in 2009.

Recommendation 11

Develop an initiative similar to PBII to ensure all prenatal care providers, including private providers, are risk assessing women as required.

Status - Implemented

Agency Action - The Department, in conjunction with a group of external stakeholders including the American College of Obstetricians and Gynecologists and the American Academy of Pediatrics, has developed a comprehensive set of prenatal care standards. These standards incorporate environmental factors including the current standards for lead testing pregnant women, and updated lead guidelines. The Department also plans to post the prenatal lead guidelines to its website, along with additional outreach material in the coming year. More intensive targeted strategies include monitoring tools to help ensure that lead assessments and testing, if needed, are performed, and coordination with other Department bureaus and government programs to provide information and additional monitoring for lead testing for at risk women.

Recommendation 12

Work with officials from OCFS and the New York City Department of Health and Mental Hygiene's Bureau of Day Care to determine whether day care facilities are obtaining certificates of screening as required.

Status - Implemented

Agency Action - In April 2008, the Office of Children and Family Services (OCFS) revised its standard medical form for a child in child care to specifically add a statement about New York State requirements for lead testing at day care entry. OCFS added an explicit field to the form to record lead test results at ages one and two years as well as other recent tests. In addition, OCFS's Division of Early Childhood Services and New York City Department of Health and Mental Hygiene's Bureau of Day Care Services monitor all day care facilities to assess compliance with New York State regulations that require documentation, and, if needed, referral of children for lead screening. This is done by reviewing day care provider records while performing routine site visits.

Recommendation 13

Provide each day care facility with educational materials pertaining to lead poisoning to be used for their own knowledge and to be given to parents.

Status - Implemented

Agency Action - Department officials have worked with OCFS and the New York City Department of Health and Mental Hygiene staff to develop and disseminate mass mailings to all regulated child care providers on the importance of lead poisoning prevention, and the requirements for lead testing, including the specific responsibilities of child care providers to assess lead testing status. The Department has also provided information to day care facilities on how to obtain no-cost educational materials for parents.

Recommendation 14

Require that work plans include quantifiable goals and that counties make substantial progress toward meeting their goals.

Status - Implemented

Agency Action - As of April 2007, a new work plan format required LHDs to propose specific measurable activities related to defined goals and objectives in the areas of program administration, public and professional education, lead testing and screening, case management and primary prevention. Minimum required activities for each objective should be specified and LHDs have the flexibility to propose specific activities they plan to conduct to meet the objectives, and minimum activities that align with local needs, barriers and resources. Officials advised that Department contract managers review quarterly reports of LHDs to assess progress in meeting their annual work plan grant objectives and activities. If activities have not occurred as planned or progress is not adequately reported, contract management follows up with LHD staff and provides technical assistance when necessary to address deficiencies.

Recommendation 15

Revise the data section of the quarterly reports to require more specific information that will allow for determining whether follow-up activities were completed for all addresses.

Status - Implemented

Agency Action - Department officials believe that quarterly reports were not the best source for up-to-date information on follow up activities. Instead, the Department has modified LeadWeb to include environmental monitoring information at the state and local level to allow for tracking of lead hazards and sources of exposure at individual residential addresses. Web-based reports can now be generated quickly to provide summaries for a variety of important lead exposure information to the LHDs. These reports also provide environmental and nursing internet links to all individual cases. The Department's Center for Environmental

Health uses these reports to monitor and follow up on environmental lead testing at individual addresses.

Recommendation 16

Develop and implement standardized written procedures for site visits to counties to be used by all regions.

Status - Implemented

Agency Action - In July 2007, Department officials finalized the site visit protocol and review tool for monitoring LHD lead poisoning prevention programs. The protocol and tool were distributed to Department staff at that time and are used when conducting site visits to counties.

Recommendation 17

Work with Western regional office officials to ensure Department expectations are clear and regional officials are meeting those expectations.

Status - Implemented

Agency Action - Department officials track and document the completion of on-site monitoring visits and associated follow up conducted by regional office staff, including the Western regional office. Tracking and documenting these visits helps Department officials ensure that regional offices are meeting Department expectations. In addition, Western regional office staff have been provided with additional orientation and training regarding the Department's lead program expectations, and attend all educational forums and monthly conference calls conducted by Department officials.

Recommendation 18

Monitor Council activities and membership to ensure all Council obligations are being met.

Status - Implemented

Agency Action - The New York State Advisory Council on Lead Poisoning Prevention (Advisory Council) met in March, June and September of 2007, March, June and October of 2008 and March of 2009. Meeting agendas focused on key priority topics related to updating and implementation of the statewide lead elimination plan. The Advisory Council's 2005 Annual Report was finalized and distributed in 2008. A preliminary draft report for the period 2006-2008 is undergoing Department review for distribution to Council members to solicit their additional input prior to finalizing the report. With several new members recently appointed, the Council has 14 of the 15 public members required. The Department is in the process of finding a replacement for a member who recently resigned. The Department is also seeking re-nomination of two additional members whose terms recently expired. The Department is also adding two more agency members

representing the State Insurance Fund and the Department of State. The decision to do so was made because these two representatives had attended prior Council meetings acting as adjunct members, so Department officials invited them to become permanent Council members.

Major contributors to this report were Karen Bogucki, Donald Collins and David Pleeter.

We would appreciate your response to this report within 30 days, indicating any actions planned to address the unresolved issues discussed in this report. We also thank the management and staff of the Department for the courtesies and cooperation extended to our auditors during this review.

Very truly yours,

Brian Mason
Audit Manager

cc: Stephen Abbott, Department of Health
Tom Lukacs, Division of the Budget