October 1, 2014

The Honorable Edward J. Kasemeyer
Chairman, Senate Budget & Taxation Committee
3 West, Miller Senate Building
Annapolis, Maryland 21401-1991

RE: Substance-Exposed Newborn Reporting in Maryland – Preliminary Report

Dear Chairman Kasemeyer:

In accordance with the provisions of the Chapter 90, Acts of 2013, the Department of Human Resources is pleased to submit the enclosed preliminary report on the implementation of Substance-Exposed Newborn Reporting in Maryland.

As noted in the report, during the 2013 legislative session, the Maryland General Assembly enacted DHR's proposed legislation (House Bill 245), requiring a health care practitioner in the State who delivers or cares for a newborn affected by prenatal exposure to alcohol or controlled substances to notify the local department of social services of the birth. The law, which took effect on October 1, 2013, brings Maryland into full compliance with requirements of the federal Child Abuse Prevention and Treatment Act. Between October 1, 2013 and July 31, 2014, hospital staff made 1,224 reports of substance-exposed newborns to local departments of social services across the State.

If you require additional information, please contact Netsanet Kibret, Director of Government Affairs within the Department of Human Resources at (410) 767-6886.

Sincerely,

Theodore Dallas
Secretary

Enclosure

October 1, 2014

The Honorable Norman H. Conway
Chairman, House Appropriations Committee
121 Lowe House Office Building
Annapolis, Maryland 21401-1991

RE: Substance-Exposed Newborn Reporting in Maryland – Preliminary Report

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In accordance with the provisions of the Chapter 90, Acts of 2013, the Department of Human Resources is pleased to submit the enclosed preliminary report on the implementation of Substance-Exposed Newborn Reporting in Maryland.

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Sincerely,

Theodore Dallas
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Enclosure

SUBSTANCE-EXPOSED NEWBORN REPORTING IN MARYLAND – PRELIMINARY REPORT

MARYLAND DEPARTMENT OF HUMAN RESOURCES

Completed in response to HB 245/Ch. 90, Acts of 2013

October 1, 2014

REPORT REQUIREMENT – FAMILY LAW ARTICLE § 5-704.2

The Department of Human Resources (DHR) submits this report in response to the following excerpt from the provisions of Section 2 of Chapter 90, Acts of 2013:

"SECTION 2. AND BE IT FURTHER ENACTED, That:

- *(a) On or before October 1, 2014, the Department of Human Resources shall submit a preliminary report to the General Assembly, in accordance with § 2–1246 of the State Government Article.*
- *(b) On or before October 1, 2015, the Department of Human Resources shall submit a final report to the General Assembly in accordance with § 2–1246 of the State Government Article.*
- *(c) The reports required under subsections (a) and (b) of this section shall include:*
  - *(1) the number of assessments conducted by the Department of Human Resources in response to reports submitted under Section 1 of this Act;*
  - *(2) the outcomes of any assessments conducted;*
  - *(3) the number of mothers referred to substance abuse treatments as a result of reports made under Section 1 of this Act; and*
  - *(4) the number of cases arising under Section 1 of this Act that resulted in a termination of parental rights."*

(HB 245/Ch. 90, Acts of 2014)

BACKGROUND

In 2012, the Department of Human Resources developed and proposed legislation mandating that certain health care practitioners report the birth of a substance-exposed newborn to the local department of social services (LDSS), in compliance with federal law. The development of the proposal involved close coordination with key stakeholders that also supported the bill: the Maryland chapters of the American Congress of Obstetricians and Gynecologists (ACOG), the American Academy of Pediatrics (AAP), and the Maryland Hospital Association (MHA).

During the 2013 legislative session, the Maryland General Assembly enacted DHR's proposed legislation (House Bill 245/Chapter 90, Acts of 2013), requiring a health care practitioner in the State who delivers or cares for a newborn affected by prenatal exposure to alcohol or controlled substances to notify the LDSS of the birth. The law, which took effect on October 1, 2013, brings Maryland into full compliance with requirements of the federal Child Abuse Prevention and Treatment Act (CAPTA).

The report by the hospital of the birth of a substance-exposed newborn is not considered a referral for investigation of suspected child abuse or neglect and does not create a presumption that a child has been or will be abused or neglected; nor will it require a referral for prosecution for any illegal action. Instead, the report triggers an assessment of the safety of, and the risk to, the newborn, as well as the development of a plan of safe care and services for the newborn and family, if needed. The law requires LDSS staff to respond to the referring hospital within 48 hours of the report, to consult with health care practitioners and social workers, to see the newborn, and to speak with the mother.

HB 245 also requires DHR to submit a preliminary report to the Maryland General Assembly on or before October 1, 2014 and a final report on or before October 1, 2015. The reports must include data resulting from the implementation of the new substance-exposed newborn reporting requirements, including: the number of assessments conducted by DHR, the outcomes of those assessments, the number of mothers referred to substance abuse treatment programs and the number of cases resulting in the termination of parental rights.

DHR is pleased to submit this preliminary report in accordance with the provisions of HB 245.

IMPLEMENTATION

Implementation of the new law involved several different strategies to disseminate the information in collaboration with key stakeholders throughout the State. In advance of the implementation date, the Department of Human Resources sent a notification letter with a copy of HB 245 to the President/CEO, chiefs of Obstetrics and of Pediatrics, and directors of nursing and of social work case management in each of the 33 birthing hospitals in the State. The Maryland chapters of the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists sent an email to each member with the letter attached. The Maryland Board of Physicians sent an email with the letter to each obstetrician, pediatrician, and family physician licensed to practice in Maryland. A notification letter was also disseminated to the health officer in each jurisdiction.

Accompanying regulations were promulgated by DHR and became effective December 23, 2013 (See COMAR 07.02.08 - Substance-Exposed Newborn Safe Care Plan). Staff in DHR's Social Services Administration (SSA) developed a new policy directive that was issued to child welfare staff across the State. Finally, SSA staff travelled to each jurisdiction to train staff from hospitals, the LDSS, the health department, substance abuse treatment providers, prenatal care providers, primary care providers, health maintenance providers, and family drug courts.

In many jurisdictions, these multidisciplinary groups met regularly for years to develop collaborative strategies and services for women with perinatal substance use issues. The new law brought more uniformity to the way in which LDSSs respond to hospital reports of substance-exposed newborns. It also prompted health care professionals and hospitals to review how they educate patients about prenatal alcohol and controlled substance use and to reexamine their drug testing policies.

FINDINGS

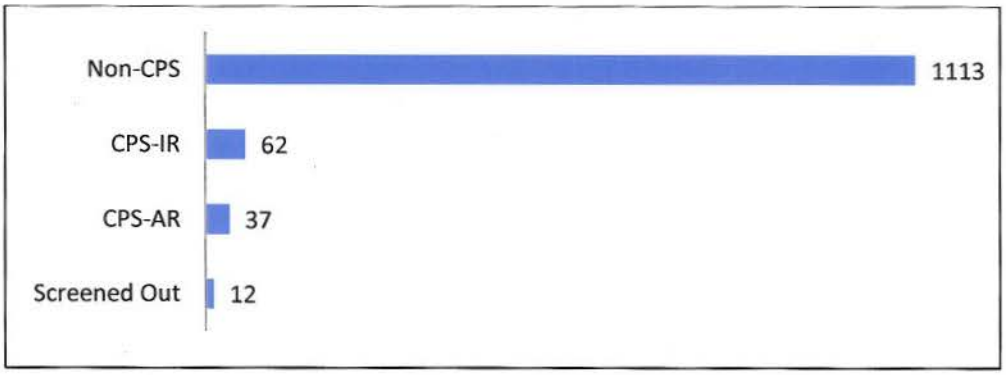
Total Number of Reports

Between October 1, 2013 and July 31, 2014, the period for which data is currently available, hospital staff made 1,224 reports of substance-exposed newborns to LDSSs across the State. There were 12 sets of twins, so the number of newborns is 1,236. Because Maryland law does not define prenatal substance use as child maltreatment, hospital reports of substance-exposed newborns are categorized as non-Child Protective Services (non-CPS). After the birth of an infant, however, there may be actions or behaviors of the mother that rise to the legal definition

of child maltreatment, in which case the hospital report may be accepted for either a CPS-Investigative Response (CPS-IR) or a CPS-Alternative Response (CPS-AR). Alternative Response is a new approach for managing certain low risk reports of child abuse and neglect that allows workers to tailor their approach to best serve families. Under Alternative Response, low risk cases are handled through an alternate process that works collaboratively with families through the provision of services, but does not result in a formal finding.

The LDSS is also able to screen out a report if the report does not meet the requirements set forth in Family Law Article § 5-704.2 (i.e., neither mother nor newborn has a positive toxicology test at delivery/birth). Table 1 below shows the number of reports by type.

Table 1: Total Number of Reports by Type
October 2013 through July 2014
(N=1,224)



Number of Assessments Conducted in Response to Reports and Outcomes

In response to a report of a substance-exposed newborn, staff from the LDSS conduct the Safety Assessment for Every Child (SAFE-C) that is used in supporting two critical decisions:

1. Whether a child is safe, conditionally safe, or unsafe; and
2. Whether or not placement is required.

The assessment is completed at the initial contact and at various points in the case; therefore, the total number of assessments is higher than the total number of reports. A total of **1,734 SAFE-C** assessments were completed over the life of the cases with the following outcomes:

- In 1,245 instances, the assessment rendered a "safe" finding;
- In 400 instances, the assessment rendered a "conditionally safe" (safe if family accepts services) finding; and
- In 89 instances, the assessment rendered an "unsafe" finding.

Within 90 days of the newborn's date of birth, 105 newborns who were found to be unsafe were placed in an Out of Home Placement (OHP). During the time they are in OHP these newborns and families receive the services needed to achieve reunification.

Staff also conduct the Maryland Family Risk Assessment (MFRA) in response to a report of a substance-exposed newborn. This assessment identifies factors that are most highly associated with risk of future harm to children and that guides decisions about service plans. A total of **909 MFRAs** were completed within 60 days of the newborn's date of birth.

LDSS staff provided many different types of In-Home services to these newborns and caregivers, including referrals for substance abuse, mental health, and domestic violence counseling; child development and parenting classes; assistance with day care and transportation; life skills training; and financial assistance with security deposits, energy assistance, and needed household items. There were **748 separate In-Home Services** identified in MD CHESSIE (Maryland Children's Electronic Social Services Information Exchange system) as either provided by or paid for by the LDSSs.

Number of Mothers Referred to Substance Abuse Treatment

MD CHESSIE was able to provide a count of 168 individuals who received a total of 373 services, such as assessments, urinalyses, or treatment for which the LDSSs paid for. This number, however, is an undercount because MD CHESSIE documentation, during the startup period, has been recorded in narrative descriptions rather than in designated fields that can be easily extracted and counted. Startup documentation issues for substance exposed newborn cases are being addressed to improve this count of substance abuse treatment services.

Number of Cases That Resulted in a Termination Parental Rights

There was **one case** where parental rights were terminated and the child was freed for adoption.

DISCUSSION

Identification of substance-exposed newborns by health care providers and hospitals continues to vary across the State because there is no agreement about universal testing for controlled substances in Labor and Delivery. Hospitals that do test are competently reporting the newborns to LDSSs. SSA continues to work with LDSSs to train staff, to increase knowledge and skills for working with these multi-problem, complex families and to improve compliance with documentation requirements. SSA will work with DHMH counterparts to discuss how to track outcomes pertaining to substance abuse treatment in a more efficient manner.