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Allegations of Asthma and Allergies - Issues to be Considered

1) General issues:

- Allergies and asthma, or asthma-like symptoms, may derive from a variety of causes
- Exacerbating factors may include secondhand smoke, pet dander, plants, dust, stress, or exposure to other allergens
- Especially in young children, diagnosis is not an exact science
 - Children have difficulty reporting, and parents' reports may be biased
 - Controversies re effectiveness of testing, x-rays, other diagnostic tools
 - Physician judgment in assessing conditions and recommending treatment
 - Physicians may request that parents log symptoms and environmental exposures
- Allergies have historically been under-treated in many children, and may seriously impact quality of life, children's irritability and learning
- Options for management may include both environmental modification and medication
- Continued exposure to allergic or asthma triggers may make symptoms worse
- When condition is significant, consistent treatment is required

Special Needs Children in Family Law Cases
Asthma and Allergies
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- Family history may be significant
- 2) Resource issues
- Assessment and treatment are usually covered services
 - Many insurance companies and HMO's offer patient education and treatment support services
 - Community resources, Asthma and Allergy foundation - <http://www.aafa.org/>
- 3) Use caution in interpreting physician's notes:
- "Junior should not be exposed to secondhand smoke" is NOT the same as "the parenting plan should be changed"
 - Ask about treatment options
 - Consider timing of the request for an MD note, especially if the condition is chronic
 - Request a more complete letter from the physician if necessary; provide for payment for the physician's services and note specific questions to be answered
- 4) Key questions to ask:
- How long have these conditions been a concern?
 - Do parents or siblings have histories of allergies or asthma?
 - When were they brought to the attention of the physician?
 - Did the parents consult the child's regular physician?
 - Was appointment time adequate?
 - What treatment options did the physician offer (there is often more than one). How did the parents respond to each option, and why?
 - If the physician recommended removing an exacerbating factor, what actions have the parents taken? Have the parents made efforts at:
 - dust mitigation?
 - smoking cessation?
 - purchase of air filters?
 - If a change has been requested that a parent does not see as possible, has the parent requested alternate options from the pediatrician? (Ex. Removal of a pet).

- If medication has been prescribed, do both parents have supplies of that medication on hand? Are both parents giving the medication to the child, as prescribed?
- If either parent opposes prescribed medication, has that parent spoken to the MD or requested a second opinion? Or is the parent simply withholding medication from the child?
- What is each parent asking the other to do? What is each parent willing to do him/herself?

5) Get appropriate medical information

- As these are medical conditions, assessment and treatment may be eligible for coverage
- Require that both parents consult the pediatrician, cooperate with assessment
- Provide for payment to the physician for any extra services required
- Ask the physician medical questions only; don't expect the MD to make a custody recommendation
- If necessary, have a child custody evaluator obtain and integrate the information, weigh it in conjunction with other parenting plan factors, and report to the Court.