

Opioid Settlement Funds

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Background

- By 2017, over 2,000 federal lawsuits had been filed by government entities against opioid-related defendants. Among those defendants were opioid distributors and manufacturers.
- In 2017, a federal judicial panel consolidated these cases into multidistrict litigation (MDL).
 - The MDL was consolidated under one judge in the Northern District of Ohio.
- In 2019, after receiving pressure from the MDL judge, three of the nation's largest drug distributors—McKesson, Cardinal Health, and AmerisourceBergen—agreed to settlements. Janssen, an opioid manufacturer, also agreed to settlement.
- In 2021, the details of the settlement were released.
- This process has been replicated with pharmaceutical companies and others

What is being settled?

Many governments have agreed to release certain legal claims against these defendants, related to opioids.

In exchange for government's releasing those claims, the defendants have agreed to do certain things and pay money.

- Doing certain things is known as injunctive relief.
- Paying money is known as monetary payments.

Opioid Settlements Overview

- The state of Michigan is slated to receive nearly \$776 million over 18 years from two settlements, Distributors (McKesson, Cardinal Health and AmerisourceBergen) and J&J
 - Tribal settlements are separate
- Fifty percent (50%) of the settlement amount will be sent directly to county and local governments
- Allocation percentages can be found in Exhibit A of the [Michigan State-Subdivision Agreement for Allocation of Distributor Settlement Agreement and Janssen Settlement Agreement](#)
- 85% of funds must be used for opioid remediation with 70% of funds used for future opioid remediation
- Exhibit E outlines allowable uses for settlement funds

What do the defendants have to do?

- Janssen (Opioid Manufacturer), for 10 years, has agreed to:
 - Stop selling and manufacturing opioids
 - Stop promoting opioids
 - Stop providing financial incentives to sales teams for opioid sales
 - Stop lobbying for federal, state, local, and regulatory provisions that encourage or require health care providers to prescribe opioids
 - Stop lobbying against federal, state, local, and regulatory provisions that
 - Support non-opioid pain relief
 - Prescribing the lowest effective dose
 - Prescribing naloxone and using urine testing for those with opioid prescriptions
 - Support evidence-based treatments (like MAT)

What do the defendants have to do?

- The Distributors have agreed, for a period of 10 years, to:
 - Create and implement a Controlled Substance Monitoring Program (CSMP)
 - CSMP is responsible for onboarding and approval of new controlled substance pharmacies, setting and adjusting pharmacy thresholds, setting and adjusting pharmacy thresholds, terminating or suspending pharmacies, and identifying red flags.
 - CSMP must conduct ongoing due diligence and conduct site visits, among other things
 - Create and implement a National Clearinghouse to receive and analyze data received from this injunctive relief.
 - The Clearinghouse will allow Distributors to obtain comprehensive data from other Distributors , pharmacies, and other relevant sources.
 - States will have access to the data to query without limitation.

Opioid Settlement Overview

- Subdivision sign-on will take place in March 14 - April 18 for
 - CVS
 - Walmart
 - Allergan
 - Teva
- Additional settlements are expected to take place
 - Purdue Pharma
 - Mallinckrodt PLC
 - Endo
 - Walgreens
- Distribution process, requirements on spending and reporting are expected to differ
- Tribal settlements are separate

Opioid Remediation - Definition

- Care, treatment, and other programs and expenditures (including reimbursement for past such programs or expenditures except where this Agreement restricts the use of funds solely to future Opioid Remediation) designed to
 - **(1)** address the misuse and abuse of opioid products,
 - **(2)** treat or mitigate opioid use or related disorders, or
 - **(3)** mitigate other alleged effects of, including on those injured as a result of, the opioid epidemic.
- Exhibit E provides a non-exhaustive list of expenditures that qualify as being paid for Opioid Remediation. Qualifying expenditures may include reasonable related administrative expenses.
- *70% of funds must be used for future opioid remediation

Legislative Effort for Incentive A

Bills were passed to ensure Michigan receives Incentive A for the Distributor and Janssen Settlements.

- SB 993 – Michigan Opioid Healing and Recovery Fund
- SB 994 – Opioid Advisory Commission
- SB 995 – Bar to new civil lawsuits against settling defendants

Michigan State-Subdivision Agreement

Available at [Michigan.gov/agopioids](https://www.michigan.gov/agopioids)

- Controls the allocation of funds to the State and Local Subdivisions, instead of what is listed in Master Settlement Agreement.
 - Allocates 50% to Local Subdivisions and 50% to the State. This is instead of 15% to Local Subdivisions, 15% to the State, and 70% to a fund.
 - Deductions for an Administrative Fund, Litigating Local Government Attorney Fee Fund, and Special Circumstance Fund.
- Allocations to individual local subdivisions are determined by a nationally used formula, modified by a litigation adjustment.
- Individual local subdivisions with an allocation percentage of less than .0023% (approx. \$7,500 or less in total) will receive their complete recovery in the first payment.
- Local subdivisions may voluntarily assign all or part of their allocation to another participating subdivision.

Michigan State-Subdivision Agreement

Available at [Michigan.gov/agopioids](https://www.michigan.gov/agopioids)

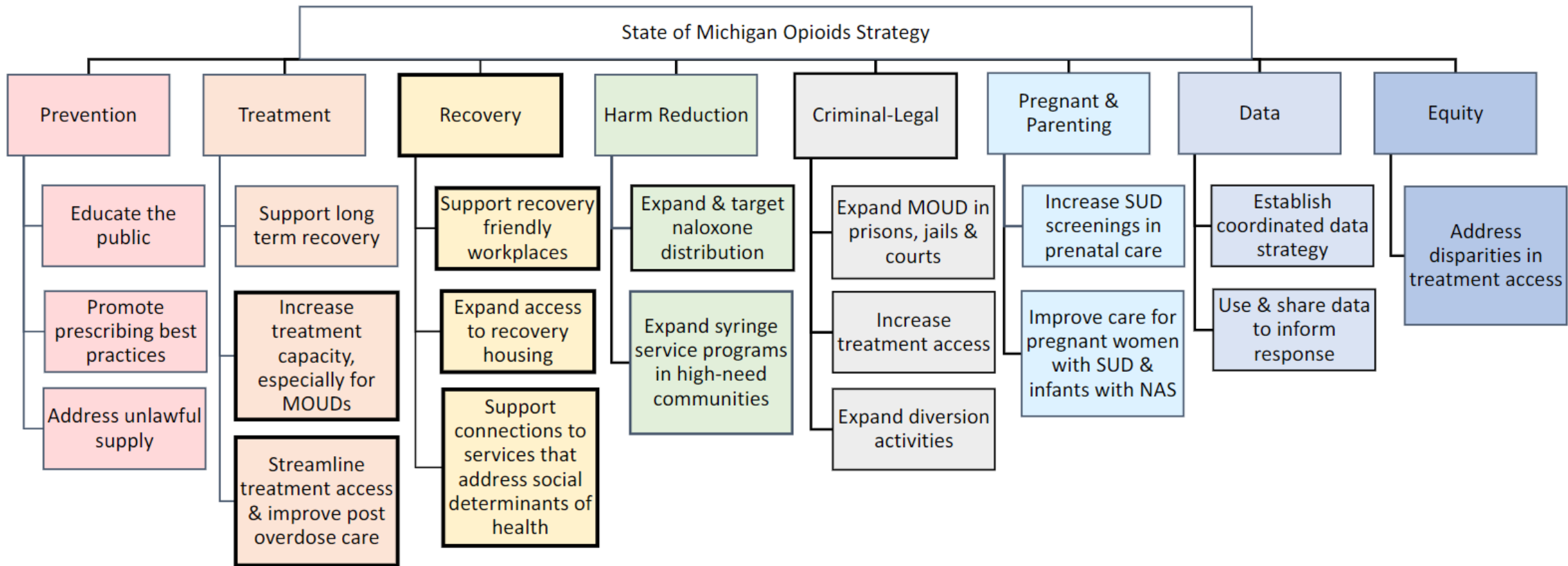
- Attorney fees are limited to 15% of an individual Litigating Local Government's recovery and offset by a National Fee Fund.
- For example, Subdivision A contracted with Attorney X for a 30% contingency fee. Attorney X's fee is limited to 15% of Subdivision A's recovery by the Michigan State-Subdivision Agreement and by order of the Court. The National Fee Fund pays 7% and the remainder is paid by the Litigating Local Government Attorney Fee Fund. Fees are paid over the course of 7 years.
- **Special Circumstance Fund:** Local subdivisions may apply for additional funding for any local impact that is not captured by a Local Government's allocation percentage.
- The application deadline is March 30, 2022, but there is active effort to move this date back because everything is taking longer than expected.

MAC Settlement Tracking

Opioid Settlements - Overview									
Company	Year	National Total	Global Abatement Amount	Michigan Total	State Share	Subdivision Share	Maximum Number of Payments	Notes	Reporting Requirements
TOTAL			\$ 35,810,938,151.75	\$ 1,244,221,906.14	\$ 631,889,561.03	\$ 612,332,345.10			
Purdue	2022	6.0B						TBD	
Mallinckrodt	2022	1.7B						TBD	
Endo	2022	450.0M						TBD	
Walgreens	2022	5.0B						TBD	
CVS	2022	4.9B	\$ 4,278,160,837.00	\$ 161,122,835.07	\$ 80,561,417.53	\$ 80,561,417.53	10	50/50 split between state and local governments; direct distribution to subdivisions	Through payment portal only
Allergan	2022	2.4B	\$2,149,873,027.00	\$ 73,139,185.58	\$ 36,569,592.79	\$ 36,569,592.79	7	50/50 split between state and local governments; direct distribution to subdivisions	Through payment portal only
Teva	2022	4.3B	\$3,611,561,762.00	\$ 122,866,179.82	\$ 61,433,089.91	\$ 61,433,089.91	13	50/50 split between state and local governments; direct distribution to subdivisions	Through payment portal only
Walmart	2022	3.0B	\$ 2,393,794,118.64	\$ 91,241,366.44	\$ 45,620,683.22	\$ 45,620,683.22	1	50/50 split between state and local governments; direct distribution to subdivisions	Through payment portal only
J&J (Janssen, Johnson & Johnson)	2022	5.0B	\$ 4,264,615,385.00	\$ 145,083,217.54	\$ 72,541,608.77	\$ 72,541,608.77	9	50/50 split between state and local governments; direct distribution to subdivisions	Through payment portal only
Distributors (AmerisourceBergen, Cardinal Health, McKesson)	2022	21.0B	\$ 18,554,013,691.11	\$ 631,211,905.76	\$ 315,605,952.88	\$ 315,605,952.88	18	50/50 split between state and local governments; direct distribution to subdivisions	Through payment portal only
McKinsey & Co.	2021	573.0M	\$ 558,919,331.00	\$ 19,557,215.93	\$ 19,557,215.93	-	5	State received initial payment in 2021, payments occur in April	-

State Spending

Michigan Opioids Strategy - 2022



MDHHS Spend Plan

\$39.2M

*Total legislative appropriations of
opioid settlement funds to
MDHHS as of FY 2023*

\$23.2M

*Opioid settlement funds currently
appearing in the FY 2024
Executive Budget (MDHHS)*

Prevention \$6.1 million

PHA Injury Prevention Initiatives: \$2.4 million
Children's Services Administration Initiatives: \$2.1 million
BPHASA Areas on Aging Initiatives \$1.6 million

Treatment \$8.56 million

Transportation: \$2.5 million
Contingency Management and Technical Assistance: \$3.06 million
Infrastructure Grants: \$2 million
Loan Repayment and Staff Incentives: \$1 million

Recovery \$6.5 million

RCO Grants: \$525K
MSHDA Recovery Housing Expansion: \$4 million
Additional Recovery Supports: \$2 million

Harm Reduction \$8.5 million

Naloxone Portal: \$4.5 million
Syringe Service Programs (SSP): \$4 million

Criminal-Legal \$4 million

MOUD in Carceral Settings (Local Jails): \$1.5 million
MOUD in Carceral Settings (MDOC): \$2.5 million

Pregnant & Parenting \$800K

High Touch, High Tech Expansion: \$400K
Rooming-In Expansion: \$400K

Data \$750K

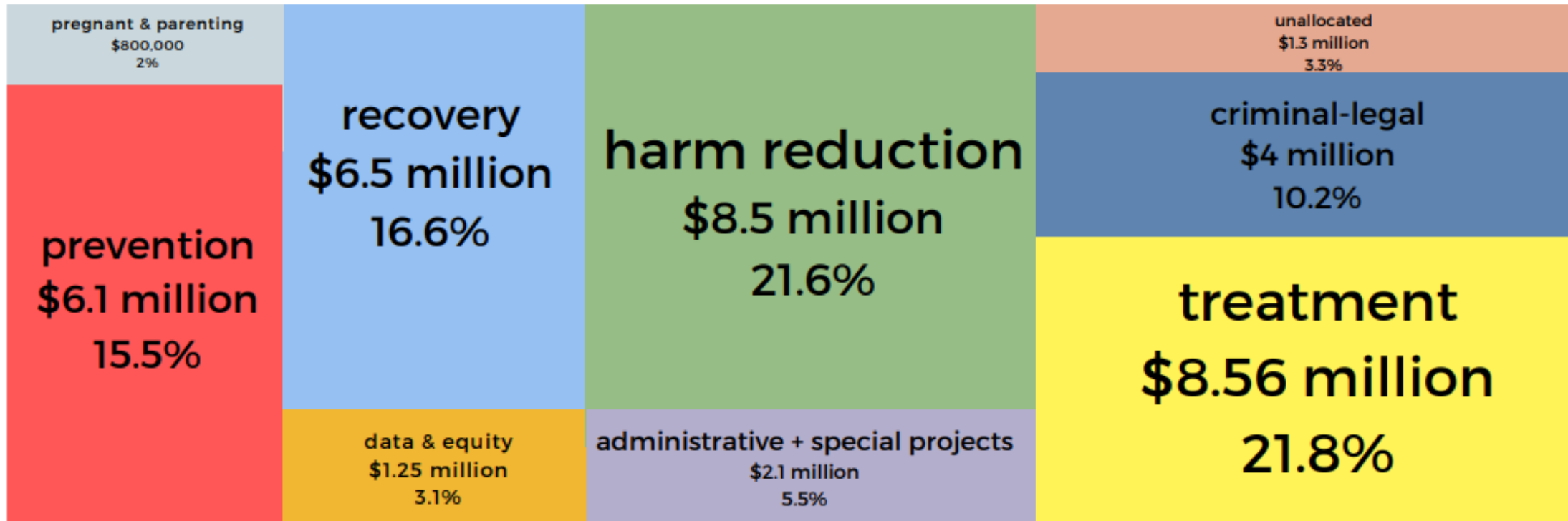
Updates to Michigan's Medical Examiner System: \$750K

Equity \$500K

Racial Equity Workgroup Recommendations: \$500K

MDHHS Spend Plan - 2023

OPIOID SETTLEMENT FUNDS ESTIMATED USE BY "PILLAR"



Opioid Advisory
Commission
Recommendations

OAC Recommendations

Recommendation 2.1 Continued: Dedicate appropriations not to exceed \$5 million for FY 2024 for a county level data project, to be administered by the Department of Treasury and supported by a statewide Opioid Planning Collaborative.

The OAC is proposing a direct appropriation of \$25,000 to each (voluntarily participating) county and each of the 12 (voluntarily participating) federally recognized tribes, to aid in their local data collection and participation efforts for an anticipated total cost of \$2,375,000, payable directly to the county or tribal partner in adherence with Opioid Planning Collaborative guidelines and upon successful registration and initial response to the data portal requirements. All data and information collected should be made available via the portal to the OAC, Department of Health and Human Services, and Opioid Planning Collaborative members by December 31, 2024.

OAC Recommendations

Recommendation 2.2: Dedicate appropriations for FY 2024 not to exceed \$500,000 for a statewide needs assessment, using data collected by the Opioid Planning Collaborative and county level data project, to be administered by the Department of Treasury and supported by a statewide Opioid Planning Collaborative

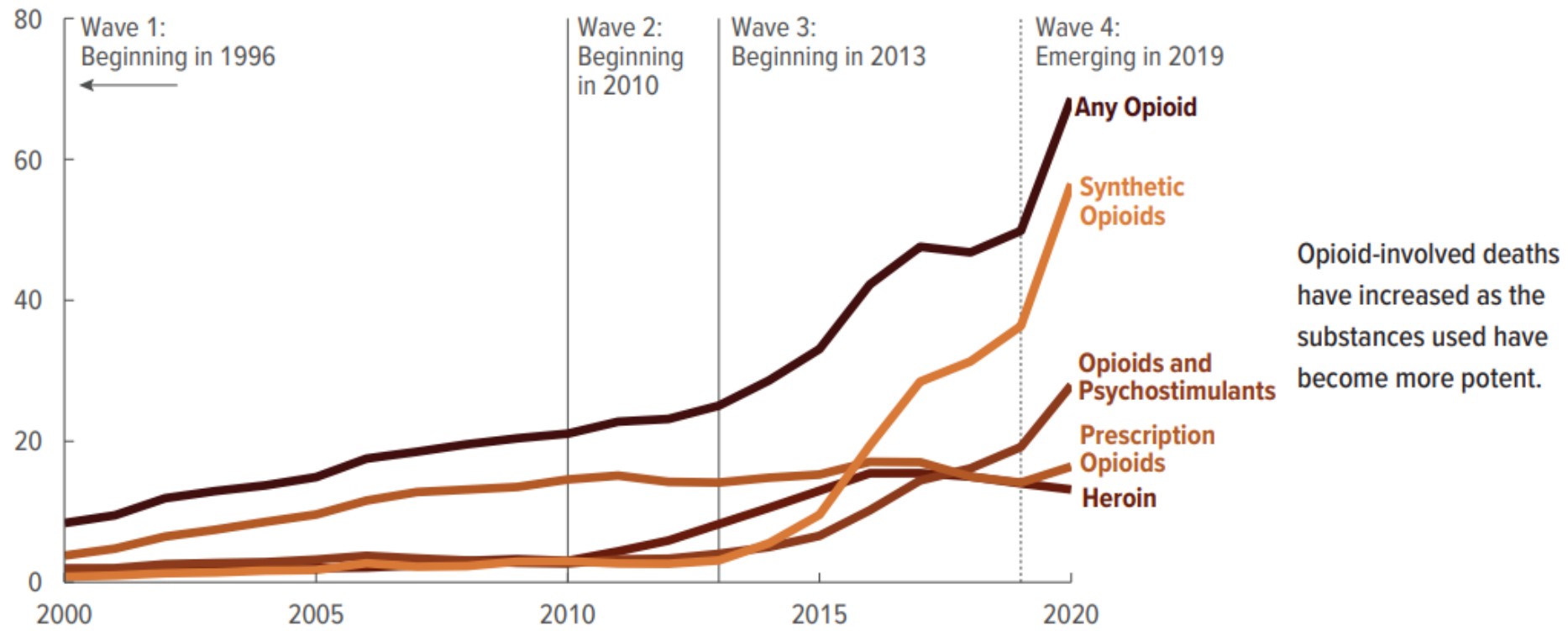
Once initial data is collected, it must be analyzed, evaluated, and summarized into a statewide needs assessment. The Opioid Planning Collaborative should identify desired report requirements and timeline so the Department of Treasury can initiate an RFP to identify a vendor that would be able to accurately analyze and summarize the data collected in the community data portal; funds may also support development and maintenance of the community data portal.

Understanding the Crisis & Spending Principles

Drug Overdose Crisis

Overdose Deaths Involving Opioids, by Type of Opioid

Thousands of Deaths

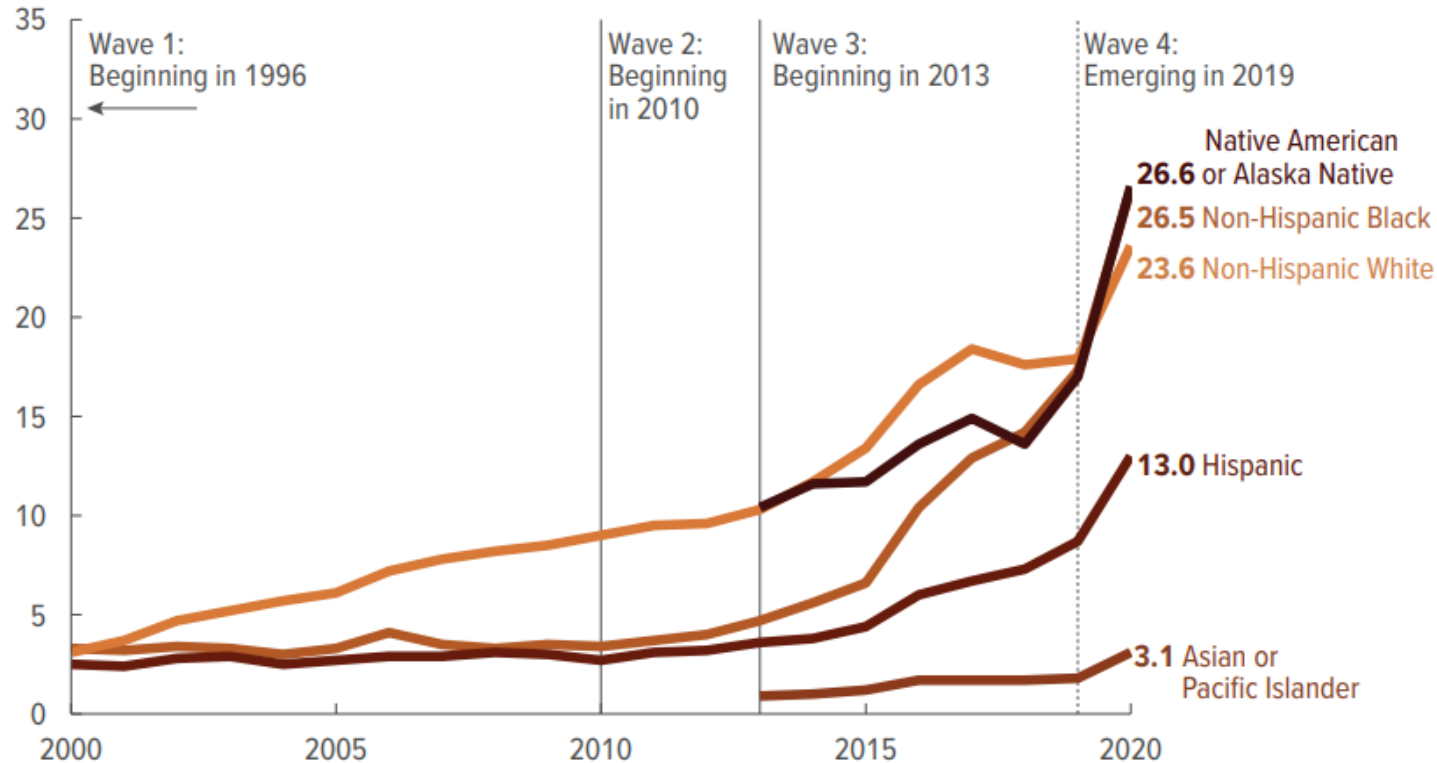


Data source: Congressional Budget Office, using information from the CDC WONDER database, Centers for Disease Control and Prevention, National Center for Health Statistics, "About Multiple Cause of Death 1999–2020" (accessed January 5, 2022), <https://wonder.cdc.gov/mcd-icd10.html>. See www.cbo.gov/publication/58221#data.

Drug Overdose Crisis

Overdose Deaths Involving Opioids, by Race and Ethnicity

Deaths per 100,000 People



The number of opioid-involved deaths per capita for non-Hispanic White people grew during the first two waves of the crisis. As the use of more potent synthetic opioids increased, the number of deaths also rose among people from other racial and ethnic groups.

Data source: Congressional Budget Office, using information from the CDC WONDER database, Centers for Disease Control and Prevention, National Center for Health Statistics, "About Multiple Cause of Death 1999–2020" (accessed January 5, 2022), <https://wonder.cdc.gov/mcd-icd10.html>. See www.cbo.gov/publication/58221#data.

Spending Principles – Johns Hopkins

- Spend money to save lives
- Use evidence to guide spending
- Invest in youth prevention
- Focus on racial equity
- Develop a fair and transparent process for deciding where to spend the funding

Spending Principles - Harvard

- Cross-collaborative and integrative strategies
 - Understand the impacts of health disparities
- 1) **Supporting the full range of care, services, and support for people who use drugs and people with opioid dependence**
 - 2) **Rethinking prevention to address the underlying determinants of opioid use and dependence.**

Recommended Steps for Spending

Stakeholder Engagement

- Utilize existing community resources to ensure that those with expertise are represented when planning for spending (health departments, prevention coalitions, harm reduction providers, behavioral health provider agencies, recovery support providers, etc.)
- Consider additional collaborators, such as surrounding counties and regional entities
- Ensure an equity lens, consider who is not at the table
- Ensure those with lived experience with substance use disorder and people who use drugs are engaged in the process

Gather Information

- Review needs assessments, landscape analyses, gap inventories, reports, plans and other information from stakeholders
- Identify if additional information on community priorities needs to be gathered
- Determine the specific needs of your community, consider new and existing programming
- Utilize the [MAC Opioid Settlement Resource Center Resource Library](#) to explore principles and tracking, evidence-based and promising practices, statewide tools, local government tools, legal resources, equity resources, other toolkits and reports and additional opportunities for funding

County-level Data

- [Michigan Overdose Data to Action Dashboard including Substance Use Vulnerability Index](#)
 - Data on overdose deaths, emergency department visits, emergency medical services (EMS) calls, access to resources such as syringe service programs and treatment
- [Michigan Department of Health and Human Services Opioids Webpage - EMS Responses](#)
 - “Public Use Dataset EMS Responses to Probable Opioid Overdose”, found under “Overdose Reports”
- [Michigan Substance Use Disorder Data Repository \(SUDDR\)](#) and [Data Visualizations](#)
 - Suspected fatal overdoses and emergency medical services naloxone administration data
- [University of Michigan Injury Prevention Center System for Opioid Overdose Surveillance \(SOS\)](#)
 - County-level data on overdose deaths, emergency department visits and emergency medical services (EMS) calls
- [Overdose Detection Mapping Application Program \(ODMAP\)](#)
 - Near real-time tracking of fatal and non-fatal overdoses and naloxone administration by public health and public safety
- [Wayne State University’s School of Social Work Center for Behavioral Health and Justice Dashboard](#)
 - Customizable dashboard that shows multiple topics including, behavioral health, public health, criminal justice, housing, demographic and other data

Determine Process Moving Forward

- Identify where to start (multi-sector strategic planning, strategy selection, spending plan development, etc.)
- Determine where capacity to support spending is present and sustainability of funding and strategies
- Choose strategies that are allowable and align with the needs of your community and take into account sustainability due to polysubstance use and the changing overdose environment
- Ensure equity and lived experience are at the core of planning and design

Reporting & Evaluation

- There are no comprehensive reporting requirements for the Distributors and J&J settlements. While additional reporting is not required, it is essential to provide transparency and accountability for the spending process.
- It is recommended that local governments create annual financial and impact reports. These reports may include the amount of funds spent, strategies and programs funded, impact of programs funded, process of strategy selection and dollar amount determinations, and other relevant information.
- Evaluation of the outcomes and effectiveness of funding and programming should also be considered

Allowable Uses of Funds

Exhibit E Overview – Core Strategies

- Settlements outline specific strategies for utilization of funds, including:
 - Core Strategies:
 - Naloxone or other FDA-approved drug to reverse opioid overdoses
 - Medication-assisted Treatment (MAT) distribution and other opioid-related treatment
 - Address needs of pregnant and postpartum women
 - Expanding treatment for Neonatal Abstinence Syndrome (NAS)
 - Expansion of warm hand-off programs and recovery services
 - Treatment for incarcerated population
 - Prevention programs
 - Expanding syringe service programs
 - Evidence-based data collection and research analyzing the effectiveness of the abatement strategies within the state

Exhibit E Overview – Approved Uses

- Approved Uses – Treatment:
 - Treat Opioid Use Disorder (OUD)
 - Support people in treatment and recovery
 - Connect people who need help to the help they need (connections to care)
 - Address the needs of criminal justice-involved persons
 - Address the needs of pregnant or parenting women and their families, including babies with NAS

Exhibit E Overview – Approved Uses

- Approved Uses – Prevention:
 - Prevent over-prescribing and ensure appropriate prescribing and dispensing of opioids
 - Prevent misuse of opioids
 - Prevent overdose deaths and other harms (harm reduction)

Exhibit E Overview – Approved Uses

- Approved Uses – Other Strategies:
 - Support first responders
 - Leadership, planning and coordination
 - Training
 - Research

Technical Assistance

Current Resources

- [MAC Opioid Settlement Resource Center](#)
 - [MAC Opioid Settlement Resource Center Resource Library](#)
 - [MAC Settlement Tracking](#)
 - Templates for county use
 - Spending Plan Template ([PDF](#)) ([Excel](#))
 - PowerPoint Presentation Template ([PDF](#)) ([PowerPoint](#))
 - Annual Report Template ([PDF](#)) ([Word](#))
- MAC and Vital Strategies
 - [Michigan Opioid Settlement Funds: A Guide for Local Spending](#)
- Opioid Advisory Commission [Annual Report](#)
- [National Association of Counties \(NACo\) Opioid Solutions Center](#)
- NACo and Johns Hopkins Bloomberg School of Public Health
 - [The Principles Quick Guide to Conducting a Needs Assessment](#)
- Michigan Department of Health and Human Services (MDHHS)
 - [2023 Opioid Settlement Spend Plan](#)

Future Resources

- Spring 2023:
 - Michigan Opioid Partnership and Center for Health and Research Transformation – Recommendation Report on Strategies for Spending
 - Evidence to support specific strategies
 - Gaps in services and local priorities
 - Technical Assistance Collaborative – MDHHS and Universities
- 2023:
 - Reporting work
 - MAC Opioid Settlement Dashboard
 - [NACo](#) and Johns Hopkins Bloomberg School of Public Health
 - Briefs on evidence-based strategies and promising practices
 - NACo and Vital Strategies – Monitoring and Evaluation
 - Tool for gauging readiness for monitoring and evaluation
 - Guide to measure impact with key performance indicators

Supports through MAC

- Strategic Planning
- Spending Plan Development
- Policy Analysis
- Resource Linkage
- Resource Library
- Reporting and Evaluation
- Story Sharing, Peer to Peer Learning

- [Support Request Form](#)

Questions

Contact

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Michigan Association of Counties Opioid
Settlement Resource Center

<https://micounties.org/opioid-settlement-resource-center/>

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Michigan Department of Attorney General
Opioids Page

<https://www.michigan.gov/ag/initiatives/opioids>