

MICHIGAN'S OPIOID SETTLEMENTS Frequently Asked Questions

DISCLAIMER: The following information is subject to change. Figures associated with the national opioid settlements, including but not limited to state and local payment information, represent estimates, only. Descriptions of agencies, processes, and/or policies have been sourced and/or developed by key offices to support public awareness of the subject matter. This document does not constitute a legal document, nor is the information considered legal advice. This document was created using information available at the time of its development and may be updated at any time to reflect necessary and/or suggested changes. This document was created collaboratively with the Department of Attorney General, Department of Civil Rights, Department of Corrections, Department of Treasury, Opioid Advisory Commission, Michigan Association of Counties, Michigan Municipal League, and Michigan Townships Association.

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Frequently Asked Questions

Funding

1. How can opioid settlement funds be used?

The majority of all settlement funds must be used to support opioid remediation activities.

<u>Exhibit E</u> of the national opioid settlements provides a list of allowable uses for settlement funds. Allowable uses are primarily aimed at supporting those most impacted by the drug overdose crisis, including prevention, harm reduction, treatment, and recovery.

Exception: Specific to the <u>Mallinckrodt settlement</u>, <u>Schedule A</u> provides a list of allowable uses of funds.

2. What is "opioid remediation"?

The term "opioid remediation" is found in many of the <u>national opioid settlement agreements</u>. It is defined as:

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...

- Address the misuse and abuse of opioid products,
- Treat or mitigate opioid use or related disorders, or
- Mitigate other alleged effects of, including on those injured as a result of, the opioid epidemic.

3. What is "Exhibit E"?

Exhibit E is a document attached to most of the national opioid settlement agreements, providing a list of allowable uses for spending of opioid settlement funds. Exhibit E is organized into two (2) main sections: **Core Strategies** and **Approved Uses**.

It is a "non-exhaustive" list, which means that it includes some, but not all, of the possible ways that opioid settlement funds can be spent.

Core Strategies are intended to be prioritized over **Approved Uses**, however all items under Exhibit E represent allowable uses of opioid settlement funds.

Settlements that use Exhibit E or language found in Exhibit E:

Distributors (Amerisource Bergen, Cardinal Health, McKesson), Janssen (Johnson & Johnson),
 CVS, Walmart, Walgreens, Teva, Allergan, and Mallinckrodt.

4. When did Michigan start receiving settlement payments?

Opioid settlement payments to the state government began in April 2021. The first three settlements to begin payments were:

- McKinsey and Company: April 2021
- Distributors: December 2022
- Janssen: January 2023

Opioid settlement payments to local governments began on or about January 31, 2023.



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5. What is the Michigan Opioid Healing and Recovery Fund?

The Michigan Opioid Healing and Recovery Fund is the account where all settlement payments to the state government ("state share" funds) are directed. It is operated by the Department of Treasury.

<u>Public Act 83 of 2022</u> (MCL 12.253) is the legislation that created the Opioid Healing and Recovery Fund. It outlines additional requirements for spending of state share opioid settlement funds, including that "money in the Michigan opioid healing and recovery fund must be used to create or supplement programs or services. The money must not be used to replace any other governmental funds that would otherwise have been appropriated or expended for any other program or service."

6. Are there ways for community-based organizations to obtain state opioid settlement funds?

Potentially. Community-based organizations may have an opportunity to obtain settlement funds through local and/or state government. The following information covers a few of the most common ways that an organization might receive state opioid settlement funds:

Legislative Appropriation: The legislature has the power to <u>appropriate</u> state opioid settlement funds in any way it chooses, provided appropriations follow the requirements of the national opioid settlement agreements and state law (<u>Public Act 83 of 2022</u>; MCL 12.253).

Legislative appropriation of settlement funds to organizations may be made by an appropriation of opioid settlement funds, through a state department, directed to a specific community organization.

An appropriation of this sort would likely be guided by "boilerplate" language in the state budget bill, describing eligible recipients and any requirements for receiving and/or spending funds. Funds administered to organizations must follow requirements of the settlement agreements and state law (Public Act 83 of 2022; MCL 12.253).

Non-Competitive Funding Opportunities: State departments that have been legislatively appropriated dollars from the Michigan Opioid Healing and Recovery Fund and have the capability to administer funds through grants, may opt to develop non-competitive funding (grant) opportunities for specific community-based organizations. Non-competitive opportunities may be developed to help support state-level priorities or initiatives. Funds awarded to recipients must still follow requirements of the settlement agreements and state law.

Competitive Funding Opportunities: State departments that have been legislatively appropriated dollars from the Michigan Opioid Healing and Recovery Fund and have the capability to administer funds through grants, may opt to do develop competitive funding opportunities, in which community-based organizations may apply, if eligible. Competitive funding opportunities often exist in the form of grants or proposals, which allow multiple governments, organizations, or entities to apply for consideration of possible funding. Funds awarded to recipients must still follow requirements of the settlement agreements and state law.

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7. Are there ways for community-based organizations to obtain local settlement funds?

Potentially. Any local unit of government participating in the national opioid settlements may choose to administer settlement funds to community organizations, through direct means (providing funds directly to the organization) or through competitive funding opportunities (grants, proposals, etc.), where recipients are evaluated and selected. Funds awarded to recipients must follow requirements of the <u>settlement agreements</u>.

8. How can community-based organizations apply for funding opportunities?

State: The Michigan Department of Health and Human Services utilizes the <u>EGrAMS</u> software to implement its outgoing grant agreements.

- <u>EGrAMS</u> is an Electronic Grants Administration & Management System to aid users in the grants process. The System is password protected and only authorized users can access the system. When Opioids Settlement-funded Requests for Proposals (RFPs) are issued by MDHHS, they will be posted on <u>EGrAMS</u>.
- To gain access to funding applications, and to complete application entry and submission, a
 step-by-step instruction manual is available for your use. Visit the <u>EGrAMS</u> website at
 http://egrams-mi.com/mdhhs, and click the link "About EGrAMS" on the left-side panel to
 access the manual.

Local: Organizations interested in receiving funds at the local level can contact their local government officials to inquire about opioid settlement dollars and possible funding opportunities.

9. Are there restrictions on which types of organizations funds can be directed to?

No. There are no restrictions outlined in the <u>current settlements</u> that specify the types of organizations that funds may be directed to. These may include nonprofits, local businesses, other governmental organizations, etc. This may also include local and/or Tribal governments.

10. Are there restrictions on when settlement funds must be spent by?

No. There are no restrictions outlined in the <u>current settlements</u> that stipulate when funds must be used.

11. Which state departments have been legislatively appropriated opioid settlement funds?

So far, the Department of Health and Human Services and the Department of Attorney General are the only state departments to have been appropriated opioid settlement funds. While actual use of funds has not been publicly reported, recent changes in the <u>state budget bill</u> will require that information on spending and planned use of funds, be provided to the legislature.

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12. Where can state and local governments find guidance about how to use funds?

The Michigan Association of Counties: The Michigan Association of Counties' Opioid Settlement Resource Center provides information, tools and resources to local governments seeking support. The resource center includes the Michigan Opioid Settlement Funds Toolkit: A Guide for Local Spending, Opioid Settlement Resource Library, as well as templates for local government use. The Michigan Association of Counties also provides technical assistance and linkage to other technical assistance providers at no cost. To request support, please email dolinky@micounties.org.

Technical Assistance Collaborative: The Michigan Department of Health and Human Services has contracted Michigan State University, Wayne State University, and the University of Michigan to provide <u>technical assistance</u> to county governments as they plan for investing Opioid Settlement funds.

Opioid Advisory Commission (OAC): The OAC is required by law to complete an annual report to the state legislature, Governor, and Attorney General. Developing recommendations for funding initiatives, including the use of state opioid settlement funds, is considered a key task of the OAC.

The <u>OAC's 2023 Annual Report</u> is a tool for both government and public use. It includes
recommendations for the planning and spending of state opioid settlement funds, identification
of strengths and areas for improvement in current practices, and an overview of topics relevant
to Michigan's opioid epidemic.

Opioids Task Force: The Michigan Opioids Task Force was created as an advisory body within the Department of Health and Human Services and serves as the <u>"Government Participation Mechanism" (GPM)</u> for any opioid-related bankruptcy or settlements that require a GPM. It provides recommendations on use of funds from opioid settlements that require a GPM.

The <u>Bloomberg/Hopkins Principles</u>: The "Principles" are nationally recognized guidance for the spending of funds from opioid litigation and are outlined in the document <u>"Principles for Use of Funds From Opioid Litigation"</u>.

13. What are the **Bloomberg/Hopkins "Principles"**?

In 2021, a group of over <u>30 professional and advocacy organizations</u> developed a set of five (5) principles to guide local and state governments in their use of funds received from the national opioid settlements.

The spending principles:

Principle 1. Spend money to save lives

Principle 2. Use evidence to guide spending

Principle 3. Invest in youth prevention

Principle 4. Focus on racial equity

Principle 5. Develop a fair and transparent process for deciding where to spend funding

Frequently Asked Questions

Spending

14. Is there a public website where I can see how funds are being spent in Michigan?

The **Michigan Association of Counties'** <u>Opioid Settlement Resource Center</u> includes a dashboard to illustrate county readiness on planning and spending efforts currently underway across the state as well as information on the total dollar amounts that are expected to be received for each settlement in each county.

The website includes:

- Dashboard on all settlements, county readiness for spending, and eventually where local funds were used
- Toolkit/guide for local spending
- Templates and tools for local government use
- Resource library
- Overview of settlements
- Allocation notices
- · A request form for accessing no-cost technical assistance for local governments

The **Michigan Department of Health and Human Services** is in process of developing a <u>public</u> <u>website</u> with information covering:

- · Overview and status of settlements
- Resources to support implementation of local opioid abatement strategies
- Allowable uses for funds and resources to aid in creation of strategies and spend plans
- A request form for accessing no-cost technical assistance for local governments
- A detailed description of state opioid abatement investments
- · Program monitoring and evaluation dashboard for state initiatives
- Information on equity specific investments and equity considerations in all investments
- Contact information, including a link to a settlement-specific inbox at: MDHHS-opioidsettlementhelp@michigan.gov

15. Where can I get information on the local settlement funds and decision-making process in my community?

At this time, there is limited information available on local settlement dollars. The Michigan Association of Counties <u>Opioid Settlement Resource Center</u> dashboard will eventually include links to available information.

Frequently Asked Questions

Spending

16. What happens if the state or local governments do not spend funds in alignment with Exhibit E?

The majority of funds must be used to support opioid remediation activities. Any non-opioid remediation spending must be reported by the appropriating entity per the terms of the settlement

Exhibit E of the national opioid settlements provides a list of allowable uses for settlement funds, and includes most, but not all, possible ways to spend funds.

Any concerns about local spending practices should be directed to the Department of Attorney General.

17. What do I do if I have concerns about local spending practices?

The **Michigan Department of Attorney General** is responsible for enforcement of all settlement agreements. This means that the Attorney General's office is the best contact for any concerns about inappropriate spending practices of local governments.

If you have concerns about any local spending practices related to opioid settlement funds, email <u>ag-opioidlitigation@michigan.gov</u> or contact the Corporate Oversight Division by phone at 517-335-7632.

18. What do I do if I have concerns about state spending practices?

The **Michigan State Legislature** is the best contact for any concerns about inappropriate spending practices of the state government.

The state must adhere to requirements set forth in the <u>national settlement agreements</u>, the <u>State-Local Subdivision Agreement</u>, and <u>Public Act 83 of 2022</u> (MCL 12.253).

If you have concerns about state spending practices related to use of opioid settlement funds, please contact members of the state legislature:

Michigan State Senate

Senate Website: www.senate.michigan.gov

Find Your Senator: www.senate.michigan.gov/FindYourSenator **Senate Committees:** www.committees.senate.michigan.gov

Michigan House of Representatives

House of Representative Website: www.house.mi.gov

Find Your Representative: www.house.mi.gov/#findarepresentative

House Committees: www.house.mi.gov/Committees

Frequently Asked Questions

Reporting

19. What are the reporting requirements of the opioid settlements?

Presently, the national opioid settlements only require reporting on funds that are not used for purposes of opioid remediation. This reporting requirement applies to both state and local recipients.

• Exception: Funds received from the Mallinckrodt settlement have unique reporting requirements. See National Opioid Abatement Trust II Trust Distribution Procedure for more information.

20. Which state departments have been legislatively appropriated opioid settlement funds for fiscal year 2023-2024?

- The Department of Health and Human Services has been appropriated **\$23.2 million** in opioid settlement funds for <u>fiscal year 2023-2024</u>.
- The Department of the Attorney General has been appropriated **\$11.285 million** in opioid settlement funds for fiscal year 2023-2024.

21. What are the reporting requirements for opioid settlement funds appropriated by the state legislature?

Included in the fiscal year 2023-2024 state budget bill (<u>Public Act 119 of 2023</u>) is "boilerplate" language, outlining requirements for legislatively appropriated opioid settlement funds.

Department of Health and Human Services: For fiscal year 2023-2024 the state legislature requires the Department of Health and Human Services to submit semi-annual reports by September 30 and March 1, detailing:

- Total revenues (funds deposited into), expenditures (funds spent from), and encumbrances (funds awaiting spending) from the Michigan Opioid Healing and Recovery Fund.
- Revenues deposited into, expenditures, and encumbrances from the Michigan Opioid Healing and Recovery Fund in the last 6 months.
- Estimated revenues to be deposited into the Michigan Opioid Healing and Recovery Fund over the next 12 months.
- A "Spending Plan" for the Michigan Opioid Healing and Recovery Fund for the next 12 months.

The Department of Health and Humans Services is required to submit semi-annual reports to the following agencies:

- Senate and House Department of Health and Human Services Appropriations Subcommittees
- Senate and House Fiscal Agencies
- · Senate and House Policy Offices
- State Budget Office

Department of Attorney General: For fiscal year 2023-2024 the state legislature requires the Department of Attorney General to submit a report by February 1, detailing cumulative dollars spent, related to opioid litigation.

MICHIGAN'S OPIOID SETTLEMENTS Frequently Asked Questions

Considerations for Tribal Partners

22. Can Tribes participate in the national opioid settlements?

No. Federally recognized Tribes are not eligible for participation in any of the current national opioid settlements, however, federally recognized Tribes were/are eligible for participation in the <u>Tribal</u> <u>opioid settlements.</u>

23. Are there separate opioid settlements for Tribal governments?

Yes. Federally recognized Tribes, as sovereign entities, have filed <u>lawsuits</u> to seek compensation separate from lawsuits filed by states, counties and cities. Settlements with the Distributors and J&J will result in approximately \$503 million across the country to Tribes and Alaska Native health organizations.

Nationally, Tribes can also expect \$20 - 30 million from the Mallinckrodt settlement to be paid over eight years and an estimated \$150 million paid over nine years from Purdue. Tribal settlements with Allergan, Teva, Walmart, CVS, and Walgreens are also underway.

24. Are there ways for Tribes to obtain state settlement funds?

Potentially. Even if Tribes are participating in the Tribal opioid settlements, they may also be able to obtain funds from the state. The following information covers a few of the most common ways through which Tribes might receive state opioid settlement funds:

Legislative Appropriation: The legislature has the power to appropriate state opioid settlement funds in any way it chooses, provided those appropriations follow the requirements of the national opioid settlement agreements and state law (<u>Public Act 83 of 2022</u>; MCL 12.253).

Legislative appropriation of settlement funds to Tribal governments and/or entities (e.g. organizations representing multiple Tribal governments, Tribal health and behavioral health providers) would likely be guided by "boilerplate" language in the state budget bill, describing eligible recipients and any requirements for receiving funds.

Non-Competitive Funding Opportunities: State departments that have been legislatively appropriated dollars from the Michigan Opioid Healing and Recovery Fund, and have the capability to administer funds through grants, may opt to develop non-competitive funding (grant) opportunities, specific to Tribal governments and/or Tribal organizations. Non-competitive opportunities may be developed to help support state-level priorities or initiatives. Funds awarded to recipients must still follow requirements of the settlement agreements and state law.

Competitive Funding Opportunities: State departments that have been legislatively appropriated dollars from the Michigan Opioid Healing and Recovery Fund, and have the capability to administer funds through grants, may opt to do develop competitive funding opportunities in which Tribal governments may apply, if eligible. Competitive funding opportunities often exist in the form of grants or proposals, which allow multiple governments, organizations, or entities to apply for consideration of possible funding. Funds awarded to recipients must still follow requirements of the settlement agreements and state law.

Frequently Asked Questions

Considerations for Tribal Partners

25. Are there ways for Tribes to obtain local settlement funds?

Potentially. Even if Tribes are participating in the <u>Tribal opioid settlements</u>, they may also be able to obtain funds through local government avenues/sources.

Any local unit of government participating in the national opioid settlements may choose to administer settlement funds to Tribal governments and/or Tribal entities through direct means (providing funds directly to Tribes or Tribal entities) or through competitive funding opportunities (grants, proposals, etc.). Funds administered to recipients must follow requirements of the settlement agreements.

26. Are there opportunities for Tribal citizens to provide input on planning and spending of opioid settlement funds?

Yes. At the state level, the Michigan state legislature, Opioid Advisory Commission, Governor's Office, Opioids Task Force, and Department of Health and Human Services are all agencies accessible to public, where input from Tribal governments and citizens, may be directed.

Tribal governments and their citizens can also reach out to local governments and/or local advisory councils to provide input on use of opioid settlement funds.

27. Who can Tribal citizens contact for more information on state and local settlement funds?

Matt Walker

Assistant Attorney General Michigan Department of Attorney General ag-opioidlitigation@michigan.gov

Tara King

Program Coordinator
Opioid Advisory Commission
oac@legislature.mi.gov

Amy Dolinky

Technical Advisor
Michigan Association of Counties
dolinky@micounties.org

General Resources for Tribal Citizens

<u>Tribal Government Services and Policy Division</u>

Michigan Department of Health and Human Services

MDHHS-Tribal@michigan.gov

Frequently Asked Questions

Resources and Contacts

28. What is the Opioid Advisory Commission (OAC)?

The OAC is a group of twelve (12) legislatively appointed members, representing subject matter expertise in the areas of substance use disorder treatment and overdose prevention, mental health care, recovery, youth prevention, health care, the criminal-legal system, local government, and first responder work. The Director of the Department of Health and Human Services and the Administrator of the Legislative Council also serve as the two (2) non-voting members of the OAC.

The OAC was established per <u>Public Act 84 of 2022</u> (MCL 4.1851) and is the state-designated entity to advise Michigan's legislature on funding, policy, and planning concerning the use and management of State-share opioid settlement funds.

The Opioid Advisory Commission (OAC) is also charged with:

- Conducting a statewide evidence-based needs assessment.
- Examining strategies to reduce disparities in access to prevention, treatment, recovery, and harm reduction programs, services, supports, and resources.
- Establishing priorities to address substance use disorders and co-occurring mental health conditions, for the purpose of recommending funding initiatives to the legislature.
- Reviewing local, state, and federal initiatives and activities related to education, prevention, treatment, and services for individuals and families affected by substance use disorders and cooccurring mental health conditions.

29. How can I contact the Opioid Advisory Commission (OAC)?

Members of the public can contact the Opioid Advisory Commission several ways:

1. Attend a Commission meeting

OAC meetings are open to the public and accessible for in-person or virtual participation. Please see the <u>OAC website</u> for notice of upcoming meetings.

2. Provide input through the OAC website

Anticipated by October 2023, anyone with internet access will be able to provide input through electronic survey, available on the OAC's website: council/OAC

3. Contact the OAC Program Coordinator

Tara King
Program Coordinator
oac@legislature.mi.gov

4. Contact the Commissioners

A list of all current members is available on the OAC's website: council.legislature.mi.gov/Council/OAC

30. What is the role of the legislative branch, as it concerns use of state opioid settlement funds?

The state legislature is the designated body for appropriating monies from the <u>Michigan Opioid</u> <u>Healing and Recovery Fund</u>, including dollars received by the state government as a result of participation in the national opioid settlements.



Frequently Asked Questions

Resources and Contacts

31. What is the Opioids Task Force?

The Michigan Opioids Task Force was created as an advisory body within the Department of Health and Human Services.

In September 2022, Governor Whitmer signed <u>Executive Order No. 2022-12</u> expanding the Michigan Opioid Task Force to include one representative appointed by the Governor from each of the <u>ten regions</u> established by the Department for specialty Prepaid Inpatient Health Plans for Medicaid mental health and substance use disorder services and supports ("PIHP Regions").

Presently, the Opioids Task Force serves as the "Government Participation Mechanism" for the Mallinckrodt settlement and is tasked with making recommendations on the spending of regional and non-regional funds related to the settlement.

The Opioids Task Force is also charged with:

- Identifying and evaluating the epidemic's root causes and contributing factors in Michigan, and
 the effectiveness of response actions on all levels that have been undertaken or are currently being
 undertaken. Developing strategies for supporting or otherwise improving the efficacy of those
 response actions.
- Identifying and evaluating the nature and scope of the epidemic's impact on various locations and communities throughout the state and what response actions would be most effective in helping each of those impacted areas. Developing strategies for implementing those response actions.
- Identifying and evaluating what financial and other resources are available on all levels to combat the epidemic in Michigan. Developing strategies for securing, coordinating, augmenting, and deploying those resources.
- Developing strategies for increasing public awareness of the epidemic in Michigan, its causes and effects, the resources available to those afflicted by it, and the actions that can be taken to combat it.

32. How can I contact the Opioids Task Force?

Members of the public can contact the Opioids Task Force several ways:

1. Contact the Opioids Task Force by email:

MDHHS-OpioidsTaskForce@michigan.gov

2. Attend an Opioids Task Force meeting

The Opioids Task Force is expected to reconvene, and meetings will be open to the public. Please visit the Opioids Task Force website for more information: www.michigan.gov/opioids/crisis-response

More information on the Opioids Task Force should be available in coming months. Please visit the Opioids Task Force website for updates: www.michigan.gov/opioids/crisis-response

33. What is the role of the executive branch, as it concerns use of state opioid settlement funds?

As the head of the executive branch, the Governor authorizes spending of state budget appropriations, including dollars from the Michigan Opioid Healing and Recovery Fund. Despite legislative appropriation, the Governor has the authority to <u>disapprove</u> (reject) any item of the state budget bill.

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Resources and Contacts

34. Are there offices I can contact for more information?

Yes. The following offices are resources for information on state and local opioid settlements:

EXECUTIVE OFFICES

Executive Office of the Governor

EOG Website: www.michigan.gov/whitmer

Constituent Services: 517-335-7858

Department of Attorney General

AG Opioids Settlements Website: www.michigan.gov/ag/initiatives/opioids

Email: ag-opioidlitigation@michigan.gov

Department of Health and Human Services

MDHHS Opioids Website: www.michigan.gov/opioids Email: MDHHS-opioidsettlementhelp@michigan.gov

Opioids Task Force

Opioids Task Force Website: www.michigan.gov/opioids/crisis-response

Email: MDHHS-OpioidsTaskForce@michigan.gov

LEGISLATIVE OFFICES

Opioid Advisory Commission

OAC Website: council.legislature.mi.gov/Council/OAC

Email: oac@legislature.mi.gov

Michigan State Senate

Senate Website: senate.michigan.gov

Find Your Senator: www.senate.michigan.gov/FindYourSenator **Senate Committees:** www.committees.senate.michigan.gov

Michigan House of Representatives

House of Representative Website: www.house.mi.gov

Find Your Representative: www.house.mi.gov/#findarepresentative

House Committees: www.house.mi.gov/Committees

LOCAL GOVERNMENT-REPRESENTATIVE AGENCIES

Michigan Association of Counties (MAC)

MAC Opioid Resource Center: micounties.org/opioid-settlement-resource-center

Email: dolinky@micounties.org

Michigan Municipal League (MML)

MML Website: mml.org Email: info@mml.org

Michigan Townships Association (MTA)

MTA Website: www.michigantownships.org

Contact MTA: michigantownships.org/contact-us/

