

Talking Points- National Proposed Settlements ***Big Three Distributors and J&J***

Nationwide settlements have been proposed to resolve all Opioids litigation brought by states and local political subdivisions against the three largest pharmaceutical distributors: McKesson, Cardinal Health and AmerisourceBergen (“Distributors”), and manufacturer Janssen Pharmaceuticals, Inc. and its parent company Johnson & Johnson (collectively, “J&J”).

These settlements will provide substantial funds to states and subdivisions for abatement of the opioid epidemic across the country and will impose transformative changes in the way the settling defendants conduct their business.

Basic Terms:

- Distributors will pay a maximum of \$21 billion over 18 years.
- J&J will pay a maximum of \$5 billion over no more than nine years.
- Of this potential \$26 Billion- approximately \$22.8 billion in settlement proceeds payable to state and local subdivisions.
- Of the funds going directly to participating states and subdivisions, at least 85% must be used for abatement of the opioid epidemic.
- The settlements allow for a broad range of approved uses by state and local governments to abate the opioid epidemic. A list of approved uses is found at Exhibit E of the Master Settlement Agreements.
- Agreements also provide for injunctive relief that requires important changes to the Distributors’ and J&J’s conduct to better protect our nation’s health and welfare.
 - Creation of a groundbreaking clearinghouse through which the Distributors will be required to account not only for their own shipments, but also the shipments of the other distributors, in order to detect, stop, and report suspicious Opioids orders.
 - J&J (which ceased marketing Opioids in 2015 and ceased selling Opioids in 2020) will not market or sell any Opioid products in the next ten years and has agreed to cease lobbying concerning prescription opioids for ten years.
 - J&J also has agreed to make the clinical trial data for its discontinued Opioids available for medical research.

How will the Settlement Be Approved?

- These are not class action “opt out” settlements. Counties and cities need to sign a Participation Agreement and agree to release their claims in order to receive the settlement proceeds.

- Settlements require that a critical mass of both state and local governments “opt in” **by January 2, 2022.**
- After January 2, 2022, both sides have options to walk away if not enough participation.
- Participation levels also affect how much money settling parties will receive- about half of the funds are in the form of “incentive payments” which grow with participation.
- Need nearly 100% participation in a given state to get 100% of the money.
- Participation is critical to maximize the dollars into our State.

Why Should a Local Government Sign On?

- This proposal is a product of years of litigation and years of settlement negotiations.
- Negotiators have put forward this deal because they believe it is the best deal to be had.
- Money is critical to the epidemic now.
- Litigation has real risk.
- Further insolvencies are a real risk.

What Will Happen if my County Does Not Participate?

Federal Court managing all cases has ordered that any non-participating entities will be in immediate active litigation with deadlines to do the following in 90 days (Doc. # 3795):

1. Disclose nature and amount of damages
2. Disclose computation of monetary relief sought.
3. Produce documentation of past expenditures.
4. Produce documentation of intended future expenditures-what they are and who will spend- how they will address harms.
5. Identify and quantify all Defendant Suspicious Order and disclose methodology.
6. Produce all of your documents.
7. Disclose experts.
8. Disclose updated fact sheets

*Essentially the Court will make all those not signing on do the work of their entire case in 3 months. Court is trying to incentivize total participation.

When is the Deadline for Participating?

January 2, 2022.

What are the Steps Necessary to Participate?

1. Register to Vote- you are registered (insert who the rep is).
2. Your designated representative received two Participation Agreements (the documents to agree to the Settlements (One Distributors and one J&J)
3. Present the Settlements and accompanying MOUs to Board before Jan. 2
4. Board Vote.
5. Resolution Authorizing Representative to Sign the Participation Agreements to the Master Settlement Agreements and Execute the accompanying MOUs.
6. Representative Signs Participation Agreements and MOUs before January 2.

When Will \$ Begin to Flow?

- The Distributors made an initial deposit of funds into escrow by the end of September 2021 and will make additional deposits in early Summer of 2022.
- Funds can begin to flow to states and local governments as early as April 2022, depending on when a settling State meets certain requirements.
- The J&J agreement also offers opportunities for significant acceleration of payments if states and subdivisions meet specified participation levels.
- There may be opportunities to monetize your settlement and accelerate payments that way.