

2023

Fall Municipal Law Conference

The Lodge at Gulf State Park, Gulf Shores, Alabama
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Opioid Settlement

Presented by
Steve Marshall,
State of Alabama Attorney General

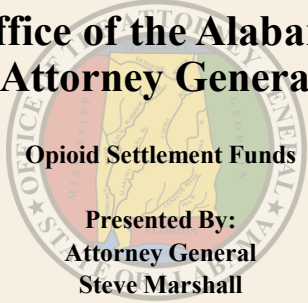


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Office of the Alabama Attorney General

Opioid Settlement Funds

Presented By:
**Attorney General
Steve Marshall**



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Opioid Settlements

• The State has reached multiple settlements with pharmaceutical companies that will provide, and have already provided, funds for local governments. Those settlements include:

• **McKesson** - The settlement amount is \$141,000,000, to be paid over 10 years, with 50% going to local entities (including some health departments and public hospitals). McKesson has already made the first two payments.

• **Janssen/Johnson & Johnson** - The settlement amount is \$70,329,014.38, with 50% going to local entities. The local entities received their full share in 2022.

• Janssen held back over \$3.5 million because one subdivision did not participate. The State agreed to have this entire amount taken out of its share so local entities could receive their full share immediately. Janssen will release the held back funds if the non-participating subdivision does not sue within two years from the settlement date.

• **Walmart** - The settlement amount is \$38,700,000, with \$35,700,000 going to local entities. The full share was paid earlier this year.



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Opioid Settlements

• The State's settlements include:

• **Teva** - The settlement amount for Alabama is up to \$57,138,933.98, to be paid over 13 years, with 50% going to local entities.

• This settlement also includes a product component. The State has elected to receive cash-in-lieu of product. The cash value of the product is approximately \$4.6 million, which will be split evenly between the State and the local entities.

• **Allergan** - The settlement amount is up to \$34,040,657.07, to be paid over 7 years, with 50% going to local entities.

• **CVS** - The settlement amount is up to \$75,851,591.91, to be paid over 10 years, with 50% going to local entities.

• **Walgreens** - The settlement amount is up to \$82,187,066.19, to be paid over 10 years, with 50% going to local entities.



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Opioid Settlements

- In addition to these settlements, a multistate settlement with **Kroger** was recently announced. That announcement was about a resolution of monetary terms only.
- Other terms of the settlement are still being negotiated. If this settlement is finalized, and the previously-announced monetary terms remain in place, Alabama could receive approximately \$19.6 million.
- The length of the payment term has not been announced.



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Opioid Settlements

- The State has also entered agreements with companies that are in bankruptcy in order to resolve state and local government opioid claims. Those settlements include:
 - **Purdue Pharma** – The estimated value for Alabama could be as much as \$74 million, depending on certain factors, with 50% going to local governments. This settlement is contingent on approval of the bankruptcy plan, which is currently being reviewed by the U.S. Supreme Court.
 - **Endo** – In 2021, Alabama settled with Endo prior to trial for \$25 million, with \$10 million going to local entities. Endo declared bankruptcy before paying. The State has now joined a settlement to resolve its claims against Endo through the bankruptcy case. As part of that settlement, the entities purchasing Endo's assets will pay public opioid claimants, including the State of Alabama, a total of \$465.2 million.
 - **Mallinckrodt** – Mallinckrodt paid Alabama \$2,441,674.01 earlier this year as part of a prior bankruptcy agreement, with 50% going to local governments. Mallinckrodt is re-entering bankruptcy and will pay the states a lump sum to resolve all opioid claims. The State and local entities will evenly split Alabama's share of that payment.



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Opioid Settlements

- The Mallinckrodt bankruptcy case has additional requirements for the State and local governments.
- The National Opioid Abatement Trust II distributes Mallinckrodt funds to the states. The Office of the Attorney General is the recipient of funds for Alabama.
- As the recipient of the Mallinckrodt funds, the Attorney General must submit a report to the Trust identifying the abatement purposes on which Mallinckrodt funds have been spent. This report must identify spending by the State and every entity that receives Mallinckrodt funds from the Office of the Attorney General.
- Starting in 2024, local governments will have to submit a report to the Attorney General's Office detailing their Mallinckrodt expenditures so the Attorney General's Office can submit the report to the Trust.



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Use of Abatement Funds

- Each settlement has a list of approved abatement uses that requires funds to be spent only to abate the opioid crisis. This means that settlement money can only be spent on *future* costs of abating the opioid crisis; they cannot be used to reimburse past costs or to address other needs (including those related to non-opioid drugs).
- Approved abatement uses are generally limited to the following broad categories: education, prevention, and treatment.
- Failure to limit spending to approved uses could result in the State and local governments losing settlement funds.



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Use of Abatement Funds

- The list of approved uses includes a listing of "core strategies." Those core strategies include:
 - Increasing distribution of naloxone and expanding naloxone training to first responders, schools, and others;
 - Increases in medication-assisted treatment ("MAT") and other opioid-related treatment;
 - Expanding services for pregnant and postpartum women and expanding treatment for neonatal abstinence syndrome;
 - Expanding recovery services;
 - Treatment for the incarcerated population;
 - Implementing more prevention programs; and
 - Implementing evidence-based data collection and research to evaluate the effectiveness of the abatement strategies being employed.



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Use of Abatement Funds

- In addition to the core strategies, the list of approved uses includes uses related to education, prevention, and treatment.
- Education purposes include:
 - Education to school-based and youth-focused programs that discourage or prevent misuse.
 - Education of law enforcement and first responders regarding appropriate practices and precautions when dealing with opioids, particularly fentanyl;
 - Training to abate the crisis through the implementation of various activities, programs or strategies that could include:
 - Identifying the root causes of addiction and overdose;
 - Investing in infrastructure or staffing at government or non-profit agencies to, among other things, collaborate and coordinate to prevent overprescribing, opioid misuse, or overdoses;



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Use of Abatement Funds

- Education purposes include:
 - Providing funds for staff training to improve the ability of government to abate the crisis; and
 - Supporting opioid abatement research, including monitoring and evaluation of programs and strategies implemented to abate the crisis and non-opioid treatment for chronic pain.



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Use of Abatement Funds

- Prevention purposes include:
 - Preventing over-prescribing and ensuring appropriate prescribing and dispensing of opioids;
 - Preventing the misuse of opioids; and
 - Preventing overdose deaths and overall harm reduction.



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Use of Abatement Funds

- Treatment purposes include:
 - Treatment of opioid use disorder, including MAT;
 - Providing support for those in treatment and recovery;
 - Connecting those suffering from opioid use disorder, or at risk of developing opioid use disorder, with the help they need;
 - Addressing the needs of criminal-justice involved person; and
 - Addressing the needs of pregnant or parenting women and their families, including babies suffering with neonatal abstinence syndrome.



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Questions?