



FACT SHEET

IDAHO OPIOID SETTLEMENT INTRASTATE ALLOCATION AGREEMENT

The Attorney General of the State of Idaho has joined nationwide settlements resolving opioid-related claims with Johnson & Johnson and three major opioid distributors. These nationwide settlements and other pending opioid-claim resolutions allow the State and participating local governments to enter into an agreement to govern how settlement funds will be allocated within the State. The Attorney General's Office has drafted a proposed Idaho Opioid Settlement Intrastate Allocation Agreement ("Agreement") with some input from local governments involved in the opioid litigation. The purpose of this document is to summarize the primary terms of the Agreement and to anticipate questions that you may have.

What Opioid Settlements Does the Agreement Apply to?

The Agreement is intended to govern the distribution of settlement funds obtained through the nationwide settlements with Johnson & Johnson and three major opioid distributors (Cardinal Health, Inc., McKesson Corp., and AmerisourceBergen Corp.) ("Nationwide Settlements"), the Purdue Pharma L.P. ("Purdue") bankruptcy, the Mallinckrodt PLC ("Mallinckrodt") bankruptcy, and any additional settlements relating to opioid litigation that involve both the State and Idaho local governments and that allow for an allocation agreement.

How Are Settlement Funds Split Between the State and Local Governments Under the Agreement?

The Agreement provides that settlement funds will be split with forty percent (40%) to the State, forty percent (40%) to participating local governments, and twenty percent (20%) to participating regional public health districts. The funds allocated to local governments will be allocated among participating counties and cities based on certain opioid metrics, as provided in Exhibit B to the Agreement. The funds allocated to the regional health districts will be allocated among participating health districts in proportion to the allocation of funds to the counties and cities within each health district's boundaries, as provided in Exhibit C to the Agreement. The Agreement also provides for funds taken from each of the above shares to compensate attorneys who have been hired by the State and local governments involved in the opioid litigation that have put in significant effort to obtain these settlement funds.

How Can a Local Government Calculate How Much Money It Will Receive Under the Agreement?

Assuming all eligible cities and counties participate in the Nationwide Settlements and the State receives the full \$120 million over 18 years, a city or county can estimate the total funds it would receive by calculating the local government share, taking forty percent (40%) of \$120 million (\$48 million), and then multiplying that amount by the percentage assigned to the city or county in Exhibit B to the Agreement. For example, if Exhibit B shows that County A would receive 10%, that county would receive 10% of the Local Government share (estimated \$48 million), totaling an estimated \$4.8 million. It is important to emphasize that each local government's share will be less if there is less than full participation from eligible cities and counties in the Nationwide Settlements. The State and local governments must come together and participate in these Nationwide Settlements to maximize the benefit for the citizens of the State.

How Can Local Governments Spend Funds Allocated Under the Agreement?

The funds allocated under the Agreement must be spent on approved opioid-abatement activities as set forth in Exhibit A to the Agreement. These approved activities include strategies, programming, and services used to expand the availability of treatment for individuals impacted by Opioid Use Disorder or co-occurring Substance Use Disorder or Mental Health conditions. The approved activities listed in Exhibit A

were developed nationally, consulting with public health officials in multiple states, experts for the states and subdivisions, and officials within the United States Department of Health and Human Services. This limitation on use of funds is also required under the Nationwide Settlements and the pending Purdue and Mallinckrodt bankruptcy plans. The Agreement includes requirements for annual reporting of spending of opioid settlement funds and other provisions to ensure compliance with this spending limitation.

Who is Eligible to Sign-On to the Agreement?

All counties and cities who are eligible to participate in the Nationwide Settlements are eligible to sign on to and receive funds under the Agreement. This includes: (1) all counties; (2) cities who currently have pending claims against Johnson & Johnson and the three distributors; and (3) all other cities with a population of 10,000 or greater. A list of eligible counties and cities can be found at <https://www.ag.idaho.gov/consumer-protection/opioid-settlement/>. Additionally, the seven regional public health districts established under Title 39, Chapter 4, Idaho Code are eligible to sign on and receive funds under the Agreement.

What Happens if a Local Government Does Not Sign on to the Agreement?

Under the Nationwide Settlements and the pending Purdue and Mallinckrodt bankruptcy plans, an intrastate allocation agreement must be signed by the State and local governments whose aggregate populations either: (1) total more than sixty percent (60%) of the population; or (2) total more than fifty percent (50%) of the population and include fifteen percent (15%) of counties within the State. If this threshold is not met, the allocation agreement is not effective and the default allocation terms of the Nationwide Settlements and the pending Purdue and Mallinckrodt bankruptcy plans will govern distribution of funds within the State. If the above threshold is met and a local government does not sign on, it will not be entitled to receive funds under the terms of the Agreement.

What if a Local Government Does Not Want to Administer Opioid Settlement Funds?

The sign-on form for the Agreement allows for a local government to sign on to the Agreement but have its share of funds under the Agreement reallocated to its regional public health district. This allows for the local government to participate in the Nationwide Settlements, which increases the overall amount of money available to distribute in Idaho, and to sign on to the Allocation Agreement and have its participation counted toward the minimum participation threshold, but not have to directly administer funds. The decision to reallocate is completely voluntary and solely within the discretion of the local government.

How do the Allocation Terms in the Agreement Compare to the Default Allocations Under the Nationwide Settlements and the Purdue and Mallinckrodt Bankruptcy Plans?

The Idaho Attorney General's Office believes the Agreement provides for more consistent and better terms than the default allocation methods. The Nationwide Settlements provide for different allocation methods than the Purdue and Mallinckrodt bankruptcy plans. Under the Nationwide Settlements' defaults, settlement funds allocated to Idaho would be split with fifteen percent (15%) to the State, fifteen percent (15%) to participating local governments, and seventy percent (70%) to a trust fund. The trust fund would be managed by a committee including both local and State representatives and used to fund opioid abatement programs, with the ultimate spending authority being held by the State. Under the Purdue and Mallinckrodt bankruptcy plans, seventy percent (70%) of the funds are to be split regionally based on regions designated by the State, with only local governments with a population of more than 400,000 directly receiving funds. The remaining thirty percent (30%) is allocated to the State. Future settlements may contain completely different default allocation methods. Under the Agreement, local governments will receive more direct funds and there will be a lower administrative burden by having a consistent distribution method across settlements.

How Can I Learn More About the Agreement?

More information is available at <https://www.ag.idaho.gov/consumer-protection/opioid-settlement/>.

If you have further questions, you may also contact the Consumer Protection Division of the Idaho Attorney General's Office at (208)-334-2424 or opioidsettlement@ag.idaho.gov