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National Opioid Settlements – Settlement Allocation Notice – Payment Year 7 Settlement Prepayments from Cencora, Inc. (f/k/a AmerisourceBergen Corporation) and Cardinal Health, Inc. – Colorado

1 message

DirectingAdministrator@nationalopioidofficialsettlement.com
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Fri, Mar 1,
2024 at 3:28
PM

To: DirectingAdministrator@nationalopioidofficialsettlement.com
Cc: esirney@browngreer.com, rpetkauskas@browngreer.com

This is an official communication from the Directing Administrator of the National Opioid Settlements.

Important Date

Anticipated Payment Issue Date: **3/15/2024**

Payment Allocation Determination

This Notice is an official communication from the Directing Administrator of the National Opioid Settlements. A copy of this Notice has been sent to the Enforcement Committee and Settling Distributors pursuant to Section IV.B of the Distributor Settlement Agreement, dated as of July 21, 2021, as amended, between and among the Settling States, the Settling Distributors, and Participating Subdivisions (the "Distributor Settlement Agreement"). All capitalized terms used in this letter have the meanings ascribed to them in the Distributor Settlement Agreement. The Settlement Agreement can be viewed online at <https://www.nationalopioidofficialsettlement.com/Home/ImportantDocuments>.

Pursuant to Section IV.J of the Distributor Settlement Agreement, two of the Settling Distributors, Cencora, Inc. (f/k/a AmerisourceBergen Corporation) and Cardinal Health, Inc., have elected to exercise their right to make Settlement Prepayments for their respective anticipated contributions to the Annual Payment for Payment Year 7, due on July 15, 2027, for all States except Ohio and Rhode Island. Cencora, Inc. and Cardinal Health, Inc. made a separate prepayment for their respective anticipated contributions to the Annual Payment for Payment Year 18, due on July 15, 2038, for Ohio and Rhode Island. Pursuant to Section IV.J.3.b, a Settling Distributor can make no more than three (3) prepayments over the eighteen (18) year payment term and may not make more than one (1) prepayment in a five (5) year period.

As set forth in Section IV.J, these Settling Distributors provided a Prepayment Notice identifying Gross Settlement Amounts of \$294,894,035.65 and \$293,942,764.57 for Cencora, Inc. and Cardinal Health, Inc., respectively, and the corresponding Net Settlement Prepayment Amounts of \$208,876,496.06 and \$209,823,161.19, reflecting the net present value as of their respective Prepayment Dates. The Directing Administrator has received the funds for these Settling Distributors' respective Net Settlement Prepayment Amounts and these funds are now available for payment to the applicable Settling States and their Participating Subdivisions.

We have now determined the portion of the Net Settlement Prepayment Amounts to be paid to each Settling State and its Participating Subdivisions included on Exhibit G of the Distributor Settlement Agreement, excepting Ohio and Rhode Island and the Subdivisions therein, pursuant to Exhibit M and Section V of the Distributor Settlement Agreement. The attached Allocation Spreadsheet shows the intrastate calculations and allocations for Colorado following the methodology that Colorado has instructed the Directing Administrator to follow pursuant to Section V.D and Section V.C of the Distributor Settlement Agreement. You may also

find the calculations spreadsheet in your Beneficiary Portal at <https://www.nationalopioidofficialsettlement.com/>.

As a reminder, it is the intent of the Distributor Settlement Agreement that 100% of the Annual Payment be used for Opioid Remediation, as defined in the Distributor Settlement Agreement, subject to certain exceptions. *See* Sections I.SS, V.B.1. This applies equally to Settlement Prepayments issued in advance of an Annual Payment. The Distributor Settlement Agreement requires that at least 85% of all settlement payments (i.e. payments pursuant to Sections IV, IX, and X) be spent on Opioid Remediation. *See* Section V.B.1. Additionally, Non-Litigating Subdivisions are required to spend 100% of their Annual Payments on Opioid Remediation. *See* Section VII.B. Your State's state-subdivision agreement or allocation statute may impose stricter limits on allowable spending.

Please note that the Settlement Prepayments discussed in this notice do not affect the Annual Payment for Payment Year 4, due on July 15, 2024. We anticipate providing notice of the Payment Year 4 payment amounts in late May.

Your Right to Dispute

Pursuant to Section IV.B of the Distributor Settlement Agreement, the Directing Administrator shall provide notice of the Annual Payment for Payment Year 7 no later than 50 days prior to the Payment Date of July 15, 2027. At that time, and consistent with every other Annual Payment, any party may dispute, in writing, the calculation of the Annual Payment or the amount to be received by a Settling State and/or its Participating Subdivisions.

It is anticipated that the Settlement Prepayments made by Cencora, Inc. and Cardinal Health, Inc. will reduce these Settling Distributors' contributions to Payment Year 7's Annual Payment to \$0 for the applicable Settling States. Pursuant to Section IV.J.3.e of the Distributor Settlement Agreement, if, in Payment Year 7, the amount a Settling State is calculated to receive is greater than the amount the Settling Distributors prepaid prior to discounting calculations, the Settling Distributors will pay any difference. Additionally, if, in Payment Year 7, the amount a Settling State is calculated to receive is less than the amount prepaid prior to discounting calculations, the Settling Distributors will receive a credit for the difference to be applied to subsequent Payment Years.

To Accept Payment

If you have previously created a Portal Account and completed your Payment Election Forms and W-9 Forms, no further action is needed unless you wish to provide updated payment instructions. The Directed Trustee will begin issuing payments after the anticipated payment date provided above using the payment instructions entered in the Portal. If you have not previously created a Portal Account, please do so and complete the Payment Election Forms and W-9 Forms to create payment instructions for any Settlement Payments. Keep your payment instructions current in your Portal Account at <https://www.nationalopioidofficialsettlement.com> to prevent any delays in receiving your settlement payments.

As a reminder, your Case Manager is Emily Sirney whose email address is esirney@browngreer.com. We invite you to direct any questions you may have about creating a Portal, providing payment information, or the National Opioid Settlements in general to Emily.

Sincerely,

Directing Administrator
National Opioid Settlements
BROWNGREER PLC

Telephone: (888) 441-2010

DirectingAdministrator@NationalOpioidOfficialSettlement.com

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Colorado Payment Allocations - Distributor Payment 7.xlsx

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