FREQUENTLY ASKED QUESTIONS ABOUT SETTLEMENTS WITH OPIOID DISTRIBUTORS AND JOHNSON & JOHNSON

This document is intended to assist Minnesota subdivisions evaluating the settlement agreements resolving opioid claims with the three largest opioid distributors—McKesson, Cardinal Health, and AmerisourceBergen ("Distributors")—and opioid manufacturer Janssen Pharmaceuticals, and its parent company, Johnson & Johnson ("J&J") (collectively, the "Settlements"). This document is subject to being updated as additional information is gathered. The terms of the Settlements and the Minnesota Opioids State-Subdivision Memorandum of Agreement ("MN MOA") are controlling and are not amended or in any way affected by this document. Copies of these settlements, agreement, and other materials can be found at the Attorney General's website: www.ag.state.mn.us/opioids.

1. **My city or county received a notice in the mail and by email about two opioid settlements. What do we do with this and how do we join the Settlements?**

   The notice your city or county received relates to two Settlements resolving opioid claims against the country's three largest drug distributors, McKesson, Cardinal Health, and AmerisourceBergen, and opioid manufacturer Johnson & Johnson for their role in the opioid epidemic. The notice went out to all Minnesota counties, as well as cities that have a population greater than 10,000 and those that have filed lawsuits against these companies.

   Under the Settlements, Minnesota and its cities and counties stand to receive up to $296 million in Opioid Settlement Funds to fight the opioid crisis over the next 18 years, starting in early to mid-2022. The more cities and counties that join, the more the Distributors and J&J will pay under the Settlements.

   The Notice you received should have a unique subdivision registration code. The Attorney General's Office also sent your city or county a letter attaching this same registration code. Cities or counties must visit www.nationalopioidsettlement.com and use that code to register to receive participation agreements for the Settlements. You will then receive information about how to submit your Subdivision Settlement Participation Forms electronically via DocuSign. **You must submit two forms, one for each Settlement.**

2. **How large are the Settlements?**

   Under the terms of the Settlements, the Distributors and J&J will provide up to $26 billion to states, cities, and counties throughout the country. The Distributors will make payments over a period of 18 years, and J&J will make payments over nine years.

3. **Is there a deadline for cities and counties to join the Settlements?**

   Yes. Cities and counties should complete their Subdivision Settlement Participation Forms by **January 2, 2022**. Cities and counties that join after that date risk reducing the entire amount that goes to the State of Minnesota as well as having their own payments reduced.

4. **How many Minnesota cities and counties are engaged in litigation against the Distributors and J&J?**

   Twenty-six counties and seven cities have filed lawsuits against the Distributors and/or J&J. Under the MN MOA (see additional information below), all 87 counties and every city that meets the eligibility criteria would receive settlement payments regardless of whether they filed lawsuits, but they must join the Settlements. The Settlements prohibit payments to counties or cities that do not join the Settlements.

5. **What is the status of these cases?**

   All Minnesota city and county cases have been consolidated for pretrial proceedings into a Multi-District Litigation (MDL) in federal court in Cleveland, Ohio. The opioid MDL has roughly 3,000 lawsuits from nearly every state. The lawsuits allege that opioid manufacturers misrepresented the risks associated with prescription opioids; that opioid distributors did not properly monitor shipments of prescription opioids to pharmacies across the country; and that these actions contributed to the opioid epidemic that continues to ravage Minnesota and the rest of the country. Until the Settlements are finalized, these cases will remain pending.

6. **Has the State of Minnesota joined the Settlements?**

   Yes. The Minnesota Attorney General's Office, together with the majority of state Attorneys General across the country, has signed on to the Settlements. Those Attorneys General, lawyers representing thousands of municipalities in the national opioid litigation, and the Association of Minnesota Counties, League of Minnesota Cities, and the Coalition of Greater Minnesota Cities strongly encourage cities and counties to join. Cities and counties that join will be helping to bring additional abatement resources to communities and families throughout the state for substance use prevention, harm reduction, treatment, and recovery.

7. **How much will Minnesota receive from the Settlements?**

   Minnesota is eligible to receive a maximum payment of approximately $296 million under the Settlements with the Distributors and J&J. The settlement funds are allocated among states based on population and the impact of the opioid crisis on each state, taking into account several public health measures. The precise amount of settlement funds Minnesota as a whole receives is highly dependent on the level of city and county participation and the avoidance of penalties that would result from cities or counties filing new lawsuits.

8. **What is the Minnesota Opioids State-Subdivision Memorandum of Agreement?**

   The MN MOA governs how Minnesota will distribute settlement funds from the Settlements with Distributors and J&J. It also governs how opioid abatement funds from the bankruptcy resolutions with Purdue Pharma and Mallinckrodt are distributed within Minnesota. The Purdue Pharma and Mallinckrodt bankruptcies are not yet finalized, and

it is not yet known how much money will be coming to the state from these bankruptcies, although the Attorney General's Office expects the figure to be in the tens of millions.

9. Why is it so important to join the Settlements and the MN MOA?

The opioid epidemic has taken the lives of more than 5,400 Minnesotans since 2000. The epidemic has torn families apart and ravaged communities, particularly American Indian populations and communities of color. Individuals, families, and communities continue to suffer, as the COVID-19 pandemic has caused a surge in both fatal and nonfatal overdose deaths.

The epidemic was fueled by irresponsible marketing and inadequate monitoring on the part of opioid makers and distributors. In addition to potentially over $296 million to fight the epidemic, settlements with the Distributors and J&J will shine a light on these companies' conduct and help make sure nothing like this ever happens again. The MN MOA is an important step forward in holding these companies accountable and directing much-needed resources to communities across the state.

10. What are the most important features of the MN MOA?

The Settlements require state and local governments to use the vast majority of settlement funds to address the opioid epidemic. Consistent with this principle, the MN MOA dedicates funds to that purpose. The Attorney General's Office convened an expert panel of local, state, and community providers with experience and expertise in public health and delivery of health care services to determine the best and most effective use of the settlement funds (the "Advisory Panel to the Attorney General on Distribution and Allocation of Opioid Settlement Funds" or the "panel"). The panel selected a comprehensive list of future opioid abatement and remediation programs to which these settlement funds must be dedicated, whether those funds are received by the State, cities, or counties.

The MN MOA also enables Minnesota to maximize resources to fight the epidemic. The MN MOA was designed to incentivize cities and counties to join in order to earn the maximum amount of payments from the Settlements. To maximize resources flowing to communities on the front lines of the epidemic, the MN MOA directs settlement funds as follows:

- 75 percent to local governments, including all counties and 33 cities.
- 25 percent to the state, to be overseen and distributed by the Opioid Epidemic Response Advisory Council.

11. How does my city or county sign onto the MN MOA?

The county board, city council, or equivalent legislative body can pass a resolution stating its intent to sign onto the MOA and directing the appropriate county or city official to execute the MOA. Sample resolutions are available from the Association of Minnesota Counties and the League of Minnesota Cities.

12. If my city or county signs onto the MN MOA, does that mean it automatically signs onto the Settlements with the Distributors or J&J?

No. A city or county that signs the MN MOA is agreeing to a framework for how settlement funds will flow in the event the Settlements become effective. However, the city or county must separately sign on to the Settlements in order to receive payments pursuant to the MN MOA.

13. If my city or county joins the Settlements, will we receive direct payments?

It depends. All counties that join are set to receive direct allocation under the terms of the MN MOA, as well as all cities that join and meet the following eligibility criteria:

- Have a population of 30,000 or more, based on the U.S. Census Bureau's Vintage 2019 population totals;
- Have funded or otherwise managed an established health care or treatment infrastructure (*e.g.*, health department or similar agency); or
- Have initiated litigation against the Distributors or J&J as of December 3, 2021.

The population threshold for non-litigating cities to receive a direct allocation of funds recognizes that the efficient delivery of opioid abatement services is hindered if the funds are divided into hundreds of small allocations. Even with potentially upwards of $300 million coming into Minnesota, allocating funds among several hundred smaller cities and towns would result in minimal payments for most subdivisions, in many cases less than a few dollars a year. For that same reason, under the MN MOA cities allocated a share may elect to have their full share or a portion of their share instead directed to the county in which the city is located.

Although not all cities will receive a direct allocation of opioid abatement funds, those cities will still benefit from the opioid remediation efforts that take place in their communities. Moreover, under the MN MOA, each county receiving opioid settlement funds must consult annually with the cities in the county regarding use of the settlement funds. Finally, cities that are not eligible for a direct share may also request grants for opioid remediation programs from the state's opioid remediation fund, which are distributed via the Opioid Epidemic Response Advisory Council and the Department of Human Services.

14. If my city or county joins, how much money will we receive?

Under the terms of the MN MOA, local governments (including cities and counties) that join the Settlements will directly receive 75% of the total abatement funds, divided among the counties and eligible cities in the percentages reflected in Exhibit B to the MN MOA. The percentages reflected in Exhibit B are based upon the MDL's Opioid Negotiation Class Model. Experts and attorneys representing local governments in the MDL developed the

allocation model based on nationally available federal data on opioid use disorder, overdose deaths, and opioid shipments into Minnesota, by region and community.

15. When will my city or county get payments?

Payments from the Settlements will begin to flow to the state and directly to cities and counties as soon as April 2022. The Distributors will make payments over a period of 18 years, and J&J will make payments over nine years. The J&J settlement provides for payments to be accelerated if cities and counties sign on early.

16. How much money will the State receive, and where will it go?

Under the terms of the MN MOA, the statewide abatement share is 25% of the total abatement funds. By statute, these funds will go into a special opioid abatement account and are designated to be used solely for opioid abatement purposes pursuant to the Approved Uses in the MN MOA, overseen and distributed by the Opioid Epidemic Response Advisory Council.[1]

17. What about attorney fees?

The state's investigation and litigation against the opioid industry is handled by government lawyers in the Attorney General's Office. No money from these Settlements will go to pay any state lawyers. Some cities and counties in Minnesota retained attorneys on a contingency fee basis to file lawsuits against the opioid companies. The national settlements establish an Attorney Fee Fund for attorneys representing cities and counties that join the settlements. The settlements require attorneys who recover from this fund to waive enforcement of their contingency fee agreements. The MN MOA includes a Backstop Fund, which will be overseen by a Special Master, that will allow for the payment of reasonable attorney fees to private attorneys to make up for the difference between what they receive from the national fund and their contingency fee agreements, which are capped at 15%. The Backstop Fund is funded by a percentage of the local government share of settlement funds, and any funds that remain in the Backstop Fund after payment of reasonable attorney fees will revert to cities and counties for abatement.

18. How will the money coming into Minnesota be tracked?

The Advisory Panel to the Attorney General on Distribution and Allocation of Opioid Settlement Funds agreed upon a set of reporting and compliance recommendations to make

[1] Under current law, after certain appropriations are made, approximately 50% of the funds paid into the opioid abatement account are distributed to county social service agencies to provide child protection services to children and families who are affected by addiction. The state-subdivision agreement anticipates a change to this law to allow counties to receive their share of the settlement funds directly. The agreement requires the state and subdivisions to work together to achieve this change in law during the 2022 legislative session, and includes a provision changing the allocation between state and local governments if the statutory change is not accomplished.

sure that the abatement money coming into Minnesota is effectively tracked and spent on strategies and programs that have a real impact in the state. The MN MOA will be supplemented to include provisions that will be mutually agreed upon by the State and cities and counties utilizing the panel's recommendations.

19. Can a city join the Settlements even if it does not receive a direct allocation of abatement funds?

Yes. The Settlements allow for all cities and counties to join, even ones that are not directly allocated amounts from the 75% local government share. For cities with populations greater than 10,000, joining the Settlements will assist Minnesota in earning the maximum amount possible.

Non-litigating cities with populations under 10,000 were not sent notices and are not able to use the DocuSign process, but may still want to join the Settlements. If such cities want to join the settlements, they can contact the Attorney General's Office to receive the subdivision joinder forms by emailing opioids@ag.state.mn.us.

20. Does the MN MOA apply to matters other than the Distributor and J&J Settlements?

Yes. The MN MOA replaces default provisions in the Purdue Pharma L.P. and Mallinckrodt plc bankruptcy plans. The Attorney General's Office anticipates that the Purdue Pharma and Mallinckrodt bankruptcy proceedings will provide tens of millions of additional dollars to Minnesota to support state and local efforts to address the opioid epidemic across the state. These funds will be distributed throughout the state according to the provisions MN MOA, just like the settlement funds from the Distributor and J&J Settlements.

21. Do the Settlements require the companies to do more than pay money?

Yes. In addition to paying billions of dollars, the companies are also required to make changes in how opioids are distributed and sold. The companies will be subject to far more oversight and accountability throughout that process to prevent deliveries of opioids to pharmacies where diversion and misuse occur. The Distributors will be required to establish and fund a centralized, independent clearinghouse using detailed data analytics to keep close track of opioid distribution throughout the country and raise red flags for suspicious orders. J&J will be prohibited from selling or promoting opioids for ten years.

22. How do the Settlements and the MN MOA relate to the McKinsey settlement that was announced in February?

The McKinsey settlement is separate from the Settlements with the Distributors and J&J, and from the Purdue and Mallinckrodt bankruptcy proceedings.

In February 2021, Attorney General Keith Ellison and other attorneys general from across the country reached a $573 million settlement with one of the world's largest consulting

firms, McKinsey & Company, over the company's role in advising opioid companies how to promote their drugs and profit from the opioid epidemic.

As part of the settlement with McKinsey, Minnesota will receive nearly $8 million, $6.6 million of which has already been paid. The remainder will be paid over four years. The entire settlement sum will be placed into the special opioid abatement account and used to abate the opioid crisis in the state.

23. Apart from the Distributors and J&J Settlements, the Purdue and Mallinckrodt bankruptcy proceedings, and the recent McKinsey settlement, is there other opioid-related litigation brought by state and local governments?

Yes. In addition to these cases, the Attorney General's Office continues to be engaged in multistate investigations and settlement negotiations with numerous other pharmaceutical manufacturers and distributors for violations of state consumer protection laws. The Office is leading nationwide efforts to ensure public disclosure of opioid-related documents, which are designed to achieve accountability, transparency, and prevention of future harm. The Office is also coordinating with the Opioid Epidemic Response Advisory Council to ensure any potential settlement funds are used as effectively as possible throughout Minnesota to remedy the ongoing opioid crisis.

24. Where can I get more information about the Settlements?

Cities or counties that hired attorneys to file opioid litigation should consult their attorneys. Additional information on the Settlements can be found at the national settlement website, www.nationalopioidsettlement.com, or the Attorney General's website: www.ag.state.mn.us/opioids. To speak with someone on the Attorney General's opioids team, email opioids@ag.state.mn.us or call (612) 429-7126 and leave a voicemail.