

Considerations for Allocating Opioid Settlement Funds



**Opioid Settlement
Funds**

April 2023

Housekeeping

- » If you have a technical question, please send a direct message to Audrey Richardson from Aurrera Health Group.
- » Questions can be submitted at any time via the question box in the right-hand corner of your control panel.
- » Today's meeting materials will be available following the webinar.

Webinar Outline

- I. Background on California's Opioid Settlements
- II. Allowable Activities with Opioid Settlement Funds
- III. Considerations for Allocating Funds
- IV. Unallowable Activities
- V. Q&A

How to Ask Questions

- » Type your comments in the questions box located on your GoToWebinar control panel.
- » Today's webinar will provide an opportunity for Q&A. DHCS will focus on questions that are applicable to all Participating Subdivisions.
- » If you have questions about your specific plan for spending J&D funds, send an email to OSF@dhcs.ca.gov.

Past Webinars & Listening Sessions

- » J&D Settlement Allowable Expenses (January 26, 2023)
 - [Slides](#)
 - [Recording](#)
- » J&D Settlement Reporting Requirements (December 7, 2022)
 - [Slides](#)
 - [Recording](#)

Additional Resources

- » [Opioid Settlement Allowable Expenditures](#)
- » [Frequently Asked Questions](#)
- » [DHCS Technical Assistance Request Form](#)

**For more information on opioid settlement funds,
visit the [DHCS OSF webpage](#).**

California's Opioid Settlement Agreements



Status of Opioid Settlement Funds

- » Settlements with McKesson, Cardinal Health and AmerisourceBergen (collectively, the Distributors) and Janssen Pharmaceuticals, Inc. were finalized in April and May 2022. The State of California and Participating Subdivisions have begun receiving payments.
- » Proposed multistate settlements with opioid manufacturers Teva and Allergan and pharmacies Walmart, Walgreens, and CVS (collectively, the Pharmacies) are currently pending. The deadline to join these proposed settlements with Teva, Allergan, and the Pharmacies is April 18, 2023.

California's Opioid Settlement Agreements

- » Today's presentation will cover allowable uses and considerations for funds from the following final and proposed settlements:
 - Janssen Pharmaceuticals
 - The Distributors
 - The Pharmacies
 - Teva
 - Allergan

- » These settlements follow the same structure within their respective state subdivision agreements.

- » All payments will be made directly to Participating Subdivisions by the national settlement administrator, [BrownGreer PLC](#).

Settlement Structure

Fund Type	Allocation	Allowable Uses
California Abatement Accounts Fund (70%)	Allocated to all participating cities and counties.	Funds must be used for future Opioid Remediation in one or more of the areas described in Exhibit E of the J&D Settlement Agreements. No less than 50% of the funds received in each calendar year will be used for one or more High Impact Abatement Activities.
California Subdivision Fund (15%)	Allocated to cities and counties that were Initial Plaintiff Subdivisions.	Funds must be used towards future Opioid Remediation and to reimburse past opioid-related expenses, which may include litigation fees and expenses.
California State Fund (15%)	Allocated to the state of California.	Funds must be used by the State for future Opioid Remediation.

Opioid Settlements Oversight Entity: DHCS

- » The Department of Health Care Services (DHCS) is tasked with overseeing Participating Subdivisions that receive funds from the opioid settlements with Janssen, the Distributors, Teva, Allergan and the Pharmacies.
- » DHCS oversight responsibilities include:
 - Monitoring the California Participating Subdivisions for compliance;
 - Designating additional high-impact abatement activities;
 - Conducting related stakeholder engagement; and
 - Preparing annual reports.

Annual Reporting

- » There is significant public interest in the use of opioid settlement funds:
 - [Kaiser Health News](#), March 30, 2023: \$50 Billion in Opioid Settlement Cash Is on the Way. We're Tracking How It's Spent.
- » Per the California State Agreements, DHCS will prepare an annual written report regarding the State's use of funds from the settlements until those funds are fully expended and for one year thereafter. These reports will be made publicly available on the DHCS web site.
- » The DHCS report will include information about spending from the Participating Subdivisions receiving funds from the CA Abatements Account, including allowable and unallowable uses of funds.

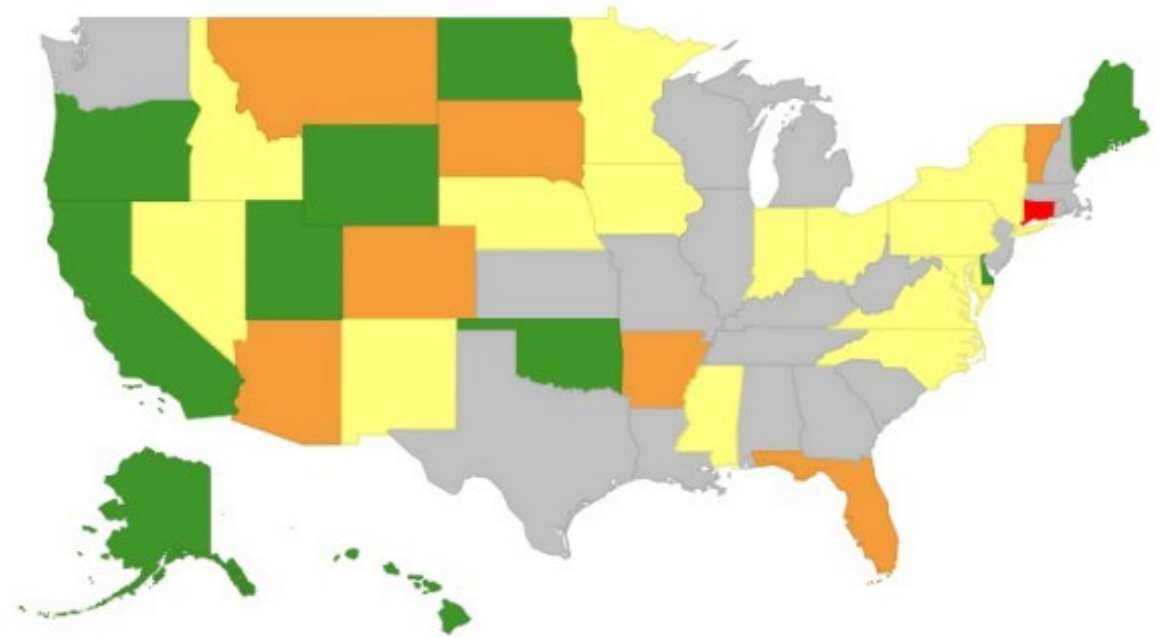
Allowable Activities with Opioid Settlement Funds



Big Tobacco Settlement Lessons

» Critics of the 1990s Tobacco Master Settlement Agreement note that while states continue to collect billions of dollars from the tobacco settlements, only a small fraction of those funds are spent on smoking prevention and cessation programs.

» Report available at:
<https://www.tobaccofreekids.org/what-we-do/us/statereport>.



■ States that are meeting CDC recommendation on tobacco prevention programs.

■ States that are spending 50% - 99.9% of CDC recommendation on tobacco prevention programs.

■ States that are spending 25% - 49.9% of CDC recommendation on tobacco prevention programs.

■ States that are spending 10% - 24.9% of CDC recommendation on tobacco prevention programs.

■ States that are spending less than 10% of CDC recommendation on tobacco prevention programs.

■ States that have allocated no state funds for tobacco prevention programs.

Opioid Settlement Funds are for Opioid Remediation

- » The settlement agreements define opioid remediation as “care, treatment, and other programs and expenditures ... designed to:
 - a) address the misuse and abuse of opioid products,
 - b) treat or mitigate opioid use or related disorders, and
 - c) mitigate other alleged effects of, including on those injured as a result of, the opioid epidemic.”

Exhibit E of the National Settlement Agreements

- » Opioid remediation activities are listed in [Exhibit E](#) of the national settlement agreements.
- » Exhibit E is included in all five of the settlements and is broken into Schedule A (Core Strategies) and Schedule B (Approved Uses). Schedule B is a longer list of many types of opioid remediation activities, while Schedule A is a shorter list of core strategies that should be prioritized.

For a list of allowable activities, please refer to the [Opioid Settlement Allowable Expenditures](#).

California's High Impact Abatement Activities

- » In addition to the opioid remediation activities outlined within Exhibit E, California has designated a set of five High Impact Abatement Activities (HIAA).
- » No less than fifty percent (50%) of the funds received by a California Participating Subdivision from the Abatement Accounts Fund in each calendar year must be used for one or more of the HIAA.
- » Many activities outlined within [Exhibit E](#) can qualify as HIAA depending on their focus.

California's High Impact Abatement Activities

No.	Activity
1	Provision of matching funds or operating costs for substance use disorder facilities with an approved project within the Behavioral Health Continuum Infrastructure Program (BHCIP)
2	Creating new or expanded substance use disorder (SUD) treatment infrastructure
3	Addressing the needs of communities of color and vulnerable populations (including sheltered and unsheltered homeless populations) that are disproportionately impacted by SUD
4	Diversion of people with SUD from the justice system into treatment, including by providing training and resources to first and early responders (sworn and non-sworn) and implementing best practices for outreach, diversion and deflection, employability, restorative justice, and harm reduction
5	Interventions to prevent drug addiction in vulnerable youth

New HIAA - Naloxone

- » DHCS may add to the list of HIAA but may not delete from it. To add new HIAA, DHCS is required to make reasonable efforts to consult with Participating Subdivisions.
- » DHCS polled Participating Subdivisions during a webinar on January 26, 2022, on whether to add a new HIAA for the purchase of naloxone. During the poll, 91% responded in affirmation of this decision.
- » The new HIAA language is:
“The purchase of naloxone for distribution and efforts to expand access to naloxone for opioid overdose reversals.”

Considerations for Allocating Opioid Settlement Funds



Poll Question

- » Has your Subdivision engaged in a community planning process for the use of opioid settlement funds?
- » In the chat, provide any information you'd like to share about your Subdivision's process for allocating opioid settlement funds.

Funding Flexibilities

- » Settlement allocations and expenditures will need to be tracked separately and reported to DHCS during reporting periods.
- » Participating Subdivisions may choose to:
 - Opt out of direct payments;
 - Transfer their payments to another Participating Subdivision; and/or
 - Roll over or encumber funds to use later.

Opting Out of Payments

- » Participating Subdivisions that are cities can opt out of direct payment of funds, which sends their allocation to the County in which the city is located.
- » Cities which have opted-out of direct payment do not need to report to DHCS during reporting periods. Cities who choose not to elect direct payment must notify the national settlement administrator, [BrownGreer PLC](#), at least 60 days prior to a payment date.

Transferring to Other Participating Subdivisions

- » Participating Subdivisions may agree to reallocate their shares of the CA Abatement Accounts Funds among themselves, provided that any direct distribution may only be to another Participating Subdivision and the receiving Participating Subdivision must agree to the share being reallocated to them.
- » Such transfers will need to be reported to DHCS during reporting periods, including the amount of the transfer and the transferring and receiving Participating Subdivisions.

Rolling Over/Encumbering Funds

- » Participating Subdivisions may roll over funds from the previous year and/or encumber funds for future eligible purchases. Funds must be expended or encumbered within five (5) years of receipt, or seven (7) years for capital outlay projects.
- » For example, funds received during 2022 must be spent or encumbered by 2027 (five (5) years) for non-capital outlay projects or 2029 (seven (7) years) for capital outlay projects. Funds not expended or encumbered within these timeframes must be returned to the state.

Best Practices for Allocating Funds

- » When allocating funds, Participating Subdivisions should consider:
 - Investing in evidence-based practices with a focus on those listed in California's HIAA and the Core Strategies (Schedule A) of Exhibit E.
 - Supplementing current successful efforts.
 - Creating a transparent process for planning, including engaging people with lived experience and people working in SUD prevention, treatment, harm reduction and recovery to understand community needs.

Prioritize Core Strategies and HIAA

- » Prioritize strategies listed in Schedule A “Core Strategies” of Exhibit E.
 - Core Strategies can be found in [Exhibit E](#) and in the [Allowable Expenses](#) resource.
 - [Johns Hopkins School of Public Health](#) has created a resource with more information on evidence-based programs that fit within the Core Strategies.
- » Ensure that at least 50% of funds are spent on High Impact Abatement Activities.
 - Many activities outlined within Exhibit E can qualify as HIAA depending on their focus.

Evidence-Based Strategies

- » There is a substantial body of evidence demonstrating successful interventions for opioid use disorder. Participating Subdivisions should use this information to make funding decisions.
 - For example, Medications for Opioid Use Disorder (MOUD) are proven to increase retention in treatment and reduce the risk of overdose. Strategies for treatment should include organizations or treatment providers that provide or endorse the use of MOUD.
- » Below are resources that can help identify evidence-based strategies:
 - [Evidence-Based Strategies for the Abatement of Harms from the Opioid Epidemic](#)
 - [SAMHSA Evidence-Based Practices Resource Center](#)

Funding Current Efforts

- » **Use funds to supplement current efforts in your community.** Rather than creating new programs or supplanting efforts, look for organizations already doing opioid remediation work in your jurisdiction. Connect with them to learn about their needs.
- » Local entities who are likely working on this include:
 - County Public Health Departments
 - County Behavioral Health Departments
 - Harm Reduction Programs/Syringe Service Programs
 - Local Opioid Coalitions
 - Local SUD Treatment Providers
 - Local Hospitals and Clinics

County Public and Behavioral Health

- » Connect with your public health and/or behavioral health department and discuss which current programs can benefit from opioid settlement funds.
 - [County Behavioral Health Department Directory](#)
 - [County Public Health Department Directory](#)

County Behavioral Health Programs

- » Many counties contract with, or directly provide substance use treatment through county facilities. Connect with your county behavioral health department to learn more.
- » Opioid settlement funds can bolster county programs that DHCS is already funding through the [Substance Abuse Prevention and Treatment Block Grant](#). This includes:
 - [Friday Night Live/Club Live](#)
 - [Perinatal Set-Aside](#)¹
 - [Adolescent and Youth Treatment Program](#)
 - [Prevention Set-Aside](#)
 - [SABG Discretionary](#)

1. Perinatal Set-Aside and Adolescent and Youth Program links provide treatment guide resources

Local Harm Reduction Programs

- » There are currently 68 authorized syringe services programs (SSPs) statewide that work directly with people who are currently using drugs and are at greatest risk of overdose.
- » To find a local program visit this [SSP Directory](#).
- » SSPs provide, among other things, the following Exhibit E activities:
 - Naloxone distribution and training
 - Access to sterile syringes and other harm reduction supplies
 - Warm hand-offs to trusted community services, including treatment
- » Many also provide medication for opioid use disorder (MOUD).

Counties with Syringe Services Programs (SSPs) in California

As of October 2022



Alameda	Sacramento
Butte	San Diego
El Dorado	San Francisco
Fresno	San Joaquin
Humboldt	San Luis Obispo
Inyo	San Mateo
Kern	Santa Barbara
Kings	Santa Clara
Lake	Santa Cruz
Lassen	Shasta
Los Angeles	Sierra
Marin	Siskiyou
Mendocino	Solano
Mono	Sonoma
Monterey	Stanislaus
Nevada	Ventura
Plumas	Yolo
Riverside	



For more information about syringe services and other harm reduction programs, see the California Department of Public Health, Office of AIDS website at https://www.cdph.ca.gov/programs/cid/daa/pages/oa_prev_needle_exchange_syringe.aspx.

Directory of all SSPs: https://www.cdph.ca.gov/programs/cid/daa/pages/oa_prev_sepdirectory.aspx

Local Overdose Safety Coalitions

- » Over 50 local coalitions provide community outreach, overdose awareness and education, and naloxone distribution and training for people who use drugs, adults, youth, parents.
- » Coalitions provide nuanced approaches in communities to address overdose prevention, given the diverse makeup of local communities.
- » Coalitions build strategic, multi-sector community partnerships that including schools, law enforcement, jails/probation, clinics, treatment centers, harm reduction, youth organizations, and families/loved ones of people who have died from overdose.
- » List of Coalitions and their contacts: [Local Opioid Coalitions](#)

Examples of Coalition Projects

Coalition Name	County	Project
Inland Empire	San Bernardino, Riverside	Overdose Outbreak Surveillance and Response Alert System
Overdose Free Marin	Marin	Let's Talk Booklet - Youth
		Crisis Text Line
		Call to Action
San Benito County Opioid Task Force	San Benito	Let's Talk Project SBCOpioidTaskForce
Northern Sierra Opioid Safety Coalition	Lassen, Modoc, Plumas, Sierra	Harm Reduction Vending Machines – HAVEN Project
SafeRX Lake County	Lake	Narcan Policy for the Lake County Office of Education
RxSafe Humboldt	Humboldt	Increase access to MAT to youth in Humboldt County
San Luis Obispo Opioid Safety Coalition	San Luis Obispo	Naloxone Now - SLO
ACCELL Opioid Coalition	El Dorado	Point of Time survey – needs assessment
Sacramento County Opioid Coalition Rx Safe Physicians	Sacramento	Gone too Soon Memorial Project

More Local Partners

- » SUD navigation programs at local hospitals
 - [California Bridge](#) provides low barrier access to substance use treatment through hospital emergency departments.
 - Substance Use Navigators (SUNs) work with patients to connect with follow-up treatment in the community.
 - [CA Bridge Hospitals](#)
- » Treatment organizations
 - [Choose Change California Treatment Locator](#)
 - [SAMHSA Treatment Locator](#)
 - [Google Recovery Programs Locator](#)

Have a Transparent Process

- » Invite individuals with lived experience to participate in planning discussions, and/or allocate a set number of seats on planning councils for individuals with lived experience.
- » Seek out input from a wide variety of groups during planning, including experts in SUD treatment, organizations working directly with youth and people who use drugs, law enforcement personnel, recovery community organizations, and social service organizations.
 - In addition, include any city or county departments who may provide services in accordance with the opioid remediation activities outlined in Exhibit E and California's HIAA.
- » Solicit input from the public to help raise the profile of the plans and give those community members with unique perspectives the opportunity to provide feedback.

Considerations for Spending on Law Enforcement



Exhibit E & Law Enforcement

- » Exhibit E Law Enforcement Activities fall into the below categories, all of which must focus on opioid remediation:
 - Education/training for first responders related to opioids
 - Diversion activities
 - Warm handoff/overdose response
 - Naloxone purchase/distribution
 - Treatment within corrections or transitioning into the community
 - Drug takeback/disposal
 - Wellness for first responders (must be specifically related to opioid response)

California's HIAA #4

- » Diversion of people with SUD from the justice system into treatment, including by providing training and resources to first and early responders (sworn and non-sworn) and implementing best practices for outreach, diversion and deflection, employability, restorative justice, and harm reduction.

What is Diversion?

- » Diversion is a term used to describe intervention approaches that redirect individuals with a SUD away from formal processing in criminal justice settings and into treatment, recovery, and/or other support services. Diversion strategies include pre-arrest, pre-arraignment, and pre-trial activities aimed at directing an individual towards a treatment or care program as an alternative to imprisonment.
- » For more information about diversion programs, visit:
 - National Council on Mental Wellbeing: [Deflection and Pre-arrest Diversion to Prevent Opioid Overdose](#) (Tools and Resources)
 - AddictionFreeCA.org: Information about Opioid Treatment in [California's Jails and Drug Courts](#)

Unallowable Law Enforcement Activities

- » Search & seizure or testing of illicit substances
- » Equipment or personnel costs for gathering evidence for prosecution of potential criminal activities
- » Officer health/wellness services if not specifically geared toward opioid related harms
- » Training unrelated to opioid remediation

Unallowable Uses of Funds



Unallowable Uses of Funds

- » Activities that are not allowable include the use of settlement funds to:
 - Cover administrative costs that are not reasonable or beyond 10%;
 - Pay the salaries and benefits of individuals not performing Opioid Remediation activities;
 - Pay for non-FDA-approved medications, medical services, or services not related to treatment of SUD or mental health conditions;
 - Develop infrastructure or invest in equipment not directly related to prevention, treatment, or recovery services, or other expenses not directly related to Opioid Remediation activities.

Q&A



Questions?

- » Please type your questions into the question box in the right-hand corner of your control panel.

Next Steps on Opioid Settlements



Upcoming Settlement Sign-On Date

- » Proposed multistate settlements with opioid manufacturers Teva and Allergan and pharmacies Walmart, Walgreens, and CVS (collectively, the Pharmacies) are currently pending. The deadline to join these proposed settlements with Teva, Allergan, and the Pharmacies is **April 18, 2023**.
- » If you have questions, check with your local city or county counsel.

Upcoming Webinars

- » Planned webinar topics:
 - Opioid Settlement Guidance for Participating Subdivisions
 - Examples of City and County Opioid Settlement Funded Activities
 - Expenditure Reporting Form Training

- » If there are topics your Subdivision would like to see discussed, please submit ideas to the question box or the OSF inbox: OSF@dhcs.ca.gov.

Next Steps

- » DHCS will compile feedback and questions provided through this session.
- » Technical assistance and guidance documents will be provided to clarify information related to oversight of the opioid settlements.

**For more information on opioid settlement funds,
visit the [DHCS OSF webpage](#).**

For additional questions email OSF@dhcs.ca.gov.

