



CALIFORNIA DEPARTMENT OF  
**HEALTH CARE SERVICES**

## **Frequently Asked Questions: Janssen and Distributors Settlement Funds**

This document is intended to answer frequently asked questions (FAQs) from California Participating Subdivisions receiving allocations from the California Abatements Account as part of the Janssen & Distributors (J&D) Settlements. A Participating Subdivision is a city or county eligible to receive or is receiving funds from one or both of the J&D Settlements. A definition for Participating Subdivisions can be found in Section 2(a) and a list of Participating Subdivisions can be found in Appendix 1 of the [Janssen](#) and [Distributor](#) California State Subdivision Agreements. Questions about a Subdivision's status can be directed to the National Settlement Administrator, [BrownGreer PLC](#).

**Information about opioid litigation and settlement participation can be found on the California Attorney General's Opioid Settlements webpage. Questions can be directed to [OpioidSettlement-LocalGovernment@doj.ca.gov](mailto:OpioidSettlement-LocalGovernment@doj.ca.gov).**

**Information about settlement payments can be found on the [webpage](#) for the National Settlement Administrator, BrownGreer PLC. Questions about the settlements, including schedule of payments, annual allocations, and recipients, can be directed to [DirectingAdministrator@NationalOpioidOfficialSettlement.com](mailto:DirectingAdministrator@NationalOpioidOfficialSettlement.com).**

### **Background Questions**

#### **❖ Why is California receiving opioid settlement money?**

During the opioid epidemic, state, local, and tribal governments have brought several lawsuits against pharmaceutical and drug distribution companies that have fueled the crisis. The lawsuits allege that these companies fueled the opioid crisis by marketing opioids in misleading ways, downplaying risks, exaggerating benefits, and engaging in reckless distribution practices. The lawsuits seek to recover costs associated with the opioid epidemic and remediation.

California has joined several lawsuits against manufacturers, distributors, and other entities responsible for aiding the opioid epidemic. In late 2022, Participating Subdivisions in California received the first round of funding from settlements with the "big three" distributors, McKesson, AmerisourceBergen, and Cardinal Health ("the Distributors"). It is estimated that California will receive approximately \$2.05 billion through 2028 from the settlements. The majority of funds will be provided to Participating Subdivisions to be used for future opioid abatement activities.

❖ **Why are the Janssen and Distributors (J&D) Settlements paid over different time periods?**

Though often referred to in tandem, the Janssen & Distributors (J&D) Settlements come from two separate agreements – one through a nationwide lawsuit against Janssen Pharmaceuticals and the other through a nationwide lawsuit against McKesson, AmerisourceBergen, and Cardinal Health (“the Distributors”). It was determined that Janssen will pay \$5 billion, broken into annual payments over 9 years, and McKesson, AmerisourceBergen, and Cardinal Health will pay a combined \$21 billion over 18 years. Of the \$26 billion owed, \$22.8 billion will be provided to states and Participating Subdivisions for opioid abatement efforts.

❖ **Are funds from the Janssen and Distributors (J&D) Settlements considered State funds or federally passed through California?**

Funds from the Janssen & Distributors (J&D) Settlements provided to Participating Subdivisions are not considered State or federal funds. The J&D settlement funds originate from a multistate settlement with prescription opioid manufacturer Janssen Pharmaceuticals and pharmaceutical distributors McKesson, Cardinal Health, and AmerisourceBergen to resolve their liabilities in over 3,000 opioid crisis-related lawsuits nationwide. Allocations to Participating Subdivisions will be administered by the National Settlement Administrator, [BrownGreer PLC](#), and based on allocation percentages found in Appendix 1 of the [J&D California State Subdivision Agreements](#).

❖ **How do the Janssen and Distributors (J&D) Settlements differ from other funding sources for opioid treatment and prevention?**

The Janssen & Distributors (J&D) settlement funds originate from a multistate settlement with prescription opioid manufacturer Janssen Pharmaceuticals and pharmaceutical distributors McKesson, Cardinal Health, and AmerisourceBergen in 2021. Monies from these settlements are intended to provide states and eligible jurisdictions with financial support for **future** opioid abatement activities. California state officials, in partnership with a counsel representing Participating Subdivisions, have agreed on a proposed allocation of these resources and certain abatement activities to prioritize. These priorities can be found in the relative [Janssen](#) and [Distributor](#) California State Subdivision Agreements.

❖ **Are there other opioid-related funding supports provided to Participating Subdivisions aside from the Janssen and Distributors (J&D) Settlements?**

To ensure continued success in addressing and preventing further crises, California has joined additional lawsuits against other entities responsible for aiding the opioid epidemic and anticipates receiving funds from future opioid settlement agreements. Participating Subdivisions that retained attorneys to file opioid litigation should consult their attorneys. Local officials may also contact the Attorney General’s opioids team at [OpioidSettlement-LocalGovernment@doj.ca.gov](mailto:OpioidSettlement-LocalGovernment@doj.ca.gov). Additional settlement-related information is available at <https://nationalopioidsettlement.com/>.

❖ **How will the Janssen and Distributors funds be distributed in California?**

The California Janssen & Distributors (J&D) Settlement Funds are allocated as follows:



Fund Type	Allocation	Allowable Uses
California Abatement Accounts Fund (70%)	Allocated to all participating cities and counties (otherwise known as Participating Subdivisions)	Funds must be used for <b>future</b> 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. <sup>1</sup>
California Subdivision Fund (15%)	Allocated to cities and counties that were initial plaintiffs in the J&D Settlements (otherwise known as Plaintiff Subdivisions)	Funds must be used towards <b>future</b> Opioid Remediation and to reimburse <b>past</b> opioid-related expenses, which may include litigation fees and expenses.
California State Fund (15%)	Allocated to the state of California	Funds must be used for <b>future</b> Opioid Remediation.

❖ **How does the California Abatement Account Fund differ from the California Subdivision Fund?**

The California Abatement Accounts Fund provides monies to all Participating Subdivisions for future opioid remediation activities. The California Subdivision Fund allocates monies to cities and counties that were initial plaintiffs in the Janssen and

<sup>1</sup> DHCS may add to this list by designating additional High Impact Abatement Activities pursuant to Government Code, Title 2, Division 3, Part 2, Chapter 6, Article 2, Section 12534(e).

Distributors (J&D) Settlements. These cities and counties, also known as Plaintiff Subdivisions, may use funds from the California Subdivision Fund towards future opioid remediation activities and to reimburse past opioid-related expenses, including litigation fees and expenses. Plaintiff Subdivisions will receive funds from both the California Subdivision Fund and the California Abatement Accounts Fund.

## Use of Funds

### ❖ **Are there requirements for how Participating Subdivisions can spend funds received from the Janssen and Distributors (J&D) Settlement?**

Yes. All funds received by Participating Subdivisions from the California Abatements Account **must** be used for future Opioid Remediation. For the purposes of this funding, Opioid Remediation is defined as the care, treatment, and other programs and expenditures designed to:

- 1) Address the misuse and abuse of opioid products;
- 2) Treat or mitigate opioid use or related disorders; or
- 3) Mitigate other alleged effects of, including on those injured as a result of, the opioid epidemic.

Participating Subdivisions may form joint ventures with federal, state, local, tribal, or private sector entities in pursuing Opioid Remediation activities. Section 4(B)(ii) of the California [Janssen](#) and [Distributor](#) Agreements further outline requirements for the use of the funds. Participating Subdivisions can also review the [Janssen and Distributors Settlement Funds: Allowable Expenditures](#) list and the DHCS [California Opioid Settlements webpage](#) for eligible Opioid Remediation activities.

### ❖ **Can funds received from each Settlement be combined to pay for one expense?**

Yes. Participating Subdivisions who receive funds from both settlements may combine these funds to pay for a single expense. Participating Subdivisions who combine funds for purchases should ensure financial information is delineated by each settlement during reporting periods.

### ❖ **Can funds be used for programming related to fentanyl?**

Participating Subdivisions may pursue strategies to address fentanyl as indicated in Exhibit E of the Janssen & Distributors (J&D) Settlement Agreements. Examples include purchasing naloxone for first responders or harm reduction programs, providing funding for syringe service programs and other evidence-informed programs which include fentanyl checking, supporting screening for fentanyl in routine clinical toxicology testing, educating law enforcement or other first responders on appropriate practices when dealing with fentanyl, and researching the impacts of prevention efforts such as the provision of fentanyl test strips.

### ❖ **Can funds be encumbered or carried over to the next year?**

Yes. 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.

❖ **Can funds be transferred to another Participating Subdivisions?**

Yes. Participating Subdivisions may agree to reallocate their funds, provided that all funds will be used for Opioid Remediation activities and each entity is a Participating Subdivision. Both the providing and receiving entity must agree on the exchange and report on these transfers to DHCS during reporting periods. Participating Subdivisions wishing to transfer their funds automatically during payment periods must contact the national settlement administrator, [BrownGreer PLC](#), at least 60 days prior to a payment date.

Participating Subdivisions who transfer their funds must indicate this transaction during reporting periods with DHCS. Participating Subdivisions who receive transferred funds must report on the amount received and the use of those funds during reporting periods.

❖ **Can funds be used for attorney's fees?**

Funds received from the Janssen and Distributor (J&D) Settlements CA Abatement Accounts Fund may not be used for attorney's fees. Funds received by the CA Subdivision Fund may be used, subject to any limits imposed by the J&D Settlement Agreements and the CA J&D State Subdivision Agreements, to fund future opioid remediation and reimburse past opioid related expenses, which may include fees and expenses related to litigation, and to pay the reasonable fees and expenses of the Special Master as set forth in Appendix 2 of the J&D Settlement Agreements.

For more information on the California Subdivision Fund, please contact the California Attorney General's Office at [OpioidSettlement-LocalGovernment@doj.ca.gov](mailto:OpioidSettlement-LocalGovernment@doj.ca.gov).

❖ **What happens if Participating Subdivisions spend funds on unallowable activities?**

Participating Subdivisions suspected of spending funds allocated from the Janssen & Distributors (J&D) Settlements on unallowable activities, whether through review of reports or information from any other sources, will be required to meet and confer with DHCS to resolve the concern. If unable to reach a resolution, DHCS may conduct an audit of the Subdivision's use of the funds and pursue legal action.

❖ **Who do I contact for questions about allowable uses or reporting requirements for the Janssen and Distributors (J&D) Settlements?**

Individuals seeking clarification on allowable uses or reporting requirements for the Janssen & Distributors (J&D) Settlements can contact DHCS at [OSF@dhcs.ca.gov](mailto:OSF@dhcs.ca.gov).

## Reporting Requirements of Funds

### ❖ **How will California ensure that opioid settlement funds will be spent on strategies to address the epidemic?**

To participate in the settlements, Participating Subdivisions accepted the terms and conditions of the [California State Subdivision Agreements](#), which certify that participating entities will use funds for eligible opioid abatement activities and prepare and file annual reports regarding the use of those funds. DHCS oversees this annual reporting and ensures compliance with the allocation agreements.

### ❖ **If my city does not elect direct payment, is it still obligated to report on the use of those funds?**

Cities which have opted-out of direct payment do not need to report to DHCS during reporting periods. Cities who do not elect direct payment must notify the national settlement administrator, [BrownGreer PLC](#), at least 60 days prior to a payment date.

Cities that received direct payment and then chose to transfer some or all their funds to another Participating Subdivision must report on the amount transferred during reporting periods.

### ❖ **If my county or city received funds from another Participating Subdivision, is it required to report the use of these funds during a reporting period?**

Yes, funds received from another Participating Subdivision will need to be reported by the Participating Subdivision that received the funds. Participating Subdivisions who transferred their funds must also indicate this transaction during reporting periods with DHCS, unless the Subdivision opted-out of direct payment with the national settlement administrator, [BrownGreer PLC](#).

### ❖ **Do Participating Subdivisions need to complete the reporting form if they have not spent or committed their allocation during a reporting period?**

Yes, Participating Subdivisions must indicate funds carried or rolled over year-to-year during reporting periods.

### ❖ **How do Participating Subdivisions report on their allocation expenditures?**

DHCS is currently creating an online reporting tool for Participating Subdivisions to report the use and expenditure of their funds. DHCS will alert the primary contacts of each Participating Subdivision once that form is available.

### ❖ **What documentation is needed from Participating Subdivisions during reporting periods?**

Participating Subdivisions will be able to report their use and expenditures via an online reporting tool from DHCS. Documentation required to complete this form will include, but is not limited to:

- An account of expenditures by program/activity for each settlement (e.g., Janssen Settlement or the Distributors Settlement) and the specific fund (e.g. California Subdivision Fund or the California Abatement Accounts Fund);

- An indication of how each program/activity correlates to the priorities listed in Section 4(B)(ii) of the relevant [California State Subdivision Agreements](#) as well as Exhibit E in the [Janssen and Distributors Settlement Agreements](#);
- A narrative summary to provide background on the purpose of each program/activity;
- An account of interest earned on the settlement fund allocations; and
- An account of amounts transferred to, or received from, other participating entities, if applicable.

In the case that DHCS has questions or needs to verify appropriate use of individual allocations, Participating Subdivisions should maintain books, records, documents, and other evidence, accounting procedures and practices to properly reflect direct and indirect costs related to their opioid abatement activities funded by the settlements. In addition, subdivisions should retain records relevant to their participation in the settlements, including correspondence with the national settlement administrator, BrownGreer, PLC. Records shall be subject at all reasonable times to inspection, audit, and reproduction. Participating Subdivisions should preserve and make available their records until all funds from the Janssen and Distributor Settlements are fully expended and for one year thereafter.

❖ **What is the reporting schedule for the Janssen and Distributors (J&D) Settlements?**

Participating Subdivisions will be asked to provide a narrative summary of their activities and financial information on their expenditures from the Janssen & Distributors (J&D) Settlements at least once a year until those funds are fully expended, and one year thereafter. Reporting periods are expected to last a minimum of 10 years (9 years + 1) for the Janssen Settlement and 19 years (18 years + 1) for the Distributors Settlement.

Initial reporting periods are anticipated to occur as follows:

Month/Year	Milestone
<b>December 2022</b>	First payments to Subdivisions
<b>September 30, 2023</b>	*Expenditure reports for SFY 2022-2023 due *Planned expenditures for SFY 2023-24 due
<b>September 30, 2024</b>	*Expenditure reports for SFY 2023-2024 due *Planned expenditures for SFY 2023-24 due

State Fiscal Year (SFY) runs from July 1st – June 30th every year. Janssen & Distributor payments are expected to be made to Subdivisions annually in June and July, respectively, starting in 2023. All Janssen & Distributor payments will be made by the national settlement administrator, BrownGreer PLC.

To ensure compliance with the settlement expenditure requirements, DHCS offers technical assistance to all Participating Subdivisions. Interested individuals can contact DHCS at [OSF@dhcs.ca.gov](mailto:OSF@dhcs.ca.gov).

❖ **What happens if Participating Subdivisions do not complete their annual reporting?**

CA Participating Subdivisions receiving settlement funds must prepare and file reports annually regarding the use of those funds. It is the responsibility of the Participating Subdivision to ensure annual reports are provided to DHCS until all funds from the Janssen and Distributor Settlements are fully expended and for one year thereafter. Failure to submit a timely report may result in an audit, meet and confer with DHCS, or legal action. Participating Subdivisions who do not submit their reports by the prescribed deadlines will receive an electronic notice via email from DHCS regarding the missing report. The electronic notice will be sent to the Participating Subdivision's primary contact. It is the responsibility of the Participating Subdivision to ensure their primary contact's information is correctly listed with DHCS.

❖ **How can I find out how other Participating Subdivisions are spending their funds?**

DHCS will prepare an annual report regarding the State and Participating Subdivisions' use of funds from the settlement until those funds are fully expended and for one year thereafter. These reports will be made publicly available on the [California Opioid Settlements website](#).