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MINNESOTA ATTORNEY GENERAL OPIOID SETTLEMENTS

Human Services Policy

February 15, 2023



Landmark Legislation: HF 400 (2019)

- In May 2019, the Minnesota Legislature passed an omnibus opioids bill (HF 400) that:
 - Required opioid manufacturers and distributors to pay increased opioid-related fees
 - Created special opioid fund for state litigation recoveries and state opioid fees
 - Created opioid advisory council to make grant recommendations



“First Wave” Settlements (Distributors + J&J)

- Distributors / Johnson & Johnson settlements
 - Minnesota joined summer 2021
 - Cities and counties joined by January 2022
- Minnesota’s allocation: **\$303 million**
 - Minnesota earned maximum amount
 - Paid over 18 years
 - Designated for opioid abatement
 - \$63 million received so far



How to Achieve “Global Peace”

- States and subdivisions get more money if they deliver more peace (releases of liability)
- “Global Peace” means resolution of both:
 - Existing claims (*i.e.*, claims by litigating subdivisions)
 - Potential future claims (*i.e.*, claims by currently non-litigating subdivisions)
- Best way to maximize funds and make sure they go where they are needed was to work with stakeholders and create a plan
 - Worked with local government ass’ns (Association of Minnesota Counties, League of Minnesota Cities, Coalition of Greater Minnesota Cities) state experts (OERAC council members, state agencies), tribal representatives, and other community members
- Fall/Winter 2021 convened two separate workgroups: one with public health experts (expert advisory panel) and the other with local government officials (signers’ table)



The Result: Minnesota State-Subdivision Memorandum of Agreement (MOA)

- Allocation
 - Local Governments get 75% of funds directly
 - All 87 counties
 - Cities over 30,000, litigating cities, cities with public health departments
 - State fund is 25%
 - All spent on opioid abatement (prevention, treatment, etc.) overseen by the Opioid Epidemic Response Advisory Council
- Use of funds
 - Expert panel selected comprehensive list of future opioid abatement and remediation programs
- The MOA was finished in December 2021, and counties and cities had until January 2022 to join
- As a result of this comprehensive process, Minnesota achieved broad sign-on to the MOA and the national settlements from our local governments
 - All 87 counties,
 - All cities over 10,000
 - Nearly 50 cities under 10,000



Last Year's Legislation: Opioid Settlement Funds Bill (SF 4025)

- SF 4025 was a necessary step to implement the State-Local Agreement by updating the HF 400 framework
- Three main items
 1. Released settlement funds
 2. Amended statute to implement the 75/25 local-state allocation split
 3. Enacted a claims bar to maximize the amount of resources (“global peace”)



SF 4025 Item 1: Unlock Opioid Settlement Funds

- **Issue:** Old law provided that opioid settlement funds recovered by the AGO “must be deposited in a separate account in the state treasury,” and are only transferred into the opiate epidemic response fund once the opioid-related Pharmacy Board fees are sunset. Minn. Stat. § 16A.151, subd. 2(f).
 - The opioid-related fees will sunset when the state “receives a total sum of \$250,000,000” from opioid-related cases, but cannot be repealed/reduced prior to July 1, 2024. Minn. Stat. § 256.043, subd. 4 (a), (c).
- **SF 4025 Solution:** Amended Minn. Stat. § 16A.151, subd. 2(g) to allow payments from these settlements to be transferred from the lockbox immediately into the opioid fund.



SF 4025 Item 2: Implement 75/25 Allocation

- **Issue:** Old law provided that 50% of the opioid fund (after initial appropriations) is distributed to county and tribal social service agencies for child protection services for families affected by addiction
 - A key term of the intrastate agreement is that this distribution be modified with regard to settlement funds
- **SF 4025 Solution:** Created new opioid settlement account in the Opiate Epidemic Response Fund that removed the 50% county share, allowing local governments to receive their settlement payments directly and ensuring that the vast majority of state settlement funds go directly to OERAC



SF 4025 Item 3: Claims Bar

- **Issue:** To get full payments, the distributor and J&J agreements required “global peace” – the resolution of ongoing lawsuits and the prevention of future lawsuits against the four companies.
- **SF 4025 Solution:** The claims bar complemented the broad sign-on the AGO obtained, and ensures that Minnesota receives maximum payments, eliminating the risk of reduced/delayed payments from a future lawsuit.
 - Narrow scope



“Second Wave” Settlements Terms and Structure

- Five new settlements with two opioid manufacturers and three chain pharmacies
- Maximum payment for Minnesota: **~\$240 million**
 - Teva: \$47 million over 13 years
 - Allergan: \$28 million over 7 years
 - CVS: \$62 million over 10 years
 - Walgreens: \$67 million over 15 years
 - Walmart: \$35 million in 1 year*

*assuming full release of claims



Local Government Participation

- Settlements have similar bonus terms and provisions as first wave
 - Same need for coordination with Minnesota local governments
- Amended MOA
 - Applying terms to new settlements
 - Will be sent to local governments this month
 - Anticipated same allocation to cities/counties



Timeline

- **December 2022:** State of Minnesota joined settlements
- **January 25, 2023:** Notice to local governments
- **February, 2023:** Sign-on instructions to local governments
- **April 18, 2023:** Participation deadline for local governments
- **May 18, 2023:** Deadline for Defendants to determine whether to proceed – “critical mass” assessment
- **Summer 2023:** State files consent judgments; first payments made



New Legislation Needed?

- **Issue:** Like the distributor and J&J agreements, the second wave settlements require “global peace” – the resolution of ongoing lawsuits and the prevention of future lawsuits against the five companies – in order to maximize settlement funds
- **Potential Solution:** Expand claims bar to cover new settlements



Questions?

- Minnesota Attorney General
 - Website: www.ag.state.mn.us/opioids
 - Will be updated to include Amended MOA
 - Email: opioids@ag.state.mn.us
 - Telephone: (612) 429-7126
- www.nationalopioidsettlement.com
 - Includes national settlement documents, FAQs, summaries, etc.