

Opioid Settlement Summary for Tennessee Municipalities

Tennessee has joined a broad coalition of states and local political subdivisions in reaching nationwide settlements with the three largest pharmaceutical distributors – AmerisourceBergen Corporation, Cardinal Health, Inc., and McKesson Corporation – and manufacturer Janssen Pharmaceuticals, Inc., and its parent company, Johnson & Johnson. If the settlements are fully adopted nationally, the distributors will pay a maximum of \$21 billion over 18 years and J&J will pay a maximum of \$5 billion over nine years. Most states have joined the settlements, but for the agreements to become effective, a critical mass of subdivisions must sign onto the settlements by January 2, 2022.

- If the settlements become effective, Tennessee will be eligible to receive more than \$613 million over 18 years, with these maximum payments dependent on all settlement incentives being reached. Payments could begin as soon as April 2022. Most funds will be dedicated to future opioid abatement and remediation programs, benefiting all regions of the state.
- The allocation and use of funds from these settlements are controlled by the settlement agreements, recent legislation, and the proposed Tennessee State-Subdivision Opioid Abatement Agreement. Under the agreements, certain municipalities are eligible to receive direct settlement payments in addition to benefitting from programs funded by their counties and the independent Tennessee Opioid Abatement Council. Those eligible are municipalities (of any size) that are litigating against these companies and all other municipalities with populations of 30,000 or greater. (“Direct Payment Municipalities”)¹
- If maximum payments are earned, up to \$92 million of the settlement funds would be paid directly to Tennessee counties and the Direct Payment Municipalities from the Subdivision Fund.
- Tennessee is committed to maximizing the payments from these settlements, which are highly incentive-based and contain several potential penalties and offsets. Close to full subdivision joinder is anticipated, which would earn most incentives. Additionally, the recent legislation also allows for the release of all state and subdivision claims against these companies if the settlements become effective and this process should ensure maximum payments.
- It is vital that Direct Payment Municipalities join the settlements before the January 2, 2022, deadline. Not only does joinder help reach the critical mass of subdivision participation needed for the settlements to become effective, but it also makes the municipality eligible for its maximum payments. Joinder by the deadline protects against the risk of missing initial payments or having all payments reduced because of a failure to join before the statutory release of claims is implemented. Municipalities are also encouraged to join the State-Subdivision Agreement.
- The settlement agreements, the Tennessee state-subdivision agreement, an executive summary, FAQs, and additional information can be found on the state-specific website: <https://www.tn.gov/attorneygeneral/working-for-tennessee/filings-of-interest/opioids.html>. Information on the joinder process and additional materials about the settlements can be found on the national settlement website: <https://nationalopioidsettlement.com>.

¹ Additionally, a couple non-litigating municipalities with populations under 30,000 are also eligible for direct payments because they have allocable share percentages of 0.5% or greater in Exhibit G of the settlement agreements.