

## **Kroger Opioid Settlement: Summary for Tennessee Municipalities**

Tennessee has joined a broad coalition of states and local political subdivisions in reaching a nationwide settlement with Kroger Co. If fully adopted nationally, the maximum payments to Tennessee and its qualifying local governments would be more than \$42 million. Most states with Kroger stores have joined the settlement, but for the agreement to become effective, a critical mass of political subdivisions must sign onto the settlement by August 12, 2024.

- The settlement has the same basic structure as the prior opioid settlements, which all counties and all municipalities eligible to receive direct payments joined in 2021 and 2023. The joinder process will also be very much as it was for those settlements, with subdivision sign-on being coordinated by Rubris, which communicates with subdivisions via email as the “National Opioid Settlements Implementation Administrator.” The administrator will send participation forms to join the settlement. At that time, subdivisions will also be asked to approve amendments to the Tennessee State-Subdivision Opioid Abatement Agreement. An explanation of the amendments can be found in a summary on the Attorney General website.
- The allocation and use of funds from this settlement are controlled by the settlement agreement, statutory provisions, and the State-Subdivision Agreement. Under the agreement, certain municipalities are eligible to receive direct settlement payments in addition to benefiting from programs funded by their counties and the independent Tennessee Opioid Abatement Council. The new settlement uses the same Exhibit G direct payment list being used for the J&J/Janssen agreement and the five “second wave” settlements approved last year. Please note that not all municipalities are eligible for direct payments, even if they are being asked to support the settlement by participating.
- Maximum payments are dependent on all settlement incentives being reached. Earlier this year, the opioid settlement statutes were amended to address the Kroger settlement in the same manner as the earlier settlements. The amended statutes allow for the release of all state and subdivision claims against this company if the settlement becomes effective. This process should ensure maximum payments are earned. The amended statutes also direct certain funds to counties that join the settlement.
- If maximum payments are earned, up to \$6.4 million of the settlement funds would be paid directly to Tennessee counties and municipalities from the Subdivision Fund. Additionally, up to \$30 million of the settlement funds would be paid to the Tennessee Opioid Abatement Fund and dedicated to future opioid abatement. Pursuant to the legislation, 35% of these funds – approximately \$10.5 million – would be allocated to counties.
- It is vital that subdivisions join the settlement before the **August 12, 2024 deadline**. Not only does joinder help reach the critical mass of subdivision participation needed for the settlement to become effective, but it also makes the county eligible for its maximum payments. Joinder by the deadline protects against the risk of missing an initial payment or having all payments reduced because of a failure to join before a statutory release of claims is effective.
- The settlement agreement, the Tennessee State-Subdivision Agreement, and additional information can be found on the Attorney General website: <https://www.tn.gov/attorneygeneral/working-for-tennessee/filings-of-interest/opioids.html>. Information on the joinder process and additional materials about the settlement can be found on the national settlement website: <https://nationalopioidsettlement.com>.