

Second Wave Opioid Settlements: Summary for Tennessee Municipalities

Tennessee has joined a broad coalition of states and local political subdivisions in reaching nationwide settlements with two additional manufacturers and three national pharmacy chains. If all five of the “second wave” settlements are fully adopted nationally, the maximum payments to Tennessee and its qualifying local governments would be more than \$490 million. Most states have joined the settlements, but for the agreements to become effective, a critical mass of political subdivisions must sign onto the settlements by April 18, 2023. The companies are:

- Allergan, Tennessee maximum payment of \$57 million over 7 years
 - Teva, Tennessee maximum payment of \$96 million over 13 years
 - CVS, Tennessee maximum payment of \$127 million over 10 years
 - Walgreens, Tennessee maximum payment of \$138 million over 15 years
 - Walmart, Tennessee maximum payment of \$72 million, likely in one payment
- The settlements have the same basic structure as the distributor and J&J/Janssen settlements that all counties joined in 2021. 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 settlements. 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 these settlements are controlled by the settlement agreements, statutory provisions, and the State-Subdivision 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. The new settlements are generally using the same Exhibit G direct payment list being used for the J&J/Janssen agreement, though they are subject to amendment as stated in the Exhibit G for each new agreement. Please note that not all municipalities are eligible for direct payments, even if they are being asked to support the settlements by participating.
 - Maximum payments are dependent on all settlement incentives being reached. Legislation has been introduced that would address these new settlements in the same manner as the earlier settlements. The legislation 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 are earned. The legislation also directs certain funds to counties that join the settlements.
 - If maximum payments are earned, up to \$73 million of the settlement funds would be paid directly to Tennessee counties and municipalities from the Subdivision Fund. Additionally, up to \$344 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 \$120 million – would be allocated to counties.
 - It is vital that subdivisions join the settlements before the **April 18, 2023 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 subdivision 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 agreements, 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 settlements can be found on the national settlement website: <https://nationalopioidsettlement.com>.