

\$50 Billion in Opioid Settlement Cash Is on the Way. We're Tracking How It's Spent.

K kffhealthnews.org/news/article/opioid-drugmakers-settlement-funds-50-billion-dollars-khn-investigation-payback

By Aneri Pattani

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More than \$50 billion in settlement funds is being delivered to thousands of state and local governments from companies accused of flooding their communities with opioid painkillers that have left millions addicted or dead.

That's an enormous amount of money — double NASA's budget and five times the revenue of an NBA season.

But how that massive windfall is being deployed and how future dollars will be spent seem to be shrouded in mystery. Reporting requirements are scant, and documents filed so far are often so vague as to be useless.

Most of the settlements stipulate that states must spend at least 85% of the money they will receive over the next 15 years on addiction treatment and prevention. But defining those concepts depends on stakeholders' views — and state politics. To some, it might mean opening more treatment sites. To others, buying police cruisers.

Those affected by the opioid epidemic and those working to fight it have an array of ideas: To Marianne Sinisi, who lost her 26-year-old son, Shawn, to overdose in western Pennsylvania, the settlement funds are “blood money” that she hopes can spare other parents similar grief. To Steve Alsum, who works with people who use drugs in Grand Rapids, Michigan, it's a chance to finally reach all those in need. And to David Garbark, who is in recovery from opioid addiction, it's a way to give others in his eastern North Carolina community a second chance, too.

Spending the money effectively and equitably is a tall order, given the persistence and complexity of addiction, which affects individuals and communities, and is the topic of heated debates in scientific research, social services, politics, criminal justice, and even at kitchen tables.

What's more, many states are not being transparent about where the funds are going and who will benefit. An investigation by KHN and Christine Minhee, founder of [OpioidSettlementTracker.com](https://opioidsettlementtracker.com), concluded only 12 states have committed to detailed public reporting of all their spending.

The analysis involved scouring hundreds of legal documents, laws, and public statements to determine how each state is divvying up its settlement money among state agencies, city and county governments, and councils that oversee dedicated trusts. The next step was to

determine the level and detail of public reporting required. The finding: Few states promise to report in ways that are accessible to the average person, and many are silent on the issue of transparency altogether.

More than \$3 billion has gone out to state and local governments so far. KHN will be following how that cash — and the billions set to arrive in coming years — is used.

Per most of the settlements, governments are required to report only on the 15% of the money that can be used for things unrelated to the epidemic, like offsetting budget shortfalls or fixing old roads. As of March 28, only three states and counties had filed such reports. Although they listed dollar amounts, none said precisely how the money was spent.

State and local governments can enact more rigorous reporting protocols — for example, requiring a publicly available list of every place that receives money and for what purpose — but few have so far.

Left in the Dark

More than 250,000 Americans have died of overdoses from prescription opioids, which were aggressively promoted as painkillers and distributed by a host of health care companies, including Johnson & Johnson, AmerisourceBergen, McKesson, and Walmart. The settlements are meant to compensate and remediate the effects of that corporate behavior.

But many people whose lives have been upended are again feeling traumatized.

Sinisi said she and other parents who've lost kids to addiction have been left in the dark or, worse, treated like nuisances by officials in charge of the money.

“They want to look at you as this angry parent who lost a child,” she said, “rather than a concerned citizen who wants to see a difference made for other mothers, fathers, and their children.”

In Michigan, even the state's Opioid Advisory Commission, which is tasked with evaluating the use of settlement money, has struggled to track the cash.

For six months after the state legislature allotted \$39 million of settlement funds to the health department last summer, little information was made public about how that money would be spent. No news releases. No way for organizations to apply for funds.

“We can't really identify the impact of those dollars if we don't know how they're being used,” said Dr. Cara Poland, the commission's chair and an addiction-medicine doctor.

With scant oversight nationwide, many people fear dollars may flow to efforts that research has proven mostly useless but jibe with the local political bent, like arresting people who use drugs, expanding jails, and favoring abstinence-only recovery over medications. They may

go to the loudest bidder, with companies promising to find the next groundbreaking treatment and rehab facilities — some with shoddy track records — eyeing the cash.

Not to mention concerns that money will flow to activities that have little to nothing to do with opioid treatment: building new stadiums or public schools. Back in the '90s, these day-to-day budget priorities consumed most of what states won from cigarette companies in the national tobacco settlement, leaving little for anti-smoking programs.

The opioid settlement funds will be different, say state attorneys general who fought for them. In addition to requiring at least 85% of the money be used on opioid-related expenses, most agreements include a list of suggested interventions like increasing addiction treatment for the uninsured and expanding recovery housing.

“We wanted to give states flexibility on what approaches they wanted to adopt,” while ensuring money didn’t go to “provide corporate tax relief” as the tobacco dollars did, said North Carolina Attorney General Josh Stein, who led negotiations for the national settlements.

But enforcement of the 85% standard is, oddly, left to the companies that paid out the money. They are unlikely to be vigilant, legal experts say. The money is committed already and, for many of these multibillion-dollar companies, the settlements are chump change. For example, Johnson & Johnson is set to pay \$5 billion over nine years, but the company reported sales of nearly \$95 billion in the past year alone.

An Emerging Picture

As the checks start to trickle in, a handful of states are committed to transparency while others seem to be falling short. Missouri has promised to report all its spending in online reports so that anyone can see who receives money, how much, and for what programs. New Hampshire already has posted reports online, and Colorado has created a public dashboard to track how funds are used.

Other states, like Nevada, have taken a middle-of-the-road approach, requiring that recipients report to the legislature or another oversight body, but not ensuring the reports will go public. Some states require audits but don’t promise to list specific expenses. And others allow the public to request records but won’t provide them automatically.

Then there are states hit hard by the opioid epidemic like Michigan and Ohio, where problems with transparency are already emerging. Each state is expecting to receive at least \$1 billion.

When Poland, of Michigan’s Opioid Advisory Commission, realized she was getting little information on how the state’s funds were being spent, her commission decided to use its first annual report — published this month — to demand better. “Timely and transparent

reporting” to the public is “an ethical responsibility,” it said, calling on lawmakers to enact greater oversight for settlement cash recipients and create a public dashboard to track spending.

KHN interviewed nearly a dozen people and filed a public records request to uncover how the state health department is spending the initial settlement funds allocation of \$39 million.

A budget document obtained by KHN shows that as of Jan. 9, the Michigan Department of Health and Human Services had contracted \$3.9 million in settlement funds to 35 grantees. Most are local health departments or syringe service programs that the state health department has previously funded.

An additional \$27 million is set aside for particular interventions, such as growing the addiction treatment workforce, expanding recovery housing, and mitigating the harms of opioid use with medications like naloxone.

And, after KHN’s inquiries, the department released a statement that listed similar priorities.

Those initiatives make sense to Jonathan Stoltman, director of the Michigan-based Opioid Policy Institute, which researches stigma and digital privacy in addiction treatment. But he would have liked to have known about them in advance and to have had a clear process laid out for groups to apply for the funds. Otherwise, organizations that are well positioned to use the money to help those most in need may miss a once-in-a-lifetime chance to scale up their work and save lives.

Last summer, when Stoltman inquired about applying for the funds, the health department told him to submit a “high level proposal” to “share around,” according to emails reviewed by KHN.

“Anything that is backdoor scares me,” said Stoltman. “I got lucky that I found who to talk to, even if it didn’t go anywhere.”

Steve Alsum, executive director of the Grand Rapids Red Project, which was awarded about \$266,000 to improve the health of people who use drugs, said he expected the state to have an application process with scoring criteria to explain why certain groups were chosen. But, he said, “it hasn’t been clear who is making the decision and how it’s made.”

Jared Welehodsky, who leads the department’s efforts related to the settlement, said it is in the process of releasing several competitive grant applications for the bulk of the money. That didn’t happen sooner because most payments didn’t arrive until the end of 2022 and “we didn’t want to comment on how the money was going out when we didn’t have money to go out,” he said.

Talk of Keeping the Public Out

In Newark, Ohio, Linda Mossholder, 75, has been inquiring about the settlement dollars at City Council meetings since last summer. As a volunteer with Newark Homeless Outreach, which serves weekly free lunches, she encounters many people who use drugs and wants to see the money help them.

The proud owner of a T-shirt that reads, “Your first mistake is thinking I’m just an old lady,” Mossholder has followed up with emails, voicemails, and public records requests. But she hasn’t gotten a clear answer about how the city plans to use the nearly \$50,000 it’s already received.

In January, Mossholder said, the city’s director of public service finally told her the plan was to allocate settlement cash to first responders for naloxone. But when KHN filed public records requests to confirm, City Auditor Ryan Bubb wrote, “No funds have been allocated or spent.”

Meanwhile, in northeastern Ohio, a regional board that will control millions of settlement dollars spent a February meeting discussing whether the public should be allowed to access meeting recordings at all.

“I wouldn’t open it up to the public, honestly,” said Judy Moran, a board member who represents Eastlake, according to a recording of the meeting obtained by KHN. Other board members asked if their gatherings were subject to the state’s open-meeting laws.

Moran later told KHN, “Of course the public has a right to know how these funds are disbursed,” but she said she worried recordings would allow people to take words “out of context.”

In Ohio at least, that may not be a choice for much longer.

A lawsuit brought by Harm Reduction Ohio to open the meetings of a separate board — the OneOhio Recovery Foundation, which oversees the lion’s share of the state’s expected \$1 billion — is working its way through the courts. A local judge this month rejected the foundation’s request to dismiss the lawsuit, writing that “the public deserves transparency.”

But OneOhio spokesperson Connie Luck said the foundation is a “private, nonprofit organization, and not a government agency.” It has so far allowed public attendance at meetings, but has said it is not required to do so.

The final ruling in this lawsuit, which is the first of its kind on opioid settlement funds, will set a precedent for the public’s right to information nationally.

In some parts of the country, the prospect of dollars to treat a long-underfunded epidemic brings hope, said Tricia Christensen, who works at a nonprofit tracking settlement funds across Appalachia. When people know what’s happening, it not only deters misuse but can reveal surprising successes, she said.

That knowledge is empowering.

“These funds are the cavalry coming in. You’re finally getting relief after suffering alone for so long,” said Crystal Glass, of southwestern Virginia, who is in recovery from opioid and meth use and now works as a peer recovery specialist.

She hopes officials will involve people affected by addiction in their decisions.

As she put it: Transparency “is letting everyone — I mean everyone — know they can be part of this.”

KHN’s Colleen DeGuzman and Megan Kalata contributed to this report.