



# Alabama

## Total Funds

\$211.3 million<sup>1</sup>

## Allocation

50% to the state and 50% to its subdivisions<sup>2</sup>

## Mechanism

Settlement agreements (McKesson Alabama Settlement Agreement, Janssen Alabama State-Wide Opioid Settlement Agreement), state-local agreements (McKesson Settlement Sign-On, Johnson & Johnson Settlement Sign-On), Executive Order ([Executive Order No. 708](#))

## Key Takeaways

**Patchwork participation in national settlements.** Although Alabama is not participating in the national settlement agreements with opioid manufacturers and distributors,<sup>3</sup> the state has settled separately with Johnson & Johnson (Janssen), McKesson, and Endo. It has not yet settled with AmerisourceBergen or Cardinal Health.

**No restrictions on reimbursement uses of funds.** Unlike most other states subject to the national settlement agreements' terms,<sup>4</sup> Alabama's McKesson and Janssen settlement agreements do not specify an amount that must be used exclusively towards forward-looking abatement strategies.

**Public reporting.** Neither Alabama's McKesson nor Janssen settlement agreements contain any requirements for the state or its localities to publicly report opioid settlement expenditures. Though the [Alabama Opioid Overdose and Addiction Council](#) must annually report its activities to the Governor, it is not required to publicly report its expenditures or those of the state or local settlement shares.<sup>5</sup>

## Background

This resource is current as of 5/15/2023. For the most up-to-date information, please visit <https://www.opioidsettlementtracker.com/settlementspending>.

Alabama's *McKesson* and *Janssen* Settlement Sign-On Agreements split settlement funds 50-50 between the state and local governments.<sup>6</sup> The Alabama Opioid Overdose and Addiction Council (the Council), established by the Governor's [Executive Order No. 708](#) (EO No. 708), provides recommendations regarding the state's half of funds.<sup>7</sup> Regardless of allocation, all awarded settlement funds<sup>8</sup> must be spent on Approved Uses, which are described in the McKesson settlement agreement's Exhibit B and the Janssen Settlement Sign-On Agreement's Exhibit A. McKesson's Approved Uses exhibit is identical to the national settlement



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## Background

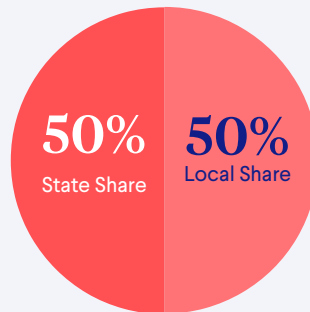
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agreement's [Approved Uses list](#) and includes treatment, prevention, harm reduction, and support for first responders. Janssen's Approved Uses exhibit provides a non-exhaustive list of opioid remediation strategies grouped into three categories: Opioid Community Innovation & Recovery (e.g., treatment, prevention, and harm reduction), Opioid Statewide Innovation & Recovery (e.g., resources for dashboards and stigma reduction training), and Opioid Recovery Sustainability (e.g., funding for child and family supports and syringe service programs).<sup>9</sup>

Neither the McKesson nor Janssen settlement agreements cap the amount from each settlement that may be used as reimbursements for past opioid-related expenditures. McKesson settlement funds must be used on "Opioid Remediation,"<sup>10</sup> which is broadly defined to include "reimbursement for past [opioid remediation] programs or expenditures" and administrative expenses.<sup>11</sup> Janssen settlement funds must be used for either remediation or as restitution for past harms incurred,<sup>12</sup> and the state-local allocation agreement merely provides that spending "should" ensure effective abatement in the present and prevention of future opioid use.<sup>13</sup>

## Decision-Making Process

### ALLOCATION OF SETTLEMENT FUNDS



### 50% STATE SHARE

The state government's 50% share is initially received by the state Attorney General's office,<sup>14</sup> then deposited into the general fund for appropriation by the legislature, whose spending will be guided by the Alabama Opioid Overdose and Addiction Council's (the Council) and Governor's priorities.<sup>15</sup> The Council develops its recommendations for state share expenditures and delivers a strategic action plan to the Governor by December 31 of each year, and the Council's suggestions are then incorporated into the Governor's budget proposal to the legislature.<sup>16</sup>



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## Decision-Making Process

(Continued)

The Council submitted eight spending priorities in its [2022 Alabama Opioid Overdose and Addiction Council Annual Report](#), including access to treatment, overdose prevention, recovery-friendly workplaces, and addressing health disparities.<sup>17</sup>

### ALABAMA'S OPIOID OVERDOSE AND ADDICTION COUNCIL.

The Governor's 2017 [Executive Order No. 708](#) (EO No. 708) established the Alabama Opioid Overdose and Addiction Council (the Council), which has been tasked with making recommendations regarding the state's share of funds. The 52 members of the [Opioid Overdose and Addiction Council](#) include representatives from the state legislature and myriad state agencies, with limited space for local or community perspectives.<sup>18,19</sup>

### 50% LOCAL SHARE

The combined 50% local share is initially received by the Attorney General's office, transferred to a trust, and then distributed to participating political subdivisions and special districts by formula.<sup>20</sup> These litigating municipalities, counties, county agencies, county hospitals, and county health departments must spend their shares on Approved Uses.<sup>21</sup> Approved Uses are defined differently by the McKesson and Johnson & Johnson (Janssen), and the latter's attached "Alabama United" Opioid Litigation Allocation Agreement provides that its three categories of strategies (see above)<sup>22</sup> will "serve as a complement to, and should be integrated with, all other state and local government opioid plans." Otherwise, Alabama has not yet issued specific spending rules for localities' half of funds. Decisions about local spending will be left to local decisionmakers and expended according to normal budget processes.<sup>23</sup>

### LOCAL SPENDING EXAMPLE

The City of Huntsville announced organizations to receive funds (pending approval from the City Council), including an organization focused on services for unhoused people, a behavioral healthcare provider, and the Huntsville Hospital Foundation. A portion of the funds will also be set aside for the purchase of naloxone.<sup>24</sup>



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## Tracking Funds and Accountability

- Alabama’s McKesson and Janssen settlement agreements do not include any requirements to publicly report opioid settlement expenditures.<sup>25</sup> Since the state is not participating in the national settlement agreements, Alabama is also not subject to the requirement that it report its non-opioid remediation spending to the public.<sup>26</sup>
- The [Alabama Opioid Overdose and Addiction Council](#) must annually report its activities to the Governor, but it is not required to publicly report its expenditures or those of the state or local settlement shares.<sup>27</sup>

## Engaging in the Process

- Given that the Council’s priority recommendations aren’t binding,<sup>28</sup> track legislative hearings related to spending as each session proceeds.
- Monitor the [Council’s website](#), particularly the “Council Documents by Year” section, which will include meeting summaries and glimpses into Council priorities before they appear in annual reports.<sup>29</sup>
- Call for greater representation on the Council of people with lived experience of drug use.<sup>30</sup>
- Check out *Community Education Group’s* [Appalachia Opioid Remediation \(AOR\) Local Opioid Settlement Spending Database](#) and sign up for their AOR email alerts [here](#). CEG’s AOR initiative provides opioid settlement spending updates from the 13 states of Appalachia.<sup>31</sup>

## Additional Resources

**[ALABAMA OPIOID OVERDOSE AND ADDICTION COUNCIL](#)**  
*[Exhibit B of the 2022 Annual Report](#)*  
*(lists council members)*

**[ALABAMA PUBLIC HEALTH](#)**  
*[Opioid and Heroin](#) (contains an archive of Council reports)*

**[ALABAMA DEPARTMENT OF MENTAL HEALTH](#)**  
*[Connect Alabama App](#)*



## References

Last updated May 15, 2023.

1. From settlements with distributor McKesson and manufacturer Johnson & Johnson (Janssen) only. Alabama is also participating in several settlements that are likely to be finalized later this year, e.g., CVS, Walgreens, Allergan, and Teva. See KHN's "[The Right to Know: Where Does Your State Stand on Public Reporting of Opioid Settlement Cash?](#)" interactive transparency map (located mid-article; click "Alabama" for state-specific participation information) and OpioidSettlementTracker.com's [Global Settlement Tracker](#) for more information.
2. Funds from Alabama's settlements with McKesson and Johnson & Johnson (Janssen) are allocated 50% to the state, 40% to political subdivisions, and 10% to special districts (e.g., litigating public hospitals and local health departments). *McKesson Settlement Sign-On B.1, A.4*. Funds from the state's settlement with Endo are allocated 60% to the state and 40% to political subdivisions. *Endo Settlement Sign-On B.1*.
3. See, e.g., *McKesson settlement agreement VII.C*.
4. See, e.g., Section V.D.1 of the [Distributor](#) and [Janssen](#) agreements (requiring states to devote 70% of their opioid settlements to future opioid remediation).
5. EO No. 708 Sec. 3.
6. Specifically, 50% will go to the state, 40% to participating political subdivisions, and 10% to "special districts," which both Sign-On Agreements define to mean litigating public hospitals, county health departments, and county boards of health. *McKesson and Johnson & Johnson Sign-On B.6, A.3-4*.
7. [AG's 4/19/2022 press release](#). See also "[Alabama will get nearly \\$300 million in opioid settlements. How will we spend it?](#)" ("Members of the Alabama Opioid Overdose and Addiction Council will send a report to Gov. Kay Ivey outlining the state's greatest needs. Then Ivey will include those suggestions in a budget proposed to the legislature").
8. *McKesson Sign-On Agreement's "Awarded funds"* are the \$141 million in compensatory restitution described in the settlement agreement. *McKesson Sign-On B.6, A.7*; *McKesson settlement agreement I.G, Exhibit H*. *Johnson & Johnson Sign-On Agreement's "Settlement Funds"* are the approximately \$70.3 million in remediation and restitution payments described in the settlement agreement. *Johnson & Johnson Sign-On B.6, A.6*; *Janssen settlement agreement V.B*.
9. *Johnson & Johnson Sign-On Exhibit A*.
10. *McKesson settlement agreement IV.B*. The Compensatory Restitution Amount describes amounts awarded to Alabama, excluding attorneys fees. See *IV.C.5*.
11. *McKesson settlement agreement IV.B, I.M*.
12. *Janssen settlement agreement XI.D.2*. See also *VI.D.1*.
13. *Johnson & Johnson Sign-On Exhibit A, Introduction*.
14. *McKesson and Johnson & Johnson Sign-On B.2*.
15. [AG's 4/19/2022 press release](#) ("The state government's share of each settlement will be deposited directly into the State's General Fund. As the Alabama Legislature works to determine the best uses of this funding, appropriators will have the benefit of reviewing two-and-a-half years of diligent work by the Alabama Opioid Overdose and Addiction Council to determine the State's greatest needs").
16. EO No. 708 Sec. 2. See also "[Alabama will get nearly \\$300 million in opioid settlements. How will we spend it?](#)" ("Members of the Alabama Opioid Overdose and Addiction Council will send a report to Gov. Kay Ivey outlining the state's greatest needs. Then Ivey will include those suggestions in a budget proposed to the legislature").
17. The Council's 2021 Annual Report may be found [here](#).
18. [Exhibit B](#) of the [2022 Alabama Opioid Overdose and Addiction Council Annual Report](#). See also "[Alabama will get nearly \\$300 million in opioid settlements. How will we spend it?](#)" ("Several other members have backgrounds in law enforcement or substance use treatment. Minhee said the council should consider adding more members who have survived opioid addiction").



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## References

(Continued)

19. States participating in the [Distributor](#) and [Janssen Settlement Agreements](#) that do create advisory committees (technically optional) must meet the following requirements, among others: “Composition that includes at least an equal number of local representatives as state representatives” and “A process for receiving input from Subdivisions and other communities regarding how the opioid crisis is affecting their communities, their abatement needs, and proposals for abatement strategies and responses.” [Section V.E\(2\)\(d\)\(ii\)-\(iii\)](#). Alabama is not subject to those rules and has an expansive, 52-member Council co-chaired by the Commissioner of the Alabama Department of Mental Health, the State Health Officer, and the State Attorney General, EO No. 708’s Sec. 5, and dominated by representation from the state’s legislature and agencies, including the Department of Health, Board of Pharmacy, the Bureau of Pardons and Paroles, and the Department of Corrections. The Council’s membership rules can be found in [EO No. 708’s](#) Section 4. [Appendix B](#) of the [2022 Alabama Opioid Overdose and Addiction Council Annual Report](#) lists the 52 members, including representatives from the, and the Board of Dental Examiners. [Appendix C](#) of the report lists the 100+ subcommittee members.
20. This formula is selected by a court-appointed Special Master. [McKesson](#) and [Janssen Sign-On B.2](#).
21. [McKesson](#) and [Johnson & Johnson Sign-On A](#) (definitions of “political subdivisions,” “special districts”).
22. Opioid Community Innovation & Recovery (including e.g., treatment, prevention, and harm reduction); Opioid Statewide Innovation & Recovery (including e.g., resources for dashboards and stigma reduction training); and Opioid Recovery Sustainability (including e.g., funding for child and family supports and syringe service programs).
23. See, e.g., “[Allocation unclear for portions of \\$276 million received by Alabama in opioid lawsuit.](#)”
24. “[Huntsville to Allocate Settlement Proceeds to Agencies on Front Lines of Opioid Crisis](#)”
25. See [OpioidSettlementTracker.com’s “States’ Initial Promises to Publicly Report Their Opioid Settlement Expenditures.”](#)
26. Section V.B.2 of the [Distributor](#) and [Janssen](#) settlement agreements. See also [OpioidSettlementTracker.com’s “Most Settlement Agreements Do Not Require Public Reporting of Opioid Remediation Expenditures.”](#)
27. EO No. 708 Sec. 3.
28. “[Alabama council makes plans to spend millions from opioid settlements](#)” (“Members of the council don’t have direct control over how the legislature will act on its recommendations. [Attorney General] Marshall urged council members to stay engaged during the session”).
29. See, e.g., [priorities](#) from the 2022 annual report
30. Cf. “[Alabama will get nearly \\$300 million in opioid settlements. How will we spend it?](#)” (“Several other members have backgrounds in law enforcement or substance use treatment. Minhee said the council should consider adding more members who have survived opioid addiction”).
31. AL, GA, KY, MD, MS, NY, NC, OH, PA, SC, TN, VA, WV.