

Maryland



Total Funds

\$395 million¹

Allocation

60% to the Targeted Abatement Subfund, 25% to localities, and 15% to the state

Mechanism

Allocation agreement between the state and local governments ([State-Subdivision Agreement Between the State of Maryland and Local Governments](#)), Executive Orders ([EO 01.01.2017.11](#), [EO 01.01.2022.07](#)) legislation ([Md. Code, State Finance & Procur. Sec. 7-331](#), [Md. Code, Health-Gen. Sec. 7.5-901](#) through [7.5-905](#))²

Key Takeaways

Opioid Restitution Fund. The Opioid Restitution Fund was originally created in 2019 by [HB1274](#) and codified at [Section 7-331](#) of the state's Finance and Procurement Code. In April 2022, the legislature amended this statute to reflect the State-Subdivision-Agreement, which provides for the allocation below.³ Section 7-331 was amended once more in May 2022 to better embrace harm reduction principles—this legislation also created the Opioid Restitution Fund Advisory Council.⁴

Harm reduction. Maryland prioritizes harm reduction across its mechanisms: The state must include a “public health expert engaged in harm reduction services” on the Opioid Restitution Fund Advisory Council,⁵ and harm reduction strategies are an allowable use of Fund monies.⁶

No supplantation & future opioid remediation only. With a limited exception for 15% of the localities' share, settlement proceeds must be spent on forward-looking opioid remediation activities,⁷ and may not supplant other funding.⁸

This resource is current as of 5/8/2023. For the most up-to-date information, please visit <https://www.opioidsettlementtracker.com/settlementspending>.



Background

The [State-Subdivision Agreement Between the State of Maryland and Local Governments on Proceeds Relating to the Settlement of Opioids Litigation](#) (Agreement) allocates 60% of settlement monies to an Abatement Accounts Fund, 25% directly to localities, and 15% to the state to be held in the Opioid Restitution Fund.⁹

The Abatement Accounts Fund is divided into a State Discretionary Abatement Fund (to hold 15% of total funds) and a fund for Targeted Abatement Grants (45% of total funds).¹⁰ The Secretary of Health determines how monies from the Discretionary Fund may be spent on Permitted Uses but must establish a program for qualifying non-litigating subdivisions to apply for grants from the Discretionary Fund.¹¹ The share for Targeted Abatement Grants goes toward non-competitive grants for qualifying subdivisions included in [Exhibit G](#) of the national settlements.¹²

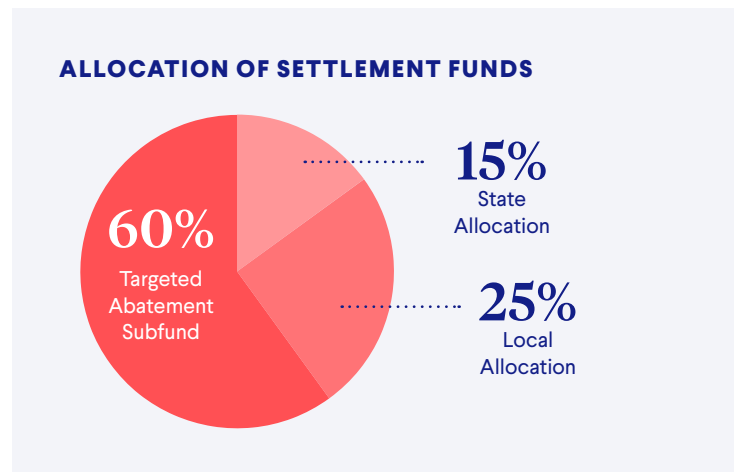
The Opioid Restitution Fund (ORF) houses all monies received by the state from opioid litigation¹³ and monies from the ORF must be spent according to the state budget.¹⁴ For Distributor and Janssen monies specifically, state budget appropriations must be made according to the distribution and allocation rules described in the [Agreement](#).¹⁵ Aside from a portion of the localities' 25% share that may reimburse previous expenditures,¹⁶ all other funds, regardless of allocation, must be spent on forward-looking opioid remediation.¹⁷

Maryland defines permitted uses as expenditures allowable under the national settlement agreements (i.e., [Exhibit E](#)'s list of opioid remediation uses, which include prevention, harm reduction, treatment, and recovery services) and by state law.¹⁸ State law outlines eleven "evidence-based substance use disorder prevention, treatment, recovery, or harm reduction" purposes, such as improving access to naloxone, peer support interventions, expanding the [Heroin Coordinator Program](#), supporting the [Behavioral Health Crisis Hotline](#), and expanding "other evidence-based programs for overdose prevention and substance use treatment."¹⁹ State law also permits funding for evidence-informed harm reduction pilot programs that are not considered "evidence-based" with approval from the Opioid Restitution Fund Advisory Council.²⁰ Importantly, money expended from the ORF is intended to supplement rather than supplant other funding streams and administrative expenses are expressly limited to a handful of specific exceptions.²¹



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Decision-Making Process



60% TARGETED ABATEMENT SUBFUND

Over half of settlement monies are allocated to the Targeted Abatement Subfund,²² a subfund of the Opioid Restitution Fund.²³ All funds must be spent on forward-looking opioid remediation activities and the Subfund is further divided and distributed as follows:²⁴

STATE DISCRETIONARY ABATEMENT FUND

25% of the Targeted Abatement Subfund (or 15% of Maryland's total funds) is spent on future opioid remediation as determined by the Secretary of Health or the Executive Director of the [Opioid Operational Command Center \(OCCC\)](#).²⁵ The Health Secretary or OCCC Executive Director must establish a program that allows non-litigating subdivisions to apply for grants, and grants are awarded at the Health Secretary's or OCCC Executive Director's discretion.²⁶ When considering applications, the Health Secretary or OCCC Executive Director may consider whether the grant would address abatement needs in the community and in Maryland, the applicant's previous experience providing opioid remediation and public health services, the project's feasibility, alignment with state and county opioid remediation policies and practices, and other future remediation needs in the state.²⁷ Within the Agreement, there is no particular amount of funds that must be committed toward these grants.



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Decision- Making Process

(Continued)

OPIOID OPERATIONAL COMMAND CENTER (OCC)

The OCC was created within the Department of Health to oversee the state's overdose crisis response, coordinate interagency collaboration between state and local public health and public safety agencies, and "build upon community-based strategies."²⁸ In addition to managing funds allocated to it from the Opioid Restitution Fund,²⁹ the OCC is responsible for developing and implementing the Inter-Agency Heroin and Opioid Coordination Plan, collecting and facilitating data sharing across jurisdictions,³⁰ supporting local agencies' Opioid Intervention Teams,³¹ administering grant programs,³² staffing the Opioid Restitution Fund Advisory Council,³³ and generally supporting Maryland's state agencies and 24 localities in their overdose crisis response.³⁴ The OCC's Executive Director or their designee sits on the Opioid Restitution Fund Advisory Council,³⁵ and the Governor can redelegate any of the Secretary of Health's responsibilities under the Agreement to the OCC Executive Director.³⁶

TARGETED ABATEMENT GRANTS

The remaining 75% of the Targeted Abatement Subfund (or 45% of Maryland's total funds) is distributed to participating Exhibit G subdivisions via non-competitive Targeted Abatement Grants.³⁷ Amounts are released to the Local Abatement Funds of "Qualifying Charter Count[ies]" Baltimore City and Anne Arundel, Baltimore, Frederick, Harford, Howard, Montgomery, and Prince George's counties automatically.³⁸ The rest is distributed to the remaining participating subdivisions listed in Exhibit G upon submission of a grant application that demonstrates the formation of a Local Abatement Fund, as well as administrative capacity and intent to use monies on future opioid remediation.³⁹ Subdivisions that receive these non-competitive grants must renew them every five years,⁴⁰ and eligible Exhibit G subdivisions that do not participate in this application process will have their funds reabsorbed by their counties.⁴¹



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Decision- Making Process

(Continued)

OPIOID RESTITUTION FUND ADVISORY COUNCIL (COUNCIL)

The Council is responsible for annually providing specific Fund allocation and expenditure recommendations to the Governor and Secretary of Health,⁴² and the Governor must also consult with the Council on recommended appropriations from the Fund.⁴³ In making its recommendations, the Council must consider several criteria, including the impact of the overdose crisis in a particular area, existing SUD programs and supports, and disparities in access to care and health outcomes.⁴⁴ The Council may also create committees and consult with state agencies,⁴⁵ and it must meet at least four times a year.⁴⁶

Members of the Council represent the legislature, state agencies, the OCCC, the Maryland Association of Counties,⁴⁷ and people with connections to the overdose crisis appointed by the Governor and Secretary of Health — including a harm reduction expert, person in recovery, family member of a person who overdosed, and person from a disproportionately impacted community.⁴⁸ These appointees must “to the extent practicable” reflect the geographic, racial, ethnic, and gender diversity of the state and represent disproportionately “at-risk” populations.⁴⁹ Additional people may also serve on the Council in an advisory capacity.⁵⁰ Current Council members may be found [here](#).⁵¹

25% LOCAL ALLOCATION

25% of settlement monies are allocated to the Subdivision Fund and distributed directly to participating cities and counties listed in [Exhibit G](#) of the national settlements.⁵² Subdivisions may spend up to 15% as reimbursements for past permitted use expenditures,⁵³ and the Secretary of Health or OCCC Executive Director must provide counties and municipalities with non-binding recommendations for future opioid remediation expenditures,⁵⁴ which must constitute at least 40% of this share’s spend.⁵⁵ Counties must meet with their participating municipalities and the Secretary of Health to discuss their planned uses of settlement monies,⁵⁶ but localities have the final say on how to spend their funds.⁵⁷ Subdivisions’ estimated distributions from all shares under the Agreement can be found [here](#).

LOCAL PLANNING EXAMPLE

Howard County’s Executive established the Opioid Collaborative Community Council via [Executive Order](#). The Council will make recommendations on how settlement funds should be spent.⁵⁸

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Decision-Making Process

(Continued)

15% STATE ALLOCATION

The state's 15% share is allocated to the State Fund and deposited into the Opioid Restitution Fund for future opioid remediation "as determined by the state."⁵⁹

The Governor must develop goals, performance indicators, and appropriations recommendations for the legislature.⁶⁰ The appropriations recommendations are informed by consultation with the Opioid Restitution Fund Advisory Council.⁶¹

Tracking Funds and Accountability

- Though the Governor must provide an annual accounting of expenditures from the Opioid Restitution Fund to the Legislature—including by use and jurisdiction, as well as progress towards achieving the Governor's key objectives—⁶² Maryland has not yet committed to public reporting on settlement spending.⁶³
- The Secretary of Health must establish auditing procedures for localities receiving settlement monies to ensure they are spent according to permitted uses,⁶⁴ and any misspending is reported by the Secretary to the Attorney General who may pursue enforcement.⁶⁵

Engaging in the Process

- The Governor must report annually to the legislature on progress achieved towards key objectives, as well as recommended appropriations for the Opioid Restitution Fund.⁶⁶ Push for these reports to be made publicly available!
- Attend meetings of the Opioid Restitution Fund Advisory Council, which are open to the public. Information about how to join future meetings is on the Council's [website](#), as are past meeting minutes and agendas. Meetings include a dedicated opportunity for public comment,⁶⁷ and written testimony may be submitted to help.oocc@maryland.gov.
- Join the OOC's [mailing list](#) to hear about upcoming funding opportunities. The OOC expects to launch its Targeted Abatement Grants application period during Summer 2023.⁶⁸
- In the past, the Opioid Restitution Fund Advisory Council has convened [public listening sessions](#) and circulated [public surveys](#) to gather input on settlement spending. Join the Council's [mailing list](#) to hear about upcoming meetings and other announcements.
- Review the resources and overdose response plans from your local [Opioid Intervention Team](#).
- 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.⁶⁹



Additional Resources

OPIOID RESTITUTION FUND ADVISORY COUNCIL

OPIOID OPERATIONAL COMMAND CENTER (OCCC)

About the Opioid Operational Command Center

Maryland's Overdose Data Dashboard

Opioid Intervention Team Program Inventory (Q4 2022)

Maryland Inter-Agency Opioid Coordination Plan (2022-2024)

Maryland Opioid Operational Command Center Fact Sheet

GOVERNOR'S INTER-AGENCY HEROIN & OPIOID COORDINATING COUNCIL

JOHNS HOPKINS SCHOOL OF PUBLIC HEALTH

One Bill Wasn't Enough - See Why Maryland Passed Three Opioid Litigation Bills



References

Last updated May 8, 2023.

1. From settlements with distributors McKesson, AmerisourceBergen, Cardinal Health and manufacturer Johnson & Johnson only. Maryland is also participating in several settlements that are likely to be finalized later this year, e.g., Walgreens, Walmart, 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 "Maryland" for state-specific participation information) and OpioidSettlementTracker.com's [Global Settlement Tracker](#) for more information.
2. While Maryland's Agreement is limited by its definitions to the Distributor and Janssen Settlements (see Agreement II(c), I(n)), state law establishing the restricted account encompasses "all revenues received by the State from any source resulting, directly or indirectly, from any judgment against, or settlement with, opioid manufacturers, opioid research associations, or any other person in the opioid industry relating to any claims made or prosecuted by the State to recover damages for violations of State law." See Sec. 7-331(e). Note that many states' mechanisms for opioid settlement spending were designed to comply with the requirements of the [Distributor](#) and [Janssen](#) settlement agreements, which require (among other provisions) that a minimum of 85% of settlement funds be spent on opioid remediation expenditures. *Section V.B.1.* Subsequent settlements require varying thresholds of opioid remediation spend; the [CVS](#) and [Walgreens](#) agreements, for instance, require a minimum of 95.5% and 95% opioid remediation spending, respectively. *Section V.B.1.* Keep an eye out for the ways states will amend their spending mechanisms, if at all, to comply with subsequent settlement terms.
3. See [2022 Md. Laws 84](#); Agreement IV(a).
4. [2022 Md. Laws 270](#)
5. Md. Code, Health-Gen Sec. 7.5-903(a)(7)(iii) (hereinafter referred to as Sec. 7.5-901 through 905)
6. Sec. 7-331(f)(1)-(3)
7. Agreement III(a)-(b) I(h).
8. Sec. 7-331(i)(1).
9. Agreement IV(a)(1)-(3).
10. Agreement IV(2)(A)-(B)
11. Agreement IV(2)(A)
12. Agreement IV(2)(B)
13. Md Code, State Fin. & Proc. Sec. 7-331(b), (e)(1) (hereinafter referred to as Sec. 7-331).
14. Sec. 7-331(h)(1).
15. Sec. 7-331(h)(2)(i).
16. "[A]ny Subdivision receiving settlement proceeds pursuant to Section IV(a)(3) of this Agreement may use up to 15 percent to pay for past Opioid Remediation consistent with Permitted Uses." Agreement III(b).
17. Agreement III(a)-(b).
18. Agreement I(h), Sec. 7-331(f).
19. Sec. 7-331(f)(1)(i)-(xi).
20. 7-331(f)(2)
21. Sec. 7-331(i)(1)-(2) and (f)(1)(iv), (f)(1)(viii), f(1)(ix), f(1)(x)(Heroin Coordinator Program, primary and secondary school education campaigns, enforcing laws regarding opioid prescriptions and sales, and research and training on evidence-based interventions).
22. Agreement IV(a)(2).
23. Agreement I(v).
24. Agreement III(a), II(h).
25. Agreement IV(a)(2)(A), I(r). The Governor can redelegate any of the Secretary of Health's responsibilities under the Agreement to the OOCC Executive Director. Agreement II(d).
26. Agreement IV(a)(2)(A), I(i) and II(d).
27. Agreement V(a)(2)(A)(i)-(v). See also Agreement III(c) (describing Health Secretary's or OOCC Executive Director's power to supplement grants to Qualifying Exhibit G Subdivisions with additional funds, provided spending is consistent with state policies and statewide abatement plans).
28. Agreement I(o); EO 01.01.2022.07(E). See also [Opioid Operational Command Center](#).
29. EO 01.01.2022.07(E)(4)(h).
30. e.g., [Maryland's Overdose Data Dashboard](#).
31. EO 01.01.2022.07(E)(4)(a)-(h).
32. See, e.g., the [grants page](#) on the OOCC's website
33. Sec. 7.5-904(b).



References

(Continued)

34. OOC's [Before It's Too Late](#).
35. Sec. 7.5-903(a)(6).
36. Agreement II(d).
37. Agreement IV(a)(2)(B).
38. Or "within 30 days of the later of the deposit of Annual Payments in the Targeted Abatement Subfund or a Qualifying Charter County's establishment of a Local Abatement Fund pursuant to this Agreement." Agreement IV(a)(2)(B)(i), I(k),(l).
39. Note that an application requires approval by the Secretary of health or the OOC Executive Director, but that any application which meets the outlined requirements "must be approved." Agreement IV(a)(2)(B)(ii); See also Agreement II(d). The Governor can redelegate any of the Secretary of Health's responsibilities under the Agreement to the OOC Executive Director. Agreement II(d).
40. Agreement IV(a)(2)(B)(ii).
41. Agreement IV(a)(2)(B).
42. Sec. 7.5-905.
43. Sec. 7-331(j)(2), (j)(3)(iii).
44. Sec. 7.5-905(1)-(5).
45. Sec. 7.5-904(a)(1)-(2).
46. Sec. 7.5-904(a)(3).
47. Sec. 7.5-903(a)(1)-(6), (a)(9)
48. Sec. 7.5-903(a)(7)-(8)
49. Sec. 7.5-903(b)(1)-(3).
50. Sec. 7.5-903(f).
51. See also AG's [11/19/2022 press](#) ("[Governor Hogan Announces Appointments to the Opioid Restitution Fund Advisory Council](#)")
52. Agreement IV(a)(3). Participating Qualifying Exhibit G Subdivisions must preliminarily create a Local Abatement Fund as described in Agreement II(g). See also Agreement V(a)(1)-(2) (describing Qualifying Exhibit G Subdivisions distribution formula).
53. Agreement III(b).
54. Agreement IV(b). The Secretary's or OOC ED's non-binding recommendations likely apply to localities' monies from all shares, given (b)'s placement under Agreement IV's general heading, rather than specific to any of the funds and subfunds described in Agreement IV(a).
55. Agreement IV(a)(3).
56. "Any other" municipalities (those not receiving settlement funds) may also participate in meetings. Agreement IV(b). These meetings can include the Secretary of Health or their designee.
57. Agreement IV(b) ("In the event of disagreement, the ultimate use of specific Settlement Proceeds shall be determined by the Subdivision that has been granted them in a manner consistent with the other provisions of this Agreement and applicable law").
58. "[Howard County Executive Calvin Ball Creates Opioid Collaborative Community Council; County to Receive \\$12.3 Million in Settlement](#)"
59. Agreement IV(a)(1) and Agreement III(a). Just over \$9 million (3.2974316916% of \$282,692,307.70) – the state's additional restitution amount from the Distributor and Janssen settlements – is deposited into the State Fund as well. See Agreement I(b) and [Distributor](#) settlement agreement Sec. I.B, Exhibit N.
60. Sec. 7-331(j)(1), (j)(3)(iii)
61. Sec. 7-331(j)(2), (j)(3)(iii).
62. Sec. 7-331(j)(3)
63. See [OpioidSettlementTracker.com's "States' Initial Promises to Publicly Report Their Opioid Settlement Expenditures."](#)
64. Agreement VI(a).
65. Agreement VI(b). Note Agreement II(f) ("This State-Subdivision Agreement shall create no rights in third parties, including parties to the National Settlement Agreement who are not also parties to this State-Subdivision Agreement.") This provision means community stakeholders are not empowered by the Agreement to pursue enforcement of its term (e.g., allocations, misspending, etc.)
66. Sec. 7-331(j)(3)
67. See, e.g., [Opioid Restitution Fund Advisory Council Meeting \(5/8/23\)](#)
68. [Opioid Restitution Fund Advisory Council Meeting Minutes \(3/27/23\)](#)
69. AL, GA, KY, MD, MS, NY, NC, OH, PA, SC, TN, VA, WV.