

The North Carolina Model for Opioid Settlement Funds

Steven Mange

North Carolina's effort to hold drug companies accountable for their role in creating and fueling the overdose epidemic has generated \$1.4 billion for the state over 18 years. Securing these funds has been a victory, but ensuring they are used to save lives is equally critical.

Introduction

More than a million Americans lost their lives to drug overdose from 2020 through 2022, including more than 37,000 North Carolinians [1]. The epidemic was driven first by prescription opioids, then heroin, and then fentanyl. In 2022 alone, fentanyl killed nearly 3,400 North Carolina residents, an average of more than nine people each day [1].

Addressing this crisis has been a top priority of North Carolina Attorney General Josh Stein since he took office in 2017. In addition to his efforts to address the supply of prescription opioids, fentanyl, and other deadly drugs, the Attorney General's office led a bipartisan effort of attorneys general across the country to hold drug companies accountable for their role in creating and fueling the overdose epidemic. That effort has generated more than \$50 billion nationwide, including \$1.4 billion coming to North Carolina over 18 years [2].

While *securing* these funds has been an important victory, *ensuring* that the funds are used to save lives and address the opioid overdose epidemic was and is equally critical. In this respect, the national opioid settlements in general—and North Carolina's use of these funds in particular—depart sharply from the tobacco Master Settlement Agreement (MSA) of 1998. The tobacco MSA did not direct settlement funds to preventing or addressing the adverse effects of tobacco or to any other public health purpose. Perhaps not surprisingly, “a 2018 retrospective assessment revealed that less than 3% of the settlement funds were used for programs to prevent kids from smoking and to help smokers quit” [3].

By contrast, the national opioid settlements require that state and local governments direct most opioid settlement funds to opioid remediation activities. In North Carolina, we took that principle even further, agreeing that “except as related to the payment of the Parties' litigation expenses and the reimbursement of the United States Government, all Opioid Settlement Funds, regardless of allocation, shall be

utilized only for opioid remediation activities” [4].

The details of that agreement are captured in the North Carolina Memorandum of Agreement (MOA).

What is the MOA?

The MOA governs the allocation, use, and reporting of opioid settlement funds in North Carolina. Because 76 North Carolina counties (along with eight municipalities) participated in litigation against the opioid companies, the MOA is a product of discussions and negotiations between the Attorney General's Office and local governments, especially counties. A committee of five county commissioners, five county managers, and five county attorneys (known as the “5-5-5 Committee”), created and facilitated by the North Carolina Association of County Commissioners, played a key role in the negotiations.

Allocation of Funds

The MOA provides that 85% of funds from most of the opioid settlements and related bankruptcy resolutions go to local governments, with the remaining 15% going to the North Carolina General Assembly for opioid remediation.

Local governments entitled to receive direct payments under the settlements are the 100 North Carolina counties plus 17 municipalities that either filed suit against the defendants or had a population of 75,000 or more in 2019, or both (though some municipalities entitled to receive funds have elected to direct their share of opioid settlement funds to their respective counties).

Use of Funds

The MOA requires that every local government receiving opioid settlement funds create a separate special revenue fund, subject to audit, that is designated for the receipt and accounting of opioid settlement funds.

Before spending opioid settlement funds in the special revenue fund, a local government must adopt a resolution that identifies the specific strategy or strategies the local

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Address correspondence to smange@ncdoj.gov.

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government intends to fund and states the amount dedicated to each strategy over a specified time.

A local government must spend opioid settlement funds on opioid remediation activities authorized under Option A or Option B as detailed in the MOA. Under Option A, a local government may fund one or more strategies from MOA Exhibit A, which is a shorter list of high-impact strategies to address the epidemic. This option allows for but does not require specific planning activities at the local level. The Option A strategies are:

1. Collaborative strategic planning
2. Evidence-based addiction treatment
3. Recovery support services
4. Recovery housing support
5. Employment-related services
6. Early intervention with at-risk youth
7. Naloxone distribution
8. Post-overdose response team
9. Syringe service program
10. Criminal justice diversion programs
11. Addiction treatment for incarcerated persons
12. Reentry programs for persons leaving jail or prison

Under Option B, a local government that engages in a collaborative strategic planning process may fund one or more strategies from the shorter list of high-impact strategies listed in MOA Exhibit A or the longer list of strategies from the national settlement agreements in MOA Exhibit B.

Transparency and Accountability

The MOA ensures a high level of transparency and accountability with respect to opioid settlement funds, reflected in the Community Opioid Resources Engine for North Carolina (CORE-NC) at <https://ncopioidsettlement.org/>.

Created and managed by the University of North Carolina's Injury Prevention Research Center, CORE-NC features information about the settlements, resources to help local governments make the best use of opioid settlement funds, and a series of data dashboards that include:

- A schedule of expected opioid settlement payments to each local government and the North Carolina General Assembly;
- A dashboard showing how local governments spent opioid settlement funds in Fiscal Year 2022-2023 (the

first year that funds were available to spend), which will be updated on an annual basis;

- A dashboard showing how local governments plan to spend opioid settlement funds in the future, as required by the MOA;
- Opioid indicators such as overdose deaths and emergency department visits for every county and the state as a whole; and
- Data on community drivers of health such as poverty and unemployment for every county and the state as a whole.

CORE-NC will continue to evolve and expand as additional information becomes available.

National Recognition

In 2023, North Carolina received an award for excellence for its application of the Principles for Use of Funds from the Opioid Litigation developed by a coalition of organizations led by faculty and staff at the Johns Hopkins Bloomberg School of Public Health [5]. The coalition tracks how states and municipalities work to effectively and equitably distribute opioid settlement funds. North Carolina also has been

highlighted in multiple media reports as a national example for transparency and accountability [6–8].

Conclusion

The opioid epidemic has taken a tragic toll on our state and nation. While there is nothing we can do to bring back the tens of thousands of North Carolinians who have lost their lives to this terrible crisis, we can use the resources we have—including \$1.4 billion in opioid settlement funds—to save lives, support treatment and recovery, and build stronger, healthier, more resilient communities. **NCMJ**

Steven Mange, JD Director of Policy & Legislative Affairs, North Carolina Department of Justice, Raleigh, North Carolina.

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References

1. Opioid and Substance Use Action Plan Data Dashboard. North Carolina Department of Health and Human Services. Accessed July 22, 2024. <https://www.ncdhhs.gov/opioid-and-substance-use-action-plan-data-dashboard>
2. North Carolina Opioid Settlements. Accessed July 22, 2024. <https://>

- ncopioidsettlement.org/about-the-settlements/
3. Gazda M. What History's Big Tobacco Settlement Means for Today's 'Opioid Remediation.' Bipartisan Policy Center. Published August 19, 2021. Accessed May 15, 2024. <https://bipartisanpolicy.org/blog/big-tobacco-opioids/>
 4. Memorandum of Agreement Between the State of North Carolina and Local Governments on Proceeds Relating to the Settlement of Opioid Litigation, Part B.5. More Powerful NC. Accessed July 22, 2024. <https://www.morepowerfulnc.org/opioid-settlements/nc-memorandum-of-agreement/>
 5. North Carolina Recognized for Efforts to Combat the Opioid Crisis and Save Lives. News release. North Carolina Department of Justice. Published June 28, 2023. Accessed July 22, 2024. <https://ncdoj.gov/north-carolina-recognized-for-efforts-to-combat-the-opioid-crisis-and-save-lives/>
 6. Opioid Settlements: Last Week Tonight with John Oliver. May 16, 2024. Accessed July 22, 2024. <https://www.youtube.com/watch?v=loOyuH1CiA0>
 7. Pierson B, Raychaudhuri D. Insight: For groups fighting U.S. opioid crisis, settlement money can be hard to come by. *Reuters*. Published June 20, 2023. Accessed July 25, 2024. <https://www.reuters.com/business/healthcare-pharmaceuticals/groups-fighting-us-opioid-crisis-settlement-money-can-be-hard-come-by-2023-06-17/#:~:text=North%20Carolina%20has%20been%20widely,dashboard%20where%20the%20public%20can>
 8. French R, Erb R. Michigan won't know how \$725M is spent on opioids help. Other states do it better. *Bridge Michigan*. February 7, 2024. Accessed July 25, 2024. <https://www.bridgemi.com/michigan-health-watch/michigan-wont-know-how-725m-spent-opioids-help-other-states-do-it-better> ("North Carolina is publicly reporting every dollar spent of settlement funds, while Michigan has agreed only to report 50%").