



Massachusetts Department of Public Health

150 YEARS
OF ADVANCING
PUBLIC
HEALTH

STATEWIDE OPIOID SETTLEMENTS

AGO/DPH VIRTUAL FORUM
THURSDAY, AUGUST 11, 2022



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Topics

- Statewide Opioid Settlements (AGO)
- Funds to the Opioid Recovery and Remediation Fund (DPH)
- Municipal abatement funds
 - Abatement strategies, reporting and support (DPH)
 - Procurement issues (OIG)
 - Neil Cohen, Director, Reg. & Compliance Division
 - Municipal finance issues (DOR's Division of Local Services)
 - Deborah Wagner, Director of Accounts

Statewide Opioid Settlements

- AG settlements under which Massachusetts municipalities are eligible to receive direct payments in exchange for signing releases.
 - McKesson, Cardinal, AmerisourceBergen, and Johnson & Johnson.
- Nearly all Massachusetts cities and towns are [participating](#).

State-Subdivision Agreement

- Directs funds from statewide opioid settlements:
 - 40% to the state's municipalities to expend on [approved programs and strategies](#)
 - 60% to the state's [Opioid Recovery and Remediation Fund](#)
- Requires all funds to be used to supplement and strengthen resources for prevention, harm reduction, treatment, and recovery.
- Requires annual reporting to EOHHS by municipalities that receive annual payments of \$35,000 or more.
- Municipalities are encouraged to pool resources and collaborate.

The Opioid Recovery and Remediation Fund Advisory Council

- Established in January 2020 with Governor Baker's signing into law of Chapter 309 of the Acts of 2020.
- Chaired by the Secretary of Health and Human Services and comprised of a diverse panel of policymakers, public health professionals, legal experts, and clinicians appointed by the Governor and Attorney General.
- Charged with developing recommendations for the expenditure of the Opioid Recovery and Remediation Trust Fund to mitigate the impacts of the opioid epidemic in the Commonwealth.

The Opioid Recovery and Remediation Fund Advisory Council

To date, the council has:

- Developed initial proposal for Statewide ORRF funding included four key strategies:
 - 1) Expansion of harm reduction services,
 - 2) Increased access to methadone,
 - 3) Expansion of supportive housing programs including low-threshold housing, and
 - 4) Community outreach and engagement
- In process of identifying vendor to support development of 3-year strategic plan to guide remainder of statewide ORRF spending
- For questions about the funding, please contact:
OpioidRecoveryandRemediationFund@mass.gov

Municipal Abatement Funds – Payment Mechanics

- Before payments can flow, [participating municipalities](#) must:
 - 1) Set up an account in the National Opioid Settlements Portal;
and
 - 2) Submit a Payment Election Form and W-9.
- To find out who received the invitation for your municipality or get a new link, email Adreyan Caldeyro (acaldeyro@browngreer.com).
- Distributor payment 1 started going out to participating municipalities with completed accounts on July 15, 2022.

Payments to Participating Municipalities

	Date	Distributors	J&J
Summer/Fall	2022	Payments 1-2	Payments 1-5*
July/August	2023	Payment 3	
July/August	2024	Payment 4	
July/August	2025	Payment 5	
July/August	2026	Payment 6	Payment 6
July/August	2027	Payment 7	Payment 7
July/August	2028	Payment 8	Payment 8
July/August	2029	Payment 9	Payment 9
July/August	2030	Payment 10	Payment 10
July/August	2031	Payment 11	Payment 11
July/August	2032	Payment 12	
July/August	2033	Payment 13	
July/August	2034	Payment 14	
July/August	2035	Payment 15	
July/August	2036	Payment 16	
July/August	2037	Payment 17	
July/August	2038	Payment 18	

*We expect J&J Payments 3-5 to be accelerated to 2022 because certain settlement-related contingencies were satisfied.

Municipal Abatement Strategies

- Abatement funds allocated to municipalities must be used to implement strategies set forth in the [State-Subdivision Agreement](#), *including reasonable workforce costs necessary to support the enumerated programs and strategies.*
- The agreement lays out various programs and strategies designed to support and promote:
 - Opioid use disorder treatment access
 - Support for people in treatment and recovery
 - Connections to care
 - Harm Reduction
 - Meeting the needs of justice-involved individuals
 - Support for Pregnant and Parenting Individuals and their Children
 - Prevention

*See here for full list of [approved programs and strategies](#)

Free Statewide Harm Reduction Resources

- Bulk Purchasing of **Naloxone** through the State Office of Pharmacy Services
 - Municipal and State Police, Fire, Sheriff's Departments, and EMS associated with Municipal Police and Fire are welcome to order **fully subsidized naloxone** through SOPS.
 - <https://www.mass.gov/service-details/bulk-purchasing-of-naloxone>
- Community **Naloxone** Purchasing Program (CNPP)
 - Organizations that work with individuals who may either witness or experience an overdose are welcome to apply to the CNPP and access fully subsidized naloxone.
 - <https://www.mass.gov/service-details/community-naloxone-purchasing-program-cnpp>
- **Fentanyl Test Strips** at the MA Health Promotion Clearinghouse – ***coming soon!***
 - MDPH will be offering fully subsidized fentanyl test strips through the MA Clearinghouse.
 - Educational materials related to harm reduction and overdose prevention are also available for order at no cost to organizations.

Annual Reporting

- Starting in July 2023, municipalities that receive \$35,000+, whether independently or pooled, in the prior FY will need to report on their:
 - efforts to pool resources
 - planning process and efforts to incorporate input from experts and people with lived experience
 - expenditures on [approved programs and strategies](#)
 - efforts to address disparities and improve health equity
 - efforts to leverage existing programs and services
 - successes, lessons learned, areas for further progress and barriers
- DPH will be releasing reporting instructions so municipalities can prepare to complete annual reporting requirements
 - First report will be on FY23 spending

State Support and Technical Assistance

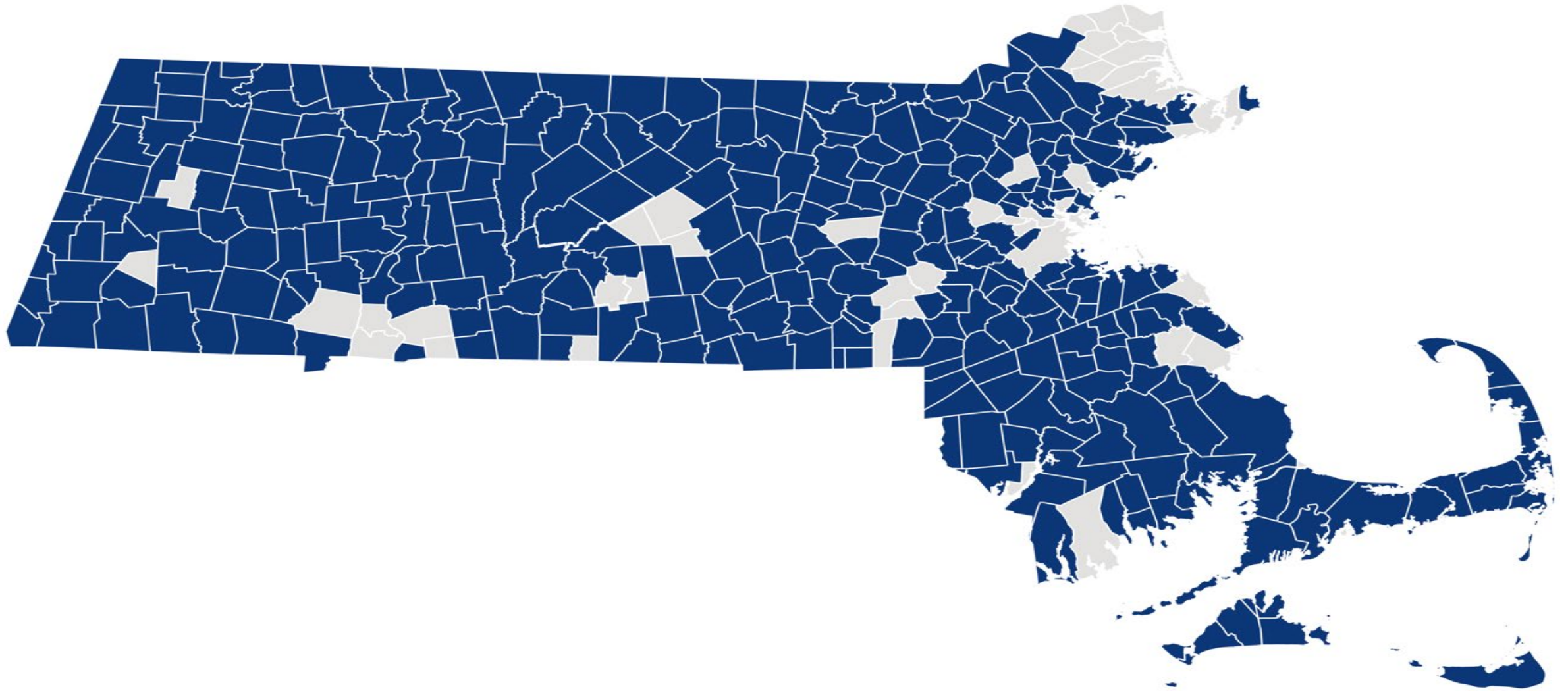
- DPH/ BSAS and the Office of Local & Regional Health (OLRH) will be offering technical assistance on strategy implementation building on existing resources.
 - Website coming soon!
- Municipalities are encouraged to coordinate abatement funds with other funding to address Substance Use and Opioid Use
 - BSAS Prevention funding
 - BSAS CDC Overdose Data to Action (OD2A) municipal funding

Questions? OpioidRecoveryandRemediationFund@mass.gov

Department of Public Health Shared Services

- DPH established the Public Health Excellence for Shared Services Program (PHE) in 2021
 - [50 regional collaboratives](#) (309 municipalities)
 - FY23 annualized funding: ~\$19M
 - Training and technical assistance provided
- Benefits of Shared Services Model
 - Leverages resources and expertise
 - Creates sustainable infrastructure for partnership and collaboration
 - Municipalities opt in and choose their partner municipalities when forming the PHE collaboratives
 - Increases efficiency and equity
 - More municipalities able to meet public health statutory and regulatory requirements, as well as, over time, address the social determinants of health
 - Standardizes public health protections for residents
 - Retains statutory authority of each municipality's Board of Health
 - Maximizes investments made by taxpayers
 - Sample IMAs for municipalities interested in collaboration available on MAHB [website](#)

Public Health Excellence for Shared Services Program (PHE)



As of 8/9/2022

Department of Public Health Shared Services

- Examples of opioid remediation implemented in a regional model include:
 - Regional mobile harm reduction/opioid treatment program services
 - Stigma reduction campaigns
 - Broadening availability of peer recovery support services

Procurement

- Chapter 30B applies
 - Grant agreements
 - Exemptions
 - Ambulance
 - Intergovernmental
 - Health departments
 - Medical and related professionals
 - Existing contracts
- Construction and real property transactions
- Using employees

Procurement

- Contact technical assistance hotline:
 - 617-722-8838
 - 30BHotline@mass.gov
 - Online form - <https://www.mass.gov/forms/chapter-30b-technical-assistance-form>
- Consider taking a training:
 - <https://www.mass.gov/oig-education-and-training>

Commonwealth of Massachusetts



Supporting a Commonwealth of Communities

Accounting Treatment of Opioid Funds

August 11, 2022

Debbie Wagner

Director of Accounts

FAQ's Regarding the Accounting Treatment of Opioid Funds

- 1. Can a municipality that anticipates receiving settlement funds from the recent opioid settlements set up a special revenue account to record them?**

No. All money received or collected from any source by a city, town or district belongs to its general fund and can only be spent after appropriation unless a general or special law provides an exception, i.e., expressly restricts use for a particular purpose or allows expenditure by a department or officer without appropriation. [G.L. c. 44, § 53](#). At present, there is no general or special law that provides an exception for these settlement proceeds. Accordingly, statewide opioid settlement funds received by a municipality belong to its general fund.

- 2. Is the Legislature considering an amendment to create an exception to G.L. c. 44, § 53 for statewide opioid settlement funds paid to municipalities?**

Yes. The Legislature is currently considering an amendment to [G.L. c. 44, § 53](#) that would permit municipalities to deposit statewide opioid settlement funds in a separate fund, outside of the general fund, upon the approval of the Director of Accounts. Under the proposed amendment, municipalities would still be required to appropriate the funds for their [intended purposes](#). The Division of Local Services linked to and summarized the proposed amendment in its [May 19, 2022 issue of City & Town](#).

3. Can a municipality that received opioid settlement proceeds prior to June 30, 2022 make an appropriation directly from those proceeds for their intended purpose at a meeting of the legislative body?

No. Funds received prior to the end of FY22 (June 30, 2022) will close to the general fund. In the ordinary course, the funds will then become part of the free cash certified by the Director of Accounts and once certified, may be appropriated. Free cash is traditionally certified in late fall in most communities. If certified by the time a town has their fall town meeting, the funds could be appropriated at that time. If a town does not have a fall town meeting or free cash is not certified until after a fall town meeting, presumably the spring town meeting could then vote to make the appropriation. A city could likewise make an appropriation once free cash is certified. However, it is important to note that free cash can be appropriated for any lawful purpose and difficulties can therefore arise when mandating that the settlement portion of free cash must be used for specific purposes. An additional issue arises if the community chooses not to certify their free cash or has a negative free cash balance.

4. How can a municipality that receives opioid settlement proceeds after July 1, 2022 use those funds in FY2023?

A city or town may classify settlement funds received in FY23 as general fund estimated receipts (Page 3 Local Receipts) and make an appropriation for the settlement purposes by amending their existing FY23 budget to reflect that new source of revenue before their tax rate is set. The amount they estimate should be the equivalent of what they raised and appropriated from taxation for the purpose, otherwise the excess will simply be reducing the tax levy.

5. If a municipality does not follow the above-described process, is there anything else they can do with these proceeds in FY2023?

If the settlement proceeds are received by March 31, 2023, a municipality can request that the Director of Accounts update their free cash certified as of the previous July 1 to include the unappropriated proceeds and make them available for appropriation on or before June 30, 2023. If the request is approved before the spring town meeting, the town could then make the appropriation at their spring town meeting or, in a city, at their subsequent regularly scheduled meeting.

6. Can a municipality vote to dedicate to a special purpose stabilization fund some or all of the opioid settlement funds it receives?

Yes. [IGR 17-20](#) outlines the procedures that a municipality can follow to create and dedicate funds to a special purpose stabilization fund. If a municipality receives opioid settlement funds before establishing a stabilization fund, it would need to utilize the processes noted above to appropriate into the stabilization fund after it is created. IGR 17-20 notes the required votes of the legislative body to effectuate these actions.

7. Must amounts appropriated from free cash for opioid remediation purposes be closed to the general fund if they are not expended prior to the next year end?

No. These funds may be reserved as a fund balance reserved for continuing appropriations until the purpose of the appropriation has been fulfilled.

Additional Questions/More Information

For answers to **settlement-related FAQs**, charts reflecting estimated payments, and other information, visit the [AGO's website](#) or email MAOpioidSettlements@mass.gov.

For answers to questions about **abatement strategies**, reporting and technical support, email OpioidRecoveryandRemediationFund@mass.gov. Website coming soon!

For answers to **local finance law questions** relating to the settlement funds, local officials should email their question and phone number to Department of Revenue's [Division of Local Services](#) at DLSlaw@dor.state.ma.us. DLS also published answers to FAQs about municipal treatment of opioid settlement funds in its July 7th issue of [City & Town](#).

For **procurement-related guidance** and technical assistance, contact the Office of the Inspector General's [Chapter 30B procurement team](#), at 617-722-8838 or 30BHotline@mass.gov. The OIG also published answers to FAQs about the municipal abatement funds [here](#).



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Thank You