

## CHAPTER 25

**AN ACT** concerning the dedication and distribution of funds received from opioid settlements and supplementing Title 26 of the Revised Statutes.

**BE IT ENACTED** by the Senate and General Assembly of the State of New Jersey:

C.26:2G-39 “Opioid Recovery and Remediation Fund” established; Department of the Treasury.

1. a. There is created in the Department of the Treasury a dedicated, non-lapsing fund to be known as the “Opioid Recovery and Remediation Fund.”

b. To the extent consistent with the terms of a national opioid litigation resolution subject to this act, the State Treasurer shall deposit into the fund the State’s share of moneys received as a result of such resolution. Any interest and other income earned on moneys in the fund, and any other moneys that may be appropriated or otherwise become available for purposes of the fund, shall be credited to and deposited in the fund. For the purposes of this section, moneys paid to counties or municipalities shall not be considered to be part of the State’s share of moneys received as a result of a national opioid litigation resolution. Any moneys received by any State department pursuant to a national opioid litigation settlement subject to this act shall be transferred into the fund.

c. (1) Moneys in the fund are hereby appropriated, shall be subject to the applicable requirements of the relevant national opioid litigation resolution and any applicable agreement entered into pursuant to section 3 of P.L.2023, c.25 (C.26:2G-41), and shall be dedicated and used only for:

(a) the purposes described in subsection e. of this section; and

(b) the payment of attorneys’ fees, costs, and related litigation expenses related to the national opioid litigation resolution.

(2) The Department of Human Services shall be designated the lead agency for the State for purposes of directing the disbursement and allocation of the State’s share of any moneys that are allocated to or otherwise received by the State as a result of a national opioid litigation resolution and for monitoring the use of moneys disbursed to counties or municipalities under a national opioid litigation resolution or under an agreement entered into pursuant to section 3 of P.L.2023, c.25 (C.26:2G-41), to the extent required by such agreements, and, in coordination with the State Comptroller and the Attorney General, ensuring that the use of such moneys complies with the purposes set forth in this act and is consistent with the terms of the applicable national opioid litigation resolution and any applicable agreement entered into pursuant to section 3 of P.L.2023, c.25 (C.26:2G-41).

(a) The department shall have primary responsibility for ensuring that the various reporting, compliance, and administrative functions imposed upon the State pursuant to the terms and conditions of any national opioid litigation resolution and any applicable agreement entered into pursuant to section 3 of P.L.2023, c.25 (C.26:2G-41) are performed, and shall serve as the single point of contact for the State for settlement fund administrators and trustees to submit requests for disbursement of settlement funds.

(b) The department shall be authorized to make determinations regarding disbursement and allocation of the State’s share of such proceeds in accordance with the requirements or terms of any national opioid litigation resolution and any applicable agreement entered into pursuant to section 3 of P.L.2023, c.25 (C.26:2G-41), which may include designations of regions for the allocation of the State’s share of such proceeds, in addition to taking such other actions as may be assigned or required to be performed by the lead agency or single point of contact for

the State under the terms of any national opioid litigation resolution and any applicable agreement entered into pursuant to section 3 of P.L.2023, c.25 (C.26:2G-41).

(c) The department shall receive and review reports from each county regarding the expenditure of any moneys received by the county as a result of a national opioid litigation resolution.

(d) (i) The department shall be authorized to adopt, amend, or repeal regulations as necessary to carry out the intent and provisions of P.L.2023, c.25 (C.26:2G-39 et seq.).

(ii) Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the contrary, the department may, immediately upon filing proper notice with the Office of Administrative Law, adopt rules and regulations as shall be necessary to enable it to carry out the department's duties, functions, and powers with respect to this act. Rules and regulations adopted pursuant to this subparagraph shall be effective immediately upon filing with the Office of Administrative Law and shall be in effect for a period not to exceed 18 months, and shall, thereafter, be amended, adopted, or readopted by the department in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

(3) Notwithstanding any other law or regulation to the contrary, there is hereby appropriated: (a) moneys from the fund to the Department of Human Services, which shall allocate the appropriated funds in accordance with the provisions of subsections d., e., and f. of this section; and (b) to the extent applicable, moneys paid to the State as a result of a national opioid litigation resolution that have been allocated to a county or municipality in accordance with the terms of the national opioid litigation resolution or a related agreement entered into pursuant to section 3 of P.L.2023, c.25 (C.26:2G-41), and to the extent necessary to effectuate such resolution, which shall be used in accordance with the provisions of subsections d., e., and f. of this section.

(4) Moneys from the fund may be transferred to other State departments as directed by the Commissioner of Human Services in support of the purposes provided for in this act, subject to the approval of the Director of Budget and Accounting.

d. Notwithstanding section 2 of P.L.1999, c.129 (C.56:8-14.3), section 15 of P.L.2003, c.76 (C.56:8-133), and the "New Jersey False Claims Act," P.L.2007, c.265 (C.2A:32C-1 et seq.), the department shall direct the allocation and disbursement of moneys in the Opioid Recovery and Remediation Fund established by this section, and shall do so in consultation with the Opioid Recovery and Remediation Advisory Council, established pursuant to section 2 of this act. The department shall allocate funds with an emphasis on supporting programs and strategies that are evidence-based or evidence-informed and, in making such allocations, shall consider equitable access for underserved communities Statewide.

e. Moneys, other than attorneys' fees, costs, and expenses related to litigation, that are allocated to or otherwise received by the State or any county or municipality as a result of a national opioid litigation resolution, shall be dedicated and used, consistent with the terms of an applicable national opioid litigation resolution and any applicable agreement entered into pursuant to section 3 of P.L.2023, c.25 (C.26:2G-41), for the purpose of addressing opioid use disorder and any co-occurring substance use disorder or mental health conditions through evidence-based or evidence-informed practices or strategies that may include, but shall not be limited to, the following:

(1) Supporting the treatment of opioid use disorders and any co-occurring substance use disorder or mental health conditions through evidence-based or evidence-informed programs or strategies;

(2) Supporting individuals in recovery from opioid use disorder, as well as any co-occurring substance use disorder or mental health conditions, through evidence-based or evidence-informed programs or strategies, including, but not limited to, providing support services to the families of such individuals;

(3) Providing connections to care for people who have, or are at risk of developing, an opioid use disorder or a co-occurring substance use disorder or mental health condition, through evidence-based or evidence-informed programs or strategies;

(4) Using evidence-based or evidence-informed programs or strategies to address the needs of persons with an opioid use disorder or a co-occurring substance use disorder or mental health condition who are involved in, are at risk of becoming involved in, or are transitioning out of, the criminal justice system;

(5) Using evidence-based or evidence-informed programs or strategies to address the needs of pregnant or parenting persons with opioid use disorder or a co-occurring substance use disorder or mental health condition, and the needs of the families of such individuals, including babies with neonatal abstinence syndrome;

(6) Supporting efforts to prevent over-prescribing and ensure appropriate prescribing and dispensing of opioids through evidence-based or evidence-informed programs or strategies;

(7) Using evidence-based or evidence-informed programs or strategies to support efforts to discourage or prevent the misuse of, and the development of substance use disorders involving, opioids;

(8) Using evidence-based or evidence-informed programs or strategies to support efforts to prevent or reduce overdose deaths or other opioid-related harms;

(9) Educating law enforcement or other first responders regarding appropriate practices and precautions when dealing with fentanyl and other drugs;

(10) Providing wellness and support services for first responders and others who experience secondary trauma associated with opioid-related emergency events;

(11) Supporting efforts to provide leadership, planning, coordination, facilitations, training, and technical assistance to abate the opioid epidemic through activities, programs, and strategies;

(12) Supporting training to abate the opioid epidemic through activities, programs, or strategies;

(13) Supporting opioid abatement research;

(14) Supporting such other strategies as may be expressly identified in any national opioid litigation resolution; and

(15) Administrative expenses, subject to limits imposed by any national opioid litigation resolution or by any agreement entered pursuant to section 3 of P.L.2023, c.25 (C.26:2G-41).

f. Moneys, other than attorneys' fees, costs, and expenses related to litigation, that are allocated to or otherwise received by the State or any of its counties or municipalities as a result of a national opioid litigation resolution shall be used to supplement, and shall not supplant, federal, State, county, or municipal funds, as the case may be, that otherwise would have been used to carry out the purposes delineated in this act, and no amount of such moneys shall be used to reimburse the State or any of its counties or municipalities for past expenditures, except as may otherwise be required to refund to the federal government a portion of the moneys.

g. For the purposes of P.L.2023, c.25 (C.26:2G-39 et seq.), "national opioid litigation resolution" means a settlement agreement, entered into by the Attorney General of New Jersey on behalf of the State and by other state attorneys general on behalf of their respective states, which provides for the participation of states, counties, and municipalities to resolve claims

by the State attorneys general and counties and municipalities against opioid manufacturers, opioid distributors, or pharmacies, or persons or entities affiliated with an opioid manufacturer, opioid distributor, or pharmacy, related to the manufacture, marketing, distribution, or dispensing of opioids, or a bankruptcy plan which is governed by an agreement entered into pursuant to section 3 of P.L.2023, c.25 (C.26:2G-41) and which has received final approval and that channels, releases, or otherwise finally disposes of such claims including those of the State and its counties and municipalities.

C.26:2G-40 “Opioid Recovery and Remediation Advisory Council” established, Department of Human Services.

2. a. There is established in the Department of Human Services the Opioid Recovery and Remediation Advisory Council. The council shall be advisory in nature and its purpose shall be to review proposals, data, and analyses, and engage with stakeholders and community members, to develop and provide recommendations on the allocation and distribution of the State’s share of proceeds from national opioid litigation resolutions. The council shall provide information, advice, and general recommendations consistent with its purpose to the Governor, the Commissioner of Human Services, and other executive branch departments and agencies. To effectuate this goal, the council shall:

(1) gather and evaluate data regarding the availability of, gaps in, and barriers to substance use disorder prevention and treatment programs and recovery services;

(2) solicit feedback, in a manner and method established by the council, from stakeholders, local providers, advocates, individuals with lived experience with opioid use disorders, including people who have or are in recovery from an opioid use disorder and family members of people with an opioid use disorder, the academic community, individuals with expertise in areas related to substance use disorders, community groups, and members of the public, regarding the services needed to prevent and treat substance use disorders across the State;

(3) review and evaluate recommendations submitted by the public using the online portal that was established by the State on August 31, 2022 to enable members of the public to provide recommendations on the expenditure of proceeds from national opioid litigation resolutions;

(4) evaluate approaches taken by New Jersey and other states in administering proceeds from national opioid litigation resolutions;

(5) consult with experts and other knowledgeable individuals in both the public and private sectors on any aspect of its duties as the council deems necessary and appropriate; and

(6) take any other actions as the council deems appropriate to inform its recommendations, with the purpose of promoting the equitable and efficient distribution of settlement funds, including the distribution of funds using evidence-based and evidence-informed practices and strategies.

b. The council shall comprise:

(1) the Commissioner of Human Services, the Commissioner of Health, the Commissioner of Children and Families, and the Attorney General, or their designees, who shall serve ex-officio;

(2) at least 10 public members appointed by the Governor who reflect the diversity of New Jersey and who shall include public health and policy experts and two or more individuals who have lived experience with opioid use disorders, including one or more individuals who have or are in recovery from an opioid use disorder and one or more family members of a person with an opioid use disorder; and

(3) such additional ex officio and public members as the Governor deems appropriate.

c. The public members of the council shall serve at the pleasure of the Governor. The Commissioner of Human Services or the commissioner's designee shall serve as the chairperson of the council.

d. The council shall organize as soon as practicable following the appointment of its members and shall meet at such frequencies as shall be required by the Governor as well as at the call of the chairperson. The members of the council shall serve without compensation, but shall be eligible for reimbursement for necessary and reasonable expenses incurred in the performance of their official duties within the limits of funds appropriated or otherwise made available to the council for its purposes.

e. The council shall be entitled to receive assistance and services from any State, county, or municipal department, board, commission, or agency as may be made available to it for its purposes. The Department of Human Services shall provide such staff and administrative support to the council as it requires to carry out its responsibilities.

f. (1) To the extent permissible under the terms of a national opioid litigation resolution, the council shall not be required to, and may refrain from, making recommendations for expenditures that would primarily benefit counties or municipalities that were eligible to participate in the national opioid litigation resolution that yielded such funds but did not participate in the resolution, provided that nothing in this subsection shall be deemed to prevent the council from exercising its discretion to make such recommendations should it determine to do so.

(2) The council may, but shall not be required to, provide information and general recommendations to counties and municipalities concerning the expenditure of the share of proceeds from national opioid litigation resolutions allocated to those counties and municipalities, and may coordinate with any similarly situated county advisory council as the chairperson deems appropriate.

g. The council shall expire 180 days after all proceeds from opioid litigation resolutions are expended and the Department of Human Services issues the final report required pursuant to subsection b of section 5 of P.L.2023, c.25 (C.26:2G-43).

C.26:2G-41 Attorney General, agreements, allocated moneys, national opioid litigation resolutions.

3. The Attorney General, in consultation with the Commissioner of Human Services, shall be authorized to enter into agreements with counties and municipalities concerning the allocation and expenditure of moneys allocated to the State and its counties and municipalities in any national opioid litigation resolution.

C.26:2G-42 County advisory councils, national opioid litigation resolution, disbursement, received moneys.

4. A county that directly receives moneys as a result of a national opioid litigation resolution shall establish an advisory council to provide input, advice, and recommendations on the disbursement of such moneys and, if requested by a municipality within the county, on the disbursement of moneys from a national opioid litigation resolution received by the municipality. Each county advisory council shall, at a minimum, consist of a member possessing expertise in substance use disorder treatment or prevention, a member representing a provider of behavioral health or substance use disorder treatment in the community, a member with personal experience with substance use and substance use disorder issues, the county prosecutor or the county prosecutor's designee, and an individual authorized to appropriate funds on behalf of the governing body of the county or such individual's designee.

A county advisory council may include any additional members as the county deems necessary and appropriate.

C.26:2G-43 Report to Governor, Legislature; State expenditure, opioid litigation resolution proceeds.

5. a. No later than 12 months after the effective date of this act, and annually thereafter until all proceeds from national opioid litigation resolutions have been expended, the Department of Human Services, in consultation with the Opioid Recovery and Remediation Advisory Council, shall report to the Governor, and to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), on the details of the allocations made with the funds appropriated from the Opioid Recovery and Remediation Fund. The information shall include the allocation amount, program description, involved community providers, goals of the program, and outcome measures to be used to determine program efficacy.

b. No later than 180 days after all proceeds from national opioid litigation resolutions have been expended, the Department of Human Services shall prepare and issue to the Governor, and to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), a final report concerning the State's expenditure of opioid litigation resolution proceeds, including: the amounts allocated; descriptions of the programs funded using the proceeds; community providers involved in programs receiving allocations from the proceeds; outcomes from programs receiving allocations from the proceeds; overall outcomes resulting from the expenditure of the proceeds, including changes in substance use disorder rates, overdose deaths, participation in substance use disorder treatment and recovery programs, successful treatment outcomes, outcomes involving dual diagnoses involving substance use disorders in combination with other behavioral health conditions, and expansions in substance use disorder and other behavioral health care provider and treatment capacity; and such other information and data as the department deems necessary to fully evaluate the use of opioid litigation resolution funds pursuant to this act.

c. The department shall post the information and reports required pursuant to this section on its Internet website.

6. This act shall take effect immediately.

Approved March 17, 2023.