



Legislative Fiscal Bureau

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June 15, 2023

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Health Services: Opioid Settlement Funding Allocation Plan for 2023-24

On March 29, 2023, the Department of Health Services (DHS) submitted a plan to the Committee, under a 14-day passive review process established by 2021 Act 57, for allocating \$8.0 million in opioid settlement funding that DHS expects to receive in July, 2023 under the National Prescription Opioid Litigation (NPOL), to fund opioid mitigation activities in 2023-24. On April 17, the Co-Chairs notified the Department of an objection to the allocation plan and indicated that the Committee intended to meet on the plan.

BACKGROUND

Act 57, codified in s. 165.12, of the statutes, established procedures relating to entering into settlement agreements as part of the federal opioid litigation, known as the National Prescription Opiate Litigation (NPOL), as well as for the distribution of any settlement payments made to the Wisconsin litigants. With respect to settlement proceeds, 30% of the payments is allocated to the state, while 70% is allocated to local governments that were party to the opioid litigation. By April 1 of each year that the state is expected to receive settlement proceeds, DHS is required to submit a plan to the Committee for expenditure of the state's share of payments in the following fiscal year. This plan is subject to review by the Committee under a 14-day passive review process.

In November of 2021, the Committee approved two proposed settlement agreements arising out of NPOL, involving three pharmaceutical distributors (Cardinal, McKesson, and AmerisourceBergen) and one manufacturer (Janssen Pharmaceuticals and its parent company, Johnson and Johnson). The first payments under these agreements, totaling \$31 million, were received in 2022-23. On September 8, 2022, the Committee approved a plan for the expenditure for these funds, after objecting to the Department's initial expenditure plan. The following table shows the allocation of 2022-23 funds, as approved by the Committee.

**Allocation Plan for 2022-23 Settlement Proceeds
(\$ in Millions)**

<u>Component</u>	<u>Amount</u>
Capital Projects for Prevention and Treatment	\$10.00
Allocation for Tribal Nations	6.00
Expand Narcan Direct Program	3.00
Grants for Law Enforcement Agencies	3.00
Room and Board Costs for Residential Treatment	2.50
Distribution of Fentanyl Testing Strips	2.00
Medication Assisted Treatment	2.00
Hub and Spoke Substance Abuse Pilot Program	1.00
Grant for After School Prevention Program	0.75
Overdose Central Alert System	0.50
K-12 Substance Use Prevention Curriculum	<u>0.25</u>
 Total	 \$31.00

DESCRIPTION OF THE DEPARTMENT'S 2023-24 EXPENDITURE PROPOSAL

The state's share of payments for 2023-24 under the pharmaceutical distributor and Johnson & Johnson agreements is expected to be \$8 million. The following table shows the allocation of these payments under the Department's proposal. Following the table is a description of each category.

**Department's 2023-24 Allocation Proposal
(\$ in Millions)**

<u>Component</u>	<u>Amount</u>
Narcan and Fentanyl Test Strip Distribution Programs	\$4.00
Capital Projects for Substance Use Treatment	3.00
K-12 Substance Use Prevention Curriculum	<u>1.00</u>
 Total	 \$8.00

Narcan and Fentanyl Test Strip Distribution Programs. The Department currently has initiatives intended to make the opioid overdose reversal drug Narcan widely available to organizations that distribute the drug to persons who are at risk of overdose. Similarly, the Department distributes fentanyl test strips to help potential users detect this synthetic opioid that is the cause of a disproportionate share of overdose deaths. Under the Department's allocation proposal, \$1.5 million would be provided for purchasing Narcan for distribution to community organizations

under the Narcan Direct program, and \$0.5 million would be for a similar Fentanyl Test Strip Direct program. An additional \$1.0 million would be used for the EMS Leave Behind Program, which purchases both Narcan and fentanyl test strips for emergency medical service providers to distribute following a service call involving opioid overdose incident to the subject of the overdose, as well as family and friends who are present. Finally, the Department's proposal would provide \$750,000 for Narcan and \$250,000 for fentanyl test strips to distribute to law enforcement agencies.

Capital Projects for Substance Use Treatment. The Department's proposal would allocate \$3.0 million for making grants to support the construction or improvement of facilities used for the substance use treatment providers in high need areas of the state.

K-12 Substance Use Prevention Curriculum or Programs. The Department's proposal would allocate \$1.0 million for the dissemination of substance use prevention curriculum in K-12 schools to reduce the likelihood of future substance use. The Department would partner with the Department of Public Instruction for the distribution of funding for these curriculum.

SUMMARY

The Department's proposal allocates funding to continue or expand initiatives that were funded in 2022-23. Because the funding received under the distributor and Johnson & Johnson settlement agreements is less than the amount received in 2022-23, not all initiatives that were approved for that year can continue to be funded with these settlement proceeds. The Committee can approve the Department's plan, select one or more elements of the plan, or proposal alternative uses of the funding. If the Department's request is not approved, nor modified and approved, funding could not be allocated until a plan is approved by the Committee.

ALTERNATIVES

1. Approve the Department's proposal for the allocation of \$8.0 million in settlement proceeds, as outlined above.

2. Modify the amount provided to one or more of the components of the plan and direct funding to other services or activities.

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| a. | Narcan and Fentanyl Test Strip Distribution | \$4.0 million |
| b. | Capital Projects for Substance Use Treatment | \$3.0 million |
| c. | K-12 Substance Use Prevention Curriculum | \$1.0 million |

3. Deny the Department's request.

Prepared by: Jon Dyck