



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873
Email: fiscal.bureau@legis.wisconsin.gov • Website: <http://legis.wisconsin.gov/lfb>

May 7, 2024

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Health Services: Opioid Settlement Funding Allocation Plan for 2024-25 -- Agenda Item VII

On April 1, 2024, the Department of Health Services submitted a plan to the Committee, under a 14-day passive review process established by 2021 Act 57, for spending \$36.0 million in opioid settlement funding that DHS expects to have available for expenditure on opioid mitigation activities in 2024-25. On April 22, the Co-Chairs notified the Department of an object to the allocation plan and indicated that the Committee intended to schedule a meeting of the Committee to review the plan.

BACKGROUND

In response to the opioid epidemic, numerous state and local governments have brought lawsuits against the makers, distributors, and retailers of opioid medications, alleging that these entities caused or worsened opioid addiction, imposing costs on governments related to treatment, social services, law enforcement, and justice systems. Over 2,000 of these lawsuits were consolidated under what is known as the National Prescription Opiate Litigation (NPOL), overseen by the U.S. District Court for Northern Ohio. The parties have now reached settlement agreements for many of the lawsuits, under which the defendants have agreed to make payments over a multi-year period into a settlement fund which distributes payments to the plaintiffs to fund opioid mitigation activities. Among other matters, the settlement agreements specify the total amount of the payments to be made by the defendant, the allocation of payments between the plaintiffs, and the schedule of payments by year.

Under 2021 Act 57, 70% of Wisconsin's share of opioid settlement proceeds arising out of the NPOL must be allocated to Wisconsin counties, while the remaining 30% is available for use by the state. For each state fiscal year, the Department of Health Services, which is responsible for administering the state's share of settlement proceeds, is required to develop a plan for the expenditure of the proceeds and submit the proposal to the Joint Committee on Finance by April 1.

Since the passage of Act 57, the Department has developed and submitted expenditure plans, totaling \$31.0 million for 2022-23 and \$8.0 million for 2023-24. In each case the Committee made modifications to the Department's proposal prior to approval.

For the first two expenditure plans, the settlement proceeds were received under agreements finalized in 2021, involving three pharmaceutical distributors (Cardinal, McKesson, and AmerisourceBergen) and one drug manufacturer, Janssen Pharmaceuticals and its parent company, Johnson and Johnson. Since the approval the 2023-24 expenditure plan, the state has begun receiving payments under five additional settlement agreements, involving three retail pharmacies (CVS, Walgreens, and Walmart) and two manufacturers (Teva and Allergan).

The Department's expenditure plan for 2024-25 distributes a total of \$36.0 million in payments under all settlement agreements. This includes settlement payments that the state expects to receive in the third year under the agreements with the pharmaceutical distributors and with Janssen Pharmaceuticals, and payments that the state will receive in the first year from the other five agreements. Since, in some cases, the state is expecting to receive the first two years of payments under the newest agreements during 2024, and also because Walmart will make only one lump sum payment under its settlement agreement (rather than making payments on a multi-year schedule), the total amount that the state receives in 2024 will be substantially higher than it will be in subsequent years. Under the current payment schedules, the state's share will decrease from \$36.0 million in 2024, to approximately \$12.9 million in 2025.

DESCRIPTION OF THE DEPARTMENT'S 2024-25 EXPENDITURE PROPOSAL

The Department's expenditure proposal would allocate funding to 12 opioid mitigation strategies. The following paragraphs provide a brief description of the proposed uses, as well as information on funding allocated to each project in prior years, if applicable. More detailed information on each strategy, including the Department's rationale for the allocation, can be found in the Department's expenditure proposal, which was previously distributed to Committee members.

Funding for Tribal Nations

Proposed Allocation: \$6,000,000.

Previous Allocation: \$6,000,000 in 2022-23 and \$0 in 2023-24.

The Department proposes to distribute funding to the 11 federally-recognized tribes in Wisconsin to address the high rates of opioid use disorder and overdose incidents among tribal members. With the funding awarded in the 2022-23 expenditure plan, DHS reports that tribes have initiated a range of culturally-focused mitigation strategies, including overdose reversal, medication assisted treatment, recovery residential programs, peer support, and hiring treatment professionals. The Department indicates that the proposed allocation is intended to sustain and expand those initiatives.

Substance Use Prevention Efforts in Education and Community

Proposed Allocation: \$5,000,000 (\$2,000,000 for K-12 schools, \$1,000,000 for after-school

programing, \$1,500,000 for postsecondary and higher education, and \$500,000 for community coalitions).

Previous Allocation: \$1,000,000 in 2022-23 and \$0 in 2023-24.

The Department's proposal would distribute funding for several prevention initiatives. For prevention efforts in K-12 schools, DHS would provide \$2,000,000 to the Department of Public Instruction for making grants to support prevention-focused curriculum and programs in public schools, independent charter schools, tribal schools, and private choice schools. Under the expenditure plan for 2022-23, DHS distributed \$250,000 in grants for prevention-related activities in 23 public and private schools and districts. The proposed allocation would allow additional grants to be made for school-based initiatives that did not receive funding in this earlier grant cycle.

The Department's proposal would allocate \$1,000,000 to support after-school programing provided by local Boys and Girls Clubs organizations throughout the state. After-school programming includes academic support, mentoring, recreational activities, and apprenticeships. This funding would sustain and expand efforts supported with a \$750,000 allocation from the 2022-23 expenditure plan.

The Department's proposal would allocate \$1,500,000 for prevention-focused initiatives and harm reduction strategies undertaken by colleges, universities, and other postsecondary institutions. The previous expenditure plans did not allocate funding for this purpose.

The Department's proposal would allocate \$500,000 for prevention efforts of the Alliance for Wisconsin Youth community coalitions. The Alliance for Wisconsin Youth is a network of organizations that focus on prevention of substance abuse among Wisconsin Youth. There are over 100 Alliance for Wisconsin Youth coalitions throughout the state. The previous expenditure plans did not allocate funding for this purpose.

Family Resource Centers

Proposed Allocation: \$5,000,000.

Previous Allocation: None.

The Department's proposal would allocate \$5,000,000 to make grants to help establish family resource centers, which would provide various supportive services to families of individuals who have opioid use disorder, have experienced an overdose, or who have died as the result of an overdose. Family resource centers would be intended to help families and caregivers understand substance use, learn strategies for helping their family member experiencing addiction, deal with grief resulting from an overdose death, and receive support from other families who are facing similar circumstances.

Peer Supports for Opioid Treatment Programs

Proposed Allocation: \$5,000,000.

Previous Allocation: None.

The Department's proposal would allocate \$5,000,000 for grants to opioid treatment programs

to train and employ peer support specialists to assist individuals who are receiving treatment through the program. Peer specialists are persons who have received treatment for substance use disorder and have been successful in recovery. Peers can help individuals currently receiving treatment by assisting with understanding the treatment and recovery process, as well as assisting them with finding clinical and nonclinical supportive services. The allocation of funding would help treatment programs establish a peer specialist workforce, but the Department indicates that eventually the goal would be to support peer specialist services through reimbursement under the Medical Assistance program.

Naloxone Distribution (Narcan Direct)

Proposed Allocation: \$3,500,000.

Previous Allocation: \$3,000,000 in 2022-23 and \$2,900,000 (combined allocation for both naloxone and fentanyl test strip distribution) in 2023-24.

The Department administers a Narcan Direct program that purchases two-dose kits of the overdose reversal drug naloxone for distribution, through community partner entities, to individuals who are at risk of an opioid overdose as well as to other people or organizations who may be in frequent contact with those individuals. Narcan is the brand name for the first nasal formulation of naloxone approved for overdose reversal, but there are now generic formulations of the drug.

The Department proposes to use \$2,250,000 of this allocation to continue funding the distribution of naloxone to community partners, with the goal of expanding the number of participating entities. This funding will be combined with other fund sources, such as federal opioid response grants, to fully meet the demand.

The Department would use \$500,000 to support a mail order program for naloxone to reach individuals who do not have easy access to a community partner entity.

The Department would use \$750,000 to distribute naloxone kits to law enforcement agencies. This is the same amount that the Department has made available for law enforcement kits in 2023-24. Although the 2023-24 expenditure plan did not make a specific allocation for law enforcement naloxone, the Department was able to provide this amount using funding that had been allocated in the 2022-23 plan but that was not fully claimed.

Fentanyl Test Strip Distribution

Proposed Allocation: \$1,000,000.

Previous Allocation: \$2,000,000 in 2022-23 and \$2,900,000 (combined allocation for both naloxone and fentanyl test strip distribution) in 2023-24.

The Department would use \$1,000,000 for the fentanyl test strip distribution program, which operates similarly to the Department's Narcan Direct program. Fentanyl test strips are used to detect the presence of synthetic opioid, such as fentanyl, that currently account for over 90% of overdose deaths. In addition to fentanyl test strips, the Department is using this program to purchase testing strips for xylazine, a veterinary tranquilizer that is sometimes mixed with other illicit drugs.

Capital Projects for Recovery Housing

Proposed Allocation: \$3,000,000

Previous Allocation: \$10,000,000 in 2022-23 and \$0 in 2023-24

The Department's proposal would allocate \$3,000,000 to support grants for the construction or renovation of facilities used for recovery housing. Recovery housing provides a stable place to live in a supportive environment for individuals who are undergoing or have recently completed treatment for substance use disorder. DHS indicates that with the previous allocation of funding for capital projects, over half of the applications for grants that were not funded were for recovery housing projects.

Funding for Room and Board Costs for Residential Substance Use Disorder Treatment

Proposed Allocation: \$2,500,000.

Previous Allocation: \$2,500,000 in 2022-23 and \$2,500,000 in 2023-24.

The Department's proposal would allocate \$2,500,000 for grants to support room and board costs for individuals undergoing residential substance use treatment. Under federal law, Medicaid does not cover the cost of room and board for non-institutional settings (hospital or nursing home), so these costs must be paid from other sources. The proposed allocation would be the same amount as in the prior two plans.

EMS Leave Behind Program

Proposed Allocation: \$1,500,000.

Previous Allocation: Not specifically identified as a separate category in either previous plan.

The Department proposes to establish a separate category for the EMS leave behind program and allocate \$1,500,000 for that purpose. Through this initiative, DHS makes grants to emergency service providers to purchase overdose reversal and prevention supplies, which are distributed to individuals and their families or people in their social circle at the time of an overdose-related ambulance call. In addition to purchasing supplies for EMS providers, the Department would use funding to build a statewide infrastructure for the program to provide training, collect data, and conduct evaluations. Although the EMS leave behind program was not included as a separate category in previous plans, DHS allocated a portion of the funding in the naloxone and fentanyl test strip distribution categories in the 2022-23 plan for this purpose, providing grants totaling \$870,000 for EMS leave behind supplies.

Public Health Vending Machines

Proposed Allocation: \$1,000,000.

Previous Allocation: Not specifically identified as a separate category in either previous plan.

The Department's proposal would allocate \$1,000,000 to provide grants to resupply public health vending machines with overdose reversal and prevention supplies. A public health vending machine dispenses items such as naloxone and fentanyl test strips in places where the risk of overdose is high. Individuals who are at risk of overdose or who know someone who is can access these supplies at no charge at any time of day. It also allows these individuals to access supplies

without having to interact with healthcare, social service, or law enforcement personnel, with the intent of eliminating stigma as a barrier to access. From the allocations for naloxone and fentanyl test strip distribution in the 2022-23 plan, DHS made grants totaling \$2,000,000 to 28 human service agencies, public health departments, and law enforcement agencies to purchase and stock these vending machines. The Department indicates that the additional funding would be used to resupply machines that were acquired with the initial grants.

Law Enforcement Opioid Abatement

Proposed Allocation: \$1,000,000.

Previous Allocation: \$3,000,000 in 2022-23 and \$0 in 2023-24.

The Department's proposal would allocate \$1,000,000 for grants to law enforcement agencies for providing opioid use disorder treatment in jails and jail diversion programs, two law enforcement-focused strategies that are eligible opioid mitigation measures under the settlement agreements. The 2022-23 plan allocated \$3,000,000 for law enforcement grants, which the Department distributed in two rounds of funding in 2023 and 2024.

Data Collection and Surveillance System Enhancement

Proposed Allocation: \$1,500,000.

Previous Allocation: None.

The Department's proposal would allocate \$1,500,000 to improve systems for substance misuse data collection, monitoring, and reporting. The Department indicates that one project that this allocation could be used for is an opioid and methamphetamine data system that the Department of Administration is required to establish under provisions of 2021 Act 181. That Act requires DOA, in collaboration with the Department of Health Services and the Department of Safety and Professional Services, to submit a request to the Committee for a program supplement of \$1,500,000 for the purpose of financing the cost of the opioid and methamphetamine data system. DOA issued a request for proposals solicitation for the data system on April 3, 2024.

SUMMARY

The following table shows the Department's expenditure proposal for 2024-25.

Department of Health Services' 2024-25 Settlement Funds Allocation Proposal

<u>Strategy</u>	<u>Allocation</u>
Tribal Grants	\$6,000,000
Prevention Initiatives	5,000,000
Family Resource Centers	5,000,000
Peer Supports	5,000,000
Naloxone Distribution	3,500,000
Fentanyl Test Strips	1,000,000
Capital Projects	3,000,000
Residential Room and Board	2,500,000
EMS Leave Behind	1,500,000
Vending Machine Supplies	1,000,000
Law Enforcement Grants	1,000,000
Data System	<u>1,500,000</u>
Total	\$36,000,000

The Department indicates in its proposal that the allocations contained in the expenditure proposal were developed in consultation with current and potential grant recipients in the state, and was informed by an assessment of the demand and need for opioid mitigation funding for the component projects of the two previous expenditure plans.

The Committee can approve the Department's proposal, or it could adopt an alternative plan. The Department would be required to implement the plan as adopted by the Committee.

ALTERNATIVES

1. Approve the Department's proposal for the allocation of \$36.0 million in settlement proceeds, as shown in the summary table.
2. Adopt an alternative allocation of opioid settlement proceeds, specified in a motion adopted by the Committee.

Prepared by: Jon Dyck