

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 751

(Senator Klausmeier)

Finance

Health and Government Operations

Public Health – Opioid Restitution Advisory Council and Fund – Revisions

This bill requires the Secretary of Health – within six months of receiving specified findings and recommendations from the Opioid Restitution Fund Advisory Council – to present to the advisory council the decisions for allocations from the Opioid Restitution Fund (ORF). The Maryland Department of Health (MDH) must post to the MDH website the council’s findings and recommendations and the Secretary’s decisions. The bill expands the permitted uses of ORF to include supporting community-based nonprofit recovery organizations that provide nonclinical substance use recovery support services in the State. By December 1, 2024, MDH must examine and report to specified committees of the General Assembly on the best process for making all of the expenditures of all opioid settlement agreements entered into by the State, counties, and municipalities accessible to the public. The bill also makes other technical and conforming changes.

Fiscal Summary

State Effect: While the bill alters the permitted uses of ORF, overall ORF revenues and expenditures are not materially affected. MDH can implement the bill with existing budgeted resources.

Local Effect: To the extent that a local health department qualifies as a community-based recovery organization, revenues and expenditures may increase.

Small Business Effect: None.

Analysis

Current Law: Chapter 537 of 2019 established ORF, a special fund to retain any revenues received by the State relating to specified opioid judgments or settlements, which may be

used only for opioid-related programs and services. Chapter 270 of 2022 specifies that ORF may be used for programs, services, supports, and resources for evidence-based substance use disorder (SUD) prevention, treatment, recovery, or harm reduction that have the purpose of currently authorized outcomes and activities. ORF may also be used for:

- evidence-informed SUD prevention, treatment recovery, or harm reduction pilot programs or demonstration studies that are not evidence based if the advisory council determines that emerging evidence supports funding or that there is a reasonable basis for funding with the expectation of creating an evidence-based program and approves the use of money for the pilot program or demonstration study; and
- evaluations of the effectiveness and outcomes reporting for SUD abatement infrastructure, programs, services, supports, and resources for which the fund is used.

On July 21, 2021, a \$26 billion global settlement was announced by opioid manufacturer Johnson & Johnson (Janssen Settlement Agreement) and McKesson, Amerisource Bergen, and Cardinal Health (Final Distributor Agreement). On September 8, 2021, Maryland Attorney General Brian E. Frosh announced Maryland's participation in the global settlement. Maryland is expected to receive approximately \$500 million as part of the settlement. A copy of the Janssen Settlement can be located [here](#). A copy of the Final Distributor Agreement can be located [here](#). In fiscal 2022, ORF received approximately \$12 million from the \$573 million global settlement agreement with McKinsey & Company for its role in marketing opioids, including OxyContin. The fiscal 2024 budget as passed by the General Assembly directs \$36.2 million to ORF, reflecting years one, two, and three of settlement payments from Janssen and distributors.

Chapters 84 and 85 of 2022 require that settlement funds received in accordance with the Final Distributor Agreement of July 21, 2021, as amended, and the Janssen Settlement Agreement of July 21, 2021, as amended, be appropriated as agreed upon in the State-Subdivision Agreement of January 21, 2022, as amended. The Secretary must establish and administer a grant program for the distribution of funds to political subdivisions of the State pursuant to the specified State-Subdivision Agreement.

The advisory council (staffed by the Office of Overdose Response – formerly the Opioid Operational Command Center) must, by November 1 each year, provide specific findings and recommendations to the Governor and the Secretary regarding the allocations of money from ORF, consistent with authorized uses of the fund and considering (1) the number of people per capita with a SUD in a jurisdiction; (2) disparities in access to care in a jurisdiction that may preclude persons; (3) the number of overdose deaths per capita in a jurisdiction; (4) the programs, services, supports, or other resources currently available to individuals with a SUD in a jurisdiction; and (5) disparities in access to care and health

outcomes in a jurisdiction. The Governor must consult at least twice annually with the advisory council to identify recommended appropriations from ORF.

In fiscal 2023, ORF revenues totaled \$57.9 million, and expenditures (largely in the form of grants) totaled \$26.9 million. The fiscal 2025 budget as introduced includes \$81 million in grants from opioid settlement funds to local government and community organizations for opioid abatement efforts.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 980 (Delegate Rosenberg, *et al.*) - Health and Government Operations.

Information Source(s): Governor's Office of Crime Prevention and Policy; Maryland Association of County Health Officers; Maryland Department of Emergency Management; Maryland Department of Health; Department of Legislative Services

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