

Opioid Litigation Settlements in Colorado: Frequently Asked Questions

Overview: Settlement discussions with several defendants in the opioid litigation are happening right now. There are two allocation plans being proposed in Colorado. One is from the State Attorney General’s Office (“AG Plan”), and one is from the Colorado Coalition (“Colorado Coalition Plan” or “our Plan”). We think you have a right to know how these different plans will affect your community for years to come, and we believe that our plan is more favorable to local governments on each key deal point.

1. What is the Colorado Coalition?

The Colorado Coalition is a group of 22 cities and counties representing diverse geographic areas and comprising a majority of the Colorado population. We are litigating against opioid manufacturers, distributors, pharmacies, and others for damages related to the opioid crisis. **We welcome cooperation from all cities, towns, and counties in Colorado.** You do not have to bring an opioid lawsuit to work with us to reach a fair agreement on how to share opioid proceeds in the State of Colorado.

2. Who has sued which defendants thus far?

Defendant	Colorado AG	Colorado Coalition
Purdue Pharma / Sacklers	X	X
Manufacturers		X
Distributors		X
Chain Pharmacies		X

3. How much money is Colorado going to receive, and over what period of time?

These potential settlement deals will likely distribute funds over the next 20 or so years. The amount of funds will become clear as different settlements occur. Negotiations with the distributor defendants are currently taking place. These defendants would offer a significant premium (approximately double) to those states which obtain sign-off from their local governments. That means that the local governments have substantial power in these negotiations because the state needs our agreement to achieve a maximum recovery.

4. Is participation limited to litigating entities?

No, participation is not limited to litigating entities. We want to create a plan that works for everyone in Colorado, regardless of whether they have chosen to sue.

5. Does the AG get to decide singlehandedly how the settlement money is allocated? Is this already a “done deal”?

No. There are active discussions taking place right now, which is why you are hearing from different stakeholders about different plans. This is a time-sensitive issue and there are still many pieces of the deal that are up for debate. It’s not too late to provide input, and we want to hear from you.

6. How will settlement proceeds be divided within the state under the Colorado Coalition Plan?

The Colorado Coalition Plan is for 30% of the total Colorado settlement to go directly to local governments, 15% to the state, and 55% to local regions in the form of block grants. Because local governments are on the front lines of this crisis, they bear the brunt of the burden, and they should receive more than a modest portion of the total settlement.

The AG has not yet published a written proposal of how funds would be divided among the state, local governments, and regions.

7. How are other states dividing up their respective settlements?

Two states have already decided how to allocate state settlement monies: Ohio and Texas. This table outlines the allocation plans that Ohio and Texas have adopted alongside our Plan.

	OneOhio Plan Allocation	Texas Term Sheet Allocation	Colorado Coalition Plan Allocation
Local Government Share	30%	15%	30%
State Share	15%	15%	15%
Regional Abatement Share	55%	70%	55%

8. How will the Local Government Share be distributed across counties?

Under our Plan, the 30% to local governments should be distributed according to the relative severity of the crisis in different geographic areas. Our distribution formula accounts for severity by evaluating: (a) Number of persons suffering from Opioid Use Disorder, (b) Number of opioid overdose deaths, and (c) Amount of opioids distributed (measured in Morphine Milligram Equivalent units).

9. How will the regions for the Regional Abatement Share work under the Colorado Coalition’s Plan?

Again, local governments are on front lines of this crisis, so the Colorado Coalition’s goal is for money to primarily go to the regions directly through a formula-based allocation, rather than via discretionary grants decided by a state-wide committee. This will avoid unnecessary grant processes and red tape. As CARES Act funding has shown, there are many potential difficulties and roadblocks when money is funneled through the state. Under our Plan, counties can form self-determined regions that bolster pre-existing public health efforts and infrastructure and also take important factors like geography and population into account.

10. I’ve heard that in some states, the state controls the Abatement Share. What’s your proposal?

Under the Colorado Coalition’s Plan, you can be part of a region with other local governments or a larger region controlled by the state that would allocate resources – it’s your choice. If you choose to be in a region, under the Colorado Coalition’s Plan, the abatement funds would primarily be distributed by a formula directly to the regions rather than via a grant program run by state-wide committee.

11. What is the goal of defining approved purposes for how this money can be spent?

We have learned a great deal over the past few decades from the tobacco litigation, when states ended up spending settlement money on public infrastructure and projects unrelated to mitigating tobacco addiction. We believe settlement funds from this litigation need to be designated for local opioid abatement purposes in order to directly support individuals and communities that have been devastated by this public health crisis.

12. Why is this plan better for local governments?

This proposal will ensure effective and efficient use of funds without dilution or diversion of opioid settlement money to unrelated purposes or unnecessary overhead expenses.

- **Bottom-Up Approach** – The need is at the local level, so the resources should be, too.
- **Local Voices** – The communities bearing the brunt of this burden must have a meaningful seat at the table to make decisions about where resources go.

- ***Flexibility*** – Our Plan provides an opportunity for local governments to decide how to entrust their own regional funds without unnecessary red tape.

13. How do I get involved?

We are hoping to get as many local governments signed on to our Plan as possible. Please reach out to Ron Carl of Arapahoe County at RCarl@arapahogov.com or opioids@kellerrohrback.com for more information and to show your support.