

RESOLUTION

NO: 2023-04-049

LIVINGSTON COUNTY

DATE: April 11, 2023

Resolution Authorizing Entry of Participation Agreements in Partial Settlement of the National Prescription Opiate Litigation and Entry of State and Local Government Intrastate Agreement Concerning Allocation of Settlement Proceeds – County Administration

WHEREAS, Livingston County filed a lawsuit to address the public nuisance that is the Opioid Epidemic, which named, among other companies, the following four Defendants (“Settling Defendants”):

1. Teva Pharmaceuticals Industries Ltd. (a prescription opioids manufacturer);
2. Allergan Finance, LLC (a prescription opioids manufacturer);
3. CVS Health Corp. and CVS Pharmacy, Inc. (a prescription opioids distributor); and
4. Walmart, Inc. (a prescription opioids distributor);

WHEREAS, the Settling Defendants have negotiated proposed national settlement agreements (“Proposed Settlements”) with the State Attorneys General, and a Plaintiff Executive Committee-designated negotiating committee that represents approximately 4,000 local governments that have brought lawsuits similar to Livingston County’s lawsuit; and

WHEREAS, the Proposed Settlements contain significant equitable and monetary relief, including:

1. An agreement to pay (a) up to \$3.34 billion over the next 13 years by Teva; (b) up to \$2.02 billion over 7 years by Allergan; (c) \$4.9 billion over the next ten years by CVS; and (d) \$2.74 billion within six years by Walmart. The bulk of each of these payments will be dedicated to funding abatement and prevention strategies associated with the opioids public nuisance; and
2. An agreement by Teva and Allergan to abide by strict limitations on their marketing, promotion, sale, and distribution of opioids, including a ban on (a) promotion and lobbying; (b) rewarding or disciplining employees based on volume of opioid sales; and (c) funding or grants to third parties; and
3. An agreement by CVS and Walmart to implement changes in how they handle opioids, including requirements addressing: their compliance structures; pharmacist judgment; diversion prevention; suspicious order monitoring; and reporting on red-flag processes, as well as blocked and potentially problematic prescribers.

WHEREAS, Livingston County previously executed Participation Agreements for the Distributor and Janssen Settlements, which have conferred and continue to confer valuable benefits; and

WHEREAS, the Proposed Settlements each contain a “default” allocation method where settlement funds that are allocated to a particular state to resolve the claims asserted by state and local governments within that state are allocated as follows:

- 15% of settlement proceeds paid under the Proposed Settlements are allocable to the State;
- 15% of the settlement proceeds are allocable to local governments; and
- 70% of the settlement proceeds are allocable to an opioid abatement fund.

WHEREAS, the Proposed Settlements enable the state and local governments within a State to negotiate alternative allocation methods to the “default” allocation method referenced above; and

WHEREAS, Livingston County desires to enter into an alternative allocation method which allocates settlement funds on a 50/50 basis to:

1. Participating Local Governments who have elected to participate in the Proposed Settlements; and
2. the State of Michigan.

WHEREAS, Livingston County previously executed the Michigan State-Subdivision Agreement for Allocation of Distributor Settlement Agreement and Janssen Settlement Agreement, which allocated funds attributed to the State of Michigan in a streamlined and equitable manner.

THEREFORE BE IT RESOLVED, Livingston County authorizes the County Administrator to proceed with the execution of Participation Agreements for: (1) the Master Settlement Agreement with Teva Pharmaceuticals Industries Ltd.; (2) the Master Settlement Agreement with Allergan Finance, LLC; (3) the Master Settlement Agreement with CVS Health Corp. and CVS Pharmacy, Inc.; and (4) the Master Settlement Agreement with Walmart, Inc., each of which are listed and available to the public at <https://nationalopioidsettlement.com/>. Specimen copies of the material terms of the participation agreements are attached as Exhibit A to this resolution.

BE IT FURTHER RESOLVED, Livingston County also authorizes the execution of a new Michigan State-Subdivision Agreement for Allocation of Allergan, Teva, CVS, and Walmart Settlement Agreements substantially similar to the proposed agreement attached as Exhibit B to this resolution. Livingston County also authorizes the County Administrator to proceed with the execution of a similar state-subdivision agreement to the extent that it provides a substantially similar allocation of settlement or bankruptcy proceeds obtained from opioids litigation with any other entity.

BE IT FURTHER RESOLVED, for the avoidance of doubt, Livingston County also authorizes its continued participation in the Distributor Settlement Agreement, the Janssen Settlement Agreement, and the Michigan State-Subdivision Agreement for the Allocation of Distributor Settlement Agreement and Janssen Settlement Agreement, all previously executed.

#

#

#

MOVED:
SECONDED:
CARRIED: