



Broward County

Legislation Text

File #: 22-733, Version: 1

Broward County Commission Regular Meeting

Director's Name: Andrew J. Meyers

Department: County Attorney

Information

Requested Action

MOTION TO APPROVE Participation Agreements regarding opioids litigation in substantially the form of Exhibits 1, 2, and 3; and to authorize the County Administrator to execute the Participation Agreements with any required modifications, provided such modifications do not impose any additional, material financial risk on the County, and subject to review and approval as to legal sufficiency by the Office of the County Attorney.

Why Action is Necessary

The Board's approval is required to resolve the County's pending claims against CVS Pharmacy ("CVS"), Teva Pharmaceuticals ("Teva"), and Allergan Pharmaceuticals, Inc. ("Allergan") (collectively, "Defendants").

What Action Accomplishes

Allows the Board to approve the Participation Agreements which, as part of a global settlement involving these Defendants, would settle and release the County's opioid claims against the Defendants.

Is this Action Goal Related

No

Previous Action Taken

Summary Explanation/Background

On September 21, 2021, the Board adopted Resolution No. 2021-464 (Item No. 51), which approved the Florida Opioid Allocation and Statewide Response Agreement (the "Florida Plan"). The Florida Plan provided the framework to resolve the pending claims against opioid drug distributors, manufacturers, marketers, and other potential parties in connection with the opioid epidemic. The material provisions of the Florida Plan provide that: (1) the Florida Attorney General is authorized to negotiate and enter into settlements with the defendants in the multidistrict opioid litigation on behalf of Florida's subdivisions and cities; (2) the settlement proceeds will be allocated into three funds (state, city/county, and regional); (3) certain large counties (including Broward County) can obtain the full regional fund if they become "Qualified Counties" by reaching agreements with a sufficient number of their municipalities relating to the use of such funds for abatement of the opioid epidemic; and (4) each government plaintiff must execute a Participation Agreement to become eligible to receive its share of the settlement funds.

On December 14, 2021 (Item No. 47), the Board approved an Interlocal Agreement for the County to enter into with municipalities which, if approved by a sufficient number of municipalities, would enable the County to qualify as a “Qualified County” under the Florida Plan, which would further enable the County to obtain the regional fund proceeds allocated under the Florida Plan. The County became a Qualified County in March 2022.

In the same agenda item, the Board authorized the County Administrator to enter into Participation Agreements with four defendants in the opioid litigation (AmerisourceBergen, Cardinal Health, McKesson, and Johnson & Johnson) to settle the County’s claims against those defendants.

On February 8, 2022 (Item No. 30), the Board authorized the County Administrator to enter into a Participation Agreement with Endo Pharmaceuticals to settle the County’s claims against it.

A proposed settlement has now been reached between the State of Florida, including its counties and municipalities, and these three Defendants for a total of approximately \$783 million in cash payment and, additionally, \$84 million in overdose treatment products to be distributed by the State of Florida to law enforcement agencies, first responders, and healthcare professionals throughout Florida. The settlement sets aside approximately \$74 million to cover all attorneys’ fees and costs of the State of Florida and its counties and municipalities who agree to the settlement. Assuming full participation in the settlement by Florida counties and municipalities can be achieved, the State of Florida is expected to receive approximately \$709 million in cash payments (the \$783 million less the funds for attorneys’ fees and costs), of which the County is expected to receive approximately \$26.7 million combined from the three Defendants (as further detailed below). Except for funds allocated to pay attorneys’ fees and related costs, all settlement funds (except for five percent in administrative fees) must be used for abating the opioid crisis.

If full participation is achieved by Florida counties and municipalities, CVS, a retail seller of opioid drugs, will pay up to \$440 million in cash over 18 years. Under the Florida Plan, the County would receive up to approximately \$16.6 million from this settlement, which is comprised of \$2.6 million in city/county fund proceeds and almost \$14 million in regional fund proceeds.

Teva, a marketer of opioid drugs, will pay up to \$159 million in cash over 11 years, assuming full participation is achieved by Florida counties and municipalities. Under the Florida Plan, the County would receive up to \$6 million, which is comprised of about \$945,000 in city/county fund proceeds and slightly over \$5 million in regional fund proceeds.

Allergan, a marketer of opioid drugs, will pay up to \$110 million in cash over eleven (11) years, assuming full participation is achieved by Florida counties and municipalities. Under the court-approved formula, the County is expected to receive up to \$4.1 million, which is comprised of about \$645,000 in city/county fund proceeds and nearly \$3.5 million in regional fund proceeds.

To receive these amounts from the settlement with the Defendants, the County must approve the Participation Agreements, which are attached as Exhibits 1, 2, and 3. These agreements are in the same form that the Board approved with respect to other settlements on December 14, 2021, and February 8, 2022. The Participation Agreements release all the County’s claims against CVS, Teva, and Allergan. They have no effect on the County’s unresolved claims against other distributors, manufacturers, retailers, and the other opioid-related parties in the ongoing opioid litigation.

The County's outside counsel and the Office of the County Attorney recommend that the Board approve the Participation Agreements.

Source of Additional Information

Danielle W. French, Deputy County Attorney, 954-357-7600

Fiscal Impact

Fiscal Impact/Cost Summary

Not applicable