



October 23, 2024

Attorney General Dana Nessel
525 W. Ottawa St. Lansing, MI
48906 miag@michigan.gov

Dear Attorney General Nessel,

My name is Jonathan Stoltman. I am a concerned Michigan citizen and the Director of the Opioid Policy Institute. I am writing this letter in coordination with Popular Democracy to request that the Michigan Attorney General's office:

1. Develop a formal complaint mechanism for the public to raise concerns related to opioid settlement fund spending.
2. Investigate the city of Farmington Hills in Oakland County, which likely misallocated opioid settlement funds.¹ This may include reporting any relevant issue with this spending to the Settlement Fund Administrators.

Michigan has a responsibility to ensure that opioid settlement funds are spent on "Opioid Remediation" in accordance with Exhibit E of the many settlement agreements to which it is a party. These agreements expressly state both an intent and a desire for fund spending to go towards "care, treatment, and other programs and expenditures . . . designed to (1) address the misuse and abuse of opioid products, (2) treat or mitigate opioid use or related disorders, or (3) mitigate other alleged effects of the opioid abuse crisis, including on those injured as a result of the opioid abuse crisis."

Importantly, by agreeing to the opioid settlement agreements on behalf of the people and polities of Michigan, your office fully released the various producers and distributors of opioids from any additional opioid-related liabilities and foreclosed any further legal relief for harmed individuals and communities. This means that the opioid settlement fund money that Michigan receives and spends over the next fifteen years is the **only** opportunity to meaningfully redress the devastating harm of the ongoing overdose epidemic. The Attorney General's office has an affirmative obligation, stemming from the *parens patriae*, proprietary, sovereign, and quasi-sovereign capacities it relied on to bring litigation and settle claims, to ensure that Michigan and

¹ <https://www.bridgemi.com/michigan-health-watch/amid-drug-crisis-one-michigan-city-using-money-help-backfill-budget>

all participating local governments fulfill their obligations to spend settlement funds on opioid remediation including prevention, harm reduction, treatment, and recovery support. Developing a complaint mechanism for potential misallocation of funds is a necessary first step in that work.

As concerns the opioid settlement spending of Farmington Hills, there is already some evidence of fund misallocation stemming from investigative reporting by Bridge Michigan.² Importantly, the city's admitted lack of accounting mechanisms to accurately track spending calls into question the city's ability and willingness to ensure settlement compliance now or in the future. Over the next two decades, Farmington Hills is slated to receive nearly \$1 million in settlement funds and has already received \$119,272. Farmington Hills City Manager Gary Mekjian stated publicly that the city has already spent all of the settlement funds it has received, yet none of that money went towards curbing the crisis. Rather, the city used all of this money to backfill its budget, allegedly to compensate for past costs associated with fighting opioid addiction. This is contrary to the intent of the funds and is in direct violation of the settlement agreements. For example, Section V.D.1 of the Final Distributor Settlement states that "[a]ny State-Subdivision Agreement entered into after the Preliminary Agreement Date shall be applied only if it requires . . . that at least seventy percent (70%) of amounts be used solely for future Opioid Remediation."

Additionally, in their emailed response to Bridge Michigan's questions about settlement spending, Farmington Hills' Mekjian expressed that there is "no specific budget for opioid-related expenditures." They claimed that settlement funds were used for "personnel" and "operating" expenses to "offset a portion of the prior costs incurred by the city related to the opioid crisis." This potential misallocation of funds is not just an example of bad governance, it potentially requires action by the state. Section VI.B.2 of the Janssen settlement agreement includes the following provision:

*If, at any time, a Settling State or a Participating Subdivision listed on Exhibit G uses any monies from the Settlement Fund for a purpose that does not qualify as Opioid Remediation, such Settling State or Participating Subdivision **shall identify such amounts and report to the Settlement Fund Administrator and Janssen how such funds were used**, including if used to pay attorneys' fees, investigation costs, litigation costs, or costs related to the operation and enforcement of this Agreement, respectively. It is the intent of the Parties that the reporting under this subsection VI.B.2 shall be available to the public. For the avoidance of doubt, (a) any amounts not identified under this subsection VI.B.2 as used to pay attorneys' fees, investigation costs, or litigation costs shall be included in the "Compensatory Restitution Amount" for purposes of subsection VI.F and (b) Participating Subdivisions not listed on Exhibit G or Participating Special Districts that receive monies from the Settlement Fund indirectly may only use such monies from the Settlement Fund for purposes that qualify as Opioid Remediation.*

In addition to requirements in the manufacturer and distributor settlement agreements, the Michigan State-Subdivision Agreements also have restrictions on local government spending.

² <https://www.bridgemi.com/michigan-health-watch/amid-drug-crisis-one-michigan-city-using-money-help-backfill-budget>

The Janssen subdivision agreement specifically requires that a “minimum of 70% of Settlement Payments must be used solely for future Opioid Remediation.” Farmington Hills appears to already be in violation of this provision and it is up to the Attorney General’s office to investigate and ensure the remainder of settlement funds will be spent properly in the future.

In Michigan, the opioid epidemic is still an acute crisis, but Farmington Hills is not alone in its failure to live up to the requirements and intent of the opioid settlement agreements. In addition to the 43% of local governments in the state that have not spent **any** of the money received, there are other known examples of misallocation of funds in the state but there exists no mechanism for reporting misallocation to the Office of the Attorney General. Opioid settlement funds must be spent on urgently needed investments in prevention, harm reduction, treatment, and recovery support, and it is up to your office to help ensure that the local governments are spending the funds in accordance with the Michigan State-Subdivision Agreement.

Thank you for your prompt attention to this matter. We look forward to supporting any accountability efforts your office takes and are happy to share any other information that would be helpful.

Sincerely,



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OPIOID POLICY INSTITUTE