

# **IMPORTANT NOTICE TO ALL FEDERALLY RECOGNIZED TRIBES AND TRIBAL HEALTH ORGANIZATIONS**

## ***NATIONAL TRIBAL OPIOIDS SETTLEMENTS ARE EFFECTIVE AND DISTRIBUTIONS TO TRIBES ARE EXPECTED UPON RECEIPT OF CERTAIN INFORMATION***

### ***YOU MUST PROVIDE W-9 AND PAYMENT INSTRUCTIONS TO RECEIVE ABATEMENT FUNDS AND FOR FEDERAL TAX REPORTING***

The settlements between federally recognized Tribes and Janssen Pharmaceuticals (and its parent company Johnson & Johnson), three pharmaceutical distributors (McKesson, Cardinal Health, and Amerisource Bergen), Teva, Allergan and three pharmacies (CVS, Walgreens, and Walmart) are now effective. These settlements total well over \$1 billion for prevention and abatement of the opioid epidemic across Indian Country during the next 15 years.

In addition to these settlements, the restructuring plan for Mallinckrodt, a manufacturer of generic opioids, has also been approved by the Bankruptcy Court. The plan assigns to federally recognized Tribes approximately 3% of the total amount going to state and local governments, which is estimated to total approximately \$20-30 million that will be distributed over 8 years. For tax planning purposes, a Limited Liability Company was also established in which Tribes have an ownership interest as listed on Schedule C to the Tribal Abatement Fund Trust II Agreement.

This letter provides important information about the funds available and explains what your Tribe must do to obtain opioid settlement money and comply with certain reporting requirements.

This letter is sent by Kathy Hannan, Mary Smith, and Kevin Washburn. They have been appointed as the Directors of the Tribal Settlement Trusts by U.S. Judge Dan Polster who oversees the Opioid Litigation to assist in implementing the settlements.

All federally recognized Tribes are eligible to participate in the Tribal Opioid Settlements, regardless of whether a Tribe filed an opioid lawsuit. We encourage you to visit the website [www.tribalopioidsettlements.com](http://www.tribalopioidsettlements.com) for important information and documents about the settlements.

### **ABATEMENT FUNDS AVAILABLE**

- Mallinckrodt will pay approximately \$20-30 million over a period of 8 years as part of its bankruptcy plan. In 2023, approximately \$4 million going toward abatement uses after litigation fees and costs and administrative expenses have been deducted. All Tribes identified in Schedule C to the Tribal Abatement Fund Trust II Agreement will receive abatement funds.
- Janssen Pharmaceuticals, a manufacturer, will pay \$150 million by July 2023, with approximately \$125 million toward abatement uses after litigation fees and costs and administrative expenses have been deducted. Janssen will be complete with their payments in 2023. All federally recognized tribes are entitled to participate in this settlement.
- Teva and Allergan, which are related manufacturers will pay \$190 million over the life of the settlements with approximately \$161 million going to abatement uses after litigation fees and costs and administrative expenses have been deducted. Teva is also providing \$25 million in

“product” which will be the subject of a separate communication with more detail. All federally recognized tribes are entitled to participate in this settlement. In 2023, Teva and Allergan will contribute more than \$15 million toward abatement and more than \$2 million in product.

- The Distributors (McKesson, Cardinal Health, and Amerisource Bergen) will pay \$439.9 million over the life of the settlements with approximately \$370 million going to abatement uses after litigation fees and costs and administrative expenses have been deducted. The Cherokee Nation independently settled with these defendants and will NOT receive abatement funds from these settlement proceeds. All remaining federally recognized tribes are entitled to participate in this settlement. In 2023, the Distributors will contribute more than \$160 million toward abatement.
- The Pharmacies (CVS, Walgreens, and Walmart) will pay more than \$355 million over the life of the settlements with approximately \$300 million going to abatement uses after litigation fees and costs and administrative expenses have been deducted. The Cherokee Nation independently settled with these defendants and will NOT receive abatement funds from these settlement proceeds. All remaining federally recognized tribes are entitled to participate in this settlement. In 2023, the Pharmacies will contribute more than \$80 million toward abatement.
- The amount available for distribution to Tribes for abatement and prevention this year is likely to exceed \$380 million.
- The Directors will ask Tribes to certify that they have used the funds in a proper manner so that they can provide assurance to the court that the settlements are functioning as intended. Tribes are encouraged to engage in planning about how to maximize the impact of the funds.
  - Abatement settlements funds MUST be used by Tribes for purposes of prevention and abatement of opioid abuse as further explained in documents prepared for settlement purposes.
  - Abatement settlement funds CANNOT be used for litigation fees related to these settlements as those fees have been handled separately by the court.

### **TIMING OF PAYMENTS**

- Mallinckrodt payments are available for distribution. Payments for the other settlements will be made pursuant to the [allocation determined](#) by former U.S. District Judge Layn Phillips and Special Master David Cohen.
- Tribal Abatement Funds will be issued to Tribes that have submitted Participation Forms and payment instructions beginning in late spring or early summer and then at least once more in subsequent months before the end of 2023 for Tribes that submit their participation forms or other needed documents after the initial distribution. It is anticipated that future payments from all sources will be made on an annual basis.
- Tribes that do not provide the necessary documents at the time of payment can still submit Participation Forms to be paid in subsequent payment cycles. However, all Tribes noted on Schedule C in the Mallinckrodt settlement must provide W-9 and payment information as soon as possible.

## SUBMITTING REQUIRED W-9 AND PAYMENT INSTRUCTIONS

- To receive payments, Tribes and Tribal Health Organizations must submit a Payment Election Form and IRS Form W-9.
- To submit these forms, go to [www.tribalopioidsettlements.com](http://www.tribalopioidsettlements.com) and click the Portal Log In menu at the top right of the screen. If you have previously established login credentials, enter your Login ID and Password and click Login. If you have not previously established login credentials, click Create Account to enter your Tribal information, email address and login information, then select Create Account. If you have forgotten your login credentials, click Forgot ID/Password and following the instructions on that screen.
- After logging in, select Participation Forms from the Tribe Information menu at the top of the screen and then scroll to the bottom where you will see the Payment Instructions option.
- Click Start next to the Payment Election Form to provide your Tribe's payment selection (receiving payment by wire or check) and then follow the on-screen instructions to input your wire or check information. After entering the requested information, you must affirm you are authorized to receive payment on behalf of your Tribe by typing your name in the Signature box and then clicking Accept & Submit.
- After you submit the Payment Election Form, click Start next to the W-9 Form to open the screen with the IRS Form W-9 questions. Follow the on-screen instructions to complete this Form. After providing the requested information, you must type your name in the Signature box and then click Accept & Submit.
- If you have any questions or need assistance completing the Forms, please contact the Tribal Opioid Settlement Administrator, BrownGreer PLC, by email at [nato@browngreer.com](mailto:nato@browngreer.com) or by phone at (888) 616-3880.
- If your Tribe has not yet submitted Participation Forms for the settlements, there is still time to submit these Forms. You may access those Participation Forms on the settlement website, [www.tribalopioidsettlements.com](http://www.tribalopioidsettlements.com). Once completed and signed by an authorized Tribal representative, or an attorney representing the Tribe, you may submit the Forms to BrownGreer by uploading to your Tribal Portal, OR by email at [nato@browngreer.com](mailto:nato@browngreer.com), OR by faxing the Form to (804) 521-7299, OR by sending through U.S. mail to:

BrownGreer PLC  
ATTN: Tribal Opioid Settlements  
250 Rocketts Way  
Richmond, VA 23231

Please contact us if you have any questions at [Directors@tribalopioidsettlements.com](mailto:Directors@tribalopioidsettlements.com). We look forward to working with you.

Kathy Hannan (Ho-Chunk)

Mary Smith (Cherokee)

Kevin Washburn (Chickasaw)

Tribal Settlement Trust Directors