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Federal Government Demands Part of Oklahoma's \$270M Opioid Settlement.

The federal government is seeking a portion of Oklahoma's \$270 million settlement with opioid maker Purdue Pharma.

In a June 12 letter to Oklahoma's Medicaid director, an official from the U.S. Centers for Medicare and Medicaid wrote that he was aware of the state's landmark settlement with the maker of OxyContin and "the federal government is entitled to a portion of that amount."

In the two-page letter, Bill Brooks, the director of Centers for Medicaid and CHIP Services, does not specify how much of the \$270 million settlement the state might owe to the federal government.

He did, however, ask Oklahoma Medicaid Director Becky Pasternik-Ikard to respond with an explanation of what the state believes to be Medicaid's portion of the settlement.

Gov. Kevin Stitt hinted Thursday he disagrees with the idea that Oklahoma owes part of the settlement funds to the federal government.

"We're aware of that letter," he said. "We're talking to our counsel about it. We obviously disagree and we'll be making further comments."

Stitt declined to elaborate on what exactly he disagrees with, saying he will hold off commenting further to avoid say anything that could hurt the state's position in ongoing litigation against opioid manufacturers.

Brooks also asked for a wide swath of documents, including those that show the amount of Medicaid funds expended to purchase opioids in any way associated with the settlement, to treat Medicaid recipients for substance use disorder caused by opioids and related to the settlement and to pay for diversion programs in conjunction with the settlement.

Also requested was the 20 years of Medicaid claims data that Oklahoma used to "help determine the amount of damages" to claim in the lawsuit. The Oklahoma Health Care Authority provided the data to Attorney General Mike Hunter's office.

When Hunter initially filed the lawsuit against opioid manufacturers, he accused them of creating a public nuisance, fraud, unjust enrichment and violating Oklahoma's Medicaid False Claims Act, Medicaid Program Integrity Act and Consumer Protection Act.

The letter from the federal government specifically cites the Medicaid False Claims Act and Medicaid Program Integrity Act. Typically, when states are awarded funds in Medicaid fraud cases, they reimburse the federal government for its share.

Hunter said he's unconcerned about the letter.

"I've got a lot of things I'm worried about, but this is not one of them," he said.

Hunter spokesman Alex Gerszewski elaborated, saying this will not affect state revenue.

The letter also includes a stiff warning that the federal government could withhold future Medicaid payments if Oklahoma officials do not return its share of the settlement.

The state could have a problem paying the federal government because none of the \$270 million in settlement funds went into state coffers.

The settlement stipulates \$200 million, or the bulk of the settlement, must go toward establishing a national center for addiction treatment at the Oklahoma State University Center for Wellness and Recovery in Tulsa. The remainder will go to local governments or will be used to pay legal fees.

In light of the letter from CMS, Stitt said it could be a good thing that Hunter structured the settlement so that the money went to a nonprofit instead of the state treasury.

"I think this actually helps us in this case because that settlement money was sent to a national center for opioid research," he said. "In this case, that is probably to our benefit because the state did not receive that money."

Stitt did not speculate on where the money would come from if the state does end up owing a portion of the settlement funds to CMS.

The unusual settlement rankled state lawmakers, who then passed a law requiring settlement funds to go into the state treasury.

Cleveland County District Judge Thad Balkman recently settled a squabble Stitt and prominent lawmakers had with the attorney general's office over what to do with an \$85 million windfall from the state's settlement with drugmaker Teva Pharmaceuticals.

It's unclear if the federal government feels it is owed a portion of that settlement, the bulk of which went into a special fund in the state treasury.

The letter may also pave the way for the federal government to try to claim a portion of what, if any, windfall may come from the ongoing opioid trial against drugmaker Johnson & Johnson.

Johnson & Johnson has been accused of creating a public nuisance that helped cause the opioid epidemic through false and misleading marketing efforts that downplayed the addictive and overdose risks of opioids.

The state is not going after the company on complaints of violating Oklahoma's Medicaid False Claims Act or Medicaid Program Integrity Act, which could reduce the federal government's claim to any windfall that may result from the trial.

Brooks requested the state respond by July 12, but Pasternik-Ikard requested a 90-day extension giving state officials until Oct. 12 to respond.

By Carmen Forman

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