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September 29, 2023

Honorable Troy Jackson
President of the Senate
3 State House Station
Augusta, Maine 04333-0003

Honorable Rachel Talbot Ross
Speaker of the House of Representatives
2 State House Station
Augusta, Maine 04333-0002

Re: Opioid Litigation Settlements and the Maine Recovery Fund

Dear President Jackson and Speaker Talbot Ross,

This letter is to report to you about the status of the settlement funds in the Maine Recovery Fund to address statewide needs for abating the opioid crisis in Maine.

As you know, in 2022 I signed a Memorandum of Understanding (the "MOU") with certain counties, cities, and towns which had filed lawsuits against manufacturers and distributors of opioid pain medications. The MOU allocates in Maine settlement funds from various opioids-related investigations and litigation, with 50% of settlement funds going to the Maine Recovery Fund, 20% to the Attorney General, and 30% to 39 counties, cities, and towns, all for spending to abate the opioid crisis in Maine. The MOU, along with legislation passed by the 130th Legislature (L.D. 1722), created the Maine Recovery Fund and established the Maine Recovery Council "to direct the disbursement of recovery funds for recovery purposes on a statewide basis" for certain opioid abatement uses. Your offices each have the authority to appoint three members of the Council, resulting in six of the fifteen members having been appointed by the Legislature.

Article IV(H) of the MOU requires recipients of Recovery Funds to report to the Council each September describing how funds received in the prior fiscal year were targeted to the opioid abatement uses required by the MOU. The Attorney General is to then compile those reports and forward the information in a report to the Legislature by October 1st each year.

This is my third report to the Legislature in the 10 months since the Council first met in November 2022¹. Since that time, the Council has met monthly to organize itself to complete its work with proper transparency, governance, and conflict of interest controls, and to hear from

¹ Prior reports, videos of the Council's meetings, and substantial information about its work may be found on the Council's website, hosted by the Attorney General's Office at: <https://www.maine.gov/ag/recovery-council/>.

communities with deep experience in and knowledge of Maine’s opioid crisis. The Council has received briefing from one state agency so far, the Office of Behavioral Health in the Department of Health and Human Services, about the data indicating the status of the crisis, what resources OBH is putting towards the crisis, and suggestions for how the Council can contribute toward unmet needs. The Council also presented to and received public feedback during the Governor’s 5th annual Opioid Response Summit in July, and many members attended several of the presentations made from around the state about addressing the opioid crisis. The Council also received from the Legislature’s Committee on Health and Human Services a list of the Committee’s priorities in a letter dated July 7th, 2023.

The Council has not yet made any grants or distributions from the Recovery Fund, which would have needed to happen within the first six months of its existence for this report to include information from grantees. As is evident from the public meetings of the Council, it appears that the Council is aware of how much leaders in the state, the public, and the media want its grant-making to start. The meetings also reflect that the Council strongly believes it critical to target these funds to the places and the services that most need the help, understanding that the need far exceeds the funds available. In addition, the Council understands that while these funds come in over 18 years, once the payments stop there are no more funds from these sources. When that happens, there will still be Mainers struggling with substance use disorder. Therefore, the Council is doing the hard work of balancing the urgency of the opioid crisis with diligently learning where the help is most needed in Maine and what services will be most effective. Ideally as a result of the Council’s work, more Mainers will receive treatment, fewer Mainers will star using opioids, Mainers will be saved from overdoses so they can receive treatment and participate in life in their communities, and data will show that the Recovery Funds are effective at turning the tide of the opioid crisis in Maine.

At this time, the Council is focused on the fifth and second of the Principles for the Use of Funds from the Opioid Litigation², which are:

- “5. Develop a Fair and Transparent Process for Deciding Where to Spend the Funding
This process should be guided by public health leaders with the active engagement of people and families with lived experience, as well as other key groups.”

The Council is intentionally comprised, with leadership from your offices, of individuals from around the state with deep and often personal experience with the opioid crisis, including public health officials, medical professionals and clinicians, and leaders of key nonprofits and advocacy organizations. At the Council’s most recent two meetings, it decided to hold a public forum in the second half of October at which members of the public would be invited to present, over several hours, to the Council their suggestions for which programs and services the Council should prioritize. The Council also is developing a survey to seek input for its spending priorities from the public targeted to individuals working in the continuum of care for substance use disorder, and from counties, cities, and towns across Maine.

- “2. Use Evidence to Guide Spending

² Created by the Johns Hopkins Bloomberg School of Public Health: <https://opioidprinciples.jhsph.edu/>

At this point in the overdose epidemic, researchers and clinicians have built a substantial body of evidence demonstrating what works and what does not. States and localities should use this information to make funding decisions.”

In addition to receiving input from the Office of Behavioral Health, the Council has decided to retain the consulting services of a highly experienced former state and federal substance use agency director who researches how communities can use data to address the opioid crisis with effective strategies. The purpose of this consulting is to assist the Council to determine its priorities, using data to understand where in Maine help is needed and which programs and services would be the most effective for the Council to fund. This work will be delivered in stages during the next four months, at the end of which the Council is expected to have a short-term spending plan and a process for developing a long-term strategy as well as data and benchmarks to gauge the impact of its spending.

I continue to support the work of the Council as envisioned by the MOU. My Office provides legal counsel and has been administratively supporting the Council to establish its meetings, its committees, its website, and to support its efforts to communicate with the public. However, as contemplated by the MOU, the Council has determined it needs additional administrative support as its committees begin to do more and as it engages in the hard work of balancing the pressure to spend with the obligation to diligently understand what the most effective impact its spending can have. As a result, the Council has decided to create an opportunity for a one-year contracted position of a Coordinator, an individual who will help the Council administer its meetings, its work, and its applications and grant processes. My office will continue to provide administrative support both to the Council and to the Coordinator.

The next full Council meeting will take place on Tuesday, October 10 at 2:00 in the first floor conference rooms of the DHHS building at 109 Capitol Street. Additional information about the meetings of the Council and its committees may be found on the Council’s website, www.maine.gov/ag/recovery-council. And information about opioid-related settlement and bankruptcy funds, and information for communities throughout Maine about how to use abatement funds, may be found at my office’s website: www.maine.gov/ag/opioids.

I very much look forward to the Council’s first spending decisions. Thank you for the leadership your offices have shown to help Mainers who are working hard and with dignity to turn the tide of the opioid crisis in their homes, in their communities, and across the state.

Sincerely,

A handwritten signature in black ink that reads "Aaron M. Frey". The signature is written in a cursive style with a large, sweeping initial 'A'.

Aaron M. Frey
Attorney General