

 **Programs**

Texas Opioid Abatement Fund Council

**Hospital District Distribution****Overview**

Rule 16.222 establishes administrative, transparency, oversight, and accountability provisions that govern the distribution of settlement funds by the Texas Opioid Abatement Fund Council (O AFC) and the receipt of those funds by hospital districts. This rule is enacted in accordance with Senate Bill (SB) 1827, 87th Legislature, Regular Session, which requires the allocation of a portion of funds received from statewide settlement agreements to hospital districts.

The rule provides one-time floor payments upfront, prioritizing the smallest rural hospital districts. Subsequently, distributions are allocated to the remaining medium, large, and urban hospital districts.

The rule outlines permissible uses of hospital district settlement funds by aligning them with O AFC's existing priorities and relevant court orders and settlement agreements. Additionally, it empowers O AFC to oversee and monitor the utilization of funds by hospital districts.

The rule provides accountability by allowing O AFC to cancel distributions if hospital districts fail to use funds for allowable uses, as defined by the rule. The rule also allows O AFC to require hospital districts to refund money they received and enables O AFC to withhold future distribution payments from hospital districts failing to comply with the rules.

Access a section-by-section summary of Rule 34 TAC 16.222 regarding hospital district distribution [[comptroller.texas.gov/programs/opioid-council/docs/98-1113\\_OAFC\\_hospital\\_district\\_summary.pdf](https://comptroller.texas.gov/programs/opioid-council/docs/98-1113_OAFC_hospital_district_summary.pdf)].

Access an informational map [[comptroller.texas.gov/programs/opioid-council/docs/98-1116\\_oafc\\_hospital\\_district\\_map.pdf](https://comptroller.texas.gov/programs/opioid-council/docs/98-1116_oafc_hospital_district_map.pdf)] of hospital district locations and distribution amounts.

**Hospital District Distribution Rule FAQ****▼ Hospital District Distribution Rule FAQ**

Rule 16.222 provides transparency, oversight, reporting requirements and accountability provisions governing the Texas Opioid Abatement Fund Council's (O AFC) distribution of settlement funds to all hospital districts in Texas.

**▼ What is a hospital district?**

A hospital district is a political subdivision created to provide healthcare to low-income individuals. A hospital district can include one or more counties.

Additional information on hospital districts is available at:

- Texas Constitution, Article IX, Sections 4, 5, 8, 9, 9A, 9B and 11.
- Texas Health and Safety Code, Chapters 281-286.

▼ Why do hospital districts receive opioid settlement funding?

Texas Government Code, Section 403.508(a)(2) requires 15 percent of opioid settlement funding allocated to the OAFSC to be distributed to hospital districts.

▼ How can hospital districts use their funding?

Hospital districts are required to use all distribution money received:

- To remediate the opioid crisis, including providing assistance in one or more categories approved by the OAFSC:
  1. treatment and coordination of care;
  2. prevention and public safety;
  3. recovery support services;
  4. workforce development and training; or
- For permissible uses specified by a court order or settlement agreement if a court order or settlement agreement requires money to be used for one or more specific purposes.

▼ How much funding will my local hospital district receive?

Individual amounts for local hospital districts depend on several factors, including hospital size and estimated distribution amount from the settlement agreements [[comptroller.texas.gov/programs/opioid-council/settlements/](https://comptroller.texas.gov/programs/opioid-council/settlements/)].

Funding distributions will be made to two groups:

- Small, rural hospital districts in Group One will receive an upfront one-time, lump-sum distribution.
- Medium, Large and Urban hospital districts in Group Two will receive periodic distributions as settlement agreement funding is received by the OAFSC for the duration of the settlement agreement.

Individual amounts for each hospital district are available at:

- Group One: Small, rural hospital districts floor distribution amounts 34 Tex. Admin. Code § 16.222(f) .
- Group Two: Medium, large, and urban hospital district pro rata periodic distribution amounts 34 Tex. Admin. Code § 16.222(g) ).

▼ How did the OAFIC determine each hospital district's specific distribution?

To determine the methodology to distribute payments, the OAFIC calculation used the following data as a substitute number to determine the impact of the opioid epidemic on each hospital:

- Calculating a Hospital's Pro Rata Share
  1. For hospital districts with hospitals that participate in the Disproportionate Share Hospital (DSH) program, the OAFIC used audited uncompensated care data averaged over three years from 2018 to 2020 or if uncompensated care data was unavailable, ad valorem tax data averaged over three years from 2018 to 2020.
  2. For hospital districts with a hospital that do not participate in the DSH program, the OAFIC used either unaudited uncompensated care data averaged over three years from 2018 to 2020 ad valorem tax data averaged over three years from 2018 to 2020, if the hospital district's ad valorem tax data was 125 percent or more of uncompensated care costs.
  3. For hospital districts without a hospital, the OAFIC used ad valorem tax data averaged over three years from 2018 to 2020.
- Minimum Floor payments - If a hospital district's distribution fell below \$75,000 or \$25,000, the methodology pays them \$75,000 if the hospital district operates a hospital or \$25,000 if the hospital district does not operate a hospital.
- Litigating hospitals - For hospital districts that participated in the original opioid litigation, the OAFIC took five percent of the total estimated settlement and divided that amount proportionally based on each litigating hospital's costs and added it to each litigating hospital's total distribution.

▼ Why do medium, large and urban hospital districts receive their funds in second and subsequent distributions?

Medium, large and urban hospital districts will receive their funding in second and subsequent distributions, because they will receive a larger pro rata amount over a longer time.

The OAFIC prioritized providing full funding to the smallest, rural hospital districts in a single round of funding.

Once these hospitals have received their up-front, lump-sum distribution, the remaining medium, large and urban hospital districts will receive their funds over the lifetime of the settlement agreements.

▼ Why does the rule make an initial distribution to small rural hospital districts?

The rule prioritizes small, rural hospital districts because this strategy will quickly get meaningful funding into the hardest hit communities.

Small, rural hospital districts tend to be located in areas that have been hardest hit by the opioid crisis.

Distributing all of these hospital districts' funds up front will enable these districts to fund new and existing programs to quickly respond to the crisis in ways that best reflect their communities' unique needs.

▼ Can hospital districts spend funds on existing programs or only new programs?

The rule provides flexibility for hospital districts by authorizing them to use funds for opioid abatement programs, regardless of when the program was created.

As such, hospital districts can use the funding for new and existing programs that remediate the opioid crisis.

▼ How does the rule ensure hospital districts use their settlement funds on opioid-related activities?

The rule includes several oversight, transparency, and accountability provisions that require hospital districts to use their settlement funds on activities to remediate the opioid crisis.

- As a condition of receiving payment and before a payment is made:
  1. The rule requires hospital districts to submit a resolution passed by the hospital district's governing body that:
    - a. Affirms that the hospital district will:
      - i. use all money received to remediate the opioid crisis, including providing assistance in one or more categories approved by the OAFIC:
        1. treatment and coordination of care;
        2. prevention and public safety;
        3. recovery support services;
        4. workforce development and training; or
        5. for allowable uses specified by a court order or settlement agreement if a court order or settlement agreement requires money to be used for one or more specific purposes.
      - ii. Return all funds to the council in the event funds are lost or misused.
    - b. Designates by name and title an authorized official who can act on behalf of the hospital district to sign official documents related to the distribution.
- The rule requires hospital districts to:
  1. notify the OAC director if there is a change in the hospital district's authorized official; and
  2. submit resolutions with updated information if the authorized official changes.
- If a hospital district fails to satisfy these conditions, the rule allows the OAFIC to cancel a hospital district's distribution and retain the funds for distribution to other hospital districts to remediate the opioid crisis.
- The rule requires all funds to be used only to remediate the opioid crisis, including providing assistance in one or more categories approved by the OAFIC:
  - a. treatment and coordination of care;
  - b. prevention and public safety;



- c. recovery support services;
- d. workforce development and training; or
- e. for allowable uses specified by a court order or settlement agreement if a court order or settlement agreement requires money to be used for one or more specific purposes.

- The rule requires hospital districts to submit period reports on their use of funds, including how the funds comply with the rule's requirement that funds be used to remediate the opioid crisis.
- The rule allows the OAFc to monitor individual hospital districts to ensure their use of funds complies with the rule's requirements that the funds be used to remediate the opioid crisis.
- The rule allows the OAFc to require hospital districts to refund all or a portion of money received by the hospital district if the OAFc determines that the hospital district has failed to comply with the rule.
- The rule allows the OAFc to retain refunded money for future distribution to hospital districts to remediate the opioid crisis.

▼ How does the rule protect the settlement funds from being used for activities other than those directly related to opioids?

The rule includes multiple factors that protect settlement funds.

- It requires hospital district boards to adopt a resolution:
  1. naming an authorized person to handle hospital district distribution funds and,
  2. affirming the hospital district will use distribution funds only for purposes in categories approved by the council.
- The rule allows the OAFc to cancel a hospital district's distribution and retain the funds for distribution to other hospital districts to remediate the opioid crisis.
- The rule requires hospital districts to submit period reports on their use of funds, including how the funds comply with the rule's requirement that funds be used to remediate the opioid crisis.
- The rule allows the OAFc to monitor individual hospital districts to ensure their use of funds complies with the rule's requirements that the funds be used to remediate the opioid crisis.
- The rule allows the OAFc to take multiple actions to address noncompliance including:
  1. instruct the director to provide written notice to a hospital district of alleged failure to comply;
  2. provide the hospital district with an opportunity to respond;
  3. require the hospital district to cure the failure to comply to the satisfaction of the OAFc;
  4. require hospital districts to refund all or a portion of money received by the hospital district under the rule; and
  5. exercise any other legal remedies available.

▼ What reporting requirements apply to hospital districts?

The rule requires hospital districts that receive settlement funding to report periodically on their use of funds to the OAFc director and how their funds remediate the opioid crisis, including for strategies approved by the OAFc.

▼ What safeguards does the rule provide to hospitals to address potential failures to comply?

The rule allows the O AFC to take multiple actions to address potential failure to comply including:

- instruct the director to provide written notice to a hospital district of alleged failure to comply;
- provide the hospital district with an opportunity to respond;
- require the hospital district to cure the failure to comply to the satisfaction of the O AFC;
- require hospital districts to refund all or a portion of money received by the hospital district under the rule; and
- exercise any other legal remedies available.

▼ How does the rule allow the O AFC to track hospital districts' use of settlement funds?

The rule enables the O AFC director to monitor hospital districts that receive settlement money to ensure they comply with permissible uses.

The rule also requires hospital districts to submit period reports on their use of funds, including how the funds comply with the rule's requirement that funds be used to remediate the opioid crisis.

---

## **Need assistance?**

If your question is not addressed here, email us [mailto:oa fc. public@cpa. texas. gov].

**Sign up now to receive the latest Texas Opioid Abatement Fund Council news, updates and resources directly to your inbox.**