

Frequently Asked Questions

General Information

1. Who is qualified to receive a portion of the tobacco settlement proceeds?

Political subdivisions as defined in the Agreement Regarding Disposition of Settlement Proceeds (settlement agreement) dated July 18, 1998. These include “all hospital districts, other local political subdivisions owning and maintaining public hospitals, and counties of the State of Texas responsible for providing indigent care to the general public.”

2. How can I determine whether a given political subdivision qualifies for tobacco funds under this definition?

Consult *Chapter 61 of the Texas Health and Safety Code* pertaining to the County Indigent Health Care Act, found at <http://tlo2.tlc.state.tx.us/statutes/hs.toc.htm>.

3. How can I get a copy of the settlement agreement?

A text copy of the agreement can be found at www.dshs.state.tx.us/tobaccosettlement/tobsett.shtm or contact Ms. Peggy Belcher at DSHS, telephone 512.458.7111 ext. 2237, or email: [Peggy Belcher](mailto:Peggy.Belcher@dshs.state.tx.us).

4. What was the total settlement amount initially, for local political subdivisions?

Approximately \$2.3 billion. Of this amount, \$450 million was deposited into a “lump sum trust account” and distributed to local political subdivisions. The remainder, approximately \$1.8 billion, was deposited into a “permanent trust account” and local political subdivisions will receive prorata distributions annually from the investment of the trust.

5. Who is responsible for managing the distribution process and the trust funds?

Under the settlement agreement, the Department of State Health Services (DSHS) is responsible for certifying to the State comptroller’s Office the percentage of the annual distribution to be paid to each qualified recipient. The Comptroller is responsible for managing the trust funds and issuing the payments to local entities.

6. How are “unreimbursed health care expenditures” defined in the agreement?

For Counties, they are defined as “all unreimbursed amounts, including unreimbursed jail health care, expended by such county for health care services to the general public during that year, plus 15% of

that total.”

For Hospital Districts, they are defined as “the total amount of taxes collected by the hospital district, together with the unreimbursed amounts expended by a county coterminous with such hospital district for jail health care.”

For Non-Hospital District public hospitals, they are defined as “the total unreimbursed amount of political subdivision funds paid to such public hospital by any political subdivision during that year.”

7. What period should the expenditure statement cover?

The calendar year.

8. What is the deadline for submission of the expenditure statement by a local political subdivision to DSHS?

March 31.

9. What format should local entities use to submit their expenditures to DSHS for reimbursement?

There is a required format for the expenditure statement. It differs for counties, hospital districts, and public hospitals not in a hospital district. The appropriate form for 2007 can be found on [Expenditure Forms](#) on this website.

10. When will the Comptroller’s Office send tobacco payments to local political subdivisions?

By April 30.

11. How can local political subdivisions give input to DSHS regarding the distribution of tobacco settlement proceeds?

You can provide input through the Tobacco Settlement Permanent Trust Account Administration Advisory Committee. This committee was created by House Bill 1161 in the 1999 Texas Legislature. Click on this link to see [HB 1161](#), which lists the appointing authorities for the committee and describes the responsibilities of DSHS in the distribution of tobacco funds. The committee will represent local political subdivisions and will assist DSHS to develop program rules for the distribution of proceeds. [List of committee members and contact information](#).

12. Where can I get paper copies of the settlement agreement, Chapter 61 of the Texas Health and Safety Code (Indigent Health Care Act), and the expenditure statements?

Contact Ms. Peggy Belcher at DSHS, telephone 512.458.7111 ext. 2237, or email [Peggy Belcher](#) . She is also available to answer any questions concerning the distribution of tobacco proceeds to local political subdivisions.

13. Do tobacco settlement proceeds received for the prior calendar year need to be netted out against the expenditures being claimed on the most current statement?

No, you do not have to net them out. Counties can include unreimbursed expenditures on health care services that they make using tobacco settlement proceeds.

Distribution Calculation

14. Once DSHS receives the expenditure statements, how will it apportion the available dollars among the local entities?

DSHS adds up eligible expenditures from all statements received to obtain a statewide total. Then DSHS divides that total into the individual statement amount submitted by each political subdivision. This will determine the percentage that the political subdivision will receive out of the available tobacco funds for that year.

For example, if the total eligible expense submitted by all political subdivisions in the state amount to \$1 billion and county X submits \$10 million in expenses, then the percentage for county X would be 1%. If \$50 million were available for distribution in 2006, county X would receive a payment for \$500,000.

Use of Tobacco Funds

15. May a political subdivision spend the money it receives from the tobacco settlement for any purpose it chooses?

Yes. The use of the money is unrestricted. The settlement agreement does not require that it be spent for a particular purpose.

16. What are some of the ways in which recipients intend to use the tobacco funds?

The uses vary widely, based on information received by DSHS. However, most of the money is going toward health care, since the hospital districts are receiving the larger share of payments.

17. Is there any incentive for local political subdivisions to spend their tobacco funds on health care?

Yes, because all distributions, beginning in 2000, are based on unreimbursed health care expenditures, as defined in the settlement agreement.

General Information Regarding Counties

18. Should counties coordinate with cities to determine how best to maximize funds for reimbursement?

Yes, counties should coordinate with cities to maximize all dollars being spent on health care in the county. For instance, if the county and city both are contributing to a family clinic and are also both contributing to a public library, the county may want to sign an agreement with the city whereby the county would take over all responsibility for funding the family clinic and the city may want to take over all responsibility for funding the public library, since the library is not health care related and those funds are not eligible for reimbursement. These agreements need to be reviewed once a year and may need to be adjusted if cost go up in one area more than another area. Also, be careful that all expenditures taken over by the county are health care related. Environmental services provided by a local public health department will not count as health care related and will not be eligible for reimbursement.

19. More specifically, for what kinds of services can a county expect to receive payment for under the settlement agreement?

These must be for services such as a hospital district may provide. They will typically be diagnostic and treatment services for individuals. Health care education, outreach, screening, laboratory services, counseling, and case management may be counted. Environmental services such as mosquito control, water testing, and septic tank inspection may not be counted. Expenditures for population-based regulatory services, such as restaurant inspection, must also be excluded.

20. Can a county include expendable medical supplies such as bandages, medications, and syringes?

Yes, medical supplies may be included, but administrative supplies, such as computer paper, can be counted only if they are used in support of health care services.

21. Can salary expenses for county personnel be included?

Yes, to the extent that these personnel deliver, or support delivery of, health care services.

22. Can a county include the expense paid to health care providers for the health care of county employees?

No, county expenditures on health care services for county employees cannot be included. The 15% add-on for general administration costs is intended to address this expense.

23. Can a county claim its unreimbursed expenditures for health care outreach and prevention efforts – including but not limited to radio and TV announcements, counseling, education, and the production and distribution of promotional literature? Typical target areas for such efforts include teenage smoking, child safety, and campaigns to promote public awareness of health hazards.

Yes, counties may claim these expenditures.

24. Can autopsies be claims?

No.

25. Can program evaluation, such as ways to improve access to services with ADA compliance, be claimed?

Yes.

26. Are the salaries of Emergency Medical Technicians countable for reimbursement?

Yes, medical personnel salaries would be countable. However, if they are also serving in another position such as a fire fighter, the county would need to back out the percentage of time the person spends on fire fighting and deduct that amount of salary from the countable (EMT) portion. First responder services are not countable. The cost of the equipment and training the county provides to the first responders would be countable.

27. If a county has a contract with the local hospital to provide EMS services and also provides additional funds for the hospital's EMS shortfall, can the county include these expenditures?

Yes, you can count any unreimbursed expenditures by the county relating to health care, except for expenditures exclusively on behalf of county employees.

28. Can a county include capital expenses, such as the cost of building a new station for emergency medical services (EMS), buying ambulances, or renovating a county hospital?

Yes, all of these expenses are claimable.

29. Can you count the rent the county pays for a public health clinic or EMS station?

Yes, section 102.3(1)(H) of the final program rules provides for the "capital expenditures for direct health care services such as construction of ambulance facilities or clinics". Make sure that 100% of the rent is going for these services. If the county were also paying rent for a non health care related county office in the same building, the county would need to back that amount out before calculating the total amount of rent paid for the provision of health care services.

30. Can a county count money it has set aside in a trust fund to be used for health care expenditures?

Counties can only count the expenditures made out of the trust fund. It cannot count the amounts set aside in the trust fund, but can count expenditures made out of the trust fund if they are used for health care services and the county does not receive reimbursement for those services.

31. Do County expenditures for a county nursing home count?

Yes, these expenditures would count.

32. When determining the actual unreimbursed expenditures, can a county include an accrual, which is an estimate of the amount of expenditures that have been incurred but not paid? Or should only the amount of cash expended and not reimbursed be included?

No, the Tobacco Settlement Distribution program works on a cash basis instead of an accrual basis.

33. If the county passes private foundation funds through the budget and writes a check to the hospital, can the county count this money?

This would be similar to a grant and on the face of it would appear to be reimbursement and therefore the county could not claim the funds. However, if the foundation gave the money to the county as a general donation, giving the county clear authority to use the money at the county's discretion, and the county used the money on health care, then the county could count it as an expense related to uncompensated health care. The county might need to explain that the money was given to be used according to the county's discretion and was not any type of reimbursement.

34. Would the salary of the public health authority count?

Yes, even though he/she may not actually do anything until you have a disease outbreak. If he/she provides environmental services as well, the county would need to back out the percentage of time and salary spent on environmental services from the total calculation.

35. If the county pays the utilities or the telephone services for the MHMR facility, are those expenditures countable?

Yes, those expenditures would be countable.

36. Will the entire contract with the Health Department count even though some of the services the Health Department may provide are not health care related, such as restaurant inspections?

No, environmental or regulatory services provided by a local health department are not considered health care services and are not eligible for tobacco reimbursement. The county would only count the health care portion of the money given to the health department in the county budget. The county may want to make an agreement with the health department and/or the city, whereby all money given or the largest percentage given by the county needs to be spent on health care. Monies received by the health department from other entities might be used for these environmental or regulatory services. However, to continue environmental services at the current level, the county may need to spend funds on environmental services, which are not reimbursable.

37. If a county provided services to someone in 2004 and does not expect reimbursement, but does receive reimbursement for that care in 2005, how should it offset the reimbursement?

The county may include those services as unreimbursed expenditures in its annual expenditure statement in 2004. Once the county receives reimbursement or funds for the expenditures, the county shall subtract the amount of the reimbursement or funds from the expenditure statement filed for that

year in which reimbursement was received. See final program rules section 102.3 (3)(a)(b).

38. Can the county count expenditures such as medication for individuals who do not meet the Indigent Health Care eligibility standards?

Yes, while the annual expenditure statement calls for a total of indigent health care expenditures, this is not limited to indigents as defined in Chapter 61 of the Health and Safety Code. Many counties have medical assistance programs that provide services to many individuals who do not qualify for the County Indigent Health Care Program. These additional services can be counted. When reporting you could count these services as Indigent Health Care expenditures or you could make a line item at the end of the form and put these expenditures there. Make sure that all unreimbursed health care expenditures are only counted once when filing the distribution statement with DSHS.

39. If the county provides for MHMR evaluations, and intake or out reach personnel, are those services countable?

Yes, the county may count these services if it is paying someone to do evaluations or paying physicians to examine people to see if they are in need of mental health services. Transportation costs for the patient would also be a countable expense. *However*, court procedures such as continued commitment or medication hearings would not be a countable expense. These are not considered direct health care services.

40. If you have a foundation that owns a building and the county leases space at lower than market value for a health care agency to provide Indigent Health Care, can the county count that loss of revenue as part of that service?

No, this is a cash based report. The only non-cash items have to do with the sale or lease of a hospital. There is no provision for providing undervalued services. This would be similar to giving tax abatements to a business and in turn the business would provide medical services. Tax abatements do not count as unreimbursed medical expenditures.

41. Can the cost of prevention programs be included as expenditures?

Yes, section 102.3 (1)(E) of the final program rules provides for health care outreach and prevention efforts.

42. Will a county be eligible for tobacco payment for a county-owned hospital if the county did not give any money to its Public Hospital?

No, if the county does not give money to its public hospital, that county will not be eligible to receive tobacco monies for that hospital.

43. If the county pays for instructors to come in and teach DWI or smoking cessation programs, would these expenses count?

Yes, these expenses would be countable as prevention programs and are authorized in Section 102.3

(1)(E) of the Final Rules.

44. Can the county count the salary of the indigent health care workers who process the claims and administer the program?

Yes, you can count the entire salary amount if this is the person's full time job. If the judge's secretary or treasurer provides this service then you can only count a percentage of the salary based on how much time is spent doing indigent health care duties. Only the amount of time spent doing indigent health care functions is countable.

45. Does the rabies control program funded by the county count as a health care expenditure?

No, although it is a prevention program it would fall under the same category as an environmental program such as mosquito control.

46. Would the expense for an animal head, which is sent off for a rabies determination count?

No, that would not count. A physician's exam of the individual who was bitten would count as an allowable expenditure if the county was not reimbursed for the expenditure.

47. Would the health care premiums that the county pays for its employees count as a reimbursable expenditure?

No, these are not direct health care services provided to the general public.

48. Can you count the amount of a bond payment you make on a portion of a building, which is used as a health care facility or clinic, even if it is located within the jail?

Yes, the payment would be countable to the extent that you set aside a facility or clinic in the jail and you can demonstrate either the capital expenditure attributable to that facility or the square footage of the jail that is used for inmate health care cost. This would count as part of your total inmate health care expenditure. Any reimbursements for inmate health care will need to be deducted before you submit the statement to DSHS.

49. May a county claim reimbursement for meals and lodging which it has paid on behalf of its indigent residents whom they referred to out-of-town providers for outpatient health care services?

Yes, some counties refer clients to UTMB and M.D. Anderson and other institutions for several consecutive days of outpatient treatments, such as chemotherapy, and pay for their meals and lodging while out-of-town. These expenditures, as well as payments for transportation, will count.

County Jail, Sheriff, & Prisoner Information

50. Can a county count the salary of the nurse in a county jail?

Yes, under section 102.3 (1)(k) of the rules the county can count employee salary and benefits to the extent the employee is engaged in patient health care or other health care services. If you are holding inmates for another political subdivision and you are receiving payment from that political subdivision which covers health care expenditures, you will need to back that amount out from your total inmate health care expenditures.

51. Can a county count drug testing for the Sheriff Department personnel?

No, employee benefits are not countable. The service has to be related to health care for the general public or the inmates of the county jail.

52. What activities associated with a prisoner's mental competency hearing or commitment proceeding may be claimed?

Psychiatric exams can be claimed, but court costs and deputy sheriff's time spent transporting a prisoner to and from their court hearings are not allowed.

53. If the county provides for MHMR evaluations, and intake or out reach personnel, are those services countable?

Yes, the county may count these services if it is paying someone to do evaluations or paying physicians to examine people to see if they are in need of mental health services. Transportation costs for the patient would also be a countable expense. *However*, court procedures such as continued commitment or medication hearings would not be a countable expense. These are not considered direct health care services.

54. Can the expense of mental health commitments in the court system be included as a possible expense?

No, that would not be considered a direct health care service. The examination by a physician to determine if the individual is in need of mental health care would be countable. Also countable would be transportation cost for the individual to be examined or treated.

55. Would transportation cost include salary and a per mile charge?

If you are counting the per mile charge which included only the use of the vehicle you could also count the salary. Another way you could do it is if you have a vehicle and half of the time the vehicle is used to carry individuals for evaluations or treatment and the other half of the time the vehicle is used to carry persons to TDJC, for example, and you can document this overall arrangement, then you can count half of the cost of the vehicle and would not have to keep a mileage log. However, you decide to do this, be sure you explain how you did it and justify it on a reasonable basis. **Also**, on salaries, jail personnel, if they average twice a month transporting of persons for medical care, for example, you can count only a proportion of their salary as a health care transportation expense. You could not count the entire amount.

56. Can the county count expenditures for sending juveniles to boot camps or to detention

centers?

The county can only count the per day cost which is reasonably allocated to health care expenditures for an individual. Be sure to document how you arrive at the cost per day for health care.

57. Can the salary of an officer who provides security while an inmate is in a health care facility count?

No, they would have to be maintained under security regardless of whether they are in the health care facility or in the jail. The transportation cost would be a countable expense.

58. If you have a DARE program which is administered by one of the officers in the sheriffs department whose sole duty is to run the DARE program, can you count the money spent on the program, including the salary?

Yes, since DARE is a drug prevention program it would also fall under Section 102.3 (1)(E) of the Final Rules. However, if you receive any grant money from another source for the DARE program you would need to subtract this amount.

Hospital District & County Information

59. If you have a hospital district in one part of the county, is it responsible for inmate care?

The county will file its own report and will include indigent health care expenditures in the other parts of the county as well as all county monies spent on inmate care.

60. If a county has a hospital district that covers the entire county, which entity will count the unreimbursed health care expenditures for inmates of the county jail – the county or the Hospital District?

This will depend on whose budget those expenditures are in. If they are in the county budget the hospital district will obtain the amount spent by the county and report it on the hospital district expenditure report. The hospital district will receive the tobacco distribution and should give the county the proportion which applies to the amount that was spent by the county on inmate health care. The majority of the time, the hospital district will be solely responsible for inmate health care and this expense is not reflected in the county budget. Instead, the hospital district covers this expense in the amount of taxes it collects. **The hospital district cannot include the cost of inmate hospital care that it provides on behalf of the county for which the county does not pay.**

61. What expenditures may be claimed by a political subdivision that has sold its public hospital to a private company?

Note the following provision in the administrative rules for the distribution of tobacco settlement proceeds to political subdivisions {24 [T.A.C.](#) § 102.3(e)(1) & (2)}:

“(1) When a political subdivision has sold or leased its public health care facility(s) and accepted an

agreement from the new owner or lessee of the facility(s) to provide indigent health care services, the political subdivision is receiving contracted services in lieu of cash as consideration for the sale or lease of the facility(s). In submitting its expenditure statement for the distribution, the political subdivision may claim the value of the health care services for indigent residents of the political subdivision performed by the purchaser or lessee of the facility as if they had been reimbursed using either the Medicaid Diagnosis Related Group (DRG) for the individual patients or the Medicaid Interim rate for the facility.

(2) When a political subdivision has sold or leased its public health care facility(s) and accepted profits or payments in consideration of the sale or lease, additional non-tax operating funds may result from the profits or payments attributable to the sale or lease. These profits or payments may be used to fund ongoing operations, indigent care obligations, or other statutorily authorized expenditures not otherwise funded by taxes. The profits or payments from the sale or lease that are expended on operations, indigent care, or other statutorily authorized expenditures in any given calendar year are countable, in addition to tax collections received by a hospital district, as unreimbursed expenditures under the agreement. As a result, the expenditures claimable by a political subdivision are increased by the amount of non-tax funding the political subdivision has spent from its accounts containing the profits or payments attributable to the sale or lease of the political subdivision's public health care facility(s), including the interest or investment proceeds from such profits or payments."

62. Who submits an expenditure statement when a new hospital district comes into existence in the middle of the calendar year?

The county in which the hospital district is located should submit an expenditure statement for the period January 1 through the day prior to the effective date of the establishment of the hospital district. The hospital district should submit an expenditure statement for the period beginning on the date the hospital district was created through December 31. If the county transfers funds to the hospital district after the date the hospital district was established, the county cannot claim these monies on its expenditure statement.

63. Please clarify the definition of "total amount of taxes collected by the hospital district" as stated on the hospital district expenditure statement. If a hospital district collects both property taxes and sales taxes, should the total of both taxes collected during the calendar year be reported or only property taxes?

You should include any taxes collected on behalf of the hospital district. You can also include collections of delinquent taxes due for a prior year, as well as any penalties and interest you collect related to your taxes. **You may not include any special fees.**

64. Please clarify category B (Unreimbursed county expenditures for jail health care) on the hospital district expenditure statement.

If a county has spent funds out of its own budget for jail health care, then the county would report this amount to the hospital district. The hospital district would then include this amount on its expenditure statement. Expenditures for services such as transportation of inmates to doctor appointments can be counted. The relevant portion of the salary and benefits of a deputy sheriff who transports the inmate

could also be counted. Also any medications, dental appointments, nursing time, etc., are allowable. However, if the county receives payment for the inmates care from another county, for example, that payment would have to be subtracted from the claimed cost. **In addition, the hospital district cannot include the cost of inmate hospital care that it provides on behalf of the county and for which the county does not pay.** Only jail health care expenditures out of the counties budget are claimable.

Note: See the English [File Viewing Information](#) or Spanish [Información de visualización de archivos](#) page for help downloading software to view and print .pdf and other formats.

External links to other sites are intended to be informational and do not have the endorsement of the Texas Department of State Health Services. These sites may also not be accessible to people with disabilities.

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