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KAKAMEGA COUNTY ACTS, 2017

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No. 6 of 2017

Date of Assent: 24th July, 2017

Date of Commencement: See Section 1

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**THE KAKAMEGA COUNTY MATERNAL CHILD HEALTH AND
FAMILY PLANNING ACT, 2017**

AN ACT of the County Assembly of Kakamega to provide for a framework to support the Kakamega County Maternal Child Health and Family Planning program; establishment and management of the Kakamega County Maternal Child Health and Family Planning Fund; the administration of stipends allocated by Department of Health Services for payment of community health volunteers and for connected purposes

ENACTED by the County Assembly of Kakamega as follows—

PART I – PRELIMINARY

Short title

1. This Act may be cited as the Kakamega County Maternal Child Health and Family Planning Act, 2017 and shall come into effect upon publication.

Interpretation

2. In this Act unless the context otherwise requires—

“acquired immunodeficiency syndrome (AIDS)” means a condition characterised by a combination of signs and symptoms resulting from depletion of the immune system caused by infection with the Human Immunodeficiency Virus (HIV);

“county” means Kakamega County;

“county assembly” means County Assembly of Kakamega County;

“executive committee” means County Executive Committee pursuant to Article 179 of the Constitution of Kenya;

“executive committee member” means the County Executive Committee Member responsible for Health Services;

“family planning” means the conscious effort by a person to plan for and attain the person’s desired number of children and to regulate the spacing and timing of the birth of the children with or without the use of contraceptive commodities;

“fund” means the Kakamega County Maternal Child Health and Family Planning Fund established under Section 4;

“guardian” means someone chosen by a needy mother to receive funds on behalf of an underage or incapacitated mother or a needy caretaker of a child whose mother has died;

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“human immunodeficiency virus (HIV)” means the virus which causes AIDS;

“needy caretaker” means a person who takes care of an orphaned child whose mother was registered and whose daily subsistence is less than one dollar;

“needy mother” means a pregnant mother whose daily subsistence is less than one dollar and in case of the death of the mother includes a guardian.

Object and Purpose

3. The object and purpose of this Act is to—
 - (a) provide a framework for cash transfers of authorised payment to needy mothers registered in the Kakamega County Maternal Child Health and Family Planning Program;
 - (b) provide a platform aimed at giving incentives to expectant and lactating mothers to access health services to—
 - (i) increase the number of pregnant mothers attending antenatal clinic visits;
 - (ii) increase the number of skilled deliveries in the county health facilities;
 - (iii) increase the number of mothers attending postnatal clinic visits;
 - (iv) reduce mother and child morbidity and mortality;
 - (v) promote advocacy, communication and social mobilization towards elimination of mother to child transmission of HIV/AIDS;
 - (vi) improve nutrition status of mothers and children below the age of eighteen months; and
 - (vii) increase the uptake of immunisation services for children upto eighteen months;
 - (c) increase family planning uptake;
 - (d) support the implementation of community health services; and
 - (e) create awareness on transmission, prevention and control of HIV/AIDS.

Responsible Department

4. The County Department of Health Services shall be the Department responsible for the Kakamega County Maternal Child Health and Family Planning Fund.

Implementation to be in line with policy

5. Implementation of this Act shall be in line with the Kakamega County Maternal Child Health and Family Policy document.

PART II—THE FUND**Establishment of a Fund**

6. There is established a Fund known as Kakamega County Maternal Child Health and Family Planning Fund.

Purpose of Fund

7. The purpose of the Fund shall be to support—
- (a) promotion of the health of the mother and child from conception to the time the child achieves the age of eighteen months;
 - (b) promotion of family planning;
 - (c) creation of awareness on HIV/AIDS;
 - (d) implementation of community health services; and
 - (e) any other function the committee shall deem appropriate under this Act.

Sources of Monies for the Fund

8. (1) The sources of monies for the Fund shall include—
- (a) money appropriated by the county assembly for Kakamega County Maternal Child Health and Family Planning Program;
 - (b) money appropriated by the county assembly for the payment of stipends for the community health volunteers;
 - (c) interest accruing from bank deposits in respect of the Fund;
 - (d) any gifts, donations, grants and endowments made to the Fund; and
 - (e) any other legitimate source.
- (2) Any unused monies at the end of the financial year shall not be paid to the County revenue account but shall be retained in the Fund and carried forward to the next financial year as provided for in section 116(3) of the Public Finance Management Act, 2012.

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(3) Monies retained in the Fund under subsection (2) shall not form part of the annual allocation for the Fund provided for under subsection (4).

(4) The county government shall ensure that it reserves at least three percent of its annual health budget for the Kakamega County Maternal Child Health and Family Planning Program and at least one point five percent of its annual health budget for paying stipends to community health volunteers.

Use of Monies

9. The monies specified in section 6 shall be used for the following purposes—

- (a) paying registered needy mothers at the scheduled points of care;
- (b) paying stipends to community health volunteers;
- (c) support operations and management of the Fund;
- (d) support family planning activities;
- (e) support HIV/AIDS prevention activities; and
- (f) any other purpose the committee may deem necessary under this Act.

PART III—ADMINISTRATION OF THE FUND**Establishment of the Management committee**

10. (1) There is established a management committee for the Fund.
- (2) The committee shall consist of—
- (a) chairperson who has at least a first degree from a university recognized in Kenya with experience and background in management;
 - (b) chief officer responsible for health services;
 - (c) chief officer responsible for finance;
 - (d) one person who has at least a first degree in social sciences from a university recognized in Kenya with experience in social protection;
 - (e) one person who has at least a first degree in a health related field from a university recognized in Kenya with experience in maternal and child health;

- (f) one person who has at least a first degree in a health related field from a university recognized in Kenya with experience in community health;
- (g) the Fund Administrator who shall be an ex-officio member and secretary to the committee; and
- (h) one person who has at least a first degree in health related field from a university recognized in Kenya and experience in prevention and control of HIV and Sexually Transmitted Infections.

(3) The executive committee member shall make appointments under sub section (2) (a) (d) (e) (f) and (h).

(4) In making the appointments under sub section (3) the executive committee member shall take into consideration gender and regional balance.

(5) A person appointed under sub section (3) shall hold office for a term of three years, unless he or she resigns, and may be eligible for reappointment for one further term.

Functions of the Committee

11. (1) The committee established under section 8 shall—
- (a) receive and consider applications from eligible beneficiaries of the Kakamega County Maternal Child Health and Family Planning program;
 - (b) validate community health units and community health volunteers and pay stipends to eligible volunteers;
 - (c) sensitize the community about the Fund;
 - (d) maintain proper records of the committee affairs and books of accounts;
 - (e) with the approval from the executive committee enter into cooperation or partnerships with other partners;
 - (f) submit quarterly returns and reports of the committee operations to the executive committee member;
 - (g) be the custodian of all Fund assets and documentation;
 - (h) receive any gifts, donations, grants or endowments made to the Fund;
 - (i) may set up complaint redress mechanisms at the ward level;

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- (j) prepare annual estimates and reports to the executive committee member;
- (k) open and operate a bank account with the approval of the executive committee member;
- (l) not later than three months after the end of each financial year, cause to be prepared financial statement of the Fund and submit the same to the Auditor General;
- (m) ensure that the earnings of, or accruals to the Fund are retained in the Fund unless the executive committee member directs otherwise;
- (n) ensure that money held in the Fund, including any earnings or accruals is spent only for the purposes for which the Fund is established;
- (o) within ninety days of enactment of this Act the committee shall put in place detailed guidelines for follow up of individual beneficiaries;
- (p) in liaison with the county health management team—
 - (i) set up mechanisms for promoting family planning uptake;
 - (ii) set up mechanisms to promote the elimination of mother to child HIV/AIDS transmission;
 - (iii) create awareness of HIV/AIDS prevention in the community; and
 - (iv) sensitize the community on sexual reproductive health rights;
 - (v) mobilize resources for running the program; and
 - (vi) perform such other functions as the committee may deem necessary for the proper discharge of its mandate.

Removal from Office

- 12.** A member of the committee may be removed from office—
- (a) for gross misconduct;
 - (b) violation of the Constitution or any other law;
 - (c) prolonged mental or physical infirmity;
 - (d) on being declared bankrupt by a court of law;
 - (e) upon death; and
 - (f) upon missing three consecutive meetings without lawful reasons.

Power to remove Committee

13. Notwithstanding the provisions of this Act or any other written law, the Governor may, if at any time it appears to him or her that the Committee has failed to carry out its functions in the interest of the county, dissolve the Committee and shall in consultation with the Executive Committee constitute a caretaker Committee for a period not exceeding six months within which a new Committee shall be constituted in accordance with section 8.

Fund Administrator

12. (1) The executive committee member for finance shall designate a person responsible for administration of the Fund.

(2) The Fund Administrator shall be responsible for the running of the day-to-day activities of the Fund.

(3) The Fund administrator may be seconded from a relevant department within the county government or competitively recruited.

(4) A person designated as the Fund administrator shall possess at least a degree from a university recognised in Kenya and five years working experience in management of development or government programs.

(5) The Fund administrator shall serve for a period of four years and may be eligible for reappointment for one further term upon satisfactory performance.

(6) The Fund administrator shall be employed on such terms and conditions of service as the County Public Service Board may determine in line with the Salaries and Remuneration Commission guidelines.

PART III—REGISTRATION OF ELIGIBLE MOTHERS**Qualifications to benefit under the Fund**

15. A mother may qualify to benefit under the Fund if such mother—

- (a) is a resident of the county;
- (b) is expectant;
- (c) is needy; and
- (d) name appears in the list of registered mothers.

Registration of Beneficiaries

16. (1) Registration of beneficiaries shall—

(a) in the case of adults require—

- (i) national identity card, passport, birth certificate, birth notification or a letter of confirmation from either the Chief or Assistant Chief; and
- (ii) mother child booklet from a health facility;

(b) in the case of a minor require—

- (i) birth certificate, birth notification or a letter of confirmation from either the Chief or Assistant Chief identifying the guardian or parent; and
- (ii) mother child booklet from a health facility.

(2) Every guardian or parent who receives money on behalf of a minor beneficiary under this section shall be under an obligation to ensure the money is used for the intended purpose.

(3) A guardian or parent who fails to comply with the provisions of subsection (2) commits an offence and shall be liable on conviction to a fine not exceeding ten thousand shillings or to imprisonment to a term not exceeding three months.

(4) The committee shall have the power to discontinue disbursement of the monies to a guardian or parent who misuses the same and appoint another person to manage the funds.

Payment to Beneficiaries

17. (1) Payment shall be made to beneficiaries registered on a platform approved by the committee.

(2) Where a beneficiary is not registered on a platform under subsection (1), for lack of identification card for reasons that are acceptable to the committee, the beneficiary shall identify a nominee to receive the money on her behalf in the form prescribed in the First Schedule.

PART IV—FAMILY PLANNING AND HIV/AIDS PREVENTION**Access to Family planning services**

18. The committee shall—

- (a) support training of health care workers on family planning;
- (b) sensitize community health volunteers on family planning;

- (c) create awareness at the community level; and
- (d) mobilise resources to support family planning.

HIV/AIDS awareness

19. The committee shall in collaboration with the department of Health Services promote public awareness about the causes, modes of transmission, consequences, means of prevention and control of HIV/AIDS through a county wide educational and information campaign.

Free access to services

20. (1) The services offered by the committee shall be free of charge.

(2) Any person who contravenes the provisions of sub section (1) commits an offence, and shall be liable on conviction to a fine not exceeding thirty thousand shillings or to a term of imprisonment not exceeding six months.

PART V—FINANCIAL PROVISIONS

Annual Estimates

21. (1) Before the commencement of each financial year the committee shall cause to be prepared estimates of the revenue and expenditure of the Fund for that year.

(2) The annual estimates shall make provision for all the estimated expenditure of the Fund for the financial year concerned and in particular shall provide for—

- (a) payments to eligible beneficiaries;
- (b) the operations of the Fund;
- (c) payment of allowances to members of the committee;
- (d) maintenance of assets of the Fund;
- (e) payment of stipends to community health volunteers; and
- (f) creation of such reserves to meet future or contingent liabilities and in respect of such other matters as the committee in consultation with the executive committee member for finance may determine.

(3) The annual estimates shall be approved by the committee before the commencement of the financial year in which they relate and shall be submitted to the executive committee member for approval and after the executive committee member has given approval the committee shall not

increase any sum provided in the estimates without the consent of the executive committee.

(4) No expenditure shall be incurred for the purposes of the Fund except with the funds voted or appropriated by County Assembly.

Accounts and Audit

22. (1) The committee shall cause to be kept all proper books and records of accounts of the income, expenditure, assets and liabilities of the Fund.

(2) Within a period of three months after the end of each financial year the committee shall submit to the Auditor General the accounts of the Fund in respect of that year together with—

- (a) a statement of income and expenditure of the Fund for that year; and
- (b) a statement of the assets and liabilities of the Fund on the last day of that financial year.

(3) The annual accounts of the Fund shall be prepared, audited and reported upon in accordance with the provisions of the Public Audit Act No. 34 of 2015.

PART V—MISCELLANEOUS

Right to Information

23. The committee shall disseminate information to clients on the availability of family planning services, the various contraceptive methods, their advantages and disadvantages, HIV/AIDS, cash transfers to needy mothers and payment of stipend to community health volunteers.

Confidentiality

24. (1) A person who possesses personal information by virtue of this Act shall not divulge such information to unauthorized person except—

- (a) to a person who requires the information in order to perform a function under this Act;
- (b) when required to do so by law or order of Court; or
- (c) with the consent of the client.

(2) Any person who contravenes the provisions of sub section (1) commits an offence and is liable on conviction to a fine not exceeding fifty thousand shillings or imprisonment to a term not exceeding six months.

Meetings

25. (1) The committee shall hold one meeting every three months to review the progress and performance of the programs under this Act.

(2) The Fund administrator may with the approval of executive committee member call for a special meeting of the committee.

Allowances for Committee members

26. Members of the committee shall be paid such allowances as may be determined by the executive committee in line with existing guidelines of the Salaries and Remuneration Commission.

Staff of the Fund

27. The Fund may employ such persons as may be authorised by the County Public Service Board on such terms and conditions as the Board may determine for the better carrying out of the functions of the Fund.

Rules of Procedure

28. (1) The committee shall regulate and make its own rules of procedure.

(2) To transact any business of the committee at least any five members of the committee who must include the Fund administrator must be present.

Protection against Personal liability

29. No matter or anything done by a member of the committee, employee or agent of the Fund shall, if the matter or thing is done *bona fide* for executing the functions, powers and duties of the Fund, render a member or agent personally liable to any action, claim or demand whatsoever.

Liability of the Fund for damages

30. The provisions of this Act shall not relieve the Fund of the liability to pay compensation or damages to any person for any injury to him or her, his or her property or any of his or her interests caused by the exercise of or any power conferred by this Act.

Giving false information

31. A person who knowingly—

- (a) makes a false or misleading statement to the committee under this Act or makes an application or report that by reason of non-disclosure of facts is false or misleading; or

- (b) fails to report that the circumstances which caused the person to qualify for assistance have changed;

commits an offence and is liable on conviction to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding six months, or both.

Offences by Staff

32. A person having a duty to perform under this Act and who—

- (a) interferes with any process of person in this Act so as to defeat the process under this Act;
- (b) where required to do anything under this Act or to give effect to the provision of this Act fails to do such thing;
- (c) without reasonable cause omits to do something in breach of his or her duty under this Act;
- (d) wilfully contravenes the provisions of this Act to give undue advantage or favour to another person; or
- (e) fails to prevent or report to the relevant authority the commission of an offence under this Act;

commits an offence and shall be liable on conviction to a fine not exceeding one hundred thousand shillings or to imprisonment to a term not exceeding one year.

Regulations

33. The executive committee member may make regulations for the better carrying out of the functions specified under this Act.

Saving and Transitional provisions

34. (1) Any memorandum of understanding, agreement or any other arrangement that may have been entered into between the County government and any institution in respect of the Kakamega County Imarisha Afya Ya Mama Na Mtoto Program shall continue in force as if they were entered into under this Act.

(2) All such rights, duties, obligations, assets, liabilities and activities under the Kakamega County Imarisha Afya Ya Mama Na Mtoto Program shall on commencement of this Act be automatically and fully transferred to the Fund.

(3) Every person who immediately before the commencement of this Act was an employee, attachee or howsoever engaged under the Kakamega County Imarisha Afya Ya Mama Na Mtoto Program, shall on the commencement of this Act continue under the same arrangement or terms and conditions existing before the commencement of this Act until the term of their respective appointments expire.

FIRST SCHEDULE (S14 (2))

NOMINATION TO RECEIVE MONEY FORM

Part I

Name of mother.....
Mother code number.....
Date of birth.....
Marital status.....
Name of health facility
Community area.....Village.....
Ward.....Sub-county.....

Part II

Name of nominee.....
National Identification Card Number.....
Mobile phone number.....
Relationship with mother.....
Community area.....Village.....
Ward.....Sub-county.....

Part III

Reason for nomination
Reason for lack of a National Identification Card.....

Iconfirm that the nomination and the information given herein is true and voluntary.

Signature.....Date.....

Part IV (for official use)

Approved/Not approved.....
Reasons.....

Checked by.....date.....Signature.....

Verified by.....date.....Signature.....

Confirmed by.....date.....Signature.....

