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**THE FACILITIES IMPROVEMENT FINANCING ACT**

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**FACILITIES IMPROVEMENT FINANCING ACT**

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**NO. 14 OF 2023**

**FACILITIES IMPROVEMENT FINANCING ACT**

[Date of assent: 19th October, 2023.]

[Date of commencement: 2nd November, 2023.]

**AN ACT of Parliament to provide for public health facility improvement financing; the management and administration of facility improvement financing; and for connected purposes.**

[Act No. 14 of 2023.]

**PART I – PRELIMINARY**

**1. Short Title**

This Act may be cited as the Facilities Improvement Financing Act, 2023.

**2. Interpretation**

In this Act-

“chief officer” means the chief officer responsible for health in a respective county;

“county executive committee member” means the member of the, county executive committee responsible for health matters in a respective county;

“county health facility” includes county and sub-county hospitals, health centers, dispensaries and any other health entity registered to provide health services;

“director of medical services” means the county director of medical services appointed by the respective county public service board;

“dispensary” means a health facility at level 2;

“entity” means a county health facility declared to be a county government entity under section 5(1) of the Public Finance Management Act (Cap. 412A);

“exemptions” means exemptions as defined in national policies;

“expenditure committee” means a committee constituted by the chief officer for health for the purposes of receiving, interrogating and approving the plans and budgets from county and sub-county hospitals, health centers and dispensaries;

“facilities improvement financing” means revenue collected, retained, planned for and used by public health facilities and units;

“health center” means a health facility at level 3;

“health facility committee” means the existing and currently constituted administrative arm that manages health facilities;

“hospital” includes sub-county and county health facilities at levels 4 and 5 respectively;

“hospital management board” means the administrative arm that manages hospitals and includes the appointed and gazetted Boards as currently constituted;

“Hospital Management Team” means the executive management team of the hospitals as currently constituted;

"operational and management costs" includes planned and budgeted activities by county health facilities;

"public health facilities" means the whole or part of a public institution, building or place, whether for profit or not, that is operated or designed to provide in-patient or out-patient treatment, diagnostic or therapeutic interventions, nursing, rehabilitative, palliative, convalescent, preventative or other health service;

"receivables" means monies raised by a county health facility, monies appropriated by a county government, conditional grants, donations and gifts; and

"source of funds" means all sources of monies and receivables collected for public health facilities' improvement financing.

### **3. Objects and purposes of this Act**

The object and purpose of this Act is to—

- (a) provide for an efficient, secure and accountable mechanism for the collection, retention and management of revenue derived from health services rendered at public health facilities in Kenya;
- (b) establish a governance framework that will facilitate effective planning, coordination, mobilization and access of public health facilities' improvement financing in Kenya;
- (c) provide for the appropriation, management and use of budgeted health services revenue to supplement operations and facilitate quality service delivery in public health facilities;
- (d) promote equitable health facilities improvement financing including benefit sharing in accordance with the relevant laws of Kenya; and
- (e) provide for a unified system to guide financial management in public health facilities, improving efficiency and effectiveness and ultimately quality health service delivery.

### **4. Application of this Act**

This Act shall apply from level 1 to level 5 public health facilities.

## **PART II – PUBLIC HEALTH FACILITIES IMPROVEMENT FINANCING**

### **5. Retention of public health facilities improvement financing**

(1) There shall be retention of all monies raised or received by or on behalf of all public health facilities.

(2) There shall be opened a facility improvement financing account for each public health facility into which shall be paid all monies received by or on behalf of the respective public health facility.

(3) Non-financial receivables and donations may be retained in whole or be re-donated to another public facility upon full disclosure as provided for in the relevant laws.

(4) The income and other receivables retained by the public health facilities shall be considered as a supplement to the budgets and resources appropriated to the public health facilities by the respective county government and not a substitute.

### **6. Sources of the public health facilities improvement financing**

The sources of revenue and other receivables for public health facilities improvement financing shall include—

- (a) own source revenues that include monies received as user fees, charges and monies paid as reimbursement for services received from insurance firms or other relevant entities;
- (b) money appropriated by the County Government to the health facilities from the equitable share;
- (c) conditional grants; and
- (d) donations and gifts.

#### **7. Uses of the finances retained by public health facilities**

The finances retained by Public Health Facilities shall be used to—

- (a) support the respective public health facilities' optimal operations for effective service delivery throughout the financial year;
- (b) subject to applicable financial laws and regulations, ensure readily available financial resources for purchase and acquisition of urgent goods and services at the respective health facility;
- (c) enhance, where applicable, the accessibility and predictability of finances for procurement of essential products, commodities and technologies;
- (d) ensure that health services are available, accessible, acceptable, affordable and of good quality and standard;
- (e) guarantee that health facilities are optimally resourced to offer quality care to all patients;
- (f) facilitate primary health care and preventive services at the community level;
- (g) sustain daily operations and promote improved access to health services to all residents in the Republic of Kenya; and
- (h) fund ambulance services for the transfer of patients from one health facility to another.

### **PART III – POLICY FORMULATION, RESEARCH AND DEVELOPMENT TO IMPROVEMENT FINANCING**

#### **8. Role of the National Government**

The Cabinet Secretary responsible for matters relating to health shall provide a policy framework for the administration of facility improvement financing by—

- (a) developing policy guidelines, including on revenue management and governance to promote transparency and prudent use;
- (b) collecting, receiving, collating and analyzing data for facility improvement financing policy formulation and support;
- (c) establishing a repository for financial information systems facility improvement financing linking county level plans to national level health policy interventions;
- (d) providing feedback based on data received to assist the national and county government performance monitoring of the facility improvement financing to ensure effective implementation; and
- (e) prescribing and assisting in the setting up of a standardized facility improvement financing health data systems.

PART IV – MANAGEMENT AND ADMINISTRATION  
OF THE IMPROVEMENT FINANCING

**9. Role of the County Governments**

The county executive committee member shall support the implementation of the facility improvement financing by —

- (a) facilitating effective collection and retention of facility improvement financing revenue by the public health facility in accordance with this Act;
- (b) collating and reporting on all facility improvement financing revenue collected by public health facilities and ensuring their reflection in the County Budget Implementation Review Report as Appropriation in Aid;
- (c) implementing policies that will ensure direct complementary funding for all public health facilities;
- (d) establishing a repository for financial information systems facility improvement within the respective county;
- (e) reviewing and approving expenditure plans and issuance of timely authority to incur expenditure to health facilities;
- (f) subject to the relevant financial laws, overseeing health facilities to ensure optimal management of revenues;
- (g) planning and budgeting support to health facilities to ensure integration into the county planning and budgeting process on facility improvement financing;
- (h) evaluating the quality of health services and its linkage to health resource allocation decisions on facility improvement financing;
- (i) ensuring that community members are represented in the facility improvement financing governance structures of public health facilities;
- (j) appointing health facility management committees, health management committees and Boards, where applicable, and publishing in the official *Gazette*; and
- (k) performing any other role that the county or national legislation may prescribe on facility improvement financing.

**10. Establishment of County Health Management Team**

(1) There is established a County Health Management Team in each county.

(2) The county health management team shall be appointed by the county executive committee member for health as follows—

- (a) the county director of health, who shall be the chairperson;
- (b) the administrative officer of the department, who shall be the secretary to the team;
- (c) all section or unit heads within the health department; and
- (d) the medical superintendents of the county hospitals.

**11. Functions of County Health Management Team**

The county health management team shall, in relation to facility improvement financing, perform the following functions—



- (a) co-ordinating and overseeing the interpretation and implementation of county health laws and national health policies, including maintenance of standards on quality, performance, co-ordination and regulation, and control of all health and private sectors in their areas of jurisdiction;
- (b) reviewing, monitoring the implementation and advising the county department of health on appropriate measures to be adopted for effective implementation of relevant national and county legislation and policies;
- (c) co-ordinating, supporting and supervising the planning, implementation, monitoring and evaluation of technical and managerial activities for health services in the county;
- (d) ensuring that good governance and management standards are applied within facilities and in the relations between facilities;
- (e) supporting sub-county health management teams and facility management teams in preparing annual and quarterly operational plans, including their respective budgets and procurement plans;
- (f) reviewing and approving the consolidated facility plans submitted by sub-county hospitals;
- (g) providing support and supervision to the management of county health facilities;
- (h) developing supplementary sources of income for the provision of services, in so far as these are compatible with the applicable law;
- (i) making due provision and developing criteria to compensate health care facilities for debts arising through failure to secure payment for bills or from non-payment of treatment of indigent users;
- (j) checking the accuracy and timeliness of all financial reports submitted by the sub-county health facility management team to facilitate prompt approval of spending by facilities;
- (k) ensuring that available qualified human resources are equitably deployed, capacity building needs assessed and any identified gaps effectively addressed;
- (l) ensuring an efficient and effective vertical and horizontal flow of information;
- (m) reviewing and approving annual financial statements and reports before submission to the chief officer of health; and
- (n) ensuring that health facilities are adequately resourced in terms of budgetary provisions, health products and technologies, equipment and human resource.

## **12. Establishment of the Sub-County Health Management Team**

(1) There is established a Sub-County Health Management Team for each sub-county in a county.

(2) The Sub-County Health Management Team shall be appointed by the county executive committee member as follows—

- (a) the health officer in charge of the sub-county;
- (b) the sub-county administrative officer;
- (c) all Unit heads within the sub-county department;

- (d) the medical superintendent of the sub-county hospitals; and
- (e) any other officer as the county executive committee member may, in consultation with the County Health Management Team, designate.

**13. Functions of the Sub-County Health Management Team**

The Sub-County Health Management Team shall, in relation to facility improvement financing—

- (a) support health facility management teams in preparing annual and quarterly operational plans, including their respective budgets and procurement plans;
- (b) review and consolidate plans submitted by health facility management teams;
- (c) consolidate and send annual and quarterly facility budgets to the County Health Management Team for approval by the Department of Health; and
- (d) check the accuracy and timeliness of all financial reports submitted by the Hospital Management Team in order to facilitate prompt release of quarterly funds.

**14. The Hospital Management Team**

Every hospital in the county shall have a Hospital Management Team which shall consist of—

- (a) the medical superintendent;
- (b) the hospital administrator;
- (c) the hospital accountant;
- (d) the hospital procurement officer; and
- (e) all departmental heads.

**15. Functions of the Hospital Management Team**

A Hospital Management Team shall, in relation to facility improvement financing—

- (a) prepare and present the annual hospital work plan and budget;
- (b) prepare monthly, quarterly and annual financial reports;
- (c) monitor the performance target of the facility improvement financing and other sources of funds to the facility;
- (d) undertake resource mobilization for the hospital;
- (e) ensure internal audits are periodically undertaken to mitigate financial risks;
- (f) ensure external audits are undertaken on a timely basis;
- (g) ensure efficient and effective utilization of resources paid into the facility improvement financing; and
- (h) receive reports and monitor collection, waivers, exemptions, expenditure and use of funds.

**16. Establishment of the Health Facility Management Team**

(1) There shall be established a Health Facility Management Team which shall comprise of the health facility in-charge and all the section or unit heads.

(2) The Health Facility Management Team shall oversee the overall management of the health facility with collaboration from the Health Facility Management Committee.

#### **17. Composition of the health facility management committee**

(1) The Health Facility Management Committee shall consist of not less than seven and not more than nine members appointed by the county executive committee member as follows—

- (a) the in-charge of the health facility, who shall be *ex officio* and the Secretary to the Committee;
- (b) the Sub-county Medical Officer of Health or their representative;
- (c) a village representative;
- (d) one person, who is a resident of the area, nominated by a joint forum of women's organizations in the area;
- (e) one person, who is a resident of the area, nominated by a joint forum of youth organizations in the area;
- (f) one person, who is a resident of the area, nominated by a joint forum of faith-based organizations; and
- (g) two people representing the interest of the vulnerable and marginalized communities, one of whom shall be a person with disability.

(2) The Chairperson of the Committee shall be elected from amongst the members of the Committee.

(3) In constituting the Committee, the county executive committee member shall ensure that—

- (a) at least one third of the total membership of the Committee shall be from the opposite gender;
- (b) the membership includes persons from marginalized communities; and
- (c) the interests of diverse groups in the catchment area are represented.

#### **18. Role of the Health Facility Management committee**

The Health Facility Management Committee shall, in relation to the Improvement Financing—

- (a) consider and submit for approval to the chief officer the annual facility work plan and budget;
- (b) consider and submit for approval to the chief officer the facility quarterly budgets;
- (c) ensure the quarterly implementation plans and budgets are based on available resources;
- (d) monitor the utilization of facility improvement financing and take corrective action in relation to implementation challenges identified that hinder efficient absorption of funds;
- (e) ensure all financial procedures and reporting requirements are met by the facility in-charges and conform to the Public Finance Management Regulations;

- (f) ensure strict adherence to procurement rules as prescribed in the Public Procurement and Asset Disposal Act (No. 33 of 2015);
- (g) ensure public awareness on administration of the facility improvement financing through public participation during annual planning and budgeting;
- (h) receive the audit report and initiate response to management queries;
- (i) implement the recommendations of the Auditor-General made pursuant to section 31(3)(a) of the Public Audit Act (No. 34 of 2015);
- (j) implement the recommendations of the Senate and the respective county assembly on the, relevant report of the Auditor-General;
- (k) implement the relevant recommendations of the Controller of Budget on the facility; and
- (l) act as liaison between the health center or dispensary and the community to strengthen delivery of quality health services.

**19. Term and conditions of appointment**

(1) The appointments of the members to the Board and Committee in this Part shall be in such a manner that the respective expiry of their terms shall fall at different dates.

(2) The members referred to in subsection (1) shall be appointed for a term of three years and shall be eligible for reappointment for one further term of three years.

PART V – FINANCIAL PROVISIONS

**20. Bank account for the Facility Improvement Financing**

(1) There shall be opened and operated a bank account for every entity into which all monies received by and on behalf of the entities for the facility improvement financing shall be paid into.

(2) With respect to a hospital, the mandatory signatories to the bank accounts shall be the medical superintendent and the hospital administrator.

(3) With respect to a health center and dispensary, the mandatory signatory to the bank account shall be the facility in-Charge and sub-county accountant.

**21. Authority to Incur Expenditure**

(1) The chief officer shall be the accounting officer.

(2) The hospital medical superintendent and facility in-charge shall receive authority to incur expenditure from the chief officer.

**22. Expenditure of the facility improvement financing**

(1) Upon issuance of authority to incur expenditure to the medical superintendent or facility in charge, the user department shall raise vouchers for payment for services or procurement of commodities.

(2) The vouchers shall be verified by the respective hospital accountant, or the accountant responsible for the health center, whichever is applicable.

(3) The vouchers shall be presented to the County Department for Health Accountant for confirmation that the items requested are in the vote book and thereafter approved.

(4) The voucher shall revert to the medical superintendent or facility in charge for initiation of payment.

(5) An integrated financial management system shall be used as the primary accounting platform for the county entities.

(6) All county entities shall not expend any finances without express authority to incur expenditures.

(7) The chief officer for the county treasury in consultation with the chief officer may appoint accountants for health centers and dispensaries for purposes of proper financial accounting and record keeping.

(8) The expenditure incurred by the health facilities shall be on the basis of, and limited to, the available finances in the respective bank accounts and the authority to incur expenditure.

(9) Health facilities shall be expected to file returns and financial accounts in the format prescribed by county legislation for the preceding quarter to the chief officer before a new authority to incur expenditure is issued.

### **23. Annual reporting**

Within three months after the end of each financial year, the accounting officer for a county health facility shall—

- (a) submit the facility's financial statements to the Auditor-General in accordance with the Public Audit Act (No. 34 of 2015); and
- (b) submit a copy of the facility's financial statements to the Controller of Budget and the Commission on Revenue Allocation.

### **24. Audit**

The facility improvement financing shall be subjected to audits in accordance with the Public Audit Act (No. 34 of 2015).

### **25. Overdraft and continuity**

(1) The accounting officer shall ensure that the facility improvement financing accounts are not overdrawn.

(2) The facility improvement financing shall not lapse with the turn of a new financial year, but any residue of finances shall be captured in the following financial year budget and annual plans and rolled over.

### **26. Winding up of improvement Financing**

In circumstances when a health facility is closed and the improvement financing is to be wound up, the balances shall be swept to the County Revenue Fund and a certificate sent to the accounting, officer for the department of health.

## PART VI – MISCELLANEOUS PROVISIONS

### **27. Transitional provisions**

All members of the current Hospital Management Board or Committees and Health Facility Committees shall continue to operate as per existing regulations up to the expiry of their respective terms.

### **28. Penalties**

The penalties stipulated in the Public Finance Management Act (No. 12 of 2012) and the Public Procurement and Asset Disposal Act (No. 33 of 2015) and other written laws on misuse, misappropriation and other deviations shall apply.

**29. County legislation**

A county government may enact legislation to give further effect to the provisions of this Act in the respective county.

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