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***KENYA GAZETTE SUPPLEMENT***

**HOMA BAY COUNTY ACTS, 2023**

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IMPROVEMENT FINANCING ACT, 2023**

**No. 6 of 2023**

*Date of Assent: 29th June, 2023*

*Date of Commencement: 1st September, 2023*

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**THE HOMA BAY COUNTY HEALTH FACILITY  
IMPROVEMENT FINANCING ACT, 2023**

**AN ACT of Homa Bay County Assembly to provide  
for collection, management and use of county  
health facilities improvement financing and for  
connected purposes.**

**ENACTED** by the Homa Bay County Assembly as follows—

**PART I - PRELIMINARY**

1. This Act may be cited as the Homa Bay County Health Facility Improvement Financing Act, 2023.

Short Title.

2. In this Act, unless the context otherwise requires—

Interpretation.

“AIE” means authority to incur expenditure;

“Chief Officer” means the chief officer responsible for health services;

“Director of Health Services” means the County Director Health Services appointed by the County Public Service Board;

“Dispensary” means health facility at level 2;

“Executive member” means the County Executive Committee Member responsible for health;

“Facility committee” means the health center and dispensary facility committee as currently appointed and constituted;

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

“County Health facility” includes county and sub county hospitals, health centers, dispensaries, any other public health entity registered to provide health services and the catchment area;

“Health Facility management team” means the existing and currently constituted administrative arm that manages the health facility;

“Health Facility Improvement Financing” means revenue collected, retained, planned for and used by a hospital, health center or dispensary, as user fees paid to defray costs of running health facilities;

“Hospital” includes county and sub-county health facilities at levels 5 and 4 respectively and the catchment area;

“Hospital management team” means the executive management of the hospital as currently constituted;

“Hospital Board” means the appointed and gazetted board as currently constituted;

“Operational and management costs” includes planned and budgeted activities by county health facilities;

“Public Health services” includes all public health services that are of promotive and preventive nature being delivered at the community level;

“Source of funds” means all sources of moneys collected by a health facility as fees for service;

“Waiver” means a release from payment after meeting a certain criterion set in regulations by the Executive member in consultation with the health facility committees or boards;

“Exemptions” means exemptions in accordance to national policies; and

“Schemes” means a proposed benefit package (to cover in-patient and out-patient services to a specific group/population offered under the National Health Insurance Fund (NHIF) or any other insurer.

**3. The objects and purposes of this Act is to—**

Objects and purposes of the Act.

(a) give effect to section 109 (2)(b) of the Public Finance Management Act by establishing county health facilities as entities;

(b) establish the county health facility improvement financing mechanism that allows the county health facilities to retain revenue collected for defraying operational, management and capital costs;

(c) provide for appropriate governance structures and accountability measures to support the county health facility improvement financing as provided for in the Public Finance Management Act, 2012;

(d) enhance participation of relevant stakeholders and host community stakeholders in the planning and

management of health facilities and hospitals located;

(e) provide funds for health-related emergencies and disaster, and

(f) provide a framework for fair, equitable, transparent, competitive and cost-effective procurement within the department in their jurisdictions.

4. The following principles shall guide the implementation of this Act—

Principles of the County Health Facility Improvement Financing

- (a) health services shall be available, accessible, acceptable, affordable and of good quality and standard;
- (b) health facilities shall be well funded to offer quality care to all patients; and
- (c) accountability, transparency and integrity shall be upheld, observed, promoted and protected in the collection, management and use of revenue.
- (d) that revenue generated at health facilities will be considered to be additional to the budgets appropriated to health facilities by the County Assemblies or National Parliament and not a substitute;

5. This Act applies to the following county health facilities—

Application of the Act

- (a) county referral hospitals;
- (b) sub-county hospitals;
- (c) health centers;
- (d) dispensaries;
- (e) public Health services; and
- (f) Any other public health entities as may be conferred on them as such by this Act or any other legislation.

**PART II—COUNTY HEALTH FACILITY IMPROVEMENT FINANCING**

6. There is established the County Health Facility Improvement Financing.

Establishment of the County Health Facility Improvement Financing

**7. The Facility Improvement Financing shall—**

Functions of the  
Facility Improvement  
Financing

- (a) enable the county health facilities to collect and retain revenue paid as user fees in order to defray its expenses;
- (b) defray the respective health facility's operational, management and capital costs;
- (c) provide readily available financial resources for optimal operations of the county health facilities all year round;
- (d) improve daily facility operations and promote improved access to health services to all county residents;
- (e) establish the county health facility as a procurement entity in line with the Public Procurement and Asset Disposal Act of 2015 and the Public Procurement and Asset Disposal Regulations of 2020; Provided where malfeasance occurs the Chief officer may intervene;
- (f) increase, where applicable, the accessibility and predictability of finances for procurement of essential products, commodities and technologies;
- (g) enable county health facilities to budget; and utilize collected revenue in line with the Public Finance Management Act, 2012;
- (h) enable public health facilities to plan and budget and utilize collected revenue in line with the Public Finance Management Act, 2012.

**8. The Facility Improvement Financing shall consist of—**

Sources of the  
Facility Improvement  
Financing

- (a) monies received as user fees and charges payable for services rendered by the department of health;
- (b) monies received as capitation from the National Health Insurance Fund (NHIF);
- (c) monies received from the National Health Insurance Fund as reimbursement for services prescribed in the National Health Insurance Fund schemes;
- (d) voluntary contributions from public officers and

private persons;

- (e) grants and donations from other County public entities such as the municipalities and water companies;
- (f) grants and donations from government parastatals, non-state entities, public and private companies and businesses;
- (g) any other grants, donations, subscriptions, bequests or other gifts made to the respective county health facility;
- (h) in-kind donations from well-wishers such as medical equipment and supplies, pharmaceutical and non-pharmaceutical supplies and relief foods;
- (i) monies appropriated by the County Assembly; and
- (j) monies from any other source approved by the County Treasury.

**9.** (1) Upon commencement of this Act, the following county health facilities shall be entitled to collect, retain and use the Facility Improvement Financing—

Retention of the  
Facility Improvement  
Financing

- (a) county referral hospitals- level 5;
- (b) sub-county hospitals- level 4;
- (c) health centers- level 3;
- (d) dispensaries- level 2;
- (e) any other public health entities as may be conferred on them as such by this Act or any other legislation.

(2) In circumstances where a county health facility raises more revenue than the approved annual budget the balance shall be deposited to the County Revenue Fund.

**10.** Any payments made in respect of expenses incurred in carrying out the functions of this Act shall be in pursuance of the objects and purpose for which the Facility Improvement Financing is established.

Limitation of the  
Facility Improvement  
Financing



**PART III- MANAGEMENT AND ADMINISTRATION  
OF THE COUNTY HEALTH FACILITY  
IMPROVEMENT FINANCING**

**11.** The Executive Member shall provide leadership and policy direction in the overall administration of the Fund.

Role of the Executive  
Member

(1) For the avoidance of doubt, the Executive Member shall perform the following other functions—

- (a) nominate, gazette and competitively appoint members of the Board;
- (b) provide guidance for the election of members of the facility management committees;
- (c) publish guidelines on fund allocation formulae for distribution to hospitals, public health facilities and public health functions;
- (d) make regulations to give effect to the objects of the fund;
- (e) make bi-annual reports to the County Assembly.
- (f) perform any other function assigned to him/her under this Act or any other written law.

**12.** The Chief Officer shall be the accounting officer and shall—

Role of the Chief  
Officer

- (a) ensure annual work plans and budgets from county health facilities are reflected in the County annual budget;
- (b) issue monthly AIEs to all hospital medical superintendents and facility in-charges for purposes of spending the Facility Improvement Financing;
- (c) receive and forward monthly, quarterly and annual financial reports to the Executive Member and the County Treasury;
- (d) receive and onward weekly revenue reports to the Executive Member and the County Treasury;
- (e) receive and review performance reports;
- (f) from time to time monitor the implementation of the Facilities Improvement Financing in the

county health facilities;

- (g) set performance metrics to track the performance of health facilities and related purposes;
- (h) set and communicate budget ceilings on amounts to be allocated to health facilities annually.

**13.** (1) The Hospital Management Team shall comprise of—

Composition and  
Role of the Hospital  
Management Team

- (a) the hospital in-charge
- (b) health administrative officer
- (c) the nursing officer in -charge
- (d) the hospital accountant
- (e) other departmental heads
- (f) the hospital procurement officer

(2) The Hospital management team shall, in relation to facility Improvement Financing—

- (a) prepare and present the annual hospital workplan and budget to the Hospital Board;
- (b) prepare and present the hospital quarterly budgets;
- (c) prepare monthly, quarterly and annual financial reports;
- (d) monitor and report the performance target of the Facility Improvement Financing;
- (e) monitor and report the achievement of the health service delivery indicators;
- (f) facilitate the relevant officers to ensure revenue targets are met and undertake resource mobilization for the hospital;
- (g) ensure efficient and effective utilization of resource paid into the Facility Improvement Financing;
- (h) facilitate the process of internal audits periodically to mitigate financial risks;
- (i) facilitate the conduct of external audits on a timely basis.

**14.** (1) The Hospital Board and the Health Facility Management Committee shall be nominated and gazetted

Role of the Hospital  
Board

by the Executive Member.

(2) The Hospital Board and the Health Facility Management Committee shall, in relation to the Facility Improvement Financing—

- (a) considers and submit for approval to the Chief Officer for health annual work plan and budgets;
- (b) considers and submit for approval to the Chief Officer approve the hospital quarterly budgets;
- (c) ensure the quarterly implementation plans and budgets are based on available resources
- (d) formulate strategies on resource mobilization for the hospital, ensure revenue targets are met and formulate reward program for good performance;
- (e) monitor the utilization of Facility Improvement Financing;
- (f) approve the facility performance reports and forward to the Chief Officer;
- (g) take corrective action in relation to implementation challenges identified that hinder efficient collection and absorption of funds;
- (h) ensure all financial procedures and reporting requirements are met by the hospital management teams and conform to the Public Finance Management Act (2012) and related regulations;
- (i) ensure strict adherence to procurement rules as prescribed in the Public Procurement and Asset Disposal Act;
- (j) make policy recommendations on the use of the Facility improvement financing;
- (k) guide the hospital fees, charges, unit costs, exemptions and waivers as prescribed by the Executive Committee member for health;
- (l) receive the audit report and ensure that actions are taken on the observations and recommendation made in accordance with existing relevant legislation and related regulations;
- (m) ensure public awareness on administration of the

county Facility Improvement Financing through public participation during annual planning and budgeting.

- (n) liaison between health facility management team and community to strengthen the delivery of quality health services.

**15.** (1) Health Centers and Dispensaries’ in-charge shall, work with the their management teams, in relation to Facility Improvement Financing to—

Role of the Health Centers and Dispensaries in-charge

- (a) prepare and present the annual work plan and budget
- (b) prepare and present the quarterly budgets
- (c) prepare monthly, quarterly and annual financial reports
- (d) monitor the performance target of the Facility Improvement Financing
- (e) monitor the achievement of the health service delivery indicators
- (f) prepare and present a performance report for (d) and above.
- (g) undertake proper revenue collection and resource mobilization for the health facility and dispensaries
- (h) ensure efficient and effective utilization of resource paid into the Facility Improvement Financing the support external audits.

(2) The Health Centre/ Dispensary Management Team shall comprise of—

- (a) the health worker in charge of the facility;
- (b) the facility nurse -in charge;
- (c) the facility accountant;
- (d) All other departmental heads;

**16.** (1) The facility Committee shall be nominated and gazetted by the Executive Member.

Composition and Role of the Health Centers and Dispensaries facility committees

(2) The Facility Committee shall, in relation to the Facility Improvement Financing—

- (a) considers and submit for approval to the Chief Officer annual facility work plan and budgets;
- (b) considers 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;
- (e) approve the performance reports and forward to the County Department of Health;
- (f) take corrective action in relation to implementation challenges identified that hinder efficient absorption of funds;
- (g) ensure all financial procedures and reporting requirements are met by the hospital management teams and conform to the County Public Finance Management Regulations;
- (h) ensure strict adherence to procurement rules as prescribed in the Public Procurement and Asset Disposal Act;
- (i) ensure revenue targets are met and formulate a reward program for good performance;
- (j) ensure public awareness on administration of the county Facility Improvement Financing through public participation during annual planning and budgeting;
- (k) receive the audit report and ensure that actions are taken on the observations and recommendations made in accordance with existing relevant legislations and related regulations; and
- (l) liaison between health facility management team and community to strengthen delivery of quality health services.

#### **PART IV- FINANCIAL PROVISIONS**

17. (1) There shall be opened and operated a special purpose account into which all monies received for the Facility Improvement Financing shall be paid. The following terms

Bank account for the  
Facility Improvement  
Financing

shall guide the operations of this account—

- (a) 20% of the Revenue for level 4s and above shall be retained in the Special Purpose Account and 80% shall be transferred back to the respective accounts of the facilities that generated the revenue, not later than fourteen days from the date of remittal;
- (b) All other levels of the facilities shall receive 100% of their revenue generated back to their respective facilities accounts not later than fourteen days from the date of remittal; and
- (c) The 20% retained shall be used for supervision of public health services, improvement of the status of level 2s and 3s and for handling emergencies and disasters as approved by the CECM in charge of public health and medical services.

(2) The mandatory signatory to the special purpose account shall be the chief officer health, the chief officer in charge of finance or his designee and the Ministry of Health's departmental accountant.

(3) With respect to the County Referral Hospital, the mandatory signatory to the bank accounts shall be the Chief Executive Officer, the second signatory shall be the Chair of the Hospital Management Board, or any other member as approved by the Board. The third signatory be the hospital accountant.

(4) With respect to sub county hospitals, the mandatory signatory to the bank accounts shall be the medical superintendent or facility in charge. The second signatory shall be the hospital accountant. The third signatory shall be the chairperson of the hospital management board or any other member approved by the board.

**18.** (1) The user departments will identify their needs and submit their requests to the Hospital/Health Facility Management Team.

Process to seek for  
Authority to Incur  
(AIEs)

(2) Costing of the requirements will be established and requests evaluated by the Hospital/Health Facility Management Teams based on available funds/revenues.

(3) The Hospital/Health Facility Management Team will determine the ceilings to allow respective departments share available resources.

(4) Departments will adjust their requirements according available resources.

(5) The Hospital/ Health Facility Management Team through the facility-in-charge will submit the proposed budget for consideration by the Hospital/ Health Facility Management Committees.

(6) Upon consideration, of the proposed budgets, the Hospital/Health Facility Management Committee will approve the budgets with or without amendments as necessary, signed copies of the minutes will then be forwarded by the facility in-charge to the Chief Officer for the issuance of the AIEs.

(7) Any request by the facility- in charge to the Chief Officer to seek AIE will be accompanied with the latest bank statement.

19. (1) Upon issuance of AIE to the Medical Superintendents or facility in charge, the user department shall raise vouchers for payment for services or procurement of commodities.

Expenditure of the  
Improvement  
Financing

(2) The vouchers shall be verified by the hospital accountant or sub-county accountant for the health facilities whichever is applicable.

(3) The vouchers shall be presented to the health department's Accountant for confirmation of the items requested are in the vote book.

(4) The voucher shall be submitted to the Chief Officer for approval and payment.

(5) As much as possible, IFMIS shall be used as the primary accounting platform for the county health facilities;

(6) All county health facilities shall not expend any finances without express authority to incur expenditures; provided where this is breached disciplinary proceedings shall be instituted on the officer involved in accordance to the relevant laws and regulations.

(7) 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 county 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) Hospital/Health Facility in charges are expected to file returns/account in the prescribed format for the preceding quarter to the office of the Chief Officer before a new AIE is issued.

(10) The Facility Improvement Financing shall be subjected to audits in accordance to the Public Audit Act, 2015.

**20.** (1) The Facility Improvement Financing Accounts shall not be overdrawn.

Overdraft and continuity

(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/carried forward to the new year continually throughout and across the financial years.

**21.** In circumstances when a county health facility is closed, the account balances in the facility account shall be swept to the County Revenue Fund and a certificate sent to the Accounting Officer for the Department of Health. In case of liabilities, the county government shall take liability and budget for them.

Closing of facility account

#### **PART V- MISCELLANEOUS PROVISIONS**

**22.**(1) Section 6(a) of the Health Services Act is amended by deleting the words “two chief officers, one for curative and one for preventive services immediately after the word “governor” and replacing therefore with the words “one chief officer” immediately after the word “governor”.

Amendment to the Health Services Act, No. 3 of 2020

(2) Section 29 of the Health Services Act,2020 is amended by repealing the Section;

(3) Section 31 of the Health Services Act No.3 of 2020 is amended by repealing the Section;

(4) Section 32 of the Health Services Act No. 3 of 2020 is amended by repealing the Section;

(5) Section 33 of the Homabay County Health Services Act No.3 of 2020 is amended by repealing the Section.

**23.** (1) All gazetted members of the current Hospital Board and Health Facility Committees shall continue to

Transitional provisions



operate as per existing regulations.

(2) The health facilities committees shall have the dual function of managing and accounting for public health finances. In case of any gaps, the sub county administrator shall be incorporated for this purpose.

(3) The health facilities committees and hospital boards shall establish waiver systems that cushion the very needy and

(4) indigent individuals from financial hardship and ensure that no client is denied essential healthcare due to inability to pay

**24.** Penalties stipulated in the Public Finance Management Act, 2012 and its regulations and the Public Procurement and Asset Disposal Act 2015 and its regulations and other written laws on misuse, misappropriation and other deviations shall apply.

Penalties

**25.** The Executive Member shall make regulations for the better carrying out of the provisions of this Act.

Regulations