KENYA GAZETTE SUPPLEMENT

NAROK COUNTY ACTS, 2017

NAIROBI, 14th July, 2017

CONTENT

Act—

Page

The Narok County Healthcare Services Improvement Fund Act 2017

1
THE NAROK COUNTY HEALTH SERVICES IMPROVEMENT FUND ACT, 2017

No 7 of 2017

Date of Assent 27th June, 2017

Date of Commencement See Section 1

ARRANGEMENT OF SECTIONS

Section

PART I—PRELIMINARY

1—Short title
2—Interpretation
3—Object and Purpose of the Act

PART II—ESTABLISHMENT OF NAROK COUNTY HEALTH SERVICES IMPROVEMENT FUND

4—Establishment of the Fund

PART III—ADMINISTRATION OF THE HEALTH SERVICES IMPROVEMENT FUND

5—Establishment of the Narok County Health Services Board
6—Functions of the Board
7—Power of the Board to Delegate
8—Conduct of Business
9—Remuneration of the Board
10—Administration of the Fund
11—Hospital Management Boards
12—Membership of the Hospital Management Boards
13—Functions of the Hospital Management Boards
14—Procedure of Expenditure of the Fund
15—Qualifications for Appointment of Chairpersons
16—Membership of the RHFMC

PART IV—COLLECTION AND BANKING OF USER FEES, NHIF AND FREE MATERNITY AND PRIMARY HEALTH FEES

17—Collection of User Fees
18—Banking User Fees and usage of HSIF

PART V—WAIVERS AND EXEMPTIONS

19—Waiver System
20—Exemptions

PART VI—GENERAL PROVISIONS

21—Power to make regulations

SCHEDULES

FIRST SCHEDULE—PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE COUNTY BOARD

SECOND SCHEDULE—WAIVER APPLICATION FORM
THE NAROK COUNTY HEALTH SERVICES IMPROVEMENT FUND ACT, 2017

AN ACT of the County Assembly of Narok to provide for the establishment of Health Services Improvement Fund, to promote prudent utilization and management of resources in health facilities and promote public participation in the management of the health facilities in the County and for connected purposes

ENACTED by the County Assembly of Narok as follows—

PART I—PRELIMINARY

Short title and Commencement

1 This Act may be cited as the Narok County Health Services Improvement Fund Act, 2017 and shall come into operation on such date as the Executive Committee Member may, by the notice in the Gazette, appoint and different dates may be appointed for different provisions

Interpretation

2 In this Act, unless the context otherwise requires—

“county executive” means the County Executive Committee Member responsible for matters relating to health and sanitation services,

“county health services management committee” means a sub-committee of the County Health Management Committee composed of the Chief Officer Medical Services, Chief Officer Public Health, County Director of Health, County Public Health Officer, County Health Administrative Officer, County Nursing Officer and the Health Accountant,

“exemption” means an automatic excuse from payment based on the patient meeting certain specific conditions,

“executive expenditure committee” means a sub-committee of the Hospital Management Team that consist of Medical Superintendent, Nursing Officer In-Charge, Health Administrative Officer, Pharmacist and any other officer that might be co-opted, whose main role is to implement the approved expenditure plans,

“financial year” means the period of twelve months ending 30th June, in each year,

“HSIF” means Health Services Improvement Fund,

“fund” means Health Services Improvement Fund,

“health facility” means gazetted public County Hospital, Sub-county hospital, Health Centre or Dispensary,
“health services” means services offered at hospitals and environmental health services,

“HMB” means the Hospital Management Board appointed by the County Executive,

“hospital management team”, means a committee made up of all the heads of departments in the hospital, whose chairman and secretary are the medical superintendent and health administrative officer respectively,

“NHIF” means National Health Insurance Fund,

“rural facility” means a gazette public health centre or dispensary,

“RHFMC” means the Rural Health Facility Management Committee appointed by the County Executive,

“user charges” means cost-sharing fees collected by hospitals under the cost sharing programme,

“waiver” means a release from payment based on financial hardship at a particular point in time and it is not automatic,

“county” means the County Government of Narok,

“county assembly” means the County Assembly of Narok

Purpose of the Act

3 The object and purpose of the Act is—

(a) establishment and administration of the Narok County Health Services Improvement Fund,

(b) the establishment of legal structures for the administration of the Fund,

(c) promotion of transparency in the management of the Fund,

(d) the establishment of sound governance and leadership structures of health facilities in the county

PART II—THE NAROK COUNTY HEALTH SERVICES IMPROVEMENT FUND

Establishment of the Fund

4 (1) There is established a Health Services Improvement Fund

(2) The fund shall consist of—

(a) such monies as may be appropriated by the County Assembly for the direct use by the health facilities,

(b) sums received as contributions, gifts or grants from any lawful source,
(c) monies earned or received as user charges,
(d) income generated from the proceeds of the services,
(e) income generated from environmental health services,
(f) funds from the free maternity service,
(g) national Hospital Insurance Fund capitation,
(h) monies received from NHIF claims

(3) The expenditure incurred by a Health facility on the services shall be on the basis of, and limited to, the annual allocation or grants and authority to incur expenditure

(4) The receipts, earnings, accruals and the balance of the services at the close of each financial year shall not be paid into the County Revenue Fund but shall be retained by the respective health facility as part of the fund, for the purpose for which the service is established

(5) An amount not less than twenty-five per cent of monies received on account of subsection 1 (b), (c), (d), (e) (f) and (g) shall be remitted to the County Health Services Management Board to be utilized for funding activities under this Act

(6) The HSIF shall be an additive and not a substitute to County Government allocations and that treasury shall not reduce budgetary allocations to the Department of Health and Sanitation

(7) The fees payable as user charges under the cost-sharing programme which shall be reflected in the Finance bill, shall be reviewed from time to time by the County Health Services Management Committee and approved by the County Executive in consultation with Treasury

(8) The fees shall be service-specific depending on the services offered and the level of care of the facility

PART III—ADMINISTRATION OF THE HEALTH SERVICES IMPROVEMENT FUND

Establishment of the Narok County Health Services Board

5 (1) There is established the Narok County Health Services Board

(2) The Board shall consist of—

(a) chairperson to be appointed by the Executive Committee Member for the time being responsible for health services,

(b) the Chief Officer of the County department for the time being responsible for finance or his representative duly nominated by him/her in writing,
(c) the County Director of Medical Services,
(d) three persons whom two shall be women appointed by the Executive Committee Member of which—
   (i) one person shall be appointed by virtue of his/her knowledge or experience in financial management,
   (ii) one person shall be appointed by virtue of his/her experience in health care services management, and
   (iii) one person shall be appointed by virtue of his/her expertise and experience as a medical practitioner,
(e) one person nominated by faith based hospital association or network in the county appointed by the Executive Committee Member for the time being responsible for health services and,
(f) the Chief Officer of the County department for the time being responsible for matters relating to Medical Services who shall be the administrator of the fund as well as the Chief Executive and Secretary of the Board

(3) The Board shall execute its functions through the administrator of the fund

(4) The persons appointed under (a) and (e) above shall require County Assembly approval

Functions of the Board

6 The Narok County Health Services Board shall—
(a) prepare a strategic health management and improvement scheme,
(b) advise the Executive Member for health services on the appropriate guidelines and procedures for better management of the fund,
(c) co-ordinate and issue authority to incur expenditure to the health facilities management boards and committees,
(d) approve the work plans prepared by the health facilities,
(e) ensure equitable distribution of resources to the health facilities, health management teams,
(f) review and approve disbursements or utilization of the fund, and
(g) provide overall management and oversight of the fund
Power of the Board to Delegate

7 The County Board may delegate to the Health facilities management board or committee, to the accounting officer of the Department for the time being responsible for health services/administrator of the fund or any appropriate person of a health facility/establishment where it deems necessary.

Conduct of Business

8 (1) The conduct and regulation of the business and affairs of the Board shall be as set out in the schedule 1 and shall be in accordance with this Act.

(2) Except as provided in the schedule, the board may regulate its own procedures.

Remuneration

9 The remuneration of the members of the board shall be determined by the County Public Service Board.

Administration of the Fund

10 (1) The fund shall be administered by the accounting officer of the department for health services and designated by the County executive Committee member for Finance.

(2) The Officer administering the Fund shall—

(a) prepare, sign and transmit to the County Health Services Board and County Treasury in respect of each financial year and within three months after the end thereof, a statement of account relating to the Fund specifying all contributions to the Fund and the expenditure incurred from the Fund, and such details as the treasury may from time to time direct, in accordance with the provisions of the Public Finance Management Act, 2012,

(b) furnish such additional information as may be required that is proper and sufficient for the purpose of examination and audit by the County Head of Audit and Auditor-General in accordance with the provisions of the Public Audit Act,

(c) develop the criteria for the allocation of funds for approval by the Board,

(d) prepare in consultation with the health facility board/committees a schedule of annual distribution of resources to health facilities,
(e) prepare in consultation with the County Health Board, impose conditions on the use of expenditure authorized by him or on his behalf and may impose any reasonable prohibition, restriction or other requirement concerning such use of expenditure,

(f) institute prudent measures for the proper utilization for monies deposited in the Funds using suitable internal controls and appropriate mechanism for accountability including audit of accounts by internal auditors,

(g) cause to be kept proper books of accounts and records relating to all receipts, payments, assets and liabilities of the Fund and to any other activities and undertakings financed by the Fund, and

(h) supervise and control the administration of the Fund and be the accounting officer of the fund

Hospital Management Boards and Committees

11 (1) There are established Hospital Management Boards for the county hospital and each of the sub-county hospitals

(2) There are established Rural Facilities Management Committees for each of the rural health facilities

Membership of the Hospital Management Boards

12 (1) The Management Board shall constitute seven and nine members for sub-county and county hospitals respectively

(2) At least one third of the membership shall be from the opposite gender and membership should reflect the face of the sub-county

(3) The Management Board shall consist of—

(a) a chairperson appointed by the County Executive Committee Member in charge of health services,

(b) the area Sub-County Administrator appointed under Section 50 (1) of the County Governments Act, 2012 or his representative duly nominated by him or her in writing,

(c) the area Deputy County Commissioner appointed under Section 15(b) of the National Government Co-ordination Act, 2013 or his representative nominated in writing,

(d) the medical superintendent who, shall be the secretary,

(e) a person with knowledge and experience on health matters, and

(f) the following persons, of which one third must be either gender who shall be residents of the area of jurisdiction, appointed by
the Executive Committee Member for the time being responsible for health services—

(i) one person who shall have knowledge and experience in finance and administration matters,

(ii) one person to represent special interest,

(iii) one person who shall represent the people with disability, and

(iv) one person to represent the youth

(g) the local member of the county assembly who shall be an ex-officio member

Functions of the Hospital Management Board

13 (1) The respective hospital boards shall—

(a) supervise and control the administration of the funds allocated to the respective hospitals,

(b) open and operate a bank account at a bank to be approved by the County Executive member responsible for matters related to finance in the county,

(c) prepare work plans based on the county health sector strategic plan,

(d) cause to be kept books of accounts and records of accounts of the income, expenditure, assets and liabilities of the hospital as prescribed by the officer administering the Fund,

(e) cause to be prepared and submitted to the administrator of the fund monthly, quarterly and annual financial reports as prescribed, and

(f) cause to be kept a permanent record of all its deliberations

Procedures of Expenditure of the Fund

14 (1) At the end of each quarter, the responsible hospitals will prepare a quarterly budget, quarterly implementation and procurement plan

(2) The quarterly budget shall where appropriate indicate how much resources the hospital has raised to finance their quarterly budget and the deficit

(3) The budget together with quarterly implementation and quarterly procurement plan shall be submitted to the hospital board/committee for approval
(4) The approved budget shall then be submitted to the administrator of the funds for consideration and action.

(5) On approval of the County Board, the administrator of the funds will prepare a schedule to the county treasury indicating the additional funds the treasury needs to disburse to the health facilities to finance their budgets.

(6) The schedule in (e) above shall be accompanied by an authority to incur expenditure.

(7) The funds shall be disbursed to the health facilities not more than fourteen days after appropriate documentation have been submitted to the county treasury.

(8) All the spending units shall prepare monthly, quarterly and annual financial reports in a prescribed format to the county health services committee.

**Qualification for Appointment of Chairpersons**

15 (1) A person shall not be appointed chairman unless he/she—

(a) holds at least a university degree from a recognized university,

(b) has demonstrated high level of integrity and leadership at senior level either in public or private sector,

(c) not be a serving state officer.

(2) The responsibilities of the chairperson appointed under this Act shall be—

(a) setting schedules of meetings in consultation with the board members,

(b) presiding over the board meetings,

(c) overseeing all sub committees of the board,

(d) the person satisfies the provisions of chapter 6 of the Kenya Constitution 2010,

(e) any other duty as may be assigned by the executive committee member for the time being responsible for health services or his/her assignees and the county board established under this Act.

(3) The responsibilities of the secretary to the board shall be—

(a) keep records of the deliberations of the board,
(b) communicate decisions of the board to all the staff and relevant bodies and offices

(4) The Board shall meet four times a year and shall maintain records of its deliberations

(5) Copies of deliberations and records should be forwarded to the county board not more than one month after the hospital board meeting

(6) The quorum for the meeting of the Board shall be half plus one of all the members excluding the Secretary

(7) The Board shall be responsible to the officer administering the Fund

Membership of the RHFMC

16 (1) The total membership of each RHFMC shall be at least seven and not more than nine members appointed by County Executive

(2) Each RHFMC shall consist of—

(a) area Ward Administrator or his/her representative in the area of jurisdiction,
(b) the person in charge of the Health facility who shall be the secretary,
(c) the sub-county Medical Officers or his/her representative duly nominated by hi/her in writing,
(d) the area Member of County Assembly who shall be an ex-officio member,
(e) the following persons, who shall be residents of the area of jurisdiction, appointed by County Executive

(3) One person who shall have knowledge and experience in finance and administration, four persons of whom two shall be women

(4) Each RHFMC shall appoint a Chairman, who shall not be an ex-officio, from among its members

(5) A member of a RHFMC, apart from ex-officio shall hold office for a period of three years and shall be eligible for re-appointment for one further term

(6) A RHFMC shall meet at least four times a year and shall maintain records of its deliberations

(7) The quorum for the meeting of RHFMC shall be five of all the members including the secretary
(8) A RHFMC shall be responsible to the officer administering the fund

(9) Each RHFMC shall—

(a) supervise and oversee the administration of funds allocated to the rural health facility,

(b) open and operate an account at a bank to be approved by the County Executive Member for the time being responsible for finance,

(c) prepare budgets/work plans based on estimated expenditures,

(d) cause to be kept basic books of accounts of the income, assets and liabilities of the facility as prescribed by the officer administering the Fund,

(e) prepare and submit to County Health Services Management Committee certified periodic financial and performance reports, and

(f) cause to be kept a permanent record of all its deliberations

PART IV—COLLECTION AND BANKING OF USER AND OTHER FEES MAKING THE FUND

Collection and Banking of User and Other Fees

17 (1) Each health service delivery point shall be allowed to collect user fees as shall be approved by County Executive

(2) The health service delivery point shall put up bilingual fee posters next to each departmental reception desk, all waiting areas and revenue collection points

(3) Each health service delivery point shall establish an electronic cash collection system that will ensure every client is issued with a receipt for all payments made

(4) Health service managers shall ensure that every client is given the correct bill

(5) All departmental registers at health service delivery points shall indicate whether clients have paid cash for services received or have been granted a waiver or eligible for exemption

(6) A person shall not be appointed as a member of the Board under Section 11(3) (e) of this Act unless that person holds at least O-level certificate of education or its equivalent
(7) A member of the Board, apart from the ex-officio, shall hold office for a period of three years and shall be eligible for appointment for one further term

(8) Other monies making the fund shall also be banked in HSIF bank collection account

(9) The officer administering the fund/Health Administrative Officer and a nominee from County Treasury shall operate the bank account

(10) The nominee from County Treasury shall advise on any changes of signatories to the bank Manager

(11) Hospital’s Executive Expenditure Committees (EECs) shall prepare quarterly expenditure plans that shall be approved by the Hospital Management Board and forwarded to the accounting officer, Health and Sanitation Services for issuance of AIE

(12) HSIF budget approved for expenditure shall be wired by County treasury to the department’s operations account that shall be managed and controlled by the accounting officer

(13) HSIF shall only be used for the approved programs by the accounting Officer, Health and Sanitation Services

**PART V—WAIVERS AND EXEMPTIONS**

**Waiver System**

18 (1) There shall be an elaborate waiver system that cushions the indigents from financial hardships and ensure that no client is denied essential health care due to inability to pay

(2) The waiver shall not be automatic and that the client shall apply for it using the prescribed waiver application form specified in the schedule

(3) There shall be a Hospital waiver committee in every hospital composed of—

(a) health Administrative officer, who shall be the chairman,

(b) medical social worker, who shall be the secretary, and

(c) three other officers who shall be nurse in-charges of major wards

(4) The role of the waiver committee shall be, to assess the waiver applications and grant waiver for deserving cases
(5) The waiving of fees shall be a discretionary two-step process, with departmental heads recommending and a committee granting authority, and a report submitted to the administrator of the fund.

(6) Each hospital waiver committee shall develop clear criteria for granting or declining waivers that shall be guided by—

(a) history and socio-economic status of the patient and his/her relatives,
(b) urgency of treatment required (emergency treatment),
(c) nature of disease conditions that are not automatically exempted,
(d) distance travelled by patient to reach the facility, and
(e) any additional information on the waiver form, such as students away from home, number of children, occupation, mode of transport, type of clothing among others.

(7) Each hospital shall keep a record of all waivers granted that would include—

(a) waiver number, running consecutively from number 1,
(b) patient’s name, age, gender, marital status and occupation,
(c) inpatient or outpatient number,
(d) date of treatment or discharge, and
(e) the total amount charged.

(8) There shall be a monthly review of the levels of waivers granted by the HMT and HMB during their monthly and quarterly meetings respectively.

Exemptions

19 (1) There shall be an elaborate waiver system that cushions the indigents from financial hardships and ensure that no client is denied essential health care due to inability to pay.

(2) The special groups shall include—

(a) children under 5 years of age,
(b) adults over 65 years of age,
(c) orphans and vulnerable children,
(d) prisoners, and
(e) gender Based Violence survivors.
(3) The disease conditions shall include—

(a) HIV/AIDS,
(b) Tuberculosis,
(c) Leprosy

(4) Reasons for each exemption shall be recorded in relevant service department for both inpatients and outpatients

PART VI—GENERAL PROVISIONS

Power to Make Regulations

20 The Executive Member may, in consultation with the Board, make regulations generally for the better carrying out of the objects of this Act

Transitions Clause

21 The committees now in place shall stand automatically disbanded within 30 days of coming into the operation of this act and shall thereafter be reconstituted within 3 months
SCHEDULES

FIRST SCHEDULE

PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE COUNTY BOARD

1 A member of the County Board may—

(1) At any time resign from office by notice in writing to the County Executive Committee member responsible for county health services,

(2) Be removed from office by the County Executive Committee member responsible for county health services if the person—

   (i) has been absent from three consecutive meetings of the Board without the permission of the chairperson,

   (ii) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding ten thousand shillings,

   (iii) is convicted of an offence involving dishonesty or fraud,

   (iv) is adjudged bankrupt,

   (v) is incapacitated by prolonged physical or mental illness or is deemed otherwise unfit to discharge his duties as a member of the Board by a competent medical panel, or

   (vi) fails to comply with the provisions of this Act relating to disclosure

2 (1) The County Board shall meet not less than four times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting

   (2) Notwithstanding the provisions of sub paragraph (2), above, the chairperson may, and upon requisition in writing by at least four members, shall convene a special meeting of the Board at any time for the transaction of the business of the Board or Committee

   (3) Unless three quarters of the total members of the Board otherwise agree, at least fourteen days’ written notice of every meeting of the Board shall be given to every member of the Board

   (4) The quorum for the conduct of the business of the Board shall be half plus one members including the chairperson or the person presiding

   (5) The chairperson shall preside at every meeting of the Board at which he is present but, in his absence, the members present shall elect
one of their members to preside, who shall, with respect to that meeting and the business transacted thereat, have all the powers of the chairperson

(6) Unless a unanimous decision is reached, a decision on any matter before the Board shall be by a majority of votes of the members present and voting and, in the case of an equality of votes, the chairperson or the person presiding shall have a casting vote

(7) Subject to subparagraph (5), no proceedings of the Board shall be invalid by reason only of a vacancy among the members thereof

3  (1) If a member is directly or indirectly interested in an outcome of any decision of the Board or other matter before the Board and is present at a meeting of the Board at which the matter is the subject of consideration, that member shall, at the meeting and as soon as practicable after the commencement thereof, disclose the fact and shall not take part in the consideration or discussion of, or vote on, any questions with respect to the contract or other matter, or be counted in the quorum of the meeting during consideration of the matter

(2) A member of the Board shall be considered to have a conflict of interest for the purposes of this Act if he acquires any pecuniary or other interest that could conflict with the proper performance of his duties as a member or employee of the Board

(3) Where the Board becomes aware that a member has a conflict of interest in relation to any matter before the Board, the Board shall direct the member to refrain from taking part, or taking any further part, in the consideration or determination of the matter

(4) If the chairperson has a conflict of interest, he shall, in addition to complying with the other provisions of this section, disclose the conflict that exists to the board in writing

(5) Upon the Board becoming aware of any conflict of interest, it shall make a determination as to whether in future the conflict is likely to interfere significantly with the proper and effective performance of the functions and duties of the member or the Board and the member with the conflict of interest shall not vote on this determination

(6) Where the Board determines that the conflict is likely to interfere significantly with the member's proper and effective performance, the member shall resign unless the member has eliminated the conflict to the satisfaction of the Board within thirty days

(7) The Board shall report to the department of Health services any determination by the Board that a conflict is likely to interfere
significantly with performance as above and whether or not the conflict has been eliminated to the satisfaction of the Board

(8) The annual report of the Board shall disclose details of all conflicts of interest and determinations arising during the period covered by the report

(9) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made

(10) A member of the Board who fails to declare conflict of interest where such is the case commits an offence is guilty of misconduct

4 The Board shall comply with the code of conduct governing public officers and provisions of Chapter Six of the Kenya constitution 2010

5 The Board shall cause minutes of all resolutions and proceedings of meetings of the Board to be entered in books kept for that purpose
SECOND SCHEDULE
WAIVER APPLICATION FORM

Part A (To be filled by applicant)

Waiver Number
Name
Age
Gender
Marital Status
Occupation
Mobile Phone Number
Village
Sub-location
Location
Ward
Sub-County
Chief/Sub-Chief Area Name
Means of Transport

Part B (To be filled by officer granting waiver e.g. Clinician, Ward nurse etc)

IP/OPD No
Date of admission or treatment
Ward Admitted
Bed No
Reason/reasons for recommending waiver
PART C (To be filled by medical social worker)

Notes by the medical social worker investigating the case
2017 Narok County Health Services Improvement Fund No 7

PART D (To be filled by Secretary, Waiver Committee)
Recommendations by Waiver Committee

Chairman’s Name, Signature and Date
Secretary’s Name, Signature and Date

Part E (Approval/Disapproval by Medical Superintendent)
This waiver is approved ( ) Disapproved ( ) as recommended by Waiver committee

Name, Signature and Date

Official Rubber Stamp