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THE BUSIA COUNTY HEALTH SERVICES FUNDING BILL, 2014

A Bill for

AN ACT of the County Assembly of Busia to promote partnerships in the provision and delivery of health and pharmaceutical services in the County; to mobilize resources for the delivery of services; establish revolving funds in health facilities in the County to facilitate the acquisition of medicines, pharmaceuticals and diagnostics; and to ensure reliable and cost effective access to important medicines and connected matters

ENACTED by the County Assembly of Busia as follows:

PART I — PRELIMINARY

1. This Act may be cited as the Busia County Health Services Funding Act, 2014 and shall come into operation on such date as may be appointed by The Governor and published in the Gazette.

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

“County” means Busia County;

“County Assembly” means the County Assembly of Busia;

“County Government” means the Busia County Government;

“development partner” means an international organization, foreign government, national entity, or any non-governmental organization as defined in the relevant law in Kenya;

“Executive Committee Member” means the executive committee member responsible for health and sanitation in the County;

“Gazette” means the Busia County Gazette;

“grant” has the meaning assigned to it under the Public Finance Management Act;
“health development partner” means any development partner or donor engaged in and supporting the County in meeting its objectives in the health;

“national entity” has the same meaning as defined under the Public Finance Management Act;

“NHIF” means the National Hospital Insurance Fund.

3. The objects and purpose of the Act are to:

(a) give effect to the provisions of Article 207 (2) of the Constitution of Kenya and Section 109, and 138 of the Public Finance Management Act;

(b) support improvement and transition initiatives in the health facilities in the County;

(c) improve efficiency and effectiveness in access to pharmaceutical and medical delivery services in the County;

(d) coordinate the provision of the said services by the County and development partners in the interest of the public;

(e) provide a mechanism for partnerships to support the County health service delivery management, financing, and operations objectives;

(f) facilitate the mobilization, management and administration of resources by the County, the community and health development partners to meet services delivery objectives in the health facilities in the County;

(g) establish a framework to authorize development partners in the health sector to manage revenue for health and pharmaceutical services provided in the County;

(h) identify, prioritize and expand pharmaceutical and health service delivery in the County.

PART 2 — ADMINISTRATION OF THE ACT

4. There is hereby established in the County, under the Department of Health Services and Sanitation, a fund to be known as the County Health Services Fund (hereinafter called “the Fund”)
5. The Fund shall comprise—

(a) such money or monies as may, from time to time, be appropriated to the Funds by the County Assembly;

(b) fees or other charges from operations of the health and other charges from operations of the County under this Act;

(c) money or monies received by the County or County healthy entities as grants, donations, annuities or gratuities from any lawful sources.

6. (1) There shall be opened and maintained in the County Treasury a special account called “The Health Services Fund Account” for the purpose of the Fund from which withdrawals shall be made and disbursed by the County Treasury for the purposes of the Fund in accordance with this Act and Public Finance Management Act.

(2) Save and except as may be otherwise provided in this Act, all and any money received for and on account of the Fund shall be put in the Health Services Fund Account opened from which withdrawals may only be made in accordance with such guidelines and directions as may be issued by the Executive Member in consultation with the Executive Committee Member responsible for finance and economic planning.

(3) Without prejudice to Article 207 of the Constitution of Kenya, and for avoidance of doubt, money for the purposes of the fund may not be paid into the County Revenue Fund.

7. With the approval of the County Assembly and the permission of the National Treasury, the County Government may use the monies put in the Fund by the developing partners and third parties to finance the delivery of health services in the County in accordance with such guidelines and directions as may be issued by the Executive Member in consultation with the Executive Committee Member responsible for finance and economic planning.

8. Monies may be withdrawn and paid out from the
fund and utilized for the purposes of the fund including financing—

(a) primary health care;
(b) tuberculosis prevention and care;
(c) malaria prevention and treatment;
(d) cancer care;
(e) mother and neo-natal child health;
(f) HIV testing and counseling services;
(g) prevention of mother to child transmission (PMCT);
(h) CD4 and early infant diagnosis;
(i) human immunodeficiency syndrome and AIDS care and management;
(j) Anti Retroviral Therapy;
(k) tuberculosis/ Human Immunity Deficiency Virus integration;
(l) any other medical/ surgical conditions;
(m) medicines, pharmaceutical products and diagnostics; pharmaceutical and diagnostic supply chain improvement;
(n) mentorship; and
(o) networking.

9. (1) The Fund shall be administered and managed by a board called the Busia Health Service Fund Board (hereinafter called “the Board”) which shall be responsible and answerable to the Executive Committee Member.

(2) The Board shall Comprise and consist of—

(a) the Chief Officer in-charge of health services in the County who shall be the Chairperson;
(b) the Chief Officer in-charge of finance and economic planning in the County;
(c) one person to represent each of the development partners contributing to the Fund;
(d) two persons, one of either gender, to represent the public in the County, both of who shall be versed in matters of health and public affairs.

(3) The persons to represent the public in the County shall be appointed by the Executive Member in consultation with the Governor.

10. The members of the Board appointed under Section 9 (2) (d) shall serve for a period of three years renewable once.

11. The Board shall—

(a) advice the County Executive Committee on matters relating to—

(i) resource mobilization for the purpose of rendering health services in the County;

(ii) collaboration with third parties with regard to provision of efficient health services in the County.

(b) collaborate with the County Treasury and mobilize resource required for the purposes of this Act;

(c) collaborate with development partners with regard to funding health services in the County;

(d) implement new and innovative approaches to health and health care;

(e) help to improve pharmaceutical availability and provide needed emergency health care and medical services and reduce mobility;

(f) under the direction and superintendence of the County Treasury, in accordance with the provisions of this Act and the Public Finance Management Act, prudently and professionally manage the Fund;

(g) establish revolving fund management committees at health facilities in the County and generally oversee their operations under the general supervision of the Executive Committee Member;
(h) through the revolving fund committees, ensure reliable access to important and essential medicines at health facilities in the County;

(i) establish systems to monitor and manage resources collected or deployed and utilized in respect of the revolving fund projects and programs;

(j) determine rates of fees charged and fee waivers extended in respect of needy and deserving patients at the health facilities in the County;

(k) make quarterly reports to the Executive Committee Member on the operation of this Act.

PART III — REVOLVING FUNDS

12. (1) Where the Board shall deem it necessary, it may, after consultation with the Executive Committee Member and the Executive Committee Member responsible for finance and economic planning, establish a revolving fund at any health facility or unit in the County.

(2) Whenever it shall establish a revolving fund at a public health facility or unit in the County, the Board shall cause to be opened for the revolving fund an account that shall be separate and distinct from the normal public health facility or unit account and cause to be put therein as the principal or seed money, such money or monies as may be approved by the County Assembly and disbursed by the County Treasury.

(3) Without prejudice to subsection (2), there may be put into the revolving fund—

(a) such money or monies as may be given to the revolving fund by way of grants, donation or other gift by development partners for a specific project or program;

(b) annuities or accruals;

(c) fees or other charges; or

(d) other gift or donation by a third party.
13. (1) A Revolving Fund established under section 12 shall only be used for the purpose of financing a cycle of operations and activities set out in section 8 of this Act.

(2) Re-imbursements and collections shall be returned to the fund in a manner that will—

(a) maintain the principal fund;
(b) strengthen the County health care system;
(c) improve health services; and
(d) ensure and facilitate—
   (i) smooth health care service delivery;
   (ii) continuous availability of and reliable access to basic important medicines, pharmaceuticals and diagnostics; and
   (iii) continuous and uninterrupted health service delivery in respect of the services mentioned in section 8.

(3) For the purposes of subsection (1), the Board shall cause to be established and maintained at every public health facility or unit at which a revolving fund has been established in the County, a separate or amenity pharmacy for the operations of the revolving fund and which shall be distinct from the county health facility or unit pharmacy.

14. Subject to the provisions of this Act, the revolving Fund may be administered and accessed for the benefit of—

(a) a member of the community within which the County health facility at which the revolving fund is being administered is situate;
(b) the person is registered and a member of a medical health or insurance scheme operating within the County;
(c) the person is a community collaborator in the County.

15. Notwithstanding section 12 (1) of this Act, the revolving fund may be utilized to finance at the County
health facility or unit the services and such other specific activities as may be agreed upon by the Executive Committee member, the community and the development partners.

16. There shall be at every health facility or unit at which a revolving fund has been set up in the County, a management Committee comprising—

(a) the head of the health facility or unit at which the revolving fund is set up;

(b) one representative for each of the development partners engaged at and providing health services at the facility;

(c) two persons, one of either gender to represent the local community at which the health facility or unit is situate.

17. The revolving fund management committee shall be responsible for ensuring that—

(a) the objectives of this Act are carried out at the health facility or unit where the fund has been established;

(b) health services are effectively and efficiently delivered and medicines are available and accessed at the facility or unit;

(c) fees are charged by the facility or unit for the services rendered and medicines dispensed and diagnostics utilized at the facility or unit;

(d) the fees charged is properly accounted for and accurate records kept;

(e) there is an efficient and reliable system to track cash collected and other resources at the health facility or unit;

(f) in accordance with such guidelines made, waivers of payment of fees charged in respect of deserving needy patients are granted;

(g) the fund at the facility or unit is properly managed and administered.
PART IV — MISCELLANEOUS AND OFFENCES

18. Any person who gives false information or statement on any matter covered by this Act commits an offense and is liable, upon conviction to affine not exceeding five hundred thousand shillings or to a term of imprisonment not exceeding five years or both such fine and term of imprisonment.

19. (1) The Executive Member shall cause to be kept and ensure that every health unit, facility or establishment shall keep its books and record of accounts of income, expenditure and liabilities in a proper and professional manner.

(2) Within a period of three months after the end of each financial year, the books and records of accounts shall be submitted to the County Auditor-General in respect of that year together with a—

(a) statement of the income and expenditure of the unit, facility or establishment during that year; and

(b) statement of the assets and liabilities of the unit, facility or establishment as of the last day of that financial year.

(3) The annual accounts of the health services facilities or establishments shall be prepared, audited and reported upon in accordance with the provisions relating to public audit.

20. (1) The Executive Member shall at the end of each financial year cause an annual report to be prepared and submitted to the Governor and the County Assembly on the operations of the department not later than three months after the end of the year to which it relates.

(2) The annual report shall contain, in respect of the year to which it relates—

(a) the financial statement of the department and each health facility or establishment;

(b) a description of the activities undertaken by the department and the health; and
(c) any other information that may be relevant.

(3) The annual report shall be published and publicized in County Gazette and in all County Citizen Centers

21. The Executive Committee member may make regulations and rules for the better carrying out of the provisions of this Act.
MEMORANDUM OF REASONS AND OBJECTS

The Bill seeks to promote partnership in the provision and delivery of health and pharmaceutical services in the County; to mobilize resources for the delivery of services; to establish revolving funds in the health facilities in the county to facilitate the acquisition of medicines, pharmaceuticals and diagnostics; and to ensure reliable and cost effective access to important medicines.

The Bill seeks to establish a County health services fund for purposes of facilitating the provision and delivery of health and pharmaceutical services in the county; the provisions of primary health care; tuberculosis prevention and cure; malaria prevention and treatment; cancer care; maternal health care and HIV testing and Counseling.

The Bill seeks to also establish a county health services fund executive members for health. The member of the Board, except the chief officers, shall serve for a period of three years renewable once.

ISHMAEL ORODI,
Chair, Health and Sanitation Services Committee.