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NAROK COUNTY BILLS, 2020

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THE NAROK COUNTY HEALTH SERVICES IMPROVEMENT FUND (AMENDMENT) BILL, 2020

A Bill for

AN ACT of the County Assembly of Narok to amend the Narok County Health Services Improvement Fund Act, 2017 and for connected purposes

ENACTED by the County Assembly of Narok as follows—

Short title

1 This Act may be cited as the Narok County Health Services Improvement Fund (Amendment) Act 2020 and shall come into force upon publication in the Kenya Gazette

Amendment of section 2

2 The Narok County Health Services Improvement Fund Act 2017 (in this Act is referred to as the “Principal Act”) is amended in section 2 by—

(a) inserting the following interpretations—

“Board” means the Board administering the Narok County Health Services Improvement Fund established in section 5

“Chief Officer” means the Chief Officer responsible for medical services in the Department of Health,

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

“Health Facility” means gazetted public County Hospital, sub-county hospital and rural health facilities

“Health Services” means services offered at health facilities and environmental health services,

“User charges” means all fees collected from patients seeking services at health facilities and such monies collected by public health department

(b) Substituting the term “hospital” with “health facility”

(c) Substituting the term “HSIF” with ‘Fund’

Amendment of section 3

3 The principal Act is amended in section 3 by inserting the following paragraphs—

(a) to provide supplemental financial resources for medical supplies and small-scale equipping of health facilities in the county for basic operation and maintenance,

(b) to give decision making autonomy to health facilities and public health department to plan and manage the resources within their control,
(c) to improve the quality of health care services in the health facilities

Amendment of section 4

4 The principal Act is amended in section 4 by—

(a) deleting sub section (1) and substituting with “There is established a Fund to be known as the Narok County Health Services Improvement Fund”;

(b) inserting the following terms after subsection (1) (c) “collectable under this Act or any other law”

(c) inserting the following subsection after subsection (2) “Any monies generated under subsection (2) shall be retained and used in the health facilities and public health department respectively”

(d) inserting the following subsection “Without prejudice to the provisions in subsection (3) above, the respective health facilities and public health department shall remit twenty five percent of all monies collected in the said facilities for primary health care objectives”

(e) inserting the following subsection “The remittance specified in subsection (4) above shall be utilized for primary healthcare services and operations and maintenance for the Board, County and Sub County health management teams in line with the provisions of the Public Finance Management Act”

(f) deleting subsection (3) and substituting with the following “The expenditure incurred by a Health facility on the services under this fund shall be on the basis of the authority to incur expenditure issued”

(g) deleting subsection (7)

Amendment of section 5

5 The principal Act is amended in section 5 by—

(a) deleting subsection (1) and substituting therefore with “The management of the Fund shall vest in the Narok County Health Services Board”

(b) inserting the following expressions immediately after subsection (2) (a) “from persons who are not public officers”

(c) inserting the following expressions immediately after subsection (2) (c) “who shall be an ex-officio member and the Secretary of the Board,

(d) inserting the following expressions immediately after subsection (2) (a) “from persons who are not public officers”,

(e) inserting the following paragraphs after subsection 2 (d)—
(i) one each shall be youth and persons living with disability,
(ii) two shall be women
(f) inserting the following expressions immediately before subsection 2 (d) (iii), (iv) and (v) “among the persons in (i) and (ii) above “
(g) Substituting the term “hospital” with “health” in subsection 2 (e)
(h) deleting subsection 2(f) and substitution with “the Chief Officer of the County department for the time being responsible for matters relating to health who shall be the administrator of the Fund as designated by the County Executive Committee Member in charge of finance matters”,
(i) deleting subsection (4),
(j) inserting the following subsection after subsection (4) “The Chairperson and members appointed under (c) and (d) above shall hold office for a term of three years and shall be eligible for reappointment for one further term”,
(k) inserting the following subsection
“(5) A person shall not be appointed chairperson unless he/she—
(i) hold at least a university degree from a recognized university
(ii) have demonstrated high level of integrity and leadership at senior level either in public or private sector
(iii) has at least five years experience in a related field”
(l) inserting the following subsection
(6) A member appointed under (a), (c) or (d) shall vacate his/her position as a member of the Board if he/she
(a) is absent from three (3) consecutive meetings of the Board,
(b) violates the Constitution of Kenya 2010 or any other law,
(c) voluntarily resigns from office
(d) gross misconduct, whether in performance of the member’s functions or otherwise
(e) physical or mental incapacity to perform the functions of office,
(f) incompetence or neglect of duty
(g) is adjudged bankrupt by a court of competent jurisdiction
(h) is convicted if a criminal offence and sentenced to a term of imprisonment of not less than six months or
(i) dies,
(j) is found to be underperforming his duties and responsibilities”,
(k) inserting the following subsection
“The County Executive may terminate the appointment of the Board Members on any of the grounds specified in sub section (6) ”
(l) inserting the following subsection
“Before a member of the Board is removed from office under subsection (5), the member shall be given an opportunity to defend himself or herself against any of the allegations ”
(m) inserting the following subsection,
“Where the Office of the Chairperson or member falls vacant the Secretary shall forthwith notify a vacancy to the appointing authority for appropriate action ”
(n) inserting the following subsection,
“a person shall not be appointed as a member of the Board under this Act unless that person holds at least O-level certificate of education or its equivalent”,
(o) inserting the following subsection,
“The Board shall have an overall responsibility to the Executive Committee in discharge of its functions and performance of its responsibilities ”

Amendment of section 6
6 The principal Act is amended in section 6 by deleting paragraphs (g) and substituting with the following—
(a) supervise and control administration of the funds allocated to the health facilities
(b) open or retain and operate bank accounts at banks approved by the County Executive Committee Member for the time being in charge of finance matters
(i) develop criteria for the granting of waivers and exemptions,
(j) inspect health facilities prepare reports and forward to County Executive and County Assembly where applicable

Insertion of new section
7 The Principal Act is amended by inserting the following section
“6A (1) In administering the Fund, the Board shall have the following responsibilities—
(a) prepare, sign and transmit to the County Auditor 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 County Treasury may from time to time direct, in accordance with the provisions of the Public Audit Act,

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

(c) develop the criteria for the allocation of funds for approval (d) prepare annual distribution of resources by health facilities

(d) impose conditions on the use of expenditure authorized and may impose any reasonable prohibition, restriction or other requirement concerning such use of expenditure,

(e) institute prudent measures for the proper utilization for monies deposited in the Fund using suitable internal controls and appropriate mechanism for accountability including audit of accounts by internal auditors of the department responsible for matters relating to finance,

(f) 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 ”

Amendment of section 7

8 The principal Act is amended in section 7 by—

(a) deleting the word “County”

(b) deleting the expressions “‘Health Facilities Management Board or committee, to the accounting officer of the department for the time being responsible for health services’” and substituting with "‘sub-committee of the Board, health facilities management committees’"

Insertion of new section

9 The Principal Act is amended by inserting the following section—

“7A 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) any other duties as may be assigned by the County Executive’’
Insertion of new section

10 The Principal Act is amended by inserting the following section—

“7B (1) The responsibilities of the secretary to the board shall be—

(i) keep records of the deliberations of the Board

(ii) communicate decisions of the board to all the staff and relevant bodies and offices

(2) The Secretary to the Board shall be responsible for the management of the day to day activities of the Board

(3) The Secretary shall be the head of the secretariat and shall be responsible to the Board in ensuring that the secretariat being technical officers in the county health management team and other professionals that may be co-opted, satisfactorily carries out duties and functions assigned to it by the Board

(4) The Secretary shall have no right to vote at the at the meetings of the Board”

Amendment of section 9

11 The principal Act is amended in section 9 by—

(a) inserting the following expressions immediately after the section “in consultation with the Salaries and Remuneration Commission”

Amendment of section 10

12 The principal Act is amended in section 10 by—

(a) Repealing subsection (1) and inserting the following “County Executive Committee Member in charge of matters of finance shall designate an administrator for the Fund”

(b) Repealing subsection (2) and inserting the following “

(2) The Officer administering the Fund shall—

(a) supervise and control the administration of the Fund

(b) prepare estimates of annual revenue and expenditure of the Fund relating to its obligations and operational expenses and submit it to the Board for adoption,

(c) cause to be established proper systems of control and oversight under the provisions of the Act,

(d) advise and consult the Board on matters relating to the administration of the Fund

(e) prepare non-financial performance reports of the Fund and submit them to the Board for adoption
(f) cause to be kept proper books of accounts and other books and records relating to the Fund and the activities financed under the Fund,

(g) prepare, sign and transmit to the Auditor-General financial statements in accordance with the Act and

(h) furnish any additional information which is proper and sufficient for the proper discharge of the mandate of the Auditor-General

(c) Inserting the following subsection

"(3) Upon approval by the Board, the Administrator of the Fund shall submit estimates of revenue and expenditure to the County Executive Committee Member for Finance for approval"

(d) Inserting the following subsection

"(4) The officer administering the fund shall in discharging his/her duties act in consultation with the Board"

Repeal of section 11, 12 and 13

13 The principal Act is amended by repealing section 11, 12 and 13

Creation of new Part

The principal Act is amended by creation of Part IV – The Establishment and Functions of Health Facilities Management Committees

Insertion of section

14 The principal Act is amended by insertion of the following new sections

"11A There are established Health Facilities Management Committees for the county referral hospital, each of the sub-county hospitals and rural health facilities within the county"

Insertion of new section

15 The principal Act is amended by insertion of the following new

"12A (1) For each of the health facilities, the Health Facilities Management Committees shall comprise of—

(a) A chairperson appointed by the County Executive from among members of the Committee,

(b) the ranking officer of the Office of the President as designated by the County Commissioner appointed under the National Government Co-ordination Act, 2013 or his representative nominated in writing,

(c) a public health officer appointed by the County Executive, and

(d) the following persons, of which one third must be of 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 groups,

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

(iv) one person to represent the youth

e) the person in charge of the health facility who shall be the secretary

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

(3) Every health facilities management committee member shall hold office for a period of three years and shall be eligible for reappointment for one further term

(4) The health facilities management committee shall meet four times a year or such more times when special meetings are convened with the approval of the Board

(5) the and shall maintain a record of its deliberations

(6) The quorum for the meetings of the health facilities management committee shall be four members present excluding the secretary

(7) The committee shall be responsible to the person administering the Fund

Insertion of new section

16 The principal Act is amended by insertion of the following section

"13A (1) The respective health facilities management committee shall—

(a) supervise and control the utilization of the funds allocated to the respective health facilities

(b) retain or 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 plans and submit to the Board for approval

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

(g) Represent the community’s interest in the health facility,

(h) Identify health problems among the community,

(i) Advocate for cost sharing and promote health awareness in the community, and

(j) Receive review and approve the utilization of cost sharing funds

New part created

17 The principal Act is amended by creation of a new part – Part V – Financial Provisions of the Fund

Amendment of section 14

18 The principal Act is amended in section 14 by —

(a) Insertion of the following terms immediately before subsection (1) “fourteen days before” and substituting with “at the”

(b) Substituting the terms “hospitals” with “health facilities and public health department” in subsection (1),

(c) Inserting the terms “with its priorities listed” immediately after the subsection (1)

(d) Substituting the term “hospital” with “collecting entity” in subsection (2),

(e) Substituting the term “hospital board/committee” with “Board” in subsection (3),

(f) Deleting the expression “consideration” in subsection (4),

(g) Repealing subsections (5) (6) and (7)

(h) Inserting the following subsection “the administrator of the Fund shall issue an authority to incur expenditure to the respective holders,

(i) Substituting the terms “all the spending units” with “all the authority to incur expenditure holders” in subsection (8),

Repeal of section 15 and 16

19 The principal Act is amended in by repealing section 15 and 16

Deleting of Part IV

20 The principal Act is amended in section 17 by —

(a) Substituting the term “service delivery point” with “facility and public health department” in subsection (1) (2) (3) and
(b) Repeal of subsections (6) and (7),
(c) Substituting the terms in subsection (8) with “All monies making the Fund shall be banked daily’’,
(d) Substituting the terms in subsection (9) with
“There shall be three signatories to the bank accounts maintained under this Act who shall be appointed in writing by the Board or Committees respectively with the approval of the County Executive member in charge of finance matters provided that the Chairperson and person in charge of the collecting entity or Secretary Board respectively are mandatory signatories’’,
(e) Substituting the terms “the nominee from the County Treasury” in subsection (10) with “The County Executive Committee member responsible for finance matters or his/her nominee’’
(f) Repeal of subsections (11) and (12),
(g) Substituting the terms “HSIF’’ with “the Fund’’ in subsection 13,
(h) Substituting the terms “by the accounting officer health and sanitation services” with “and objectives as shall be provided for in the regulations’’,
(i) Inserting a new subsection with the following provision,
“The Administrator of the Fund shall ensure the accounts of the Fund are not overdrawn’’,
(j) Inserting a new subsection with the following provision,
“Withdrawals from the Fund shall only be for purposes of promoting the objects and purpose for which the Fund is established’’,
(k) Substituting the term “hospital” with “health facility” in subsection (3), (6) and (7),
(l) Substituting the terms in subsection (3) (c) with “Three other officers from the various sections under which the expenditure falls’’,
(m) Deleting the expressions “(emergency treatment)” in subsection (6) (b)
(n) Substituting the abbreviations “HMT” and “HMB” with “waiver committee’’,
(o) Substituting the terms “health facilities management committee” with the word “their” in subsection (8),
(p) Deleting the word “respectively” in subsection (8),
Amendment of section 19

21 The principal Act is amended by—
(a) Repeal of subsection (1)
(b) Substituting the terms “the special groups shall include” with “The following group of persons shall be exempted from payment of user charges” in subsection (2),
(c) Substituting the terms “the disease conditions shall include” with “persons ailing from the following conditions shall be exempted from payment of user charges for user charges associated with the conditions” in subsection (3)

Amendment of section 21

22 The principal Act is amended in section 21 by substituting the terms therein with “The committees and Boards in place before the commencement of this Act shall stand automatically disbanded within 30 days of coming into the operation of this Act and shall thereafter be reappointed within ninety days”

Amendment of the First Schedule

23 The principal Act is amended in the First Schedule by—
(a) repealing paragraph 1,
(b) substituting the terms in paragraph 2 (1) with “The Board shall meet every quarter”
(c) Inserting the terms “provided that in the event additional meetings are required the approval of the County Executive is obtained prior” immediately after paragraph 2 (2)
(d) Deleting the terms “or employee of the Board” in paragraph 3 (2)
MEMORANDUM OF OBJECTS AND REASONS

The Narok County Health Services Improvement Fund (Amendment) Act, 2020 amends the Narok County Health Services Improvement Fund Act, 2017 with a view of aligning the provisions in the principal Act to the Constitution of Kenya, 2010

The Bill also endeavours to comply with traditional doctrines of separation of powers and principles of prudent use of financial resources as provided in the Public Finance Management Act No. 18 of 2012

The Bill repeals, deletes and substitutes and inserts clauses into the principal Act in full view of statutory compliance

The enactment of this Bill shall not occasion additional expenditure of County funds

Dated the 12th June, 2020

SAMANTE RAPANKE,
Chairperson, Budget and Appropriation Committee