

THE LAMU COUNTY HEALTH FACILITY IMPROVEMENT FINANCING ACT, 2023

An Act for

AN ACT of County Assembly of Lamu to provide for collection, retention, management and use of county health facilities improvement financing funds and for connected purposes.

ENACTED by the County Assembly of Lamu as follows-

PART I – PRELIMINARY

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| Short Title | 1. This Act may be cited as the Lamu County Health Facility Improvement Financing Act, 2023. |
| Interpretation | 2. In this Act, unless the context otherwise requires- |
| | “AIE” means authority to incur expenditure; |
| | “Chief Officer” means the chief officer responsible for health services; |
| | “County Executive Committee Member” means the County Executive Committee Member responsible for health services; |
| | “Dispensary” means health facility at level 2; |
| | “Entity” means county department of health or public health facility declared to be a county government entity under section 5(1) of the Public Finance Management Act (2012); |
| | “Facility in-charge” means an appointed healthcare worker to head a public healthcare facility; |
| | “Health Center” means a health facility at level 3; |
| | “County Health Facility Improvement Financing” means revenue and receipts collected, retained, planned for and used by public health facilities to defray costs of running health facilities; |
| | “Health Facility Management Committee” means constituted |

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governance structure that manages health facilities at level II and III;

“Hospital” includes public health facilities at levels 4 and 5;

“Hospital Management Board” means the governance structure that manages hospitals;

“Hospital Management Team” means the executive management of the hospitals consisting of departmental heads;

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

“Primary Health Facilities” means gazetted level 2 and 3 public health facilities; and

“Public Health Facilities” includes hospitals, health centers, dispensaries, public health offices and any other public health entity registered to provide health services.

Objects and Purposes of the Act

3. (1) The objects and purposes of this Act is to-
 - (a) give effect to Section 5 (1) of the Public Finance Management Act by declaring county health facilities as entities;
 - (b) provide a framework in line with Section 109 (2) (b) of the Public Finance Management Act to allow the county health facilities to retain revenue collected for defraying operational and maintenance costs; and
 - (c) provide for appropriate governance structures and accountability measures to support the public health facility improvement financing as provided for in the Public Finance Management Act.

Principles of County Health Facility Improvement Financing

4. (1) The following principles shall guide the implementation of this Act-
 - (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;
 - (c) accountability, transparency and integrity shall be upheld, observed, promoted and protected in the collection, management and use of revenue; and

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- (d) that revenue generated at public health facilities will be considered to be additional to the budgets appropriated to public health facilities by the County Assembly or National Parliament and not a substitute.

Application of the Act

- 5. (1) This Act shall apply to the following county entities-
 - (a) level 4 and 5 hospitals;
 - (b) health centers;
 - (c) dispensaries;
 - (d) public health offices; and
 - (e) any other public health entity as may be conferred as such by this Act or any other legislation.

PART II – FINANCING AND FUNCTIONS OF THE COUNTY HEALTH FACILITY IMPROVEMENT FINANCING

Objects and Purposes of County Health Facility Improvement Financing

- 6. (1) The objects and purposes of the County Health Facility Improvement Financing are to-
 - (a) provide financial resources for public health, medical supplies, equipment, maintenance and operational costs of public health facilities in the county;
 - (b) support capacity building in management and service delivery in public health facilities;
 - (c) give powers to public health facilities to plan and manage the resources under them;
 - (d) achieve universal health coverage; and
 - (e) improve the quality of health care services in the public health facilities.

Function County Health Facility Improvement Financing

- 7. (1) The function of the County Health Facility Improvement Financing shall be to-
 - (a) enable the county entities to collect and retain revenue paid as user fees in order to defray costs of running the respective county entity;
 - (b) finance the respective entity operational and management costs;
 - (c) provide readily available financial resources for optimal operations of the county entities all year round;
 - (d) improve daily facility operations and promote improved access to health services to all county residents;
 - (e) establish the public health facility as a procurement entity in line with the Public Procurement and Asset

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Disposal Act and the Public Procurement and Asset Disposal Regulations;

- (f) ensure the accessibility and predictability of finances for procurement of essential products, commodities and technologies; and
- (g) Support community level services.
- (h) Support facilitation of specialists visits on voluntary or paid arrangement

Sources of County Health Facility Improvement Financing

8. (1) The sources of County Health Facility Improvement Financing shall consist of-
- (a) monies received as user fees and charges;
 - (b) monies received as capitation or reimbursement for services from the National Health Insurance Scheme or from any other insurance provider;
 - (c) income received through licensing or user fee in relation to any function or activity under public or environmental health department;
 - (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, development partners, public and private companies and businesses;
 - (g) in-kind donations from well-wishers such as medical equipment and supplies, pharmaceutical and non-pharmaceutical supplies and relief foods;
 - (h) monies appropriated by the County Assembly; and
 - (i) income generated from services offered to the Armed forces, Non-Governmental organizations, corporate and other lawful sources.

Retention of County Health Facility Improvement Financing

9. (1) Upon commencement of this Act, the following public health facilities shall be entitled to collect, retain and use the County Health Facility Improvement Financing-
- (a) level 4 and 5 hospitals;
 - (b) health centers- level 3;
 - (c) dispensaries- level 2;
 - (d) public health offices; and
 - (e) any other public health entity as may be conferred as such by this Act or any other legislation.

Limitation on use of

10. Any payments made in respect of expenses incurred in

County Health Facility Improvement Financing carrying out the functions of this Act shall be in pursuance of the objects and purposes of the Health Facility Improvement Financing.

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

Functions of Chief Officer

11. (1) The Chief Officer shall have the following functions-
- (a) ensure annual work plans and budgets from public health facilities are reflected in the county annual budget;
 - (b) approve annual work plans and budgets from public health facilities;
 - (c) issue AIE to facility in-charge for purposes of spending the Health Facility Improvement Financing;
 - (d) receive and forward monthly, quarterly and annual financial reports from public health facilities to County Treasury;
 - (e) receive and review performance reports from the public health facilities;
 - (f) monitor the implementation of the Health Facilities Improvement Financing in the county entities;
 - (g) ensure internal audits are periodically undertaken to mitigate financial risks; and
 - (h) Any other role provided in an Act of Parliament or County Assembly.

Establishment and functions of Hospital Management Team

12. (1) There shall be a Hospital Management Team which shall comprise of departmental heads within the hospital.
- (2) The Hospital Management Team shall have the following functions-
- (a) prepare and present the annual hospital work plan and budget;
 - (b) prepare and present the hospital quarterly budgets;
 - (c) prepare monthly, quarterly and annual financial reports;
 - (d) monitor the performance target of the County Health Facility Improvement Financing;
 - (e) monitor the achievement of the health service delivery indicators;
 - (f) prepare and present a performance report for (d) and (e) above;
 - (g) undertake resource mobilization for the hospital;
 - (h) ensure efficient and effective utilization of resources paid into the County Health Facility Improvement Financing; and

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- (i) support internal and external audits when undertaken.

Establishment and
Members of Hospital
Management Board

13. (1) There is established a Hospital Management Board for each hospital whose members shall be nominated by the County Governor and gazetted by the County Executive Committee Member.

(2) The Hospital Management Board shall consist of-

- (a) a chairperson, who shall not be a public officer;
- (b) the hospital-in-charge, who shall be the secretary;
- (c) hospital administrator;
- (d) five members from the community taking cognizant of the special interest groups and gender; and
- (e) sub-county administrator who will be an *ex-officio* member.

Qualification for
appointment of
chairperson and
members of the
hospital management
board

14. (1) A person shall not be eligible for appointment as a chairperson of a Hospital Management Board unless the person is-

- (a) a Kenyan citizen;
- (b) possess a degree from a recognized institution in Kenya;
- (c) meets the requirement of chapter six of the Constitution; and
- (d) has at least three years' experience in management, leadership, or administration.

(2) A person shall not be eligible for appointment as a member of the Hospital Management Board unless the person-

- (a) possess at least a Kenya Certificate of Secondary Education or its equivalent from a recognized institution; and
- (b) is a resident of the County.

Functions of Hospital
Management Board

15. (1) The Hospital Management Board shall have the following functions-

- (a) provide oversight over the administration of the hospital;
- (b) prepare and submit for approval to the Chief Officer the annual work plan and budgets;
- (c) prepare and submit for approval to the Chief Officer the hospital quarterly budgets;
- (d) ensure the quarterly implementation plans and budgets are based on available resources;
- (e) formulate strategies on resource mobilization for the hospital;
- (f) monitor the utilization of the County Health Facility

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Improvement Financing;

- (g) approve the facility performance reports referred in section 12 (2) (f) and forward to the Chief Officer;
- (h) take corrective action on challenges identified that hinders efficient collection and absorption of funds;
- (i) provide oversight for all financial procedures and reporting requirements by the hospital management teams and ensure they conform to the Public Finance Management Act and related regulations;
- (j) ensure strict adherence to procurement procedures as prescribed in the Public Procurement and Asset Disposal Act;
- (k) promote the development of the hospital;
- (l) make policy recommendations to the County Executive Committee Member on the use of the County Health Facility Improvement Financing; and
- (m) liaise with Health Facility Management Team and community to strengthen the delivery of quality health services.

Establishment and
Functions of Health
Center and Dispensary
Health Management
Team

16. (1) There is established a Health Management Team for each Health Center and Dispensary whose members shall consist of the facility in-charge and not more than four staff members to be nominated by the facility in-charge.
- (2) The Health Management Team shall have the following functions-
- (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 (e) above;
 - (g) undertake resource mobilization for health service provision in levels I, II and III;
 - (h) ensure efficient and effective utilization of resources paid into the County Health Facility Improvement Financing; and
 - (i) support internal and external audits.

Establishment of
Health Facility

17. (1) There shall be a Health Facility Management Committee for each primary health facility whose members shall be

Management
Committee

nominated by the County Governor and gazetted by the County Executive Committee Member.

(2) The Health Facility Management Committee shall consist of not more than seven members as follows-

- (a) health facility in-charge, who will be the secretary;
- (b) ward administrator, who will be an *ex-officio* member; and
- (c) such number of members of the community to be nominated by the Governor taking into consideration the special interest group and gender.

(3) The chairperson and treasurer shall be elected by members during their first sitting from among members in (c) above and shall not be public officers.

(4) A person shall not be eligible for appointment as a chairperson of a Health Facility Management Committee unless the person-

- (a) has a Kenya Certificate of Secondary Education or its equivalent from a recognized institution;
- (b) has at least one year experience in management, leadership, or administration; and
- (c) is a resident of the ward.

(5) A person shall not be eligible for appointment as a member of the Health Facility Management Committee unless the person-

- (a) has ability to read and write;
- (b) is a resident of the ward; and
- (c) is of integrity and good standing in the community.

Functions of Health
Facility Management
Committee

18. (1) The Health Facility Management Committee shall have the following functions-

- (a) consider and submit for approval to the Chief Officer annual facility work plan and budgets;
- (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 County Health Facility Improvement Financing funds;
- (e) approve the performance reports referred in Section 15 (2) (f) and forward to the chief officer;
- (f) take corrective action on challenges identified that hinder efficient absorption of funds;
- (g) ensure all financial procedures and reporting requirements are met by the Health Management

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Teams and conform to the Public Finance Management Act and Regulations;

- (h) ensure strict adherence to procurement procedures as prescribed in the Public Procurement and Asset Disposal Act; and
- (i) liaise with Health Management Team and community to strengthen delivery of quality health services.

Meeting and quorum of the Hospital Management Board and Health Facility Management Committees

19. (1) The Hospital Management Board and the Health Facility Management Committees shall meet at least once every quarter but not more than six times in a year.
- (2) The quorum for the meetings shall not be less than two third of the Members.

Term of Office

20. The term of office of all appointed members shall be three years renewable only once for a further term of three years with the exception of those appointed by virtue of their offices in the government.

Allowances of Members

21. (1) The Chairperson of the Hospital Management Board shall be paid a sitting allowance of Kenya Shilling five thousand per sitting while the other members will be paid Kenya Shilling four thousand per sitting.
- (2) The Chairperson of the Health Facility Management Committee shall be paid a sitting allowance of Kenya Shilling one thousand five hundred shillings per sitting while other members will be paid Kenya Shilling one thousand per sitting.

Removal from Office

22. (1) Any appointed members may be removed from office on any of the following grounds-
- (a) serious violation of the Constitution or any other law, including a contravention of Chapter six;
 - (b) gross misconduct;
 - (c) physical or mental incapacity; or
 - (d) failure to attend meetings for three consecutive times without any reasonable cause communicated to the Chairperson in writing.

PART IV- FINANCIAL PROVISIONS

Bank account for
County Health Facility
Improvement
Financing

23. (1) With the authority of the County treasury, there shall be opened and operated a bank account for every entity into which all monies received for the Health Facility Improvement Financing shall be deposited.
- (2) The signatories for the hospital bank accounts shall be-
- (a) hospital in charge, who shall be a mandatory signatory;
 - (b) hospital administrator; and
 - (c) hospital accountant.
- (3) The signatories for the health centers and dispensaries, accounts shall be-
- (a) facility in-charge, who shall be a mandatory signatory;
 - (b) chairperson of the health facility management committee; and
 - (c) treasurer of the health facility management committee.
- (4) The hospital accountant and facility in-charge shall obtain bank statements on a monthly basis and prepare bank reconciliation statements.
- (5) The Hospital Management Boards and Health Facility Management Committees shall review and approve monthly bank reconciliation statements that will be presented to them.
- (6) The Hospital Management Boards and Health Facility Management Committees shall ensure that basic books of accounts and financial records of the facility are maintained by ensuring that-
- (a) The health facility financial management system is up to date and conforms to the required accounting standards; and
 - (b) The financial management system has the capacity to capture useful information and produce required reports for monitoring and management decision making.
- (7) The Hospital Management Boards and Health Facility Management Committees shall ensure that certified financial reports are prepared and submitted quarterly.

Authority to Incur
Expenditure

24. (1) The Chief officer shall be the accounting officer.
- (2) The user departments will identify their needs and submit their requests to the Health Facility Management Team through facility in charge every quarter to the Chief officer

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health services and Chief officer finance.

(3) The costing of the requirements will be established and requests evaluated by the Health Facility Management Teams based on available funds.

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

(5) Departments will adjust their requirements according to available resources.

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

(7) Upon consideration, of the proposed budgets, the Hospital Management Board and Health Facility Management Committee will approve the budgets with or without amendments as necessary and signed copies of the minutes will be forwarded to the Chief Officer for the issuance of the AIEs.

(8). Except for level 2 and 3 hospitals, all other entities shall upon preparing quarterly budgets appropriate 30% of the budget to the county health services accounts to facilitate health management functions, primary health care services, and community health services.

Expenditure of County
Health Facility
Improvement
Financing

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

(2) The vouchers shall be presented to the Health Department Accountant for confirmation that the items requested are in the vote book before approval.

(3) The voucher shall revert to the health facility in charge for payment.

(4) Where applicable, IFMIS may be used as the accounting platform for the public health entities.

(5) All public health entities shall not expend any finances

without express authority to incur expenditures.

(6) The Chief Officer responsible for the County Treasury in consultation with the Chief Officer for health may deploy accountants to the public health facilities for the purposes of proper financial accounting and record keeping.

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

(9) Public health entities shall be expected to file returns in the prescribed format for the preceding quarter to the office of the Chief Officer before a new AIE is issued.

Audits 26. The County Health Facility Improvement Financing funds shall be subjected to audits in accordance to the Public Audit Act, 2015.

Overdraft and continuity 27. (1) The County Health Facility Improvement Financing Accounts shall not be 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.

PART V- MISCELLANEOUS PROVISIONS

Transitional provisions 28. Upon the coming into effect of this Act, all gazetted members of the Hospital Management Boards and Health Facility Management Committees shall continue to operate as per existing regulations.

Penalties 29. 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 or stealing of public funds shall apply.

Regulations 30. The County Executive Member shall make regulations for the better carrying out of the provisions of this Act.