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**GARISSA COUNTY ACTS, 2024**

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CONTENT

| Act—   | PAGE |
|--|------|
| The Garissa County Health Facility Improvement Financing Act, 2024 ..... | 1    |

**THE GARISSA COUNTY HEALTH FACILITY IMPROVEMENT  
FINANCING ACT, 2023**

**No. 5 of 2024**

*Date of Assent: 20th June, 2024*

*Date of Commencement: See Section 1*

**ARRANGEMENT OF SECTIONS**

*Clause*

1—Short Title.

2—Interpretation.

**PART I—PRELIMINARY**

3—Objects and purposes of the Act.

4—Principles of Facilities Improvement Financing.

5—Application of the Act.

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

6—Retention of the Improvement Financing.

7—Functions of the Health Improvement Financing.

8—Sources of the Health Facility Improvement Financing.

9—Limitation of the Health Improvement Financing.

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

10—Role of the Chief Officer.

11—Composition and Role of the Hospital Management Team.

12—Role of the Hospital Management Board.

13—Role of the Health Centers and dispensaries in charge.

14—Composition and Role of the health centers and dispensaries facility  
management committees.

15—Role of the Health Facility Management Committee.

16—Selection and Composition of Health Facility Management  
Committee.

**PART IV—FINANCIAL PROVISIONS**

- 17—Bank account for the Improvement Financing
- 18—Authority to Incur Expenditure.
- 19—Expenditure of the Improvement Financing
- 20—Records to be Maintained.
- 21—Accounts and Audit.
- 22—Overdraft and Continuity.
- 23—Winding up of the Health Facility Improvement Financing.

**PART V—MISCELLANEOUS PROVISIONS**

- 24—Transitional provisions.
- 25—Penalties.
- 26—Regulations.

**THE GARISSA COUNTY HEALTH FACILITY IMPROVEMENT  
FINANCING ACT, 2024**

**An ACT of County Assembly of Garissa to provide for collection, retention, management and use of county health improvement financing pursuant to Article 207 of the Constitution and Section 109(2)(b) of the Public Finance Management Act and for connected purposes.**

*ENACTED by the County Assembly of Garissa as follows—*

**Short Title**

1. This Act may be cited as the Garissa County Health Facility Improvement Financing Act 2023, and shall come into operation on the date of publication in the *Kenya Gazette*.

**Interpretation.**

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

“Expenditure committee” means an adhoc committee constituted by the Chief officer for health to receive, interrogate and approve the plans and budgets from health facilities and public health offices;

“AIE” means authority to incur expenditure

“Chief Officer” means the chief officer responsible for medical services in the department of Health;

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

“Dispensary” means health facility at level 2;

“Entity” means county department of health or health facility declared to be a county government entity under section 5 (1) of the Public Finance Management Act 2012;

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

“Health Facility Management 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 and any other public health entity registered to provide health services;

**No. 5**                      *Garissa County Facility Improvement Financing*                      **2024**

“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;

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

“Hospital Board” means the appointed and gazette board;

“In-charge” means the person in control or responsible over the respective county health facilities. May include; Hospital CEO, Medical Superintendent and Facility In charge.

“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;

“Waiver” means a release from payment after meeting a certain criterion set in regulations by the Executive member.

“Exemptions” means exemptions in accordance to national policies.

“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)).

**Objects and purposes of the Act**

3. 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, 2012 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 county health facility improvement financings provided for in the Public Finance Management Act, 2012.

**Principles of the County Health Facility Improvement Financing**

4. 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 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.

**Application of the Act**

5. This Act applies to the following County entities—

- (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****Retention of the Facility Improvement Financing**

6. (1). There shall be retention of all monies raised or received by or on behalf of all public health facilities in the county as listed in section 8.

(2) There shall be opened a facility improvement financing account for health facilities in the County into which shall be paid all monies received by or on behalf of all health facilities in the County.

**No. 5**                      *Garissa County Facility Improvement Financing*                      **2024**

(3) Other, non-financial receivables and donations may be retained in whole or be re-donated to another public facility upon full disclosure as provided for in the relevant laws of Kenya; and

(4) any other grants, donations, subscriptions, bequests or other gifts made to the respective county health facility.

(5) in-kind donations from well-wishers such as medical equipment and supplies, pharmaceutical and non-pharmaceutical supplies and relief foods;

(6) monies appropriated by the County Treasury; and monies from anyother lawful source approved by the County Treasury.

**Limitation of the Facility Improvement Financing**

7. 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.

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

**Role of the Chief Officer**

8. The Chief Officer shall—

- (a) ensure annual work plans and budgets from county health entities are reflected in the County annual budget;
- (b) set up an adhoc expenditure committee to approve all the Facility Improvement Financing budgets.
- (c) issue AIEs to all facility in-charges for purposes of spending the Facility Improvement Financing;
- (d) approve all county appropriation for health department entities;
- (e) receive and forward monthly, quarterly and annual financial reports to County Treasury;
- (f) receive and review performance reports;
- (g) Monitor the implementation of the Facilities Improvement Financing in the county entities;
- (h) Set performance metrics to guide to track the performance of county entities and related purposes; and
- (i) Set and communicate budget ceilings on amounts to be allocated to county entities annually.

**Composition and Role of the Hospital Management Team**

9. (1) The Hospital Management Team shall, comprise of—
- (a) Hospital in-charge;
  - (b) All the departmental heads within the hospital.
- (2) The Hospitals management team shall, in relation facility Improvement Financing—
- (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 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 as per the prescribed format;
  - (g) undertake resource mobilization for the hospital;
  - (h) ensure efficient and effective utilization of resource paid into the Facility Improvement Financing;
  - (i) For avoidance of doubt, the incomes and other receivables retained by the County health facilities shall be, considered as a supplement, to the budgets and resources appropriated to the health facility by the County A and or County executive arm of government and not a substitute.

**Functions of the Health Facility Improvement Financing**

10. The Facility Improvement Financing shall—
- (a) enable the county Health 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 health entities' operational and management costs;
  - (c) provide readily available financial resources for optimal operations of the county entities all year round;
  - (d) improve daily health facility operations and promote improved access to health services to all county residents;

**No. 5**                      *Garissa County Facility Improvement Financing*                      **2024**

- (e) establish the county health entity 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;
- (f) increase, where applicable, the accessibility and predictability of finances for procurement of essential products, commodities and technologies;
- (g) enable county health entities to budget and utilize collected revenue in line with the Public Finance Management Act 2012;
- (h) Support community level services.

**Sources of the Facility Improvement Financing**

- 11.** The Facility Improvement Financing shall consist of—
- (a) monies received as user fees and charges;
  - (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 Schemes Act;
  - (d) grants and donations from other County public entities such as the municipalities and water companies;
  - (e) grants and donations from government parastatals, non-state entities, public and private companies and businesses;
  - (f) monies generated from public health services;
  - (g) ensure internal audits are periodically undertaken to mitigate financial risks;
  - (h) ensure external audits are undertaken on a timely basis

**Selection and Composition of the Hospital Management Board**

**12.** (1) A county and a sub county hospital shall be governed by a board appointed and gazetted by the Executive Member comprising of not more than seven members constituted as follows—

- (a) A chairperson;
- (b) The Sub County Medical Officer of Health;
- (c) Chief Executive officer or Medical superintendent who shall be the secretary to the Board;

**No. 5**                      *Garissa County Facility Improvement Financing*                      **2024**

- (d) One person with experience in finance and administration;
- (e) One person representing youth and disability;
- (f) Two persons to represent community interests;

(2) The Board shall appoint from among its members three committees to deal with—

- (a) Finance and general purposes;
- (b) Quality of curative services; and
- (c) Public health care services.

**Terms of Office**

**13.** The chairperson and members of the Committee shall hold office for a period of three years but shall be eligible for re-appointment for one further term.

**Role of the Hospital Management Board**

**14.** (1) The Hospital Management Board 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;
- (e) monitor the utilization of Facility Improvement Financing;
- (f) approve the facility performance reports referred in section 12 (2) (f) 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) Oversight 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;

**No. 5**                      *Garissa County Facility Improvement Financing*                      **2024**

- (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) Ensure public awareness on administration of the county Facility Improvement financing through public participation during annual planning and budgeting;
- (m) Liaison between health facility management team and community; and
- (n) to strengthen the delivery of quality health services.

**Role of the Health Centers and Dispensaries Health Facility Management Team**

**15.** Health Centers and Dispensaries HMT, in relation to Facility Improvement Financing—

- (a) prepare and present the annual work plan and budget;
- (b) prepare and present the quarterly budgets;
- (c) prepare monthly, quarterly and annual 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 resource paid into the Facility Improvement Financing; and
- (i) To support external audits.

**Role of the Health Facility Management Committee**

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

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

**No. 5**                    *Garissa County Facility Improvement Financing*                    **2024**

- (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 referred in section 14 (1) (f) 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 public awareness on administration of the county Facility Improvement financing through public participation during annual planning and budgeting;
- (j) receive the audit report; and
- (k) Liaison between health facility management team and community to strengthen delivery of quality health services.

**Selection and Composition of Health Facility Management Committee**

**17.** (1) The HFMC shall be appointed and gazetted by the County Executive Member (CEC) responsible for health and will serve for a period of three (3) years renewable once based on merit.

(2) The health facility management committee shall manage health centres and dispensaries (L3 and L2).

(3) The total membership of the committee shall be at least seven and not more than nine members. The committees shall consist of—

- (a) Chairperson who is a member of the local community;
- (b) Five (5) persons representing community interests (youth, Community Based Organizations, women organizations and indigenous community groups/ population minorities);

**No. 5**                      *Garissa County Facility Improvement Financing*                      **2024**

- (c) Health facility in charge who is secretary;
- (d) Representative of Interior and Co-ordination-Chief/Ass. Chief (*ex-officio*);
- (e) Representative of Ward Administration (*ex-officio*)

**PART IV – FINANCIAL PROVISIONS****Bank Account for the Facility Improvement Financing**

**18.** (1) There shall be opened and operated a special purpose account for every entity into which all monies received by and on behalf of the entities for the facility improvement financing shall be paid into.

(2) The account shall be opened and maintained at a commercial bank approved by the executive committee member in-charge of finance.

(3) With respect to the hospitals, mandatory signatories to the bank accounts shall be the the Hospital-In-Charge and the Hospital Administrator.

(4) With respect to the health centers and dispensaries, the mandatory signatory to the bank account shall be the Facility-in-Charge and the Chair or the treasury of the facility committee.

(5) With Respect to the Public health services, the mandatory signatory

(6) shall be the Sub County Medical officer of health and the Sub County Public health Officer.

**Authority to Incur Expenditure (AIEs)**

**19.** (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,

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

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

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

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

**No. 5**                    *Garissa County Facility Improvement Financing*                    **2024**

Board / Health Facility Management Committees;

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

**Expenditure of the Health Facility Improvement Financing**

**20.** (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 verified by the respective health facility accountant, as applicable.

(3) The vouchers shall be presented to the Health Department Accountant for confirmation that the items requested are in the vote book and thereafter approved.

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

(5) Where applicable, IFMIS shall be used as the primary accounting platform for the county entities.

(6) All county entities shall not expend any finances without express authority to incur expenditures.

(7) The Chief Officer for County Treasury in consultation with the Chief Officer provided in section 2 may appoint accountants for health centers and dispensaries for purposes of proper financial accounting and record keeping.

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

(9) County entities shall be 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

**Records to bemaintained**

**21.** All records pertaining Facility Improvement Financing shall be maintained by County chief officer in charge of health services and facility in charge.

**Accounts and Audit**

**22.** (1) Health facilities shall be expected to file returns/accounts in the prescribed format for the preceding quarter to the Chief Officer before a new authority to incur expenditure is issued.

(2) The annual accounts shall be prepared, audited and reported upon in accordance with the Constitution and the Public Audit Act, 2015.

**Overdraft and continuity**

**23.** (1) The accounting officer shall ensure that the facility improvement financing accounts are not over drawn.

(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.

**Winding up of Facility Improvement Financing**

**24.** In circumstances when a county entity is closed and the Health Facility Improvement Financing is to be wound up, the balances shall be swept to the County Revenue Fund and a certificate sent to the Accounting officer for the Department of Health.

**PART V – MISCELLANEOUS PROVISIONS****Transitional provisions**

**25.** (1) All gazetted members of the current Hospital Boards and Health Facility Management Committees shall continue to operate until their term expires.

**Penalties and offences**

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

**Regulations**

**27.** The Executive Member shall make regulations generally for the better carrying out of the provisions of this Act relating to facility improvement financing.