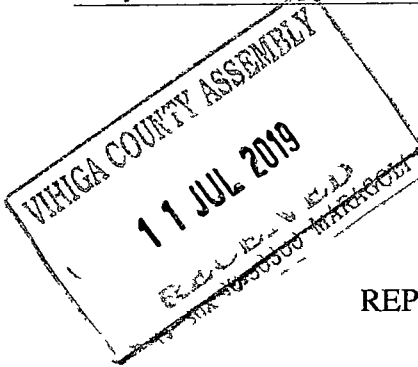


SPECIAL ISSUE

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REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

VIHIGA COUNTY BILLS, 2019

NAIROBI, 21st June, 2019

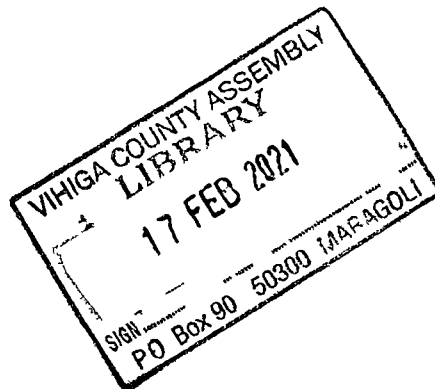
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**FIRST SCHEDULE—NOMINATION TO RECEIVE MONEY
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**THE VIHIGA COUNTY REPRODUCTIVE MATERNAL,
NEONATAL, CHILD AND ADOLESCENT HEALTH BILL, 2019**

A Bill for

AN ACT of the County Assembly of Vihiga to provide for a framework to support the Vihiga County Reproductive Maternal, Neonatal, Child and Adolescent Health program, establishment and management of the Vihiga County Reproductive Maternal, Neonatal, Child and Adolescent Health Fund, the administration of stipends allocated by Department of Health Services for payment of community health volunteers and for connected purposes

ENACTED by the County Assembly of Vihiga as follows—

PART I—PRELIMINARY

Short title

1 This Act may be cited as the Vihiga County Reproductive Maternal, Neonatal, Child and Adolescent Health Act, 2019 and shall come into effect upon publication

Interpretation

2. In this Act unless the context otherwise requires—

“acquired immunodeficiency syndrome (AIDS)” means a condition characterised by a combination of signs and symptoms resulting from depletion of the immune system caused by infection with the Human Immunodeficiency Virus (HIV),

“county” means Vihiga County,

“county assembly” means County Assembly of Vihiga County,
“executive Project implementation team” means County Executive Project implementation team pursuant

to Article 179 of the Constitution of Kenya,

“executive Committee Member” means the County Executive Committee Member responsible for Health Services,

“family planning” means the conscious effort by a person to plan for and attain the person’s desired number of children and to regulate the spacing and timing of the birth of the children with or without the use of contraceptive commodities,

“Fund” means the Vihiga County Reproductive Maternal, Neonatal, Child and Adolescent Health Fund established under Section 4,

“guardian” means someone chosen by a needy mother to receive financial support on behalf of an underage or incapacitated mother or a needy caretaker of a child whose mother has died,

“human immunodeficiency virus (HIV)” means the virus which causes AIDS,

“needy caretaker” means a person who takes care of an orphaned child whose mother was registered and whose daily subsistence is less than one dollar,

“needy mother” means a pregnant mother whose daily subsistence is less than one dollar and in case of the death of the mother includes a guardian

Object and Purpose

3 The object and purpose of this Act is to—

- (a) provide a framework for cash transfers of authorised payment to needy mothers registered in the Vihiga County Reproductive Maternal, Neonatal, Child and Adolescent Health Program,
- (b) provide a platform aimed at giving incentives to expectant and lactating mothers to access health services to—
 - (i) increase the number of pregnant mothers attending antenatal clinic visits,
 - (ii) increase the number of skilled deliveries in the county health facilities,
 - (iii) increase the number of mothers attending postnatal clinic visits,
 - (iv) reduce mother and child morbidity and mortality,
 - (v) promote advocacy, communication and social mobilization towards elimination of mother to child transmission of HIV/AIDS,
 - (vi) improve nutrition status of mothers and children below the age of eighteen months, and
 - (vii) increase the uptake of immunization services for children up to 18 months and growth monitoring of children up to 5 years
- (c) increase family planning uptake,
- (d) support the implementation of community health services, and
- (e) create awareness on transmission, prevention and control of

Sexually Transmitted Infections such as Syphilis, gonorrhoea, vaginal candidiasis and HIV/AIDS

Responsible Department

4 The County Department of Health Services shall be the Department responsible for the Vihiga County Reproductive Maternal, Neonatal, Child and Adolescent Health Fund

Implementation to be in line with policy

5. Implementation of this Act shall be in line with the Vihiga County Maternal Child Health and Family Policy document

PART II—THE FUND

Establishment of a Fund

6. There is established a Fund known as Vihiga County Reproductive Maternal, Neonatal, Child and Adolescent Health Fund

Purpose of Fund

7 The purpose of the Fund shall be to support—

- (a) promotion of the health of the mother and child from conception to the time the child achieves the age of eighteen months,
- (b) promotion of family planning,
- (c) creation of awareness on HIV/AIDS,
- (d) implementation of community health services, and
- (e) any other function the Project implementation team shall deem appropriate under this Act

Sources of Monies for the Fund

8. (1) The sources of monies for the Fund shall include—

- (a) money appropriated by the county assembly for Vihiga County Reproductive Maternal, Neonatal, Child and Adolescent Health Program,
- (b) money appropriated by the county assembly for the payment of stipends for the community health volunteers,
- (c) Fund any gifts, donations, grants and endowments made to the Fund, and
- (d) any other legitimate source

(2) Any unused monies at the end of the financial year shall be paid to the County revenue account but shall be retained in the Fund and

carried forward to the next financial year as provided for in section 116(3) of the Public Finance Management Act, 2012

(3) Monies retained in the Fund under subsection (2) shall not form part of the annual allocation for the Fund provided for under subsection (4)

(4) The county government shall ensure that it reserves at least three percent of its annual health budget for the Vihiga County Reproductive Maternal, Neonatal, Child and Adolescent Health Program and at least one point five percent of its annual health budget for paying stipends to community health volunteers

Use of Monies

9 The monies specified in section 6 shall be used for the following purposes—

- (a) paying registered needy mothers at the scheduled points of care,
- (b) paying stipends to community health volunteers,
- (c) support operations and management of the Fund,
- (d) support family planning activities,
- (e) support HIV/AIDS prevention activities, and
- (f) any other purpose the Project implementation team may deem necessary under this Act

PART III—ADMINISTRATION OF THE FUND

Establishment of the Management Committee

- 10** (1) There is established a Management Committee for the Fund
- (2) The Management Committee shall consist of—
- (a) chairperson who has at least a first degree from a university recognized in Kenya with not less than five years' experience and background in management,
 - (b) chief officer responsible for public health services,
 - (c) chief officer responsible for finance,
 - (d) one person who has at least a first degree in social sciences from a university recognized in Kenya with not less than three years' experience in social protection,
 - (e) one person who has at least a first degree in a health related field from a university recognized in Kenya with experience in maternal and child health,

- (f) one person who has at least a first degree in a health related field from a university recognized in Kenya with not less than Ten years experience in community health,
- (g) the Project Coordinator who shall be an ex-officio member and secretary to the Project implementation team, and
- (h) one person who has at least a first degree in health related field from a university recognized in Kenya and not less than ten years experience in prevention and control of HIV and Sexually Transmitted Infections

(3) The Executive Committee Executive Committee Member shall make appointments under sub section (2) (a) (d) (e) (f) and (h)

(4) In making the appointments under sub section (3) the Executive Committee Member Executive Committee Member shall take into consideration gender and regional balance

(5) A person appointed under sub section (3) shall hold office for a term of three years, unless he or she resigns, and may be eligible for reappointment for one further term

Functions of the Management Committee

11 (1) The Management Committee established under section 8 shall—

- (a) receive and consider applications from eligible beneficiaries of the Vihiga County Reproductive Maternal, Neonatal, Child Health program,
- (b) validate community health units and community health volunteers and pay stipends to eligible volunteers,
- (c) sensitize the community about the Fund,
- (d) maintain proper records of the Management Committee affairs and books of accounts,
- (e) with the approval from the executive committee enter into cooperation or partnerships with other partners,
- (f) submit quarterly returns and reports of the management committee operations to the executive committee Executive Committee Member,
- (g) be the custodian of all Fund assets and documentation,
- (h) receive any gifts, donations, grants or endowments made to the Fund,

- (i) may set up complaint redress mechanisms at the ward level,
- (j) prepare annual estimates and reports to the executive Executive Committee Member,
- (k) open and operate a bank account with the approval of the Executive Committee Member,
- (l) not later than three months after the end of each financial year, cause to be prepared financial statement of the Fund and submit the same to the Auditor General,
- (m) ensure that the earnings of, or accruals to the Resource envelop are retained in the Fund unless the executive Committee Member directs otherwise,
- (n) ensure that money held in the Fund, including any earnings or accruals is spent only for the purposes for which the Fund is established,
- (o) within ninety days of enactment of this Act the Management Committee shall put in place detailed guidelines for follow up of individual beneficiaries,
- (p) in liaison with the county health management team—
 - (i) set up mechanisms for promoting family planning uptake,
 - (ii) set up mechanisms to promote the elimination of mother to child HIV/AIDS transmission,
 - (iii) create awareness of HIV/AIDS prevention in the community, and
 - (iv) sensitize the community on sexual reproductive health rights,
 - (v) mobilize resources for running the program, and
 - (vi) perform such other functions as the Management Committee may deem necessary for the proper discharge of its mandate

Removal from Office

12. A member of the Management Committee may be removed from office—

- (a) for gross misconduct or misbehavior,
- (b) violation of the Constitution or any other law,
- (c) inability to perform the functions of five arising from mental or physical incapacity,

- (d) on being declared bankrupt by a court of law,
- (e) upon death, and
- (f) upon missing three consecutive meetings without lawful reasons

Power to remove Committee

13 Notwithstanding the provisions of this Act or any other written law, the Governor may, if at any time it appears to him or her that the Project implementation team has failed to carry out its functions in the interest of the county, dissolve the Management Committee and shall in consultation with the Executive Committee constitute a caretaker Committee for a period not exceeding six months within which a new Management Committee Project implementation team shall be constituted in accordance with section 8

Fund administrator

14 (1) The Executive Committee Member for finance shall designate a person responsible for administration of the Fund

(2) The Fund administrator shall be responsible for the running of the day-to-day activities of the Fund

(3) The Fund administrator may be seconded from a relevant department within the county government or competitively recruited

(4) A person designated as the Fund administrator shall possess at least a degree from a university recognised in Kenya and not less than five years working experience in management of health development or government health programs

(5) The Fund administrator shall serve for a period of four years and may be eligible for re-appointment for one further term upon satisfactory performance

(6) The Fund administrator shall be employed on such terms and conditions of service as the County Public Service Board may determine in line with the Salaries and Remuneration Commission guidelines

PART III—REGISTRATION OF ELIGIBLE MOTHERS

Qualifications to benefit under the Fund

15 A mother may qualify to benefit under the Fund if such mother—

- (a) is a resident of the county,
- (b) is expectant,
- (c) is needy, and
- (d) name appears in the list of registered mothers

Registration of Beneficiaries

16 (1) Registration of beneficiaries shall—

(a) in the case of adults require—

(i) national identity card, passport, birth certificate, birth notification or a letter of confirmation from either the Chief or Assistant Chief, and

(ii) mother child booklet from a health facility,

(b) in the case of a minor require—

(i) birth certificate, birth notification or a letter of confirmation from either the Chief or Assistant Chief identifying the guardian or parent, and

(ii) mother child booklet from a health facility

(2) Every guardian or parent who receives money on behalf of a minor beneficiary under this section shall be under an obligation to ensure the money is used for the intended purpose

(3) A guardian or parent who fails to comply with the provisions of subsection (2) commits an offence and shall be liable on conviction to a fine not exceeding ten thousand shillings or to imprisonment to a term not exceeding three months

(4) The Committee shall have the power to discontinue disbursement of the monies to a guardian or parent who misuses the same and appoint another person to manage the Funds

Payment to Beneficiaries

17 (1) Payment shall be made to beneficiaries registered on a platform approved by the Committee

(2) Where a beneficiary is not registered on a platform under subsection (1), for lack of identification card for reasons that are acceptable to the Committee, the beneficiary shall identify a nominee to receive the money on her behalf in the form prescribed in the First Schedule

PART IV—FAMILY PLANNING AND HIV/AIDS PREVENTION

Access to Family planning services

18 The Committee shall—

(a) support training of health care workers on family planning,

(b) sensitize community health volunteers on family planning,

- (c) create awareness at the community level, and
- (d) mobilise resources to support family planning

HIV/AIDS awareness

19 The Committee shall in collaboration with the department of Health Services promote public awareness about the causes, modes of transmission, consequences, means of prevention and control of HIV/AIDS through a county wide educational and information campaign

Free access to services

20 (1) The services offered by the Committee shall be free of charge

(2) Any person who contravenes the provisions of sub section (1) commits an offence, and shall be liable on conviction to a fine not exceeding thirty thousand shillings or to a term of imprisonment not exceeding six months

PART V—FINANCIAL PROVISIONS

Annual Estimates

21 (1) Before the commencement of each financial year the Committee shall cause to be prepared estimates of the revenue and expenditure of the Fund for that year

(2) The annual estimates shall make provision for all the estimated expenditure of the Fund for the financial year concerned and in particular shall provide for—

- (a) payments to eligible beneficiaries,
- (b) the operations of the Fund,
- (c) payment of allowances to members of the Project implementation team,
- (d) maintenance of assets of the Fund,
- (e) payment of stipends to community health volunteers, and
- (f) creation of such reserves to meet future or contingent liabilities and in respect of such other matters as the Project implementation team in consultation with the executive committee member for finance may determine

(3) The annual estimates shall be approved by the Management Committee before the commencement of the financial year in which they relate and shall be submitted to the Executive Committee Member for approval and after the executive committee member has given approval the management Committee shall not increase any sum provided in the

estimates without the consent of the executive Project implementation team

(4) No expenditure shall be incurred for the purposes of the Fund except with the Funds voted or appropriated by County Assembly

Accounts and Audit

22 (1) The Project implementation team shall cause to be kept all proper books and records of accounts of the income, expenditure, assets and liabilities of the Fund

(2) Within a period of three months after the end of each financial year the Project implementation team shall submit to the Auditor General the accounts of the Fund in respect of that year together with—

(a) a statement of income and expenditure of the Fund for that year, and

(b) a statement of the assets and liabilities of the Fund on the last day of that financial year

(3) The annual accounts of the Fund shall be prepared, audited and reported upon in accordance with the provisions of the Public Audit Act, 2015

PART V—MISCELLANEOUS

Right to Information

23 The Management Committee shall disseminate information to clients on the availability of family planning services, the various contraceptive methods, their advantages and disadvantages, HIV/AIDS, cash transfers to needy mothers and payment of stipend to community health volunteers

Confidentiality

24 (1) A person who possesses personal information by virtue of this Act shall not divulge such information to unauthorized person except—

(a) to a person who requires the information in order to perform a function under this Act,

(b) when required to do so by law or order of Court, or

(c) with the consent of the client

(2) Any person who contravenes the provisions of sub section (1) commits an offence and is liable on conviction to a fine not exceeding fifty thousand shillings or imprisonment to a term not exceeding six months

Meetings

25 (1) The Management Committee shall hold one meeting every three months to review the progress and performance of the programs under this Act

(2) The Fund Administrator may with the approval of executive committee member call for a special meeting of the management committee

Allowances for Management Committee Members

26 Members of the Management Committee shall be paid such allowances as may be determined by the executive Committee member] in line with existing guidelines of the Salaries and Remuneration Commission

Staff of the Fund

27 The Fund may employ such persons as may be authorised by the County Public Service Board on such terms and conditions as the Board may determine for the better carrying out of the functions of the Fund

Rules of Procedure

28 (1) The Management Committee shall regulate and make its own rules of procedure

(2) To transact any business of the Management Committee at least any five members of the Management Committee who must include the Fund Administrator must be present

Protection against Personal liability

29 No matter or anything done by a member of the Management Committee, employee or agent of the Fund shall, if the matter or thing is done *bona fide* for executing the functions, powers and duties of the Fund, render a member or agent personally liable to any action, claim or demand whatsoever

Liability of the Fund for damages

30 The provisions of this Act shall not relieve the Fund of the liability to pay compensation or damages to any person for any injury to him or her, his or her property or any of his or her interests caused by the exercise of or any power conferred by this Act

Giving false information

31 A person who knowingly—

(a) makes a false or misleading statement to the management

Committee under this Act or makes an application or report that by reason of non-disclosure of facts is false or misleading, or

- (b) fails to report that the circumstances which caused the person to qualify for assistance have changed,

commits an offence and is liable on conviction to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding six months, or both

Offences by Staff

32 A person having a duty to perform under this Act and who—

- (a) interferes with any process of person in this Act so as to defeat the process under this Act,
- (b) where required to do anything under this Act or to give effect to the provision of this Act fails to do such thing,
- (c) without reasonable cause omits to do something in breach of his or her duty under this Act,
- (d) wilfully contravenes the provisions of this Act to give undue advantage or favour to another person, or
- (e) fails to prevent or report to the relevant authority the commission of an offence under this Act,

commits an offence and shall be liable on conviction to a fine not exceeding one hundred thousand shillings or to imprisonment to a term not exceeding one year

Regulations

33 The executive Committee Member may make regulations for the better carrying out of the functions specified under this Act

Saving and Transitional provisions

34 (1) Any memorandum of understanding, agreement or any other arrangement that may have been entered into between the County government and any institution in respect of the Vihiga County Boresha Afya Ya Mama Na Mtoto Program shall continue in force as if they were entered into under this Act

(2) All such rights, duties, obligations, assets, liabilities and activities under the Vihiga County Boresha Afya Ya Mama Na Mtoto Program shall on commencement of this Act be automatically and fully transferred to the Fund

(3) Every person who immediately before the commencement of this Act was an employee, attachee or howsoever engaged under the Vihiga County Boresha Afya Ya Mama Na Mtoto Program, shall on the commencement of this Act continue under the same arrangement or terms and conditions existing before the commencement of this Act until the term of their respective appointments expire

**FIRST SCHEDULE (S14 (2)) NOMINATION TO RECEIVE
MONEY FORM**

Part I

Name of mother

Mother code number

Date of birth

Marital status

Name of health facility

Community area

Village

Ward

Sub-county

Part II

Name of nominee

National Identification Card Number

Mobile phone number

Relationship with mother

Community area

Village

Ward

Sub-county

Part III

Reason for nomination

Reason for lack of a National Identification Card

I _____ confirm that the nomination
and the information given herein is true and voluntary

Signature

Date

Part IV (for official use)

Approved/Not approved

Reasons

Checked by

date

Signature

Verified by

date

Signature

Confirmed by

date

Signature

MEMORANDUM OF OBJECT AND REASONS

The Bill is intended to provide for Reproductive Maternal, Neonatal, Child and Adolescent Health services as envisaged to be key factor in strengthening Health Services in Kenya as enshrined in the Constitution of Kenya

The Bill is divided into six parts as follows—

PART I— Preliminary Objects and Purposes, Responsible department and Implementation of the Financial support

PART II— Establishment of the financial support

PART III— Administration of the financial support

PART IV— Registration of eligible mothers

PART V —Family planning and HIV/AIDS prevention

PART VI— Financial provisions relating to the financial support

ELISHA AMARA,
Chairperson Health Committee