

REPUBLIC OF KENYA



**MINISTRY OF PUBLIC SERVICE AND GENDER
STATE DEPARTMENT FOR PUBLIC SERVICE**

**DRAFT POST-RETIREMENT MEDICAL INSURANCE POLICY AND GUIDELINES
FOR THE PUBLIC SERVICE**

JUNE, 2020

DEFINITION OF TERMS

The following words and expressions shall have the meaning as follows:

Actuary	means a person recognized as such by the Actuarial Society of Kenya.
Administrator	means the person appointed under an instrument by Trustees to manage the administrative affairs of the scheme.
Auditor	means the Auditor to the Scheme appointed being a person who is a member of the Institute of Certified Public Accountants of Kenya.
Beneficiary	means the member and includes a dependant of the member.
Board	means the Board of Trustees of the Scheme.
Trust Deed	means the Deed and to which the Scheme Rules constitute the Schedules (being an integral part of the Deed) and any deed expressed to be supplemental thereto; references to the "Trust Deed" or to "the Deed" shall be deemed to include the Rules.
Trustees	means and includes the survivor or survivors of the Trustees or the Trustee or Trustees for the time being of the trusts of this Trust Deed.

Abbreviations

AVCs	Additional Voluntary Contributions
IRA	Insurance Regulatory Authority
MEF	Membership Enrolment Form
PRMIP	Post-Retirement Medical Insurance Policy.
RBA	Retirement Benefits Authority

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CHAPTER ONE: INTRODUCTION

1. Preamble

The Constitution of Kenya recognizes health as a basic human right and entitles every citizen to the highest attainable standards of health. Kenya has also ratified international human rights treaty recognizing the right to health for her citizens including Public Servants. The Kenya Vision 2030 under the Social Pillar, envisages provision of 'equitable and affordable health care at the highest affordable standards' for the citizens.

In addition, one of the four goals outlined in the Government's Big Four Agenda is the Universal Health Coverage goal set to ensure that all Kenyans get quality health services, where and when they need them, without suffering financial hardship. Further, the Sustainable Development Goal (SDG) number 3 seeks to ensure healthy lives and promotion of wellbeing for all at all ages.

Public Servants while in the employment of Government, benefit from various Comprehensive Medical Insurance Schemes managed by the respective Public Institutions. This however, ceases to apply in majority of public service institutions immediately on retirement of the public officer. The sudden withdrawal of medical benefits upon retirement, exposes the retirees to a greater health risk and less dignified life. Although it is observed that a few retired Public Servants acquire private medical insurance covers after retirement, majority are unable to afford due to reduced source of income thereby adversely affecting their health and wellbeing. It is therefore important to establish a post-retirement medical insurance scheme to ensure that Public Servants continue to access quality and affordable health care services upon retirement.

Currently, there is no overarching Policy on provision of Post-Retirement Medical Insurance cover for retired officers in the Public Service. However, some Public Service organizations have developed and implemented Post-Retirement Medical Insurance Schemes for their retired employees. These include the Kenya Defense Forces, National Intelligence Service, University of Nairobi and Retirement Benefits Authority among others. The aim of these Schemes, which are contributory is to pool resources in order to provide continued access to quality health care for retired Public Servants and it is in tandem with the Government development agenda on affordable Universal Health Care for the citizens.

A survey conducted in 2017 by the Ministry of Public Service and Gender jointly with the National Health Insurance Fund (NHIF) and Union of Kenya Civil Servants

revealed that Ninety-seven percent (97%) of Civil Servants support the establishment of a Post-Retirement Medical Scheme.

a. Rationale

Life after retirement comes with health related challenges as Public Servants with significantly reduced incomes are unable to afford quality medical care. The advanced age coupled with a less active lifestyle predisposes them to certain illnesses and conditions, whose management is costly. According to the Kenya Economic Survey 2018, majority of the people aged 65 years and above have no access to medical insurance cover.

Further, the prevailing general assumption is that public servants once retired cease to be useful. It is however, increasingly being recognized the world over that such officers possess inherent tacit knowledge, experience-based skills and expertise much of which is undocumented and which needs to be harnessed. It is therefore crucial that they be kept healthy and active since they would be useful in mentorship and transfer of knowledge.

In this regard, there is need for a policy framework and guidelines for establishment of Post-Retirement Medical Insurance Schemes to facilitate access to quality health care for retired Public Servants. This will cushion them when they are most vulnerable and improve their longevity and health status in retirement. It will also enable retired Public Servants to continue to access medical benefits previously covered while in active employment in the Public Service. The Policy and Guidelines will form the basis for the establishment and operationalization of Post-Retirement Medical Insurance Schemes in Public Service Institutions.

b. Objectives of the Policy

The general objective of this policy is to provide a framework and guidelines for establishment of Post-Retirement Medical Insurance Schemes in the Public Service. The specific objectives are to: -

- i. Provide an institutional framework for legislation, resource mobilization, and financing of the Post- Retirement Medical Schemes;
- ii. Provide guidelines for standardization and operations of existing post-retirement medical schemes in the Public Service; and
- iii. Promote the implementation of the Government's Big Four Agenda of the Universal Healthcare Coverage by ensuring continued access to quality health care to retired Public Servants.

c. Legal and Regulatory Framework

The principles that guide this policy are in accordance with the national laws, policies, regulations and international best practice. Kenya has a number of laws and statutes that govern the right to health for her citizens which among others include the following: -

1. The Constitution of Kenya (2010)

Article 19 (1) of the Constitution of Kenya (2010) states that the Bill of Rights is an integral part of Kenya's democratic State and is the framework for social, economic and cultural policies, while Article 21 (1) stipulates that it is the fundamental duty of the State and every State organ to observe, respect, protect, promote and fulfill the rights and fundamental freedoms of the Bill of Rights. Further, Article 43 states that every person has a right to highest attainable standard of health which shall include the right to health care services, reproductive health care, emergency medical treatment and social security.

2. The Health Act (No. 21 of 2017)

Section 4 and 5 of the Act provides that it is a fundamental duty of the State to observe, respect, protect, promote and fulfill the right to the highest attainable standard of health which shall include progressive access for promotion and provision of preventive, curative, palliative and rehabilitative services, reproductive health care and emergency medical treatment.

3. The Retirement Benefits Act (Revised 2018)

The Retirement Benefits Act 2018, provides guidelines for establishment, regulation, supervision and management of post-retirement medical schemes in the Country. The Retirement Benefits Authority has developed a Prudential Guideline for the Implementation of Regulations 14 (2a) and 19 (6) of the Retirement Benefits (Occupational Retirement Benefits Schemes), Regulations, 2000 on management of post-retirement medical funds.

4. Social Protection Policy, 2011

The Policy seeks to among other provisions, ensure access to affordable and quality healthcare by financing and managing healthcare based on risk pooling.

d. Scope

This policy and guidelines will be applicable to all Public Service Institutions at both National and County Governments, including State Corporations, Constitutional Commissions and Independent offices.

CHAPTER TWO: POLICY PROVISIONS

2.1 Preamble

The chapter outlines the policy provisions on establishment of Post-Retirement Medical Insurance Schemes in the Public Service. It entails general and specific provisions which include membership, access, benefits, administration, funding, trust deed, scheme rules and guidelines.

2.2 Policy Provisions

2.2.1 General

The general provisions of this policy shall include: -

- i) Establishment of Post-Retirement Medical Insurance Schemes shall be undertaken by organizations within the Public Service in line with the Insurance Act (2019), RBA Act, 2018 and any other enabling legislations, policies, guidelines issued by the Government from time to time.
- ii) The sponsor/employer may meet the initial set-up costs of the medical fund, the 'Seed Fund'

2.2.2 Membership

Every Public Servant on permanent and pensionable terms of service shall be eligible for membership. Public Service employees on contract and those retired, will be eligible for membership as guided by specific post-retirement medical scheme requirement.

2.2.3 Funding

Sources of funding for the Schemes shall include: -

1. Seed fund as the initial setup capital from sponsors/employer
2. Contributions from members based on their designation/level
3. Return on Investment
4. Members devoting part of their pension contributions at rates to be determined by Actuaries.

2.2.4 Access

The scheme benefits shall be accessed by members/beneficiaries as follows: -

- i. On attainment of retirement age as guided by existing policies and regulations from time to time or
- ii. Public Servants who shall have retired on the effective date of implementation of the Scheme shall access the benefits upon lump sum contribution and as guided by the requirements of respective Post-Retirement Medical Insurance Schemes.

2.2.5 Benefits

- i. Members and their eligible dependants shall be entitled to out-patient, in-patient, specialized and critical treatment subject to annual benefit limits as determined by the Board of Trustees on the advice of an Actuaries.

- ii. The composition of out-patient, in-patient, and specialized and critical treatment benefits will be determined by the specific Schemes.

2.2.6 Administration

- i. The Scheme shall be administered and managed by the Board of Trustees, internally or externally appointed as stipulated in the Scheme guidelines.
- ii. The composition of the Board of Trustees shall include but not limited to the employer and the representatives of the employees or administrator of the scheme.
- iii. The Trustees will have a fiduciary responsibility to manage the medical fund to the exclusive benefit of all participating members and/or their/beneficiaries.
- iv. The terms and conditions of service for the trustees will be specified in each scheme guidelines.
- v. Addition, Scheme rules shall specify how deficits in the fund, if any, will be offset.

2.2.7 The Trust Deed

The schemes administration will be anchored upon the Trust Deed which is the legal provision that will give the scheme administrator authority to administer the scheme. The Trust Deed will contain the following;

- i. Authorities of administration; and
- ii. Rules and Regulations governing scheme administration

2.2.8 Scheme Rules and Guidelines

Scheme rules will provide the regulations of participation in, and operation of the Scheme as amended from time to time including, without limitation, the relevant laws and regulations.

CHAPTER THREE: INSTITUTIONAL FRAMEWORK FOR IMPLEMENTATION

1. Introduction

This chapter presents the institutional framework for implementing the policy on provision of Post-Retirement Medical Insurance in the Public Service. It is envisaged that the Policy and attendants guidelines shall facilitate establishment and implementation of Post-Retirement Medical Insurance Schemes in the Public Service.

2. Institutional and Implementation Framework

The institutions that will be involved and the specific roles to be undertaken to ensure successful implementation of the Scheme are as follows: -

(i) Ministry responsible for Public Service

The Cabinet Secretary responsible for Public Service will perform the following responsibilities:

- i. Review policy and guidelines to be in tandem with the law, prevailing policies and guidelines;
- ii. Provide interpretation and advisory to the Public Service on all aspects of the policy and guidelines;
- iii. Provide policy guidelines governing administration of Post-Retirement Medical Insurance Schemes in the Public Service;

(ii) The Ministry responsible for Finance

- i. Provide seed capital to finance establishment and implementation of the Schemes in the Public Service; and
- ii. Provide any other appropriate budgetary allocation for the Schemes as may be determined from time to time.
- iii. Ensure compliance with policy, guidelines and regulations governing the operations of post-retirement Medical Insurance Schemes in the Public Service.

(iii) Ministry responsible for Health

- i. Monitor compliance to professional and ethical conduct of health practitioners and providers involved in the implementation of the Schemes in Public Service Institutions;
- ii. Approve recommendations for oversees treatment for Members of the schemes; and
- iii. Provide institutional support in implementation of the Schemes in line with the Government development agenda for attainment of the Universal Health Care goal for the citizens.

(iv) Ministries/Departments, County Governments and Agencies

- i. Undertake sensitization and registration of employees on the Scheme.
- ii. Ensure deductions and remission of employees' contributions to the Scheme;
- iii. Facilitate and coordinate implementation of the Scheme by County Governments.

(v) Retired Civil Servants Associations

Undertake mobilization and sensitization programmes of members on the Scheme.

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CHAPTER FOUR (4) MONITORING, EVALUATION REPORTING AND REVIEW

1. Monitoring and Evaluation

Monitoring, Evaluation and Reporting (M, E&R) of the extent to which this Post-Retirement Medical Insurance Policy and Guidelines are implemented will be critical towards the achievement of the objectives. This will include undertaking compliance audits of the schemes by Insurance Regulatory Authority and review/ development of Policies and regulations by the Retirements Benefits Authority.

2. Reporting Mechanism

The reporting and compliance mechanism will be in accordance with the prevailing legislation, policies, guidelines and regulations governing the operations of Post-Retirement Medical Insurance Schemes in the Public Service.

3. Review

The Policy may be reviewed on need basis taking into account changes in Legislation, Policies, Regulations and any emerging issues/trends on Post-Retirement Medical Insurance Schemes in the Public Service.

Appendices

Appendix 1: Guidelines for Implementation of Post-Retirement Medical Policy

1. INTRODUCTION

The guidelines on post-retirement medical insurance policy for the public service are to provide a framework for the establishment, regulation, management and supervision of the Post-Retirement Medical Insurance Policy.

2. EFFECTIVE DATE

The Guidelines shall come into effect from 1st July, 2020.

3. POLICY PROVISIONS

3.1 General Provisions

- i. All post-retirement medical schemes shall be required to introduce provisions in the scheme rules allowing for contributions by members and lump sum contribution by retired Public Servants at rates to be determined by Actuaries;
- ii. The Deed of amendment or the Supplementary Deed shall be forwarded to the Authority for approval before implementation;
- iii. The Trustees may seek professional advice from an Actuary when determining the appropriate design and funding, including advise on contribution levels expected to meet target set of medical benefits at retirement, of the post-retirement medical scheme; and
- iv. The sponsor/employer may meet the initial set-up costs of the medical scheme.

3.2 Membership

- i. Every Public Servant on permanent and pensionable terms of service shall be eligible for membership. Public Service employees on contract and those retired, will be eligible for membership as guided by specific post-retirement medical scheme requirement;
- ii. Every member shall be required to complete a Membership Enrolment Form prescribed by the Board of Trustees;
- iii. Each person who joins or becomes a member of the Scheme shall make voluntary contributions into a Retirement Medical Scheme established by this scheme at the prevailing rates prescribed by the Board of Trustees with effect from the date of his membership of this Scheme;

- iv. A Public Servant, who on commencement date has not joined the scheme for any reason shall be offered an opportunity to do so within the first year of commencement date;
- v. Every person joining the Civil Service after the commencement date shall as a condition of employment become a member of the scheme with effect from the date of employment;
- vi. Membership of the Scheme shall not prejudice membership to any statutory medical scheme(s) ;
- vii. A Public Servant who fails to join the scheme within the stipulated time shall lose the opportunity to be a member if he/she has failed to join the scheme before the first anniversary of the commencement date;
- viii. A person who retired from the Civil Service before the commencement date shall be offered the opportunity of joining the Scheme subject to such conditions and restrictions imposed by the Board of Trustees; and
- ix. The Board of Trustees may issue membership cards and certificates to members.

3.2.1 Registration of Members

- a) Registration of members shall be either manual, electronic and or biometric;
- b) Each member shall avail themselves and his information for registration at the time of joining the Scheme;

3.2 Funding

- i. With effect from the date of joining the Scheme, each member shall contribute to the Scheme an amount at the rate of 1.5% of the employees of basic salary or its equivalent, or other such amount determined by the Board of Trustees on the advice of the Actuarist, provided that the deductions shall not exceed 2.1% of the employees' basic salary or its equivalent;
- ii. Established schemes will mobilize resources for operationalization of the schemes;
- iii. A member who registers additional eligible dependants subject to rule number 4.1 (iv) shall pay additional contributions in respect of each additional dependants;
- iv. A member may pay additional voluntary contributions in excess of the rates determined in accordance with Rule 5.1 to access additional medical benefits under the scheme;
- v. A member who exits his employment for any reason other than exit on medical grounds, and who wishes to make claims to the Scheme benefits shall make monthly payments in accordance with Rule 7 up to and until his date of entitlement to Scheme benefits;

- vi. A member who defaults on contributions shall pay the defaulted amount plus interest on the defaulted amount at the rate of determined by the Board of Trustees on the advice of the actuary for the entire duration of such default;
- vii. The current taxation regime for additional voluntary contributions (AVCs) by members and funds/benefits arising from these contributions shall apply with respect to the medical fund unless otherwise communicated by the RBA;
- viii. If the sponsor contributes to the fund and the fund design provides for guarantees on the level of medical benefits, then the consent of the sponsor shall be required in determining the level and design of the guarantees, and before any amendments to the guarantees in future; and
- ix. Schemes with such guarantees will be required to carry out triennial actuarial valuations and the same shall be submitted to the RBA.

3.4 Contributions

- i. Contributions to the Post-Retirement Medical Insurance Schemes by the member, sponsor /employer or both shall be in accordance with the provisions of the scheme rules and regulations provided that any contributions by the sponsor shall be supported through a sponsor's/employer's resolution.
- ii. The contributions into the fund by members and/or the sponsor shall either be a fixed percentage of members' emoluments, or a fixed amount per member or an amounts determined by an Actuarist aimed at achieving a targeted post-retirement medical benefits upon retirement; and
- iii. All contributions (from sponsor and/or members) shall vest to the member immediately.

3.5 Access

The scheme rules shall specify how the post-retirement medical benefits will be accessed on attainment of the scheme's retirement age or exit before attainment of retirement age.

- i. Upon attainment of retirement age, benefits shall be provided through various options which depend on the fund design. These options may include:
 - a) Transfer to a medical drawdown fund;
 - b) Transfer portion or whole of the fund to a registered insurance company for purchase of a medical insurance cover; and
 - c) Provision of medical benefits within the scheme and/ or medical fund in accordance with the scheme/fund provisions;
- ii. Upon exit before attainment of the retirement age, scheme rules shall provide how the accumulated funds will be accessed provided that the Sponsor's contribution (if any) shall not be accessed by the member until attainment of retirement age (early/normal), or in case of death, ill-health or permanent emigration/relocation to another country; or

- iii. May be transferred to another registered post-retirement medical fund or a medical provider to secure cover.
- iv. Members shall have the following options with respect to the portion of the medical fund arising from own contributions:
 - a) Payment of up to hundred per centum of the fund.
 - b) Transfer hundred per centum of the fund to another registered medical fund or a medical service provider to secure a cover.
- v. Benefits in this fund shall not be accessed while the member remains in the employment of the sponsor
- vi. Upon death of the member, funds shall be paid as a one off payment to the nominated beneficiaries.

3.6 Benefits

- i. Out-patient services shall be understood to include such preventive and curative services as medical consultation, nutritional clinic, laboratory investigations, drugs administration and dispensing, radiological examinations, nursing services, outpatient surgical procedures, annual medical check-up, ambulance services and other relevant outpatient services.
- ii. In-patient services shall be understood to include such therapeutic and curative services that require admission for medical and surgical intervention, and covers Hospital accommodation charges, Nursing care, prescribed Diagnostic investigations, prescribed rehabilitation services, surgical fees, specialist consultations and other such services.
- iii. Specialized benefits shall be understood to include Ophthalmic, Dental, Renal, Audio Logical and Oncological services.
- iv. Last expense benefits shall be understood to mean a final benefit/ an amount payable in the event of death of a beneficiary or his/her declared dependant/spouse.

3.7 Administration

- i. The medical fund shall be administered and managed by the Board of Trustees of the main fund;
- ii. The Trustees will have a fiduciary responsibility to manage the medical fund to the exclusive benefit of all participating members and/or their/beneficiaries;
 - a) Trustees shall retain the same service providers for the medical fund as those of the main fund;
 - b) The medical fund shall be segregated from the funds of the main retirement benefits scheme funds; and

- iii. All the reporting, communication, disclosure & general administration requirements in the Retirement Benefits Act and the related Regulations shall apply in the management of the medical funds.

3.8 The Trust Deed

The schemes administration will be anchored upon the Trust Deed; the legal provision that will give the scheme administrator authority to administer the scheme. The Trust Deed will contain the following;

- i. Authorities of administration; and
- ii. Rules and Regulations governing scheme administration

3.9 Investment

- a) The Trustees shall prepare a separate investment policy for the medical fund in line with Section 37 of the Retirement Benefits Act and Regulation 37 of the Retirement Benefits (Occupational Retirement Benefits Schemes), Regulations 2000.
- b) The preparation of the policy shall be an expense of the medical fund or the sponsor.

4. Scheme Rules

The contents of the scheme rules shall include the following: -

- i. The full name of the scheme, including reference to any prior change of name;
- ii. The physical address of the registered office of the scheme;
- iii. The date of commencement of the scheme;
- iv. A list of definitions, in alphabetical order, defining the terms which are frequently used in the rules and which bear a special connotation;
- v. Requirements for admission to membership into the scheme and the circumstances under which membership may cease;
- vi. Requirements under which an employer may remit contributions on behalf of the members;
- vii. The appointment, term, removal from office, powers and remuneration of trustees;
- viii. Powers of investment of scheme funds;
- ix. Mode and method of remitting contributions;
- x. Custody of the scheme fund, title deeds and other securities belonging to the Scheme;
- xi. The appointment of the liquidator in case of a voluntary dissolution;
- xii. The manner in which the scheme shall be dissolved subject to the provisions of the Act and the regulations made thereunder;
- xiii. The manner in which contracts and other documents binding the scheme shall be executed;

- xiv. The procedure of amending the rules;
- xv. The appointment and term of the auditor of the scheme and other persons rendering professional services to the scheme; and
- xvi. The manner in which disputes between the parties of a scheme shall be solved.

4.1 Transfer of Member's Portion

Trustees shall amend the scheme rules to allow members who have attained the retirement age to transfer of a portion of their retirement benefits (pension benefits accrued/accumulated in the main fund) to a medical service provider for the purposes of securing a post-retirement medical cover provided that;

- i. The portion so transferrable shall not exceed the maximum of commutable amount
- ii. The amendments to the scheme rules shall be forwarded to the Authority for approval.

4.2 Guarantees

- i. If the sponsor contributes to the fund and the fund design provides for guarantees on the level of medical benefits, then the consent of the sponsor shall be required in determining the level and design of the guarantees, and before any amendments to the guarantees in future.
- ii. Schemes with such guarantees will be required to carry out triennial actuarial valuations and the same shall be submitted to the Authority.
- iii. Scheme rules shall specify how deficits in the fund, if any, will be offset.

4.3 Taxation

The current taxation regime for additional voluntary contributions (AVCs) by members and funds/benefits arising from these contributions shall apply with respect to the medical fund; unless otherwise communicated by the Authority

5. INSTITUTIONAL FRAMEWORK FOR IMPLEMENTATION

The following institutions will be involved in the implementation of the scheme are as follows:

5.1 The Ministry responsible for Public Service

- a) Review policy and guidelines to be in tandem with the law, prevailing policies and guidelines;
- b) Provide interpretation and advisory to the Public Service on all aspects of the policy and guidelines;
- c) Provide policy guidelines governing administration of Post-Retirement Medical Insurance Schemes in the Public Service;

5.2 The Ministry responsible for Finance

- a) Provide seed capital to finance establishment and implementation of the Schemes in the Public Service; and
- b) Provide any other appropriate budgetary allocation for the Schemes as may be determined from time to time.
- c) Ensure compliance with policy, guidelines and regulations governing the operations of post-retirement Medical Insurance Schemes in the Public Service.

5.3 Ministry responsible for Health

- a) Monitor compliance to professional and ethical conduct of health practitioners and providers involved in the implementation of the Schemes in Public Service Institutions;
- b) Approve recommendations for overseas treatment for Members of the schemes; and
- c) Provide institutional support in implementation of the Schemes in line with the Government development agenda for attainment of the Universal Health Care goal for the citizens.

5.4 Ministries/Departments, County Governments and Agencies

- a) Undertake sensitization and registration of employees on the Scheme.
- b) Ensure deductions and remission of employees' contributions to the Scheme;
- c) Facilitate and coordinate implementation of the Scheme by County Governments.

5.5 Retired Civil Servants Associations

- a) Undertake mobilization and sensitization programmes of members on the

6. MONITORING, EVALUATION AND REPORTING

- i. This will include undertaking compliance and audits of the schemes by Insurance Regulatory Authority and review/ development of Policies and regulations by the Retirements Benefits Authority;
- ii. The reporting and compliance mechanism will be in accordance with the prevailing legislation, policies, guidelines and regulations governing the operations of Post-Retirement Medical Insurance Schemes in the Public Service.

6.1 Review

- 3 The Policy may be reviewed on need basis taking into account changes in Legislation, Policies, Regulations and any emerging issues / trends on Post-Retirement Medical Insurance Schemes in the Public Service.

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