

EKITI STATE HEALTH INSURANCE SCHEME LAW, 2016.

NO. 10 OF 2016.

EKITI STATE OF NIGERIA

EKITI STATE HEALTH INSURANCE SCHEME LAW, 2016

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EKITI STATE HEALTH INSURANCE SCHEME LAW, 2016.

NO. 10 OF 2016.

A LAW TO PROVIDE FOR THE ESTABLISHMENT OF THE EKITI STATE HEALTH INSURANCE SCHEME, TO INSTITUTE THE EKITI STATE HEALTH INSURANCE SCHEME FOR ALL RESIDENTS OF EKITI STATE AND FOR CONNECTED PURPOSES.

Commencement []

THE EKITI STATE HOUSE OF ASSEMBLY enacts as follows:

1. Establishment of Ekiti Health Insurance Scheme.

- (1) There is established a body to be known as the Ekiti State Health Insurance Scheme (in this Law referred to as "the Scheme).
- (2) The Scheme shall:
 - (a) be a body corporate with perpetual succession and a common seal;
 - (b) have power to sue and be sued in its corporate name;
 - (c) acquire, hold or dispose of any moveable or immovable property for the purpose of its function under this Law.
- (3) The principal objective of the Scheme shall be to regulate, supervise and ensure the effective administration of Ekiti State Health Scheme.

2. Establishment of the State Health Insurance Scheme Committee.

- (1) There is established the Ekiti State Health Insurance Scheme Committee (HISC) (in this law referred to as "the Committee") which shall, subject to this Law, have a general control of the Scheme.
- (2) The Committee shall consist of the following: -
 - (a) Chairman who shall be the Commissioner for Health;
 - (b) Vice Chairman who shall be the Permanent Secretary, Ministry of Health;
 - (c) Secretary who shall be the General Manager of the Scheme;
 - (d) One representative of:
 - (i) Primary Health Care Development Agency

- (ii) Hospitals' Management Board.
 - (iii) Ministry of Finance.
 - (iv) Ministry of Budget and Planning.
 - (v) Private Health Care Provider Association of Nigeria-Ekiti State.
 - (vi) Traditional rulers.
 - (vii) The Nigerian Labour Congress Ekiti State Chapter.
 - (viii) NGOs/ Civil Society.
 - (ix) The National Health Insurance Scheme Agency.
 - (x) Ministry of Justice.
 - (xi) Ministry of Information.
 - (xii) Association of Local Government Chairmen of Nigeria, Ekiti State Chapter.
 - (xiii) Clerk of the House, Ekiti State House of Assembly.
 - (xiv) Ekiti State University Teaching Hospital.
- (3) The representative of a Ministry, Department or Agency shall not be below the rank of a Director in the Ekiti State Civil Service.
- (4) The Committee shall-
- (a) approve/appoint for the scheme such number of officers and other employees as may, in the opinion of the Committee, be required to assist the Scheme in the discharge of any of its functions under this Law; and
 - (b) pay to persons so appointed such remuneration and allowances as the Committee may approve.

3. General Manager and the Other Staff of the Scheme.

- (1) There shall be appointed by the Governor, on the recommendation of the State Commissioner for Health, a General Manager for the Scheme.
- (2) The General Manager shall-
- (a) be a health professional of integrity with relevant qualifications who shall not be below the rank of a Director in the Ekiti State Civil Service.
 - (b) be the Accounting Officer of the Scheme and be responsible to the Committee;
 - (c) Hold Office-

- (i) for a period of 4 years in the first instance and may be re-appointed for a further term of 4 years and no more; and
 - (ii) on such terms and conditions as may be specified in the letter of appointment.
- (3) The General Manager shall be responsible for the-
- (a) day-to-day administration of the Scheme;
 - (b) general direction and control of all other employees of the Scheme.

4. Components of the Ekiti State Health Insurance Scheme.

- (1) The Ekiti State Health Insurance Scheme shall comprise initially of four components.
- (a) The Ekiti State Equity Health Plan (EKEHP) – shall be a plan for vulnerable groups as defined in Section 49 of this Law. Other criteria for eligibility into the health plan shall be approved by the State Executive council. The only point of entry shall be all public Health Care services who shall refer if necessary to designated public secondary and tertiary health facilities;
 - (b) The Community Based Health Plan (CBHP) – This shall be the ‘affordable’ Plan providing a prescribed package of healthcare services at uniform contributions accessible to all residents at the grassroots and will be accessible from both Public and Private Facilities;
 - (c) The Ekiti State Private Health Plan (PHP) - This shall consist of a variety of packages providing healthcare services in direct proportion to the contribution;
 - (d) The Formal Health Plan – This shall be a contributory plan for all public and private formal sector employees wherein the employers and employees shall make contributions as determined by the Committee;
- (2) The Scheme shall be compulsory and apply to all residents of the State that are not covered by an existing health scheme. All existing health schemes in Ekiti State institutions and other similar health financing options in the state shall form part of the scheme.
- (3) All residents in the formal or informal sector already covered by an existing health scheme must provide evidence of same to

the Scheme.

5. Objectives of the Health Insurance Scheme.

The objectives of the scheme are to:

- (1) Ensure that every resident of Ekiti State has good access to health care services;
- (2) Ensure that all residents of Ekiti State have financial protection, physical access to quality and affordable healthcare services;
- (3) Protect families from the financial hardship of huge medical bills;
- (4) Limit the rise in the cost of healthcare services;
- (5) Ensure that the basic minimum package for the poor and vulnerable is delivered subject to the availability of the fund stipulated by the National Health Act;
- (6) Ensure equitable distribution of healthcare costs across different income groups;
- (7) Maintain high standard of healthcare delivery services within the Health Sector;
- (8) Ensure efficiency in health care service delivery;
- (9) Improve and harness private sector participation in the provision of healthcare services;
- (10) Ensure adequate distribution of health facilities within the state;
- (11) Ensure appropriate patronage at all levels of the healthcare delivery system;
- (12) Ensure the availability of alternate sources of funding to the health sector for improved services;
- (13) In cases where resident do not have available medical services and other health services, to take such measures as are necessary to plan, organize and develop medical services and other health services that are commensurate with the needs of the residents.

6. Cessation of Membership.

- (1) A member of the Committee shall cease to hold office if:-

- (a) he becomes of unsound mind;
 - (b) he becomes bankrupt;
 - (c) he is convicted of a felony or of any offence involving dishonesty; or
 - (d) he is guilty of serious misconduct in relation to his duties.
- (2) A representative member of the Committee may be replaced from office if two third of membership is satisfied that it is not in the interest of the scheme or the interest of the public that the member should continue in office.

7. Resignation of a Member of the Committee.

A member of the committee may resign his appointment by notice, in writing under his hand, addressed to the Chairman and the resignation shall take effect only on acknowledgement by the Chairman.

8. Vacancy in the Committee.

Where a vacancy occurs in the membership of the committee it shall be filled by the nomination of a successor by the parent organization to hold office and that the successor shall represent the same interest.

9. Power of the Committee.

The Committee shall have power to:-

- (a) determine the organizational structure of the Scheme;
- (b) approve for the Scheme all the health plans and private Health Maintenance Organizations;
- (c) determine the overall policies of the Health Scheme, including the financial and operative procedures of the Scheme;
- (d) ensure the effective implementation of the policies and procedures of the Scheme;
- (e) Regulate and supervise the Health Scheme established under this Law;
- (f) establish standards, rules and guidelines for the

management of the Health Scheme under this Law;

- (g) register, engage, and supervise Health Maintenance Organizations, Mutual Health Associations and other institutions relating to the Health Plans as the Scheme may from time to time determine;
- (h) develop a targeting mechanism/ tools to identify the poor and vulnerable who will benefit from the Health Equity Plan as provided under Section 4(1)(a) of this Law;
- (i) issue guidelines and approval for the administration and release of funds under the Health Scheme;
- (j) approve other Health Plans as presented and put forward to the Scheme from time to time;
- (k) approve recommendation relating to research, consultancy and training in respect of the Scheme;
- (l) ensure the maintenance of a State Data Bank on all Scheme matters;
- (m) determine the level of co-payment for all health plans of the Scheme
- (n) perform such other duties which, in the opinion of the Scheme, are necessary or expedient for the discharge of its functions under this Law.

10. Functions of the Scheme.

The Scheme shall be responsible for:-

- (a) ensuring the effective implementation of the policies and procedures of the health scheme;
- (b) issuing appropriate regulations and guidelines, as approved by the Committee, to maintain the viability of the Health Scheme;
- (c) the management of the Health Scheme in accordance with the provisions of this Law;
- (d) implementation of the minimum benefit package as defined under the National Health Act;
- (e) the definition of benefit packages to be provided under the

Health Plans as provided in section 4 of this Law

- (f) registering NHIS accredited Health Maintenance Organizations and or Mutual Health Associations, state accredited healthcare facilities and other relevant institutions;
- (g) classifying healthcare facilities and providers in a manner that shall help improve health outcomes in the state as required under the National Health Act;
- (h) determining the percentage of the premiums from private health plans that shall be payable as cross subsidy to the fund for the purpose of financing the Health Equity Plan for the poor and vulnerable;
- (i) approving format of contracts for the HMOs and all health care providers;
- (j) carrying out public awareness and education on the establishment and management of the health Scheme;
- (k) promoting the development of Mutual Health Associations for wider participation in the scheme;
- (l) determining, after due consideration, capitation, fee-for service and other payment mechanisms due to health care providers, by the HMOs in line with similar schemes;
- (m) advising the relevant bodies on inter-relationship of the Scheme with other social security services;
- (n) coordinating research and statistics;
- (o) establishing quality assurance for all stakeholders;
- (p) the collection, collation, analysis, and reporting on quarterly basis returns from the HMOs, Community Based Health Plans and MHAs;
- (q) exchanging information and data with the National Health Insurance Scheme, State Health Management Information system, relevant financial institutions, development partners, civil society groups and other relevant bodies;
- (r) ensuring manpower development in the Scheme;
- (s) receive and investigate complaints of impropriety leveled against any HMOs, health care providers, and other relevant institutions and ensure that appropriate sanctions are given;

- (t) carrying out such other activities as are necessary or expedient for the purpose of achieving the objectives of the Scheme under this Law.

11. Pensions.

- (1) Employment in the Scheme shall be the approved service for purposes of the Pension Law.
- (2) Employees of the Scheme shall be entitled to pensions and other retirement benefits.
- (3) Nothing in subsections (1) and (2) of this section or in this Law shall prevent the appointment of a person to any office on terms which preclude the grant of pension in respect of that office.

12. Appointment of Consultant for the Scheme.

- (1) The Committee shall appoint for the Scheme, a licensed actuary or any other professional who in the opinion of the committee is capable of rendering the required services on such terms and conditions as the Committee may, from time to time, determine.
- (2) The actuary or any person so appointed shall review the services package and evaluate it actuarially, including the rates of contributions payable for the service and make appropriate recommendation to the Scheme.
- (3) If having regard to the review and evaluation carried out by the actuary or any person so appointed under subsection (2) of this section, the Committee considers that the rates of contributions have not retained their value in relation to the general level of earning in Ekiti State, the Committee shall in consultation with the actuary modify the rates to the extent considered appropriate and bring the new rates to the notice of the persons affected by the modification.
- (4) The Committee shall appoint for the Scheme, Auditors and other Consultants as it shall be determined from time to time.

13. Applicability of NHIS Act.

- (1) The provisions of the NHIS Act and the National Health Act shall apply to the provisions of this Law and all the regulations made hereunder.

- (2) Where any provision of this Law is in conflict with any provision of the NHIS Act or the National Health Act, that provision shall, to the extent of its inconsistency, be void.

14. Prohibiting Health Care Providers and HMOs from Refusing Coverage Based on Medical History and Provision of Emergency Treatment.

- (1) A health care provider or HMO shall not by reason of a resident's medical history refuse treatment or coverage.
- (2) A health care provider or HMO shall not refuse a person on emergency medical treatment for reason of lack of coverage under a health plan.

15. Creation and Management of Ekiti State Health Fund.

- (1) There is created the 'Ekiti State Health Fund (herein-after referred to as "the fund").
- (2) The fund shall consist of:-
 - (a) the initial take-off grant from the Ekiti State Government;
 - (b) formal Sector Fund; comprising of contributions from public and private sector employers and employees;
 - (c) CBHI Fund; comprising of contributions from the informal sector;
 - (d) equity Fund; comprising of contributions of not less than 1% consolidated revenue of the Ekiti State Government, funds from NHIS for pregnant women, children under-five (5) years and other relevant programs; donations or Grants-in-Aid from private organizations and Non-Governmental organizations from time to time;
 - (e) funds to be provided by federal agencies in accordance with the provisions of the National Health Act and extant regulations;
 - (f) such money as may be due from Health Maintenance Organizations and subsidy remittance from Private Plans;
 - (g) fines and commissions charged by the Scheme;
 - (h) other appropriations earmarked by the national and state implementation of the Scheme;

- (i) funds as may be approved from the Ekiti State Primary Health Care Agency (SPHCA), from the National Primary Healthcare Development Agency (NPHCDA) for the Community Based Health Plan (CBHP), Formal Health Plan (FHP) and other relevant programs;
- (j) dividends and interest on investment and stocks; and
- (k) all other money which may, from time to time, accrue to the Scheme;

16. Disbursement of the Fund.

- (1) The Committee shall approve the disbursement of funds to the healthcare providers from the established fund through the participating HMOs, CBHP and MHAs with the recommendation of the Scheme.
- (2) The Scheme shall on approval of the Committee, from time to time, apply the administrative charges at its disposal-
 - (a) for and in connection with the objectives of the Scheme under this Law.
 - (b) to the cost of administration of the Scheme;
 - (c) to the payment of fees, allowances and benefits of members of the Committee;
 - (d) to the payment of salaries, allowances and benefits of officers and employees of the Scheme; and
 - (e) for the maintenance of any property vested in the Scheme or under its administration.
- (3) The Scheme shall, invest any money not immediately required for use.

17. Power to Accept Gift.

- (1) The Scheme may accept gifts of land, money or other property on such terms and conditions agreeable to the Ekiti State Government and as may be specified by the person or organization making the gift.
- (2) The Scheme shall not accept any gift if the conditions attached by the person or organization offering the gift are inconsistent

with the State Government policies or the objectives and functions of the Scheme under this Law.

18. Annual Estimates, Account and Audit.

- (1) The Committee shall cause to be prepared, not later than 30th September in each year, an estimate of the expenditure and income of the Scheme during the next succeeding year and when prepared, they shall be submitted to the Accountant-General of the state.
- (2) The Committee shall cause to be kept proper accounts of the Scheme and proper records in relation thereto and certified by the Committee. The accounts shall be audited by auditors appointed by the Committee from the list and in accordance with the guidelines supplied by the Auditor-General of the State.

19. Annual Report.

- (1) The Committee shall not later than six (6) months immediately following the end of the year-
 - (a) submit to the Governor through the Ministry of Health, a report on the activities and the administration of the Scheme during the immediately preceding year and shall include in the report the audited accounts of the Scheme and the auditor's report on the accounts;
 - (b) present and publish the audited annual accounts, auditor's report on the activities of the Scheme to Annual Meeting comprising all Stakeholders and on the State Government website.

20. Exemption from Tax.

- (1) The Scheme shall be exempted from the payment of tax on any income accruing from investment made by the Committee for the Scheme or otherwise.
- (2) The provisions of any enactment relating to the taxation of companies or trust funds shall however not apply to the Scheme or the Committee.

21. Payment of Contribution under the Scheme.

- (1) The Ekiti State Health Fund shall be administered through carefully selected and approved banks as advised by the Accountant-General of the State, for the pooling of all contributions derived from either the public or private sector (formal or informal) into dedicated accounts.
- (2) The Scheme shall cause the pooling of contributions derived from the private and public sector to be made directly to the Fund.
- (3) A percentage of the premiums from private health plans to be determined by the Scheme shall be payable as cross subsidy to the Fund for the purpose of financing the Health Equity Plan for the poor and vulnerable.
- (4) The Scheme shall cause HMOs, MHAs to establish accounts with the Ekiti State Health Fund approved Banks for the agreed remittable percentage of the premiums received for the private health plans and Community Based Health Plan all under this Law.
- (5) All other funds particularly by independent or private donors shall be paid directly to the Fund through approved banks into dedicated accounts.
- (6) The Scheme shall cause HMOs/MHAs to produce, in a recognized format and subject to guidelines to be issued by it from time to time, performance/security bond from accredited banks or insurance companies so as to protect contributions collected.
- (7) Ekiti Health Insurance Scheme on the advice of the actuary shall prescribe, from time to time, what percentages of contributions collected by HMOs, CBHP and MHAs shall be for provider reimbursement, administration, and remittance to the Scheme.

22. Registration of Ekiti State Residents, Employer and Employees.

- (1) Subject to such guidelines and regulations as may be made, under this Law, all residents shall be registered under the Scheme either through their registered HMOs, CBHP and MHAs or on an employee's individual basis.
- (2) All employers (public and private) shall register with the

Scheme and obtain a Corporate Identification Number.

23. Registration and Service of Health Care Providers.

- (1) The engagement of participating health care providers under the Health Scheme shall be in accordance with guidelines as may be issued by the Scheme, from time to time, under the Law.
- (2) A healthcare provider so engaged in subsection (1) shall, in consideration of an approved capitation payment or fee for service, to the extent and manner prescribed herein, provide services in accordance with-
 - (a) the approved Benefit Package as shall be actuarially determined from time to time by the Committee; and
 - (b) treatment guidelines.

24. Registration of Health Maintenance Organizations, CBHPs, Mutual Health Associations and Allied Associations.

- (1) The scheme shall register NHIS accredited HMOs, Mutual Health Associations (MHAs) (in this Law referred to as "MHAs") and allied associations.
- (2) This Law recognizes the existence of prepaid health Insurance Organization and prepaid health plans before the commencement of the Ekiti State Health Scheme. Such organizations operating in the State shall be registered and monitored by the Scheme. However, all Community Based Health plans must mandatorily be run in the manner stipulated by this Law and the Scheme for uniformity and to the economic benefit of community members.
- (3) The registration of an organization under the Scheme shall be in such form and manner as may be determined, from time to time, by the Committee, using guidelines which shall include provisions requiring the organization to-
 - (a) be financially viable before and after registration;
 - (b) have a healthy track record of relationship with private providers;
 - (c) make a complete disclosure of the ownership structure and composition of the organization;

- (d) have account(s) with one or more banks approved by the Scheme;
 - (e) comply with relevant insurance requirements through insurance companies accredited by the Scheme;
 - (f) give an undertaking that the organization shall manage and invest the funds accruing to it from contributions received pursuant to this Law in accordance with the guidelines to be issued, from time to time, by the Scheme.
- (4) The Scheme shall reserve the right to allocate HMOs to cover designated divisions of the State under the State Health Equity Plan.
- (5) The registration of a HMO shall be for duration as specified in the guidelines issued by the Scheme. At the expiration, a HMO shall renew its registration within the time limits specified by the guidelines.

25. Refusal of Registration.

- (1) The Scheme may refuse to register any applicant pursuant to an application made under Section 24 of this Law if it is satisfied that-
- (a) the information contained in the application for a license is false in any material particular; or
 - (b) the application does not meet the requirements prescribed by the Scheme for grant of a license;
- (2) Where the Scheme refuses to register any organization, it shall forthwith notify the applicant in the prescribed form, specifying the reason for such refusal. However, such an organization may reapply at a time it has fulfilled all the necessary conditions for registration.

26. De-registration of Organization.

- (1) The Scheme shall de-register any organization, if-
- (a) it discovers after the grant of license that a statement was made in connection with the application thereof which the applicant knew to be false in any material particular;
 - (b) the organization does not provide the quality of the

services specified by the Scheme;

- (c) the organization is subjected to any insolvency proceedings or is to be wound up or otherwise dissolved;
 - (d) the conduct of affairs of the organization does not conform to the provisions of this Law or any regulations made pursuant to or any directive issued under this Law;
 - (e) any event occurs which renders the organization ineligible to perform its duties; and
 - (f) the organization is in breach of any condition attached to its registration.
- (2) The Scheme shall, before revoking the license of an organization give the organization at least 90 days' notice of its intention and shall consider any representations made to it in writing by the organization within that period before the revocation.

27. Functions of Third Party Administrators (TPA).

- (1) An organization referred to in subsection (1) of Section 24 of this Law shall have responsibility for:
- (a) registration of eligible employees under this Law;
 - (b) collection of contribution from existing prepaid health plans under subsection (2) of Section 24 of this Law and shall remit 1% of collection to the Fund;
 - (c) the payment of capitation fee for service or other recognized methods of payment for services rendered by health care providers registered under the Scheme;
 - (d) rendering to the Scheme returns on its activities as may be required by the Committee;
 - (e) contracting only with the health care providers approved under the scheme for the purpose of rendering health care services as provided by this Law;
 - (f) ensuring that contributions are kept in accordance with guidelines issued by the Committee;
 - (g) establishing a quality assurance system.

- (2) An Association referred to in subsection (1) of Section 24 of this Law shall have responsibility for the functions stated in subsection (1) of this Section though with focus on the informal sector.
- (3) Notwithstanding anything contained in this Law, HMOs, CBHPs and MHAs shall not be involved in the direct delivery of health care services or collection of funds except in private or voluntary Health Plans and shall make appropriate returns to the fund.

28. Participation of Local Governments on the Appointment of Focal Persons.

A local Government Chairman in consultation with the Primary Healthcare Development Agency appoint focal person(s) who shall be a senior serving officer in the services of the Department of Health of the Local Government to coordinate and collaborate with the Scheme.

29. Functions of the Ekiti State Health Scheme Arbitration Panel.

- (1) Whenever there is a dispute amongst parties under this Law, it shall first be referred to Arbitration, Mediation or Conciliation before resorting to litigation.
- (2) The parties shall by mutual consent appoint a 3-man panel of arbitrators (herein after referred to as "the Panel").
- (3) The membership of the panel and the applicable Arbitral procedure shall be as provided for in the Ekiti State Arbitration Law, 2014.

30. Prosecution of Offender.

Any person who contravenes any of the provisions of this Law shall be prosecuted by the Attorney-General of the State.

31. Jurisdiction.

The State High Court shall have:

- (a) jurisdiction to try offenders under this Law; and

- (b) power, notwithstanding anything to the contrary in any other enactment, to impose the penalties provided for the offence in this Law.

32. Payment of Contribution.

- (1) The High Court before which a person is convicted of an offence under this Law may, without prejudice to any civil, remedy, order a person to pay to the fund of the Scheme the amount of any contributions together with interest and penalty thereon, certified by the Scheme to be due and payable at the date of the conviction and such amount shall be paid into the Fund of the Plan for its credit, where applicable or of the employee concerned.
- (2) Any contribution paid into the Fund of the Scheme under subsection (1) of this Section shall be remitted to the organization entitled to receive the contribution.

33. Commencement of Proceedings.

Proceedings for an offence under this Law may be commenced at any time after the commission of the offence.

34. Limitations of Suits against the Scheme etc.

- (1) Subject to the provisions of this Law, the provisions of the Public Officers Protection Law shall apply in relation to any suit instituted against any officer or employee of the Scheme.
- (2) Notwithstanding anything contained in any other enactment, no suit shall lie against the Scheme, any member of the committee, the General Manager or any other officer or employee of the Scheme for anything done in pursuance or executing of this Law or any other enactment or Law, or of any public duty or authority or in respect of any alleged neglect or default in the execution of this Law or such enactment or law, duty or authority, shall lie or be instituted in any court unless it is commenced-
 - (a) within three month after the act, neglect or default complained of; or
 - (b) in the case of a continuation of damage or injury, within six months next after the ceasing thereof.

- (3) No suit shall be commenced against the Scheme, a member of the Committee, the General Manager, officer or employee of the Scheme before the expiration of a period of one month after written notice of intension to commence the suit shall have been served upon the Scheme by the intending plaintiff or his agent(s).
- (4) The notice referred to in subsection (3) of this Section shall clearly and explicitly state the cause of action, the particulars of the claims, the name and place of abode of the intended plaintiff and the relief which he claims.

35. Service of Document.

A notice, summons or other document required or authorized to be served on the scheme under the provision of this Law or any other enactment of law may be served by delivering it to the General Manager or by sending it by registered post and addressed to the General Manager at the principal office of the Scheme.

36. Restriction on execution against property of the Scheme.

- (1) In any action or suit against the Scheme, no execution or attachment of process in the nature thereof shall be issued against the scheme not less than three (3) months unless notice of intention to execute or attach has been given to the scheme.
- (2) Any sum of moneys which may by the judgment of any court be awarded against the Scheme shall, subject to any directions given by the court where notice of appeal of the said judgment has been given, be paid from the general reserve fund of the Scheme.

37. Indemnity of officers.

Any officer or employee of the scheme acting in the course of lawful duty shall be indemnified out of the assets of the Scheme, against any liability incurred by him in defending any civil proceeding.

38. Confidentiality and Non-Disclosure.

A member of the Committee, the General Manager, officer or other employee of the Scheme shall-

- (a) not make use of any information which has come to his knowledge in the exercise of his powers or is obtained by him in the ordinary course of his duty for his personal gain or otherwise under this law;
- (b) treat as confidential any information which has come or obtained by him in the performance of his functions under this law;
- (c) not disclose any information referred to under paragraph (b) of this subsection except when required to do so by an Arbitration or similar panel of the court or in such other circumstances as may be prescribed by the Committee, from time to time.

39. Contribution to be Inalienable.

- (1) Contribution payable under the Scheme shall be inalienable and shall not be assets for the benefits of creditors in the event of the bankruptcy or insolvency of a contribution or an organization.
- (2) Notwithstanding anything in any law or enactment, contributions whether by an employer or an employee under this Law shall form part of tax deductible expenses in the computation of tax payable by an employer or, as the case may be, by an employee, under any other relevant law applicable to income tax.

40. Transfer of Liability of Contribution in the Case of Mergers and Acquisitions etc.

Where under Section 591 of the Companies and Allied Matters Act 1990, an order is made by a court under subsection (3) of that section which include the transfer to the company of the whole or any part of the undertaking and of the property and liabilities of a transfer or company, the order shall include provisions for the taking over, as from such date as may be specified in the order, or any liability for any contribution which has become due and payable under this Law (together with any accrued interest thereon) in respect of the employees concerned in the undertaking, property or liability transferred.

41. Exclusion from Application of Cap. T22 LFN.

The provisions of the Trustee Investment Act shall not apply to any

investment made by the Scheme under this Law.

42. Professional Indemnity for Health Care Providers.

The Ekiti State Government shall collaborate with relevant agencies of Federal Government in the realization of the set objective of this Law.

43. Professional Indemnity Cover.

A health care provider (institution and individual) shall be required to take professional indemnity cover from a list of insurance companies approved by the Committee.

44. Power to make Regulations and Issuing Guidelines.

- (1) The Scheme shall make regulations and issue guidelines for-
 - (a) the registration of employers and employees liable to contribute under this Law.
 - (b) the registration of dependants of employees covered by the Scheme;
 - (c) the compulsory payment of contributions by employers and employees, the rates of those contribution and the deduction by the employers of contribution payable by employees under this Law from any salary, wage or other money payable;
 - (d) the voluntary payment of contributions by self-employed and other persons and rates of such contributions;
 - (e) the maintenance of the records to be kept for the Scheme and the records to be kept by employers in respect of contributions payable under this Law and in respect of their employees;
 - (f) the methods of receiving contributions under this Law;
 - (g) the imposition of surcharges in respect of late payment of contributions by employers or employees;
 - (h) the manner and circumstances in which contributions may be remitted and refunded;
 - (i) negotiated fees and charges payable for medical, dental, pharmaceutical and all other services provided under the

scheme;

- (j) the nature and amount of benefits to be provided under this scheme, the circumstances and the manner in which the benefits shall be provided;
 - (k) the nature and amount of capitation and fee for service payment under this scheme, the circumstances and manner in which health care providers shall receive the payment;
 - (l) the reduction, suspension or withdrawal of any payment under this scheme;
 - (m) the submission of returns by employers regarding the employers and their employees;
 - (n) the procedure for assessment of contributions made under this scheme;
 - (o) any other matter whatsoever for which, in the opinion of the Scheme, is necessary or desirable to make regulation and issue guidelines for giving effect to this Law.
- (2) The guidelines issued under subsection (1) (c) of this Section may provide for different levels of contributions to be payable by different classes of persons.
- (3) The guidelines issued under this section need not be published in the Gazette but they are published as a Manual.

45. Power to Enter, Inspect and Audit.

The Scheme through her appointed Officers may enter, inspect and audit any premises, book, accounts and records of any Hospital, HMO or MHA that has received payment under this law at any time and may require the health care provider to verify in a manner prescribed, any information submitted to the Scheme.

46. Withholding Payments.

Where a hospital or health facility fails to keep the books, records and returns required under this law or any Regulations made there under, the Scheme may withhold payments due to it until the hospital complies with the provisions of this law and the Regulations made here under.

47. Offences and Penalties.

- (1) Any person who produces to a Health Care Provider or its official a registration certificate or identification card-
 - (a) knowing that the person named therein is not at the time of the production thereof, not covered under the Law;
 - (b) knowing that the person on behalf of whom it is produced and whose treatment is to be facilitated is not the person named therein or a dependant of that person; commits an offence and shall on conviction pay a fine of Two Hundred and Fifty thousand naira (₦ 250,000.00) in addition to the bills incurred or imprisonment for a term not exceeding 6 months.
- (2) Any member or agent of the Scheme who fails, without reasonable cause, to comply with a requirement of an auditor under subsection (2) of Section 18 of this Law, commits an offence and is liable on conviction to the fine not exceeding One Hundred thousand naira (₦100,000.00) or imprisonment for a term not exceeding three months or to both such fine and imprisonment.
- (3) Any person or Organization who -
 - (a) fails to pay into the account of an organization or association and within the specified period any contribution liable to be paid under this law; or
 - (b) deducts the contribution from the employee's wages and withholds the contribution or refuses or neglects to remit the contribution to the organization or association concern within the specified time, commits an offence and is liable on conviction -
 - (i) In the case of a first offence, to a fine not less than Five Hundred Thousand Naira (₦500,000.00) or imprisonment for term not exceeding two years or to both such fine and imprisonment; and
 - (ii) In the case of second or subsequent offence, to a fine of not less than One Million Naira (₦1,000,000.00) or imprisonment for a term not exceeding five years or less than two years or to both such fine and imprisonment.
- (4) Any person who contravenes the provisions of subsection (1) of section 39 of this Law commits an offence and is liable on

conviction to a fine of not less than Fifty Thousand Naira (₦ 50,000.00) or imprisonment for a term not exceeding two years or to both such fine and imprisonment.

48. Offences by Bodies Corporate etc.

- (1) Where an offence under this Law has been committed by a body corporate or firm or other association of individuals, a person who at the time of the offence-
 - (a) was an officer of the body corporate, firm or other association; or
 - (b) was purporting to act in the capacity of an officer of the body corporate, firm or other association, is deemed to have committed the offence and liable to be prosecuted and punished for the offence, unless he proves that the commission or omission constituting the offence took place without his knowledge, consent or connivance.
- (2) In this Section, "officer" includes-
 - (a) in the case of Ministries, Departments and Agencies (MDAs), the Accounting Officer;
 - (b) in the case of a body corporate, a Director, Chief Executive by whatever name called, Manager and Secretary of the body corporate;
 - (c) in the case of a firm, a partner, Manager and Secretary of the firm; and
 - (d) in the case of any other association of individuals, a person involved in the management of the affairs of the association.

49. Interpretation.

In this law, unless the context otherwise requires –

"Administrative charge" means not more than 10% of the funds from the Ekiti State Private Health Plans and the Formal Sector Plan and 5% Administrative charges derived from social health plan and others;

"Scheme" means the Ekiti State Health Insurance Scheme established under section 1 of this law;

"Benefit" means a benefit or advantage of any kind whatsoever

derived from the scheme;

“Committee” means the Ekiti State Health Insurance Committee established under Section 3 of this Law for the Scheme;

“Capitation” means a payment to a health care provider in respect of covered services to be provided to an insured person registered with the health care provider, whether the person uses the services or not;

“CBHP” means Community Based Health Plan registered under Section 4 of this Law to provide health care services through health care providers approved by the scheme;

“Commissioner” means the Commissioner charged with responsibility for matters relating to health in the state;

“Contribution” means a premium payable to HMOs, CBHPs, MHAs, Ekiti State Health Fund (EKSHEF) and any other funds; under this law;

“Employee” means any person who is ordinarily resident in Ekiti State and is employed in the public service or private sector or an apprenticeship with an employer whether the contract is express or implied, oral or in writing;

“Employer” means an employer with ten or more employees which includes the Federal, State and Local Government or any Extra-Ministerial Department or a person with whom an employee has entered into a contract of service or apprenticeship and who is responsible for the payment of the wages or salaries of the employee including the lawful representative, successor or assignee of that person;

“Fee-for-service” means payment made directly by Health Maintenance Organizations (HMOs), Community Based Health Plans (CBHP), Mutual Health Associations (MHAs), for complete health care services not included in the capitation fees paid to health care providers following approved referrals and /or professional services (specialist consultation, pharmaceutical care services, laboratory and radiological investigation etc.) under this Scheme;

“Health care provider” means any public or private health care facility, hospital, maternity center, community pharmacies and all others service providers registered by the Scheme for the provision of prescribed health services for insured persons and their dependants under this scheme;

“Accrediting body” means “Joint Monitoring and Accreditation Team” (JOMAT) who accredits health care facilities and other relevant institutions. This comprises of the representatives of State Ministry of Health, Hospitals’ Management Board, State Primary Health Care Development Agency and National Health Insurance Scheme office in the state.

“HMO” means a health maintenance organization registered under Section 24 of this Law to ensure health care services are adequately provided by health care providers approved by the scheme;

“MHA” means a mutual health association registered under Section 24 of this Law to provide health care services through health care providers approved by the Scheme;

“Insured Person” means any person and eligible dependent that pays the required contribution under the Scheme;

“Medical Practitioner” means a person with a degree registered with the Medical and Dental Council of Nigeria

“Member of the Committee” means any person, including the Chairman who serves on the Committee;

“NHIS” means National Health Insurance Scheme Agency as defined in the National Health Insurance Scheme Act CAP. N42, Law of the Federation of Nigeria, 2004.

“Resident” means any person who lives within the boundaries of Ekiti state.

“Vulnerable” refers to the following categories of people: pregnant women, children under 5 years, the aged, the disabled, the poor and others falling within the group. The poor are the persons identified through a process designed by the scheme.

“Wage” means remuneration in money paid to an employee under his contract of service or apprenticeship, as the case may be; and whether agreed to be paid at fixed or determined intervals of time.

50. Citation.

This Law may be cited as the Ekiti State Health Insurance Scheme Law,
2016.

SUPPLEMENTARY PROCEEDINGS RELATING TO THE COMMITTEE.

1. Quorum.

- (i) Subject to this Law and Section 27 of the Interpretation Act, the Scheme may make standing orders regulating its proceedings and those of any of its committees.
- (ii) The quorum of the Committee shall be the Chairman or the Vice Chairman or any member presiding at the meeting and seven (7) other members and the quorum of any sub-committee of the Committee shall be determined by the Committee.

2. Meeting of the Committee.

- (i) The Committee shall meet not less than three (3) times in each year and the Committee shall meet whenever it is summoned by the Chairman. If the Chairman is required to summon the committee meeting by notice given to him by not less than twelve other members, he shall summon a meeting of the Committee to be held within fourteen days from the date on which the notice is given.
- (ii) At any meeting of the Committee, the Chairman or the Vice

Chairman shall preside but if both are absent, the members present at the meeting shall appoint one of their members to preside at the meeting.

3. Power to Co-Opt.

Where the Committee desires to obtain the advice of any person on a particular matter, the Committee may co-opt him for such period as it thinks fit; but a person who is in attendance by virtue of this sub-paragraph shall not be entitled to vote at any meeting of the Committee and shall not count toward quorum.

4. Sub-Committee.

- (1) The Committee may constitute one or more sub-committees to carry out, on behalf of the Committee some of its functions as it may determine.
- (2) A sub-committee appointed under this Paragraph shall consist of such number of persons (not necessarily members of the Committee as may be determined by the Committee) and a person other than a member of the Committee shall hold office on the sub-committee in accordance with the terms of his appointment.

5. Miscellaneous.

- (1) The fixing of the seal of the Scheme shall be authenticated by the signature of the Chairman, the General Manager or of any other person authorized generally or specifically to act for that purpose by the Committee.
- (2) Any contract or instrument, which, if made or executed by a person not being a body corporate, would not be required to be under seal and may be made or executed on behalf of the Committee by the General Manager or any person generally or specially authorized for the purpose by the Committee.
- (3) Any document purporting to be a document duly executed under the seal of the Scheme shall be received in evidence and shall, unless and until the contrary is proved, be presumed to be so executed.
- (4) The validity of any proceeding of the Committee or of a sub-committee thereof shall not be adversely affected by any vacancy in the membership of the Committee or sub-committee, or by reason that a person not entitled to do so took part in the proceeding of the Committee or sub-committee.

This printed impression has been carefully compared by me with the Bill, which has been passed by the Ekiti State House of Assembly and found by me to be a true copy of the said Bill.



MR. TOLA ESAN

Clerk of the House of Assembly



Rt. Hon. Kola Oluwawole
Speaker of the House

Governor's Assent

I hereby signify my assent to this Bill

A rectangular box containing a handwritten signature in black ink. The signature is cursive and appears to read 'Peter Ayodele Fayose'.

DR. PETER AYODELE FAYOSE
Executive Governor of Ekiti State

MADE AT ADO EKITI THIS...16th...DAY OF... Nov...2016.

EKITI STATE HEALTH INSURANCE SCHEME LAW, 2016