

4<sup>th</sup> February 2022

## EMPLOYERS BRIEF OF THE NHIF (Amendment) ACT 2022

### **Preamble**

On 10<sup>th</sup> January 2022 H.E President Uhuru Kenyatta signed into law the NHIF (Amendment) Act, 2022 with a commencement date of 28<sup>th</sup> January 2022.

This is to notify members that the title of the Principal Act has now been amended to read the National Health Insurance Fund which establishes a management board. Further to this, the term employer has now been expanded to include **ANY** “company” that has entered into a contract of employment with an individual.

### **Highlights and key areas to note**

#### **1. Beneficiaries**

Under the amended Act, beneficiaries now include a person who has not attained the age of 21 years and has no income or has attained the age of 25 years but still undergoing a full-time course, persons with disability, a spouse and a contributor.

#### **2. Matching of Contributions.**

National and County Governments will be required to match contributions equal to that which the employee is legally responsible to pay.

However, the law allows the exemption of employers who have a private medical cover in place that provides equal or better benefits for employees to those contained in the Act.

The Cabinet Secretary for Health is supposed to come up with regulations for implementation of the matching on contribution by employers.

#### **3. Procedure for exemption**

For any exemption from matching contributions, an employer is required to submit an application to the NHIF Management board with a certificate from the Insurance Regulatory Authority certifying that their respective employees have been insured, provide details of the benefits of the cover and its validity period. The NHIF Board shall then consider and determine such an application within 30 days.

Members who have a private health insurance cover are therefore encouraged to obtain a certificate from the Insurance Regulatory Authority specifying the details of the cover, benefits and validity period and thereafter submit the same to the NHIF Board to be granted exemption.

#### 4. Enhanced Benefits

An employee wishing to receive enhanced benefits will be required to make additional contribution. However, there is no requirement for the employer to match the additional contribution made by the employee.

#### 5. Private cover

The Fund will only pay for the costs of medical attention after the private Health cover has been exhausted. This will also be subject to the funds limit for that particular benefit

#### Enhanced Penalties

We advise Members to take note that the previous penalties have been significantly increased as follows: -

Offence	Previous provisions	Amendment
Failure to deduct and remit deductions as per the Act	Kshs. 50,000/= fine	Kshs. 500,000/= fine
Late payment of matching contribution	25% of the contribution in case of micro enterprises or 2 times in case of other employers	Penalty equal to the CBK lending rate of interest
Failure to contribute by employee	No penalty	Employer to pay costs and penalty equal to CBK rates
Non-payment of special contributions	5 times the amount of contribution	10% the amount of contribution
False statements by employer	Kshs. 10,000/= fine or 6 months imprisonment	Kshs. 1M or 12 months jail.
False claim	Kshs. 500,000/= or 24 months jail term	Kshs 1M fine or 6 months jail
Impersonation	Kshs. 500,000/= or 3 years jail	Kshs. 1M fine
Obstructing inspection	Kshs. 10,000/=	Kshs. 100,000/=
False information to existence of a hospital	Kshs. 10,000/=	Kshs. 10,000,000/=

Signed for and on behalf of the  
FEDERATION OF KENYA EMPLOYERS

JACQUELINE MUGO , EBS, MBS, OGW  
EXECUTIVE DIRECTOR/CEO