

Legal Aspects of Cooperation Agreement in Health Insurance Between Hospitals and BPJS

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ABSTRACT

One of the social security efforts is health insurance. Health insurance is a guarantee of health care that is used as a transfer of risk of loss. Health insurance is realized by the government in the form of National Health Insurance (JKN) through the Social Security Organizing Agency (BPJS). Efforts to protect BPJS participants are the existence of a cooperation agreement between BPJS and health service providers including hospitals, health centers and other health service facilities. The type of research used is normative law. The data sources used are obtained through secondary data sources, namely indirect data sources. This research is explanatory in nature, namely by explaining how the cooperation between the BPJS Health and the Hospital and how also with the implementation of health insurance for national health insurance participants and efforts from th The results showed that the cooperation agreement between the hospital and BPJS Health in the National Health Insurance (JKN) program is important legal aspects that guarantee the rights and obligations of both parties and ensure the realization of quality health for BPJS Health participants. e BPJS Health in overcoming the financing of the National Health Insurance program.

Keywords: Cooperation agreement, health insurance, hospital, BPJS

INTRODUCTION

Health is one of the basic human needs to be able to live a decent and productive life socially and economically in accordance with Article 4 of Law Number 36 of 2009 concerning Health which states that everyone has the right to Health. One of the protections or health insurance is health insurance (Adhikary, 2024). Health insurance is a health care insurance program and an alternative that is used as a transfer of risks or losses that may be suffered by a person, such as: death, illness, or accident.

In 2004, Law Number 40 of 2004 concerning the National Social Security System (SJSN) was issued. The law mandates that social security is compulsory for all residents including the National Health Insurance (JKN) through a Social Security Organizing Agency (BPJS). The National Health Insurance Program (JKN) frees people from the financial burden of being sick, but all people who can afford it are obliged to pay when healthy. Law Number 24 of 2011 also stipulates that National Social Security is organized by BPJS, consisting of BPJS Kesehatan and BPJS Ketenagakerjaan. Especially for the National Health Insurance (JKN) organized by BPJS Kesehatan whose implementation began January 1, 2014 (Buana et al., 2022).

Protection efforts in addition to prioritizing agreements between insurance participants and insurers or insurance agencies also involve agreements or agreements between insurance agencies, namely the Social Security Organizing Agency (BPJS) and health service providers including hospitals, puskesmas and other health service facilities. The cooperation

agreement carried out by the health service is one of them between the hospital and the insurance company prepared based on a commercial contract (Sriningsih, 2021).

Previous research conducted by (Sumarno & Susilo, 2022) stated that the Cooperation Agreement between BPJS Kesehatan and Amanah Mother and Child Hospital to realize the provision of quality health services, there are rights and obligations that must be carried out for patients. Hospitals as KDP have the obligation to provide services to patients participating in BPJS and the obligation of BPJS Kesehatan is to pay hospital claims according to the agreement (Zamharira & Suryono, 2020).

The novelty of this study is an analysis of the evaluation of the level of compliance of hospitals and BPJS with the provisions in the Cooperation agreement. Thus, the purpose of this study is to analyze legally normative regarding the Cooperation agreement in health insurance between hospitals and BPJS.

RESEARCH METHODS

The type of research used is normative legal research. Normative law is from the nature and scope of legal discipline, where discipline is defined as a system of teachings about reality, which usually includes analytical discipline and prescriptive discipline, and legal discipline is usually included in prescriptive discipline if law is seen as only covering its normative aspect.

The data source used is secondary data. Secondary data are data sources that do not directly provide data to data collectors. This research is explanatory, which explains how the collaboration between BPJS Kesehatan and hospitals and how also the implementation of health insurance for national health insurance participants and efforts from BPJS Kesehatan in overcoming the funding of the National Health Insurance program.

RESULTS AND DISCUSSION

One concrete form of general welfare contained in the ideals of the Indonesian nation is health which must be realized in various efforts so that benefits and justice can be felt by all Indonesian people. In addition to the preamble of the 1945 NRI Constitution, health is also one of the human rights recognized and contained in Article 28 H paragraph (1) of the Constitution of the Republic of Indonesia in 1945 which states that everyone has the right to health services (Solechan, 2019). Quality health services that are customer-oriented or patient are the main strategy for health service organizations in Indonesia, in order to continue to exist in the midst of increasingly strong global competition (Astuti, 2017).

Health financing is an important part of the implementation of the National Health Insurance (JKN). In the implementation of the National Health Insurance (JKN), the pattern of payment to advanced health facilities has been regulated by INA-CBGs in accordance with Presidential Regulation Number 12 of 2013 concerning Health Insurance as amended by Presidential Regulation Number 111 of 2013. For tariffs effective on January 1, 2014, adjustments have been made from the INA-CBG JAMKESMAS rates and have been stipulated in the Minister of Health Regulation Number 69 of 2013 concerning Health Service Tariff Standards for First Level Health Facilities and Advanced Health Facilities in the implementation of Health Insurance (Suhartoyo, 2018).

Based on law number 40 of 2004 which states about the national social security system, BPJS or Social Security Organizing Agency is one of the social institutions formed to organize programs such as social security in Indonesia (Fahrozy, 2017). The Social Security Organizing Agency or BPJS Kesehatan is a public legal entity that functions to organize health insurance programs for all Indonesians, including foreigners who work in Indonesia for at least 6

months. BPJS is a public-owned body, so the success indicators of BPJS Kesehatan or the JKN program are the same as other public bodies (Hakim & Suryawati, 2019).

Hospitals as one of the health service facilities are expected to provide effective, efficient services, and are required to provide appropriate health information in health services and produce accurate data (Sani et al., 2018). The role of the Social Security Organizing Agency (BPJS) Health and Hospitals together provide services to health insurance program participants (Efendy et al., 2022).

JKN program, BPJS Kesehatan collaborates with health service providers as partners in serving BPJS participants such as government and private hospitals, health clinics, doctors' practices, pharmacists, and optics, and others. In the partnership agreement, it is stated in the text of the agreement in the form of a Memorandum of Understanding (MoU) which regulates the rights and obligations between each party regarding the legal relationship between BPJS as a public legal entity into a forum that collects all activities related to social security in this case, especially health insurance in Indonesia. Health services in the BPJS Health system in hospitals are divided into several classes of treatment rooms, namely class I, class II, class III in accordance with the type of participation of BPJS Kesehatan members (Pratama, 2020).

Legal protection of the rights of private hospitals in the implementation of National Health Insurance is regulated based on the Regulation of the Minister of Health of the Republic of Indonesia Number 71 of 2013 concerning Health Services in National Health Insurance, which is embodied in a cooperation agreement between hospitals and BPJS Kesehatan in the National Health Insurance Program (JKN) (Yustina, 2019).

The law relating to the Cooperation agreement in health insurance between hospitals and BPJS, namely Article 1 number 1 of Law Number 40 of 2004 concerning SJSN (SJSN LAW) is a form of social protection to ensure all people to be able to meet the basic needs of a decent life. The definition of the National Social Security System as referred to in Article 1 point 2 of the SJSN Law, is a "procedure" for the implementation of social security programs by several social security implementation agencies, which means that the implementation of national social security is a system in which there are "several social security managers". The National Social Security System (SJSN) is not the same as the Social Security Organizing Agency (BPJS), but BPJS is in a system, namely SJSN, including TASPEN and ASABRI which are part of "several operators" in the System as referred to in Article 1 number 2 of the SJSN Law.

Law No. 40 of 2004 concerning the National Social Security System junco Law No. 24 of 2011 which expands the benefits of the social security program into 5 (five) programs, namely: health insurance, work accident insurance, old age insurance, pension insurance, and death insurance (Article 18 of Law No. 40 of 2004 and Article 6 of Law No. 24 of 2011).

To realize the provision of quality health services, as a form of protection for BPJS Kesehatan participants who are consumers of health service users from BPJS Health, BPJS Kesehatan sets standards for health facility services provided by hospitals. BPJS Kesehatan must be able to ensure that BPJS Kesehatan participants get their rights as consumers as stipulated in Article 4 of Law of the Republic of Indonesia Number 8 of 1999 concerning Consumer Protection.

In article 46 of Law Number 44 of 2009 concerning Hospitals, it can be interpreted that hospitals can be responsible for negligence of health workers, hospitals can be responsible for losses resulting from negligence, hospitals are not responsible if it is proven that there is no negligence by health workers, hospitals are not responsible for intentional actions of health workers that cause harm to someone, The Hospital is not responsible for negligence

due to medical actions taken by medical personnel who are not employees, Medical Personnel can be responsible for losses incurred as a result of negligence committed (Mingkid, 2020).

On July 1, 2020, the Government officially enacted a policy of increasing BPJS Health contribution rates based on Presidential Regulation Number 64 of 2020. This Presidential Regulation contains the second amendment to Presidential Regulation Number 82 of 2018 concerning Health Insurance. Specifically, the Presidential Regulation regulates the increase in contribution rates for JKN BPJS Kesehatan program participants which are divided into segmentations. In this case, the Government strives to improve the implementation of the National Health Insurance (JKN) program so that it is fully beneficial to all levels of society (Fadhillah et al., 2021).

On September 18, 2018, Presidential Decree No. 82/2018 was issued which aims to improve the quality, sustainability of the health insurance program and improve previous regulations. The difference with the previous regulation is that in Article 84 paragraph (1) there is an obligation for BPJS Kesehatan to provide data and information to the head of the district/city/provincial health office in the context of making health sector policies every 3 months. In paragraph (2), the data and information referred to in paragraph (1) include: Number of health facilities that cooperate with BPJS Kesehatan, Membership, Number of visits to health facilities, Type of disease, Number of payments and/or claims (Saputro & Mardiansyah, n.d.).

The principle of equality (equality principle) is a basic principle that becomes a reference that every human individual has human rights, each individual has the same position as others. What is meant by equality in health insurance services is the equality of conditions for participants to get the opportunity and their rights in enjoying health insurance services according to their choice. The application of the principle of equality in various policies of social health security services includes the principle of equality. These policies are Law Number 40 of 2004 concerning the National Social Security System, Law Number 24 of 2011 concerning the Social Security Organizing Agency, Government Regulation Number 76 of 2015 concerning Amendments to Government Regulation Number 101 of 2012 concerning Recipients of Health Insurance Contribution Assistance, Presidential Regulation of Health Security, and Regulation of the Social Security Organizing Agency Number 1 of 2014 concerning the Implementation of Health Insurance (Shubhan et al., 2020).

In relation to the cooperation agreement between hospitals and BPJS Kesehatan in the National Health Insurance (JKN) program, the importance of legal aspects that guarantee the rights and obligations of both parties and ensure the realization of quality health for BPJS Kesehatan participants. Regulations governing this, such as Presidential Regulation Number 12 of 2013 and Minister of Health Regulation Number 69 of 2013, regulate payment patterns and health service tariff standards that must be complied with by hospitals and BPJS Kesehatan. In addition, legal protection of the rights of private hospitals is also regulated in this cooperation agreement, which is manifested in the form of a Memorandum of Understanding (MoU) in accordance with applicable regulations. The principle of equality is important so that each participant gets his rights fairly. This principle is reflected in related laws such as Law Number 40 of 2004 concerning the National Social Security System and Law Number 24 of 2011 concerning the Social Security Organizing Agency.

CONCLUSION

Based on the results of the analysis, it was found that legal regulations regarding cooperation agreements between hospitals and BPJS are regulated in laws, government regulations, BPJS regulations, and other related regulations. In the context of hospital and BPJS agreements, there are obligations and rights that need to be fulfilled. Such as the obligation of hospitals in providing quality health services and the obligation of BPJS is to pay service fees according to the initial provisions. Some laws related to agreements between hospitals and BPJS include Law Number 40 of 2004 concerning the National Social Security System, Law Number 44 of 2009 concerning Raft Houses, and Presidential Regulation Number 82 of 2018 concerning Health Insurance.

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First publication right:
Jurnal Health Sains

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