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Legal Approach towards Social Health Security Agencies from The Perspective of Social Insurance as a Health Service

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Abstrak

Tanggungjawab negara terhadap upaya untuk menciptakan sistem pelayanan Kesehatan yang baik dalam rangka untuk memberikan kesejahteraan pada masyarakat. Undang-Undang jaminan social telah menempatkan model perlindungan terhadap masyarakat dengan pendekatan hukum melalui asuransi social dengan prinsip dasar gotong royong. Pada Januari 2023, pemerintah menghabiskan sekitar Rp5,3 triliun untuk melindungi kesehatan masyarakat, meningkat 12% dibandingkan tahun lalu (2022), membuat Badan Penyelenggara Jaminan Sosial Kesehatan disingkat BPJS Kesehatan sebagai pengelola asuransi sosial bantuan medis perlu terus berkembang untuk memenuhi kebutuhan. Sekema asuransi Kesehatan yang dikelola oleh negara dengan pemenuhan alat-alat Kesehatan sebagai upaya tanggung jawab konstitusional negara. Dalam penelitian ini menganalisis tentang tanggungjawab negara dalam memberikan jaminan Kesehatan bagi masyarakat sebagai upaya pemenuhan hak warga negara melalui pendekatan hukum.

Kata Kunci: *Jaminan Kesehatan, Asuransi Sosial dan Pelayanan Kesehatan*

Abstract

The state's responsibility for efforts to create a good health service system in order to provide welfare to the community. The social security law has placed a model of protection for the community with a legal approach through social insurance with the basic principle of mutual cooperation. In January 2023, the government spent around IDR 5.3 trillion to protect public health, an increase of 12% compared to last year (2022), making the Health Social Security Administering Agency abbreviated as BPJS Kesehatan as the manager of social insurance for medical assistance need to continue to develop to meet needs. The health insurance scheme managed by the state with the provision of health equipment as an effort to fulfill the state's constitutional responsibility. This study analyzes the state's responsibility in providing health insurance for the community as an effort to fulfill citizens' rights through a legal approach.

Keywords: *Health Insurance, Social Insurance and Health Services*

INTRODUCTION

Programs that reduce the detrimental effects of economic shocks on people and families make up social insurance. Among these programs are government-mandated or offered insurance plans for social health insurance, maternity and sick leave cash benefits, old age, disability, and the death of the primary provider for the household. Beneficiaries of social insurance programs receive benefits or services in exchange for their contributions to the insurance scheme, which are contributory in nature. (<https://www.worldbank.org/en/data/datatopics/aspire/indicator/social-insurance>).

insurance plan in an attempt to meet the social security system's requirements. Despite a relatively strong GDP growth rate of about 5.3 in 2022, Indonesia continues to have significant levels of inequality (Gini index 37.9), which puts socioeconomic security tools to the test. The government invested about IDR 5.3 trillion in public health protection in January 2023, a 12% increase from the previous year (2022). As the manager of social insurance for medical assistance, the Health Social Security Administering Agency, also known as BPJS Kesehatan, must continue to expand to meet demands. Ucca Bhanuwati Astutiningtyas Palupi, 2024, p96). So that the need to fulfill social security is necessary for the benefit of society.

In the 2010s, Indonesia established its own national social security program. The system includes social health insurance (JKN) and work insurance (Jamsostek). The primary types of participation are PPU (Wage Earning Workers), PBPU (Non-Wage Earning Workers), and construction workers, and they are correlated with job status. Work Accident Insurance (JKK), Death Insurance (JKM), Old Age Insurance (JHT), Pension Insurance (JP), and Unemployment Insurance (JKP) are the five programs that make up employment insurance.

Contributions are made as part of wages or income, or at a set rate for non-wage earners. Contributions to JKN are made by individuals in the two lowest income quintiles using tax-funded subsidies known as Contribution Assistance Recipients, or PBI. Only 36 million people, or 26% of the 135 million workers, are active Jamsostek participants (i.e., actively pay contributions), and approximately 19 million are inactive (do not pay contributions but have or will receive old age and pension benefits). This indicates that coverage is still extremely low. Just six million of the 36 million individuals are non-wage workers (PBPU), seven million are employed in construction, and the remaining 23 million are paid employees. This indicates that just about 4% of the working population, or about six million individuals, will voluntarily take part in Jamsostek in 2022. (<https://theprakarsa.org/three-reasons-social-insurance-coverage-in-indonesia-is-low/>). This number needs to be protected, and the state must do so in a systematic way.

Coverage in terms of health insurance, although more than 90 percent of the population (almost 249 million people) have been covered by JKN in 2022, more than 60 percent are tax-funded or fully subsidized participants (PBI), a quarter are salaried workers, two percent are non-workers, and only 12 percent are participants who pay contributions voluntarily (PBPU or non-salaried workers). The underlying reasons for the low coverage of health and employment insurance are complex, and may lie at the heart of the social security model itself. The model is based on significantly changing elements: standard employer-employee relationships and wages; an inadequate pool of current and future payments; and inadequate benefits for individuals when insured risks materialize, such as unemployment, illness, or old age. Approximately half of workers in Indonesia are not employed under a 'standard' employment relationship and 90 percent of businesses are small and medium-sized enterprises that often pay lower wages and have low labor standards. A large number of people work in the gig economy and experience the job insecurity that comes with it. Amidst more pressing expenses and a lack of disposable income, these workers are often unable to pay their social insurance contributions regularly. The instability of regular payments over time means that it is difficult for insurance companies to remain solvent. The ILO estimates that from 2044 onwards, Indonesia's pension system will be unable to pay claims and other expenses from contributions. It is expected to experience even greater financial problems from 2050 onwards due to an aging population with fewer productive workers contributing at the same time as more workers are entering retirement age and needing to receive insurance benefits. An additional problem is that inflation may mean that workers do not receive enough benefits when they need them.

(<https://theprakarsa.org/three-reasons-social-insurance-coverage-in-indonesia-is-low/>).

The state policy on health insurance organized by the state requires systematic policy efforts based on the state's financial capabilities.

RESEARCH METHOD

The state has a duty to ensure the community's health. A social insurance concept is undoubtedly used in governmental attempts to achieve health obligations as a means of cooperative cooperation in funding initiatives and financial management. In an attempt to analyse this research, the study, *Legal Approach to the Social Health Security Agency in the Perspective of Social Insurance as a Health Service*, concentrates on studies on the legal approach component.

RESULT AND DISCUSSION

Legal Approach to the Health Social Security Agency in the Perspective of Social Insurance as a Health Service

Health protection and fulfilment efforts must be planned for. The insurer determines the risk of the individuals and/or groups of individuals who will be their dependents for both commercial and social health insurance. This is known as the rating procedure, and it involves classifying the insured party's risk from lowest to greatest. The contribution (in social health insurance) or premium (in commercial health insurance) that will be billed to the insured party can be ascertained using this risk assessment and classification procedure. In the context of social protection, the state covers the contributions of a number of groups of people under social health insurance. Regulations and public policies govern the risk grouping process, contribution amounts, and the delivery of health care to members of social health insurance. The 1945 Constitution and related laws (UU) like the Health Law, the National Social Security System Law, and the Social Security Management Agency Law, as well as technical level policies like the Minister of Health's Regulation regarding health services in national health insurance, provide guidelines for health insurance policies in Indonesia. With this public policy, citizens automatically follow the provisions in force in these regulations. This is different from commercial health insurance. (Ade Heryana, 2021, p. 6). In terms of state authority, the state's responsibility for fulfilling citizens' rights in the health sector needs to be carried out by organizing a measurable education system through state policy.

In order to organize Health, there are several principles of health insurance: (Ahmad Jayadie, et.al, 2023, p. 37-38)

1. The principle of togetherness (mutual assistance) is based on the fact that insurance members help each other in meeting their health needs.
2. The principle of premium emphasizes that insurance members must pay contributions or premiums regularly and in accordance with applicable provisions in order to obtain Health protection benefits.
3. The principle of confidentiality (principle of confidentiality) ensures that personal information of insurance members must be kept confidential and must not be distributed to other parties without permission from the insurance member.
4. The principle of fairness (fairness) ensures that all insurance members must receive equal and fair treatment in terms of providing Health protection benefits.
5. The principle of responsibility (principle of responsibility) requires that each insurance member must be responsible for their own health, and must follow the rules and provisions that apply in the health insurance program.
6. The principle of subsidiarity emphasizes that health insurance can only provide protection for health conditions that require large costs and are difficult for individuals to bear.
7. The principle of sustainability ensures that health insurance providers must provide sustainable health protection for insurance members by maintaining the sustainability of the health insurance program being run.

Health insurance provides protection for medical care and treatment costs when the insured is sick or has an accident. Health insurance is a type of insurance that provides financial protection against medical costs if the policyholder is sick or has an accident. Health insurance benefits can be in the form of inpatient costs, outpatient costs, surgical costs, and drug costs. Types of health insurance include: (Ferry Fadzlul Rahman, 2024, p. 2).

1. Pure health insurance,
2. Comprehensive health insurance,
3. Ambulatory care insurance,
4. Hospital indemnity insurance,
5. Hospital and surgical insurance, and
6. Outpatient and inpatient plus health insurance.

Health is a necessity for everyone regardless of socio-economic status. Illness and disaster are unpredictable. A rich person can suddenly become poor when suffering from a

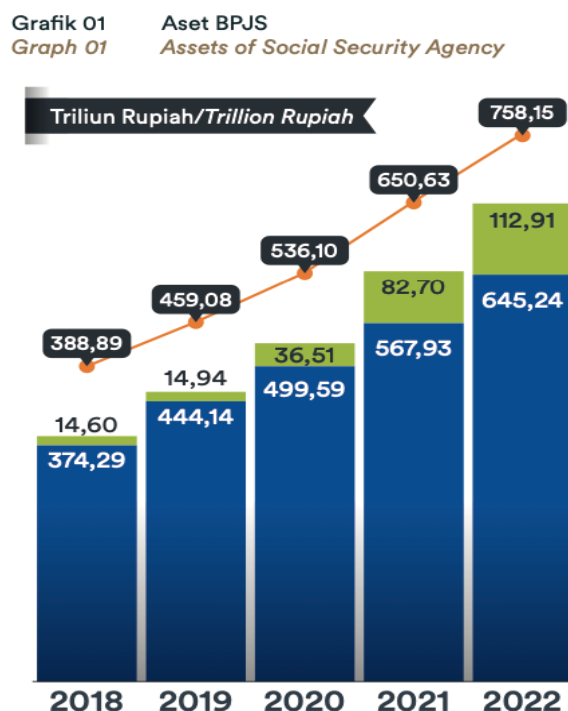
serious illness such as cancer, heart disease, kidney disease and so on. While health costs are currently very expensive, this is because of the various facilities provided by the hospital. Maintaining health is very important to prevent diseases that arise in the future. Currently, developing countries continue to pay attention to the health problems of their people, especially Indonesia, which states that health is part of Human Rights (H A M), as a priority in national development. The Republic of Indonesia has regulated health issues in the 1945 Constitution Article 28 H paragraph (1) states; everyone has the right to live in prosperity physically and mentally, to live and get a good and healthy living environment and has the right to obtain health services. (Tri Reni Novita, et.al, 2023, p. 3). Health services provided to the community must be based on standardized services. Article 1 paragraph (1) of Law Number 40 of 2014 (Law No. 40 of 2014) concerning Insurance defines insurance as an agreement between two parties, namely the insurance company and the policyholder, which is the basis for the receipt of premiums by the insurance company in return for providing compensation to the insured or liability due to losses, damages, costs incurred, loss of profits or legal liability to third parties that may be suffered by the insured or policyholder due to an uncertain event, or providing payments based on the death of the insured or payments based on the life of the insured with benefits that have been determined and/or based on the results of fund management. (Tri Reni Novita, et.al, 2023, p. 4).

Health insurance is a financing system that provides social security in the face of risks caused by health users (diseases) both diseases that can be cured with outpatient services or more intensive care or hospitalization. This certainly requires a lot of money and can interfere with daily activities such as working and so on because of the health problems. After we have a health insurance policy, one problem can be resolved, namely when we suddenly experience a disaster or illness, there is an insurance company that will cover the cost of treatment, both inpatient and outpatient costs. However, when customers or policyholders/insured will use the health insurance policy, problems often occur that were not predicted in advance. Because there are several types of diseases that are not covered by the insurance company, and customers do not know about it. This happens because it is related to the practice of standard agreements in insurance agreements, in essence since the signing of the insurance policy, the insured has actually received less legal protection because the contents or format of the agreement are more beneficial to the insurance company. (Tri Reni Novita, et.al, 2023, p. 4-5).

Social security is a form of social protection to ensure that all people can meet their basic needs for a decent life. The National Social Security System (SJSN) is a procedure for

organizing the Social Security program by the Social Security Administering Agency (BPJS) Health and BPJS Employment. JKN developed in Indonesia is part of SJSN which is organized using a mandatory health insurance mechanism based on Law No. 40 of 2004 concerning SJSN with the aim of meeting the basic health needs of the community that are worthy of being given to everyone who has paid contributions or whose contributions are paid by the government. Participation is mandatory for all Indonesian residents, with the aim that all Indonesian residents are protected by the insurance system, so that they can meet the basic health needs of the community that are worthy. The entire population of Indonesia, including the key population, whose health rights according to the mandate of the law are borne by the state. This is always emphasized so that the key population can understand and understand and play an active role in fulfilling their individual rights and group rights related to their health. It is expected that with the existence of JKN all Indonesian people can meet their basic health needs. Key populations that are vulnerable to health problems can access existing services so that their health quality improves both individually and as a group. (Ministry of Health of the Republic of Indonesia, 2016, p. 4). The state's responsibility is generally carried out through the Institution that manages and determines the Health social security scheme provided to the community.

Judging from the development of assets, there has been an increase in assets owned by social security agencies in Indonesia in general as follows:



Source:https://ojk.go.id/id/kanal/iknb/data-dan-statistik/dana-pensiun/Documents/Pages/Buku-Statistik-Jaminan-Sosial-2022/Buku%20Statistik%20Jaminan%20Sosial%20Indonesia%202022.pdf?TSPD_101_R0=08ddaa397bab20005bf7fa99e1066cbf6e4ba972cf08b08ca2fa8edca137e8fb312c79c681d2f07f0836ebe8941430002e1e66a248e60689f29c81a0cbcf268cc29ddb4099d77ee7bfbe40f3bdac5e7e2d6c3ccf57d5f370fd2cfd7c8dc89b12

Health insurance by upholding the principle that health is a social service, because its services should not be provided solely based on the social status of the community so that all levels have the right to obtain health service guarantees and their inclusion in a mutually agreed scheme, helping each other by using a predetermined account to pay for losses that will arise which in its implementation are still guided by the following principles:

1. The principle of joint effort based on family
2. The principle of fairness and equity
3. The principle of fairness and confidence
4. The principle of interest and balance
5. The principle of deliberation and consensus The principle of not seeking profit alone (Maya Gusnita, 2018)

Health is the main thing that must be considered and pursued by every human being, health is very important to support the continuity of daily activities productively. According to WHO, a person's healthy state is a state where mental, physical, and spiritual or social are in a stable and prosperous state where not only physically healthy but also healthy as a whole environment. Increasing public health will be directly proportional to increasing welfare in the environment, the importance of health must be more realized by humans. Illness is a condition that occurs when a person cannot carry out their activities normally or is in an unpleasant condition both physically, mentally, and socially or spiritually and can reduce a person's welfare. A person's illness often occurs suddenly or suddenly and it is not known when the person will feel or become sick, therefore it is necessary to prepare sufficient funds to deal with illness or other events that can cause losses, because these conditions or events require a lot of funds to overcome them. One way that a person can prepare themselves if a risk occurs that causes a loss is by registering for insurance such as health insurance. (Khoirunnisa Ghelifira Yusrani, et.al, 2023 p. 38-39. Protection efforts made by the government through Health insurance can be carried out through an approach without distinguishing service classes, so that there is equality.

Explaining the definition of Health Insurance as the principle of risk transfer, the existence of financial risk, the existence of loss of health and loss of money due to illness or prevention of illness. Health insurance is divided into two categories, namely individual health insurance and group health insurance, including: (Putri Rumondang Clarissa, 2024, p. 41)

- a. Individual Health Insurance. Individual health insurance is a contract between an insurance company and an individual policyholder. The policyholder and the insured in individual health insurance are usually the same person. Individual health insurance requires an individual underwriting process for each prospective insured in terms of eligibility for insurance coverage.
- b. Group Health Insurance. Group Health Insurance is insurance that is intended to protect or provide guarantees for the interests of a particular group under one insurance policy for a certain period of time.

Humans are often faced with unexpected risks in their lives, even though humans really want certainty and security. Therefore, to overcome uncertainty in life, maximum prevention efforts are needed. However, it must be recognized that prevention itself requires costs and involves certain risks. These risks include potential financial losses and threats to future physical and mental well-being. The concept of risk is closely related to insurance which is defined as the uncertainty of the occurrence of losses and is a fundamental principle in insurance. Risk is a crucial aspect of human life in general which includes the possibility of deviation from adverse expectations, namely uncertainty about undesirable events. (Nur Adilah Yasmin, et.al, 2024, p. 1008).

In the field of insurance, risk can be interpreted in several ways, the essence of which is the possibility of loss, namely: risk as an object of danger, risk as an individual who is the focus of insurance, and risk as a threat of danger. Dealing with risk is often done by transferring it to another person who is considered willing to accept the responsibility. The function of insurance is expected to help individuals reduce or replace losses arising from risk. In various activities, insurance plays an important role in managing community risk. When someone decides to insure themselves, it means that they are transferring their risk to an insurance company. The main task of the insurance company in this transaction is to provide financial compensation for losses that may occur. The insured does not need to bear the direct impact of the loss due to the risk, but the insurance company is responsible for overcoming the losses experienced by the insured. As a result, the role of the insurance company becomes crucial as an institution that provides protection against risk. Article 1

paragraph 1 of Law Number 40 of 2014 concerning Insurance states that: "Insurance is an agreement between two parties, namely an insurance company and a policyholder, which is the basis for the receipt of premiums by the insurance company in return for providing compensation to the insured or policyholder for losses, damages, costs incurred, loss of profits, or legal liability to third parties that may be suffered by the insured or policyholder due to the occurrence of an uncertain event or providing payments based on the death of the insured or payments based on the life of the insured with benefits that have been determined and/or based on the results of fund management". (Nur Adilah Yasmin, et.al, 2024, p. 1008). Therefore, fund management is needed in a measurable and structured manner.

CONCLUSION

The fulfillment of health rights for every citizen requires a structured policy, where the policies issued must be based on the management of the social insurance system through the Health Insurance Agency organized by the state. When examined from the perspective of Article 1 paragraph 1 of Law Number 40 of 2014 concerning Insurance states that: "Insurance is an agreement between two parties. This agreement is binding on the parties, but in the approach of social insurance through insurance organized by the Health Insurance Agency, Law No. 40 of 2004 concerning SJSN aims to meet the basic health needs of the community that are worthy of being given to everyone who has paid contributions or whose contributions are paid by the government. This approach illustrates that in the social security system organized by the government as a form of effort to fulfill the government's responsibility to the community.

REFERENCES

- Ade Heryana, Asuransi Kesehatan dan Managed Care, diakses melalui https://www.researchgate.net/profile/Ade-Heryana/publication/349789706_Asuransi_Kesehatan_Managed_Care_Buku_Ajar/links/6041ae19299bf1e078570264/Asuransi-Kesehatan-Managed-Care-Buku-Ajar.pdf 2021
- Ahmad Jayadie, Et.Al, Bunga Rampai Pembiayaan Kesehatan, Bandung: Cv. Media Sains Indonesia, 2023.
- Ferry Fadzlul Rahman, Asuransi Kesehatan Dan Penerapan Di Berbagai Negara, Sumatra Barat: Penerbit Mitra Cendekia Media 2024

https://ojk.go.id/id/kanal/iknb/data-dan-statistik/dana-pensiun/Documents/Pages/Buku-Statistik-Jaminan-Sosial-2022/Buku%20Statistik%20Jaminan%20Sosial%20Indonesia%202022.pdf?TSPD_101_R0=08ddaa397bab20005bf7fa99e1066cbf6e4ba972cf08b08ca2fa8edca137e8fb312c79c681d2f07f0836ebe8941430002e1e66a248e60689f29c81a0cbcf268cc29ddb4099d77ee7bfbe40f3bdac5e7e2d6c3ccf57d5f370fd2cfd7c8dc89b12

<https://theprakarsa.org/three-reasons-social-insurance-coverage-in-indonesia-is-low/>

<https://theprakarsa.org/three-reasons-social-insurance-coverage-in-indonesia-is-low/>

Kementrian Kesehatan Ri, Buku Panduan Jaminan Kesehatan Nasional (Jkn) Bagi Populasi Kunci, Diakses Melalui https://siha.kemkes.go.id/portal/files_upload/BUKU_PANDUAN_JKN_BAGI_POPULASI_KUNCI_2016.pdf, 2016.

Khoirunnisa Ghefira Yusrani, et.al, Studi Literatur : Faktor-faktor yang Mempengaruhi Keputusan Masyarakat dalam Memilih Asuransi Kesehatan, Jurnal Medika Husada, Vol. 3 No. 1 2023

Maya Gusnita, ASURANSI KESEHATAN DITINJAU DARI HUKUM ISLAM (Studi Kasus Pada BPJS Kesehatan di Kantor Cabang BPJS Kesehatan Kota Metro), diakses melalui <https://repository.metrouniv.ac.id/id/eprint/1284/1/SKRIPSI.pdf>

Nur Adilah Yasmin, Perjanjian Asuransi Kesehatan Terhadap Pembiayaan Layanan Kesehatan Oleh Perusahaan Asuransi, Jurnal Kesehatan Tambusai, Volume 5, Nomor 1, Maret 2024, Doi: <https://doi.org/10.31004/jkt.v5i1.25832>

Putri Rumondang Clarissa, Perhitungan Premi Lanjutan Pada Asuransi Kesehatan Kumpulan Menggunakan Metode Experience Rating Di Pt Abc, Map Journal, Vol. 6 No. 1 2024. Doi : [10.15548/map.v6i1.8556](https://doi.org/10.15548/map.v6i1.8556)

Tri Reni Novita, Klaim Asuransi Kesehatan, Medan: Penerbit LPPM UMN AW, 2023.

Ucca Bhanuwati Astutiningtyas Palupi, Beyond Immediate Needs: An Analysis of Social Insurance and Its Behavioral Economic Impact in Indonesia, Jurnal Jaminan Kesehatan Nasional, Vol. 4 No. 4 2024, <https://doi.org/10.53756/jjkn.v4i2.199>.