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Citizens' rights in obtaining optimization of the implementation of the national health insurance program

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Abstract

This study aims to analyze the rights of citizens in obtaining optimization of the implementation of the national health insurance program. This research is in the form of normative or doctrinal legal research/library research, using a statutory approach and conceptual approach. The results of the study reveal that the implementation of the right to health based on the mandate of the 1945 Constitution in Indonesia has not been maximally implemented. This can be seen from the application in terms of facilities, health workers and the application in terms of the national health insurance system. Optimizing the implementation of the guarantee with the issuance of Presidential Instruction of the Republic of Indonesia Number 1 of 2022 concerning Optimizing the Implementation of the National Health Insurance Program was also found to be disharmonized with the principle of Portability and the non-fulfillment of the value of justice or equality of National Health Insurance participants, especially the rules on migrant workers. Therefore, it is necessary to conduct an evaluation related to the fulfillment of citizens' rights to health, as well as to review the Presidential Instruction of the Republic of Indonesia Number 1 of 2022 concerning Optimizing the Implementation of the National Health Insurance Program, especially regarding the obligations of pilgrims and migrant workers to remain active participants, so that the value of the principle of benefits can be obtained by all JKN participants fairly.

Keywords: Citizen Rights; National Health Insurance; Optimization; BPJS; JKN

1. Introduction

Social security is a form of social protection to ensure that all people can fulfill their basic needs for a decent life. In Indonesia, social security has been packaged and implemented in a program, namely the National Social Health Insurance (SJSN) by the Social Insurance Agency for Healthy (BPJS) and The Social Insurance Agency for Employment (BPJS Employment)¹. This is in line with what is stated in the preamble to the 1945 Constitution of the Republic of Indonesia (UUD NKRI 1945) that one of the goals of the state is to improve the welfare of all people by developing a social insurance system in order to provide comprehensive and integrated social protection².

Since the implementation of the policy for providing health services for the community through the National Health Insurance and Healthy Indonesia Card (JKN-KIS) by the Government, it has been recorded that around 40 million people have not registered as participants in the National Health Insurance program. The policy in question is Law Number 40 of 2004 concerning the National Insurance System. National Health Insurance is implemented through a social insurance mechanism which aims to ensure that the entire Indonesian population is protected by the insurance system so that they can fulfill their basic health needs³.

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Health insurance is a people's right which is the responsibility of the state, not the people. Health as part of human rights is an element of prosperity that must be realized in accordance with the ideals of the Indonesian nation as stated in the mandate of the Preamble to the 1945 Constitution of the Republic of Indonesia. This is proven in the second amendment to the 1945 Constitution of the Republic of Indonesia, which contains a constitutional guarantee of the right to obtain health services as a human right². In its implementation, there are several principles that refer to the SJSN principles, including the principles of mutual cooperation, non-profit, portability and participation.

The government has several times issued policies and their revisions in an effort to achieve program targets in the health sector. One of them is that at the beginning of 2022, Presidential Instruction no. 1 of 2022 concerning Optimizing the Implementation of JKN in order to increase access to quality health services and to ensure the sustainability of the JKN program⁴. In these instructions, the government appears to be prioritizing JKN participation coverage. In the draft National Medium Term Development Plan (RPJMN) 2015-2019, basic policy proposals were submitted related to the issue of fulfilling people's basic rights and needs from three angles, namely the availability of basic services (supply side), outreach to the poor (demand side), and public sector institutions and efficiency. The implementation of JKN requires preparation of the demand and supply sides⁵, where implementation will organize several subsystems, starting from health financing, health services, human resources, pharmaceuticals and medical devices and regulatory subsystems. So, all subsystems can mutually support the implementation of health insurance so that it runs well.

The implementation of National Health Insurance requires preparation from all parties which includes: 1) health facilities, referral system and infrastructure, 2) financing and transformation of programs and institutions, 3) regulations, 4) human resources and capacity building, 5) pharmaceuticals and equipment health, as well as 6) socialization and advocacy. Preparation and optimization need to be done well, in order to be able to fulfill basic rights and the availability of basic services which is not evenly distributed in all regions, especially outside Java where transportation access is limited⁶. Based on the description of the problem and background, this research aims to analyze citizens' rights in optimizing the implementation of the national health insurance program.

2. Material and Methods

This research takes the form of normative or doctrinal juridical legal research/library research which focuses on examining the application of rules or norms in applicable positive law. Research is carried out by searching, reviewing and analyzing library materials, written regulations or other legal materials. The approach taken is a statutory approach by reviewing statutory regulations related to the problems to be analyzed and a conceptual approach by examining statutory regulations to be able to find solutions to the research problems being researched and supported by other library materials such as journal articles⁷.

The legal materials used and studied in this research are the 1945 Constitution of the Republic of Indonesia; Law of the Republic of Indonesia Number 39 of 1999 concerning Human Rights; Law of the Republic of Indonesia Number 40 of 2004 concerning the National Social Security System; Law of the Republic of Indonesia Number 36 of 2009 concerning Health; Law of the Republic of Indonesia Number 24 of 2011 concerning Social Security Administering Bodies; Presidential Regulation of the Republic of Indonesia Number 82 of 2018 concerning National Health Insurance; Instruction of the President of the Republic of Indonesia Number 1 of 2022 concerning Optimizing the Implementation of the National Health Insurance Program.

3. Result and Discussion

3.1. Legal Foundations of Citizens' Rights to National Health Insurance

Health is one of the basic human needs, which is also a right for every citizen protected by law. Every country recognizes that health is the greatest capital for achieving prosperity. Therefore, improving health services is basically an investment in human resources to achieve a prosperous society⁸. The government plays an important role in meeting people's other basic needs such as health, education and basic needs.

Several legal bases that guarantee citizens' right to health include:

- The 1945 Constitution of the Republic of Indonesia article 28H paragraphs 1-3, which states that every person has the right to live in physical and spiritual prosperity, to have a place to live, to have a good and healthy living environment, to receive health services, to receive convenience to achieve equality and justice and to receive social security.

- 1945 Constitution of the Republic of Indonesia article 34 paragraphs 1 & 3; which contains a guarantee of protection and provision of adequate health service facilities for poor people.
- SJSN Law article 14 paragraphs 1 & 2; which states that the government is gradually registering recipients of contribution assistance (the poor and underprivileged) as participants in BPJS.
- Law No. 39 of 1999 concerning Human Rights article 41 paragraph 2; which contains that every person with physical limitations is guaranteed the right to health facilities, such as people with disabilities, the elderly, pregnant women and children to be given more priority.
- Law no. 36 of 2009 concerning Health article 5 paragraphs 1-3, which states that everyone has the same rights in obtaining access to resources in the health sector (power, health supplies, pharmaceutical preparations, medical devices and health facilities provided by the government).

From the overall legal basis, as a whole it states that health is a human right that all people have at all times and in all places. The existence of the right to health facilities owned by citizens is a form of guarantee for health services to achieve the highest level of public health as social creatures. The presence of the right as a citizen to health facilities results in a legal relationship, namely a relationship regulated by law because the existence of this right gives rise to the state's ability to fulfill this right which has been regulated in statutory regulations⁹.

Health insurance is a people's right which is the responsibility of the state, not the people. Health as part of human rights is one element of prosperity that must be realized in accordance with the ideals of the Indonesian nation as stated in the mandate of the Preamble to the 1945 Constitution of the Republic of Indonesia. This is proven in the second amendment to the 1945 Constitution of the Republic of Indonesia which contains a constitutional guarantee of the right to obtain health services as a one of the human rights².

3.2. National Health Insurance Program

National Health Insurance is a form of social protection to guarantee that all people can fulfill the basic needs of a decent life. This is in line with SDGs targets points 3.1 (Poverty) and 3.8 (Health) which are included in Universal Health Coverage. The SJSN is a procedure for administering the Social Security program by the BPJS and BPJS Employment. The JKN developed in Indonesia is part of the SJSN which is implemented using a mandatory health insurance mechanism with the aim of meeting the basic health needs of the community which is appropriate for everyone who has paid contributions or whose contributions are paid by the government¹.

Fulfilling basic health needs as a whole is a form of implementing universal health coverage. There are three dimensions of universal health coverage, including comprehensive membership coverage, equal access for the entire population and low-cost health financing. Health insurance is one component of the health funding sub-system which has 2 principles, namely the funding system and the health service system. Funding sourced from both individuals and the government will both be managed by BPJS Health¹⁰.

The JKN program provides comprehensive benefits to the community, including first level health services (health administration, promotive preventive services, examinations, treatment and medical consultations, first level laboratory diagnostic supporting examinations, first level inpatient treatment according to indications, etc.) and health services advanced level referrals (outpatient and inpatient care starting from health administration to specific health services provided)¹¹.

3.3. Optimizing the Implementation of the National Health Insurance Program

The health insurance system in Indonesia has not yet reached the expected targets, because there are still many people who have not participated in the health insurance program and the financing channel membership system does not comply with the stipulated provisions. Some of the problems in implementing JKN include card issues, the public's lack of understanding of BPJS services, a referral system that cannot be changed immediately and service quality that is considered inadequate. Various parties are involved in implementing the JKN program, where the indication of the root of the problem is the financial deficit, because income/revenue is lower than the costs incurred to finance health services, contributions are still low and not in accordance with factual calculations, participation is not yet optimal, the burden of financing disease treatment services disasters that continue to increase, and others⁸.

Several steps that can be taken as an effort to solve the JKN financing deficit problem are by increasing the nominal contribution adjusted to factual actuarial calculations, increasing the number of JKN participants, encouraging independent participant compliance in paying contributions, reviewing several services for catastrophic illnesses, optimizing the role of FKTP in perform service. Regarding efforts to optimize the implementation of JKN, Presidential Instruction of the Republic of Indonesia Number 1 of 2022 was issued concerning Optimizing the Implementation of the

National Health Insurance Program, where the government is encouraged to synchronize regulations related to norms, standards, procedures and criteria for public services, especially health services⁴.

This optimization regulation encourages several parties such as the Governor/Mayor, Minister of Health, Minister of Religion, Head of the Migrant Worker Protection Agency to ensure and require that the entire community (including Indonesian migrant workers) and the government are active participants in the National Health Insurance program, allocating a budget/system health service rates in accordance with the principles of quality control and cost control in the National Health Insurance program, able to prioritize individual promotive and preventive services in the National Health Insurance program and other benefits¹².

Based on this, optimization of the implementation of the JKN program needs to be carried out, so that Universal Health Coverage can be implemented and in accordance with the stated goal that by 2030 all people will be JKN participants and no one left behind. However, regulations as stated in the Instruction of the President of the Republic of Indonesia Number 1 of 2022 concerning Optimizing the Implementation of the National Health Insurance Program also need to be considered regarding harmonization with other regulations, which relate to Indonesian migrant workers, which is contrary to the principle of Portability to provide continuous guarantees to participants even if they move. work or residence within the territory of the Unitary State of the Republic of Indonesia. Apart from that, the value of justice or equity for National Health Insurance participants also needs to be considered, as is the case with migrant workers for less than 6 months who must remain active participants, which means they continue to pay regular monthly contributions even though they work abroad and they cannot claim basic benefits. when undergoing treatment at a health facility abroad^{13,14}.

4. Conclusion

The implementation of the right to health based on the mandate of the 1945 Constitution in Indonesia has not been implemented optimally. This can be seen from implementation in terms of health facilities and personnel, implementation in terms of the national health insurance system. In terms of health facilities and personnel, the problems that occur are aspects of availability, affordability, equity and quality, as well as unequal participation and problems related to budget deficits. Optimizing the implementation of guarantees with the issuance of the Presidential Instruction of the Republic of Indonesia Number 1 of 2022 concerning Optimizing the Implementation of the National Health Insurance Program was also found to be disharmonized with the principle of portability and the value of justice or equity for National Health Insurance participants, especially the rules for migrant workers, was not fulfilled.

Suggestion

Carrying out evaluations regarding the fulfillment of citizens' rights to health, as well as reviewing the Presidential Instruction of the Republic of Indonesia Number 1 of 2022 concerning Optimizing the Implementation of the National Health Insurance Program, especially regarding the obligations of Hajj pilgrims and migrant workers to remain active participants, so that the basic value of benefits can be obtained by all JKN participants fairly.

Compliance with ethical standards

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Disclosure of conflict of interest

The author reports no conflicts of interest in this work.

Statement of ethical approval

The present research work does not contain any studies performed on animals/humans subjects by any of the authors'.

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