

The Settlement Obligation Of Social Security Registration In Labor Social Security Implementing Agency Of Magelang By Public Prosecutor Office From Magelang

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Abstract.

The goal of the study is to quantify and examine the poor compliance rate with social security registration requirements. The State Attorney's efforts to ensure that his duty to apply for a social security number is effectively fulfilled were also evaluated as part of this study. The study's foundation was normative and empirical investigation, with fieldwork providing the primary data and library research providing the secondary data. Data collection for field research include conducting a supervised interview and a library study that includes perusing records and documents. Then, a qualitative descriptive methodology was used to review all of the data. Based on the findings of the study, discussions, and analysis, it can be said that the standard operating procedures established by the Attorney General's Regulation Numbers: PER-018/A/J.A/07/2014 and PER-025/A/J.A/11/2015 were not followed by the compliance of social security registration carried out with the approval of the States Attorney of Public Prosecution Service of Magelang.

Keywords: Obligation, Registration, Social Security, State Attorney, Social Security Administering Body on Employment.

1. Introduction

An Indonesia Government Indonesia carries out national development to establish a prosperous, just, flourishing, and equitable society. In implementing national development, workers play a key role and position as the actor and the development goal. In their role and position, their rights and interests need to be protected by human dignity. The protection of workers is intended to guarantee, their basic, rights, and to guarantee equal opportunity and non-discrimination treatment to realize the welfare of workers and their families in the framework of fair industrial relations [1].

By defending the rights of workers in all respects, national growth is achieved.. The protection of workers includes protection of their basic rights, occupational safety and health, protection of wages, and social security. The provision of social security to employees is a form of protection offered by the state to uphold the fundamental rights of employees, to ensure equality of opportunity and treatment without regard to any other factor, to realize the

welfare of employees and their families while taking into account the development of the business world.

The Law of the Republic of Indonesia Number 13 of 2003 on Labor regulates social security in Article 99 paragraph (1), which specifies that every worker or labor and his or her family have a right to receive labor social security. The 1948 United Nations Declaration on Human Rights and the 1952 International Labor Organization (ILO) Convention No. 102 both establish the right to social security as a fundamental human right. According to Indonesia Law Number 40 of 2004 on the National Social Security System, the state develops a National Social Security System for every Indonesian citizen.

In order to guarantee that everyone can meet their basic needs for a respectable existence, social security is a sort of social protection [2]. With social security, it is anticipated that every worker would be able to cover the essential expenses of a decent life in the event of unforeseen circumstances that could cause a loss or decline in income, such as illness, accidents, job loss, old age, or retirement. The Agency of Social Security Administration was founded and is the true essence of social security (BPJS). The Indonesia Law No. 24 of 2011 on the Social Security Administration Agency contains further regulations regarding the BPJS.

BPJS is a company that was created legally to manage social security programs [3]. The two primary services offered by BPJS are BPJS for Healthcare and BPJS for Employment. While BPJS for Employment offers programs for death insurance, old age insurance, pension insurance, and work accident insurance, BPJS for Healthcare offers health insurance programs. On July 1st, 2015, BPJS for Employment began operations by offering programs for death insurance, pension insurance, old age insurance, and work accident insurance.

Everyone, including foreigners who work in Indonesia for at least six months, must join in the social security program as of July 1, 2015, in accordance with Law of the Republic of Indonesia Number 24 of 2011 on the Social Security Administration Agency. Employers are required by the social security systems in which they are enrolled to gradually register both themselves and their employees as members of BPJS. [4]. Employers, particularly in Magelang District, have not implemented the social security program registration at BPJS for Employment in a satisfactory manner. Due to the delay in completing the registration in the Magelang District, the BPJS for Employment of Magelang Branch Office granted the Magelang District a power of attorney.

The BPJS for Employment of Magelang Branch Office gives power to the Magelang District Prosecution, based on Article 11 letter h of the Law of the Republic of Indonesia Number 24 of 2011 on Social Security Administration Agency, which states that BPJS is authorized to cooperate with other parties in the context of administering Social Security programs. Moreover, there is also a mutual agreement in the civil law and state administration sector between the BPJS for Employment of the Magelang Branch Office and the Magelang District Prosecution Office. The power of attorney granted by the BPJS for Employment of Magelang Branch Office to the Magelang District Prosecution Office is to resolve the obligation to register social security programs by business entities and all their workers to BPJS for Employment.

The government entity that independently executes state powers in the prosecution sector and other authorities based on legislation in the Republic of Indonesia is the Attorney General's Office [5]. Article 30 paragraph (2) of Law No. 16 of 2004 on the Attorney General's Office of the Republic of Indonesia governs one of the Attorney General's Office's (AGO) powers in the area of civil and state administration., which states that the AGO with special powers may act both in court and outside of court for and on behalf of the state or the government in the civil and state administration sector. BPJS could be represented by the

Magelang District Prosecution Office in this case. From October 21st, 2015 until February 12th, 2018.

The BPJS for Employment of Magelang Branch Office had given 59 Special Power of Attorney (SKK) [6] to the Magelang District Prosecution Office to resolve the obligation to register social security programs by business entities and all their workers to BPJS for Employment. The Magelang District Prosecution Office was able to resolve as many as nine SKKs from BPJS Employment of the Magelang Branch Office or 15.25% of completion.

The Magelang District Prosecution Office received a higher number of SKK but also had the lowest percentage of completion compared to other areas that became the work area of the BPJS for Employment of the Magelang Branch Office. The working area of the BPJS for Employment of Magelang Branch Office, namely Magelang City, received 17 SKKs with a completion of 15 SKK or 88.23% of completion. Temanggung District received three SKKs with the completion of two SKKs or 66.66% of completion. Wonosobo District received five SKKs with completion of three SKKs or 60% of completion. Purworejo District received five SKKs with completion of one SKK or 20% of completion

Based on the description stated above, the research problems in this study could be formulated as follow:

1. What are the reasons for the percentage of completion of the obligation to register social security program by the State Attorneys at the Magelang District Prosecution Office to be so low?
2. What are the efforts done by the State Attorneys at the Magelang District Prosecution Office so that the completion of the obligation to register the social security program is effective?

2. Method

This study combines normative and empirical research through the use of empirical normative legal research. Normative legal research makes use of secondary data, whereas empirical legal [7].

3. Result And Discussion

3.1 Percentage of Completion of the Obligation to Register Social Security Programs by State Attorneys at the Magelang District Prosecution Office is Very Low.

The granting of power of attorney by the BPJS Employment of Magelang Branch Office to the Magelang District Prosecution Office to resolve the obligation to register for social security programs is because there are still many employers in the Magelang District who do not carry out the obligation to register themselves and their workers in the BPJS for Employment programs. The obstacle faced by the BPJS for Employment of Magelang Branch Office is that the sanction for non-compliance in the form of not receiving certain public services (TMP2T) cannot be implemented because it is related to the local government. The Magelang District Government, in this case, does not want to cooperate with the BPJS for the Employment of the Magelang Branch Office in giving sanction in the form of TMP2T because according to them this will hinder investment in Magelang District. In addition, there are still many employers or business entities who do not understand the benefits of the BPJS for Employment programs, so they do not want to register for the BPJS Employment programs.

The percentage of completion of the obligation to register social security program by the State Attorneys at the Magelang District Prosecution Office is very low due to the:

1. The State Attorneys are unable to negotiate with the employers

The State Attorneys at the Magelang District Prosecution Office carried out the billing for the obligation to register social security programs by summoning the employers to the Magelang District Prosecution Office with a predetermined schedule. The summons of the employers was by the Standard Operating Procedures (SOP) for the Implementation of Providing Legal Aid Outside the Court in Its Position as Plaintiffs as regulated in the Regulation of the Attorney General of the Republic of Indonesia Number: PER-018/A/JA/07/2014 on Standard Operating Procedures for the Deputy Attorney General for Civil and State Administration which states that the State Attorneys invite the opposing party to negotiate through invitation letter [8].

Some employers were present and some were absent at the summons of the State Attorneys at the Magelang District Prosecution Office. For those who were absent, the State Attorneys at the Magelang District Prosecution Office then visited them at their business place. The State Attorneys who visited the employers often found that they were not at their business place. The BPJS for Employment received notification from the State Attorneys that they failed to meet the employers. As a result of the failed meetings, the State Attorney was unable to negotiate with employers. The failure to carry out negotiations with employers hampers the performance of the State Attorneys to resolve the problem of the billing for the obligation to register social security programs at the BPJS for Employment. The State Attorneys who are unable to negotiate with the employers, then do not follow up on the handling of the cases.

The Implementation of SOP (procedure operating standard) of Providing Legal Aid Outside the Court in Its Position as Plaintiff in the Regulation of the Attorney General of the Republic of Indonesia Number: PER-018/A/JA/07/2014 on Standard Operating Procedures for Deputy Attorney General for Civil and State Administration Sector states that the implementing unit, in this case, the State Attorney, makes a final report on case settlement which contains cases that can be resolved by negotiation or cases failed on negotiations and provide advice in resolving the case [9]. Failure to follow up on the handling of the cases for the completion of the obligation to register social security programs at the BPJS for Employment by the State Attorneys at the Magelang District Prosecution Office by not making a final report on the handling of the cases for the obligation to register social security programs at the BPJS for Employment does not follow the guide and does not implement the Standard Operating Procedures (SOP) for the Implementation of Providing Legal Aid Outside the Court in Its Position as Plaintiff in the Regulation of the Attorney General of Indonesia Number: PER-018/A/JA/07/2014 on Standard Operating Procedures for Deputy Attorney General for Civil And State Administration.

2. The employers deny the commitment to register the social security programs at BPJS for Employment.

Employers who were present at the summons of the State Attorneys at the Magelang District Prosecution Office negotiated with the State Attorneys. Negotiations were carried out to resolve the issue of the employer's obligation to register themselves and their workers in the social security programs at BPJS for Employment. The State Attorneys at the Magelang District Prosecution Office had negotiated with the employers by emphasizing the obligations of the employers as stipulated in Article 14 and Article 15 paragraph (1) of Indonesia Law Number 24 of 2011 on Social Security Administration Agency.

Regulation of Indonesia general attorney (Per-025/A/JA/11/2015) on Employers' commitments to register themselves and their employees in the form of

statement letters are not covered by the Guidelines for the Implementation of Law Enforcement, Legal Assistance, Considerations, Other Legal Actions, and Legal Services in the Civil and Administration Sector' state

3. Inappropriate data.

State Attorneys at the Magelang District Prosecution Office found that there were discrepancies in the data on the number of workers in the documents with those in the field. The difference in data on the number of workers was due to the lack of documents and data related to employers provided by BPJS for Employment and the employers did not provide data on the actual workers.

The employers reasoned those workers were often changed, in and out, so that employers were confused about registering their workers. Some workers had participated in other social security programs. Some employers explained that they only had one permanent worker, while other workers only work for a few months and some were freelancers.

Referring to Article 15 paragraph (2) of Law of the Republic of Indonesia Number 24 of 2011 on the Social Insurance Administration Agency, employers who register themselves, their workers, and family members with the BPJS for Employment in order to participate in the social security program must provide complete and accurate information about themselves, their workers, and family members [11].

When negotiating with the employers, the state attorneys at the Magelang District Prosecution Office should underline the duty of the employers to provide accurate and comprehensive information about themselves and their employees.

The difference in the number of workers, during negotiation with the employers, caused the State Attorneys couldn't solve the problem of employer obligation to register themselves and their workers in the social security program at the BPJS for Employment. The lack of documents and data related to the employers provided by the BPJS for Employment to the State Attorneys should be overcome at the preparation stage when the Magelang District Prosecution Office provides legal assistance to the BPJS for Employment of the Magelang Branch Office.

The act of the State Attorneys at the Magelang District Prosecution Office who did not invite the BPJS for Employment of the Magelang Branch Office, which in this case was the party requesting legal assistance or a candidate for power of attorney, to make an explanation regarding the problems for which legal assistance will be requested, and did not request to provide data related to the problems does not follow and implement the Standard Operating Procedures (SOP) on Preparation Stage for Providing Legal Aid Outside the Court in Its Position as Plaintiff in the Standard Operating Procedures for Deputy Attorney General for Civil and State Administration, Republic of Indonesia, Number: PER-018/A/J.A/07/2014, is a regulation of the attorney general.

3.2 Efforts did by the State Attorneys at Magelang District Prosecution Office so that Obligation To Register Social Security Program be Effective.

The efforts done by the State Attorneys at the Magelang District Prosecution Office in completing the obligation to register social security programs at the BPJS for Employment, such as by coordinating with related parties, providing advice to BPJS for Employment of Magelang Branch Office to impose sanctions on employers who are not registering to the employment social security program and encouraging the Magelang District Government to

participate in the success of the social security programs at BPJS for Employment, were ineffective.

According to the Procedure Operating Standard or the Implementation of Providing Legal Aid Outside the Court in Its Position as Plaintiff in the Regulation the Attorney General Indonesia Number: PER-018/A/J.A/07/2014 on Standard Operating Procedures for Deputy Attorney General, the ineffectiveness was gathered from 51 SKKs that the State Attorneys at the Magelang District Prosecution Office had not resolved because they had passed the

The State Attorneys' effort to fulfill the need to enroll in the social security program at the BPJS for Employment to be effective is by resolving the obligation to register social security programs at the BPJS for Employment in less than six months or 180 days. If six months or 180 days is not sufficient, the time for handling cases can be extended after obtaining approval from BPJS for the Employment of Magelang Branch Office as the authorizer.

4. Conclusion

Proportion of Work Completed of the Obligation to Register of the program of social security by the State Attorneys at the Magelang District Prosecution Office was very low because:

- a. The State Attorneys were not able to negotiate with the employers.
- b. The employers denied the commitment to register the social security programs at BPJS for Employment
- c. Inappropriate data.
- d. In its capacity as plaintiff under the Regulation of the Attorney General of the Republic of Indonesia Number: PER-018/A/J.A/07/2014 on the Standard Operating Procedures for Deputy Attorney General for Civil and State Administration, the State Attorneys at the Magelang District Prosecution Office did not adhere to and did not put into practice the standardized methods of operation (SOP) for the Implementation of Providing Legal Aid Outside the Court.
- e. in the Civil and State Administration Sector.

The State Attorneys' effort to complete the obligation to register the social security program at the BPJS for Employment to be effective is by resolving the obligation to register social security programs at the BPJS for Employment in less than six months or 180 days. If six months or 180 days is not sufficient, the time for handling cases can be extended after obtaining approval from BPJS for the Employment of the Magelang Branch Office as the authorizer.

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