

Legal Protection of BPJS Employment Patients for Informal Sector Workers Under Indonesian Law

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Abstract. Given their enormous population, the legal protection of health insurance for workers in the informal sector is a top priority. Although there is a requirement to pay BPJS Health payments and provide work safety assurances, there are still barriers in the form of no written cooperative agreement because they are simply independent contractors. This study attempts to give informal sector workers legal protection for health insurance so they may access medical care. Utilizing a qualitative approach, this investigation. The findings of the study demonstrate that informal employers do not give BPJS Employment health rights, which ensures work accidents. The Social Security Administering Body is responsible for enforcing legislative rules based on the Laws of the Republic of Indonesia Number 24 of 2011 on BPJS, which establishes National Social Security. According to their membership, BPJS Health is a citizen's right to health; if the employer is careless, sanctions will be applied.

Keywords: BPJS Health, Legal Protection, informal sector.

1 Introduction

Indonesia is a country with quite a large population growth, to date the population has reached 265 million people as recorded in Indonesian Statistics data. Along with the population, of course, the available employment opportunities are also limited so that the workforce capacity consists of two categories, namely: formal sector workforce and informal sector workforce, considering that the number of formal sector workers consists of ASN, BUMN, TNI_Polri while the number of workers Informal sector workers are larger in number, but unfortunately informal sector workers have limitations in terms of protection for their workers, especially regarding job safety guarantees during work and when not working. [1] Apart from paying attention to the economic sector, there are also other sectors that need to be paid attention to, namely legal protection for workers, in this case, examples of several jobs moving in the informal sector include the micro sector, including the home industry, construction workers, trade and plantations. Most of the informal workers come from traditional communities whose daily activities only carry out daily work, with limited abilities or skills so they have not had time to think about the rights of other workers. These workers do not yet receive health insurance in the

event of a work accident or health insurance in old age because there is no productive organization in the informal sector. This informal workforce allows its members without organizations to have better access to credit, markets, technology, and legal institutions than individuals and small companies. The Director General stated that one reason may be the relative weakness of the cooperative movement in many cities in developing countries. Some workers are starting to use cooperatives that are dependent on the government and are not the responsibility of employers in the informal sector. These are not autonomous organizations as defined in the ILO Recommendations on Cooperatives (Developing Countries) (No. 127), 1966.[2]

On January 1st, 2014, the BPJS Health Social Security Administering Body went into operation, and on July 1st, 2015, the BPJS Employment Social Security Administering Body went into effect based on UURI no. 24 of 2011 addressing BPJS. BPJS Employment gives employees rights and places clear requirements on companies as a program that is applicable to all Indonesian workers. Work Accident Insurance (JKK), Old Age Security (JHT), Death Insurance (JKM), and Health Care Insurance (JPK) are some of the program categories regulated by BPJS Employment, while participants in BPJS are required to maintain orderly administration and make contributions. According to Article 27 (2) of the 1945 Constitution, legal protection for employees in Indonesia is the realization of fundamental rights that are guaranteed by the law and safeguarded by the constitution. Because the workforce is mentally and physically healthy while still taking into account advancements in the business world and the interests of the employer, worker protection will undoubtedly add value to work results. UURI No. 13 of 2003 concerning the Employment Law, which has been revised with Law No. 2 of 2022 concerning the Job Creation Law and the application of laws and regulations relating to employment, are other rules such as laws dealing to labor protection.[3] The purpose of the government-managed social security program for workers is to offer health insurance, which is subsequently replaced by payments in the form of wages to make up for lost or reduced wages and administration as a result of an incident or circumstance. The interests of participants include gathering and managing data on social security program participants, disseminating information to participants and the public about the implementation of social security programs, and paying benefits and/or financing health services in accordance with applicable social security program provisions. [4]

Because all employees, including in the formal and informal sectors, must participate in BPJS Employment, the organization is legally recognized as non-profit. In Indonesia, there are now 110,559 million people employed. There are 81.33 million unofficial laborers in Indonesia, which is a sizable figure. The official work and amount of power in Indonesia total 59.97%. [5] The costs of paying BPJS contributions are of course very large, so it will be difficult if this amount is not paid by workers who are the responsibility of the employer or entrepreneur. So the BPJS Health and Employment program is not supported by one pillar, namely the government, to cover all technical benefits and all levels of society. The BPJS program needs to be built on several pillars. For lower-class people or those who are still classified as poor, the BPJS program will be implemented through a program financed by government funds. Broadly speaking, social security can be divided into two parts, namely long-term security, such as old age, pension, temporary work, and death benefits, and short-term security, such as health and personal accident security. Social security funding in the form of social insurance can be borne by each community as an employer. The mandatory contributions that must be paid to the state,

such as paying taxes, are carried out because the procedures and mechanisms in the field are voluntary, prone to negligence in paying contributions, thereby failing to fulfill the objectives of social security. Apart from that, commercial insurance can only provide guarantees to those who apply and are able to buy it.[6] This research will provide an overview of the protection of workers in the informal sector in obtaining BPJS employment rights and the development of legal knowledge, especially in social security (social insurance). The focus of this research is on government policy through effective legislation based on social justice values to realize BPJS employment for informal sector workers. Future government revenue optimization through contributions to realize SJSN and the function of the state-provided welfare of the people (Welfare State) as well as lowering the poverty rate of the neighborhood where informal sector workers are included can be hoped for, of course, with appropriate legal politics. According to the description given above, the issue can also be stated in terms of social security programs for jobs in the unorganized sector that are founded on fairness and intended to enhance people's welfare.

The Social Security Administering Body, also known as BPJS, is an organization created by law to oversee social security services. Two (two) categories make up BPJS itself: BPJS Health and BPJS Employment. A company called BPJS Health was established legally to manage health insurance schemes. Providing National Health Insurance (JKN) for Indonesian citizens is BPJS Health's primary responsibility. Promotive, preventative, curative, and rehabilitative healthcare services are covered by the BPJS, as are drug services and consumable medical supplies based on medical needs. However, difficulties are frequently encountered when putting the BPJS Health program into practice. These difficulties might arise between BPJS Health Participants, making BPJS Health Participants feel as though they are not receiving services in line with the law and that the clinic is treating them unfairly. BPJS Health participants should be aware that they are protected by law or regulation, but there are still implementation flaws that could lead to issues or conflicts between parties, including BPJS Health participants and the treatment provider. Because there are numerous conflicts in its implementation, it is necessary to reassert the legal protection of BPJS Health participants. This study attempts to give informal sector workers legal protection for health insurance so they may get healthcare. The issues that prevent legal protection for BPJS participants in health services are the final topic covered in this study.

2 Problems

What is the legal protection for BPJS Employment patients in the informal sector when linked to social justice?

3 Method and Approach

2.1 Method

Normative judicial analysis was the study methodology adopted. A problem that is explicitly reviewed from a legal and lawful point of view, through a rule approach, particularly from the point of view of a problem that will be examined through legal guidelines as optional information as essential, optional, and material, is used by the Normative Juridical philosophy

strategy. secondary law.[7] Based on the Law of the Republic of Indonesia number 24 of 2011 concerning BPJS Employment, this technique outlines the legal protection for patients who are informal worker patients. In this study, secondary legal sources that are relevant to social justice will be discussed as literary studies of legal sources.

3.2 Approach

The approach used, apart from coming from laws that have been established by the government, also uses sources from previous scientific articles regarding the legal protection of BPJS employment patients which actually clearly describe problems in the field, then an evaluation is carried out to relax these problems. Next, collect information through thoroughness and study to get conclusive ideas and thoughts in preparing this article. The breadth of this assessment will be connected to an emotional approach in accordance with the goals of the research to be accomplished, employing this normative legal method. According to Petrus Soerjowinoto, an emotional technique is a method that employs steps that prioritize an understanding approach that is frequently used by researchers to define problems' original qualities and cannot be entirely predicted.

4 Discussion

4.1 Benefits of BPJS Employment for Informal Workers

Employment in Indonesia initially occurred because of the relationship between workers and employers. In subsequent developments, the employment relationship was unbalanced between the employer or businessman and the worker or laborer in making employment agreements. In this case, there is no balance in making agreements, but the world of business competition is getting tighter day by day, causing companies to make efficiency in terms of production costs (cost of production), but the work demands on workers or laborers are sometimes very high, tending to squeeze their energy, or in the form of a long work schedule and if the workforce cannot fulfill it, it is easy to dismiss them or terminate their employment relationship (PHK). [5] More deeply, employment problems involve more than two parties, namely workers, employers, and other parties including the government or other bodies/institutions formed by the government. As time goes by, the problem of relations between workers and employers becomes increasingly complicated, covering several aspects ranging from the industrial aspect as a whole to employment issues and industrial relations. However, government involvement or intervention in the employment sector should provide a good solution and not cause new problems, because government involvement will have a positive impact on workers, one of which is regarding legal protection for employment.

The Social Protection or Occupational Health, Safety and Health Protection for Workers is specified combined with the right to request protection for workers in Article 86 paragraph (1) of the Health Regulations for Workers contained in UURI Number 13 of 2003 concerning Employment. Workplace health and safety, morals, and decency, as well as medical care that respects human dignity and religious principles. Regarding occupational health, it is explained that it entails all efforts and regulations aimed at shielding employees from situations and events that can jeopardize their physical, psychological, and ethical standards in the workplace. [9] Occupational Health is intended as an effort to protect workers in terms of occupational health

insurance, freedom of association, and protection of the right to join organizations. Occupational health is also a type of social protection because the provisions regarding occupational health relate to social and social issues, namely regulations intended to place restrictions on the power of employers or employers to treat workers/laborers "as they please" without paying attention to existing social norms. applies, without considering the human values of workers/laborers as creatures of God who have human rights. This health care guarantee is a guarantee as an effort to fulfill the need for the management and prevention of health disorders which, along with the development of the times, has had the effect that we know with the birth and development of the laissez-faire doctrine, which was known to be out of control in the Middle Ages. Philosophically, this doctrine carries a capitalist liberal ideology (economic liberalization) which has the effect of being literally laissez-faire, namely "let it happen" or can be interpreted as "let it happen". This phrase was adapted from French diction, which was initially employed as a model for competitiveness against partners who engaged in government involvement during commerce by a number of physiocrats in the 18th century. In this form of management, the boss offers his staff members the discretion to carry out their responsibilities however they see fit. the leader's tiniest absence from the group's activities.[8]

The leadership style can only function if members can analyze the situation and decide what actions to take and how to take them in order to accomplish a goal. The leadership model encourages members' competence in decision-making, including interaction and control over leadership performance. This leadership approach is used by a leader who is unable to control and take charge of his group, thus he delegated those duties to all of the organization's members. That kind of leadership involves a "chief" person who only acts symbolically as the leader.

4.2 Employment Law Protection

Legal protection may be summed up as a set of laws or regulations that can shield a person from harm as well as the protection of their human dignity and respect of their human rights as a subject of the law based on applicable legal requirements. Even if the concept of Pancasila's formulation incorporates thinking that has been transformed by the West, where the emphasis of the concept is on the preservation of human rights, the legal protection in issue is always based on it in Indonesia. Consequently, the fundamental idea of legal protection for employees in Indonesia always centers on preserving their respect and dignity, as well as the realization of their human rights as both individuals and collectively known as "workers" or "workers." Two fundamental components of the protection for workers are protection from the influence of businesspeople or employers and protection from governmental regulations.[9] If regulations pertaining to labor laws that require or force employers to act as stated in these laws have actually been implemented by all parties, legal protection from the power of employers/entrepreneurs is implemented. The validity of the law is not only measured legally but also can be measured sociologically and philosophically.

The World Health Organization, also known as WHO, has concluded that health is an investment, a right, and an obligation for every human being in the world, and as such, has established legal protection for BPJS participants in health services. [5] As a result, the government has implemented strategic measures to offer health services to the underprivileged. following January 2005, This program, formerly known as Askeskin, has transformed to become the Public Health Care Guarantee (PJPKM) program. The Askeskin program became the Community Health Insurance program in 2008. According to Article 10 of the Laws of the

Republic of Indonesia Number 24 of 2011 regarding BPJS, BPJS fulfills its mandate to: a) Conduct and/or receive participant registration. b) Gather and compile participant contributions. c) Obtain government support for contributions. d) Handle the Social Security Funds in a way that promotes participant health. e) Gather and handle Social Security program participant data. f) Comply with Social Security program rules in paying benefits and/or funding medical care. g) Inform participants and the general public about the Social Security program's execution. The Social Security Administering Body is based on the Laws of the Republic of Indonesia Number 40 of 2004 governing the National Social Security System, also known as the SJSN Law, which is referred to as the Understanding and Legal Basis for BPJS. The Social Security Administering Body is described in Article 1 Paragraph 6 of the SJSN.

Law is a governmental-instituted legal body in charge of overseeing the administration of the social security system. In line with Article 1 Paragraph 6 of the SJSN Law, the BPJS Law also known as Article 1 Number 1 UURI Number 24 of 2011 concerning Social Security Administering Bodies also defines BPJS. According to Article 28H of the 1945 Constitution, the national social security system is a government initiative that aspires to offer social safety and welfare for every Indonesian citizen. In addition, the President was mandated by MPR Decree Number X/MPR/2001 to set up a national social security system in order to offer society more extensive and integrated social protection. [10] There are many issues with public services or public services, including both for-profit and non-profit sectors, whose scope is very broad. It is challenging to sum up how the general public views these public services due to their broad reach. Different points of view are the cause of the variations in perception, yet there is a way to resolve them so that they can be reconciled. The BPJS claim that has been put into practice is the hospital where the patient is being treated submitting the treatment costs for BPJS participants to BPJS Health. Each month, BPJS Health is billed for all of these claims. Hospitals are considered Advanced Level Referral Health Facilities (FKRTL) in this instance. BPJS participants must complete claim administration paperwork and submit it to BPJS Health in order to be reimbursed for treatment charges in accordance with Indonesia's tariff rates. The promotional, preventive, curative, and rehabilitative health services covered by BPJS also include pharmacological services and consumable medical supplies as needed.

Legal protection for BPJS patients is also meant to encompass all deliberate actions taken by every person, as well as by governments and private organizations, to assure security, the capacity for, and fulfillment of a decent standard of living, particularly in the health sector, in accordance with established human rights. In essence, this legal protection is based on the Indonesian state government system and adheres to the tenet that "Indonesia is a country based on law or *rechtstaat*, and the government is based on a constitutional system or what is typically called basic law," which are the fundamental components of the nation. "Fundamental rights" are acknowledged and safeguarded by law. [11] There are several forms of legal protection as well, including preventive and defense. restrictive legal defense.

4.2.1 Preventive Legal Protection

When something is prevented, the public is given the chance to voice their concerns or disagreements before the government makes a final decision. In this situation, the goal is to prevent disagreements by offering preventive legal protection. Large-scale preventive legal protection indicates that the government acts in accordance with its right to do so. Preventive legal protection encourages the government to adopt cautious approaches when

making judgments. According to Philipus Meter Hadjon, preventive measures are things that the government does in advance. A deterrent action is one that is preventive.

4.2.1 Employment Law Protection

The legal protection offered during a dispute is the repressive legal protection being discussed. This oppressive legal defense tries to settle conflicts. According to Satjipto Raharjo, the purpose of legal protection is to defend human rights (HAM) that have been violated by others. Citizens are provided this protection so they can take advantage of all the legal privileges. When necessary, the law can be applied to produce protection that is not just adaptable and flexible, but also anticipatory and proactive. In order to achieve social justice, law is also necessary for individuals who are weak or strong in terms of their social, economic, and political standing.

4.3 Accountability to workers who have not registered as BPJS participants

Organizations between employees and employers play a critical role in fostering and advancing informal sector organizing. Both parties have a long history of defending their business interests. In other nations, they are required to uphold their rights in accordance with the Charter and Conventions of the International Labor Organization, or ILO, and the informal sector will profit much from their efforts. In this scenario, the informal sector continues to get ambiguous treatment from both workers' and employers' organizations. or unclear as of yet. Because it is unknown how many people are employed there, the informal sector might be said to represent an unpleasant scenario for the trade union movement. Conditions that are subpar and unaffected by trade union protection are other significant indicators in the area of equality of opportunity and treatment. Due to the fact that organizations created by the government or labor observers frequently view the informal sector as "unfair competition" rather than a possible partner, they concentrate their legal protection efforts on the formal sector.

Employers or business owners are required to offer legal protection facilities for workers based on applicable rules and regulations in Indonesia, in accordance with the Manpower Law, which has been previously stated, meaning increasing the well-being of workers or workers and their families. By considering the demands of employees and laborers as well as the size of the company where they work, welfare facilities can be provided as intended. According to the demands of the worker or laborer and the size of the company's capabilities in accordance with the terms of governmental regulations, the provisions are adjusted to the type and criterion of welfare facilities. In order to protect, maintain, and improve the welfare of workers, workers, and laborers, the government created the Labor Guarantee Program, which entrepreneurs as employers are required to implement if they meet the program's requirements, which include having ten or more employees and paying salaries to those employees in the amount of one million rupiah per month. According to Article 11 Paragraph 5 of Government Regulation Number 28 of 2016 Concerning Health Insurance, if employees/laborers have not registered with BPJS Health, then the employer is liable if the employee needs medical care in accordance with BPJS Health's benefits. The penalty for enterprises who have not registered their employees as JKN program participants is also explained in paragraph 6. These sanctions are progressive and include written warnings, fines, and/or denial of access to certain public services. Workers, workers, and laborers are more productive as a result of this health care since it allows them to perform their jobs as effectively as possible. This health maintenance program aims to manage

and avoid health issues, such as pregnancy and childbirth, that call for assessment, treatment, and care. This guarantee covers preventive measures to promote health as well as recuperation and rehabilitation. Employer organizations can have a healthy workforce that can focus on their work and be more productive thanks to the Health Care Guarantee. The National Social Security System established work accident insurance, which is implemented with the goal of ensuring that participants receive health service benefits and cash compensation given to workers in the event of a work accident or work-related illnesses. Its purpose is to provide accident insurance, which is specifically regulated in PP Number 44 of 2015 concerning the Implementation of Work Accident Insurance and Death Insurance Programs to ensure that workers are protected/Workers/laborers are strictly regulated based on the Laws of the Republic of Indonesia Number 24 of 2011 concerning BPJS, which is relevant to the Laws of the Republic of Indonesia Number 40 of 2004 concerning the National Social Security System. Policies that take into account the preferences and skills of the relevant workforce, including equitable treatment for those with impairments. The rights and responsibilities of workers/laborers are outlined in Article 6 without regard to gender, ethnicity, race, religion, skin color, or political opinions by entrepreneurs acting as employers. so that the appropriate laws' procedural requirements for the legal protection of BPJS Employment sufferers can be satisfied. executing Pancasila and the 1945 Constitution through the strategy for executing the Social Security program for Independent Workers or Workers in the Informal Sector as part of efforts to create Human Resources that are sustainable and integral to National Development. Realizing a just and wealthy society is another goal of the employment sector's development. and successful. In addition, there are a number of difficulties and dangers that independent workers and those employed in the informal sector—who also perform labor outside of an employment relationship—face. In order to increase national productivity with social justice, entrepreneurs have a responsibility to provide protection, maintenance, and social justice to workers, employers, and laborers, particularly in the informal or independent sector. This is similar to the concept of symbiotic mutualism.

4 Conclusion

Protection of laborers, workers, and other employees who have a right to receive protection for their health and safety at work, for morals and decency, as well as for treatment that is appropriate to their human dignity and dignity as well as religious principles based on Pancasila. Promotive, preventative, curative, and rehabilitative healthcare services are covered by the BPJS, as are drug services and consumable medical supplies based on medical need. When a worker needs health services in accordance with the benefits offered by BPJS Health, the employer is obligated to pay for them. BPJS is a citizen's right to health according to their membership. Entrepreneurs who do not register their employees, workers, or laborers with the JKN program will face punishments, which will be handed out in stages.

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