

Literative Analysis Health Insurance For Workers in The Company

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Abstract: Employment social security is regulated in Law Number 24 of 2011 concerning Social Security Organizing Bodies (UU No. 24 of 2011) which covers workers' rights in obtaining guarantees as compensation for employment risks. This type of research uses qualitative research with a phenomenological method approach, which means a study that discusses awareness of social action based on one's main perspective. Sources of data collection by collecting data obtained from primary and secondary literature, then compiling all the data obtained in accordance with the order of discussion that has been planned. Data collection techniques through observation, interview, and documentation. The results of this analysis conclude that Article 22 paragraph (1) Law no. 3 of 1992 and PP No. 14 of 1993, explains that there is an obligation for employers to pay contributions and to collect contributions which are the responsibility of the workforce by deducting the wages of the workforce and paying them to the organizing body within a predetermined time. This means that there is a based legal relationship between the employer as the insured and the organizing body (PT. Jamsostek) as the insured and the workforce as interested parties.

Keywords: Health Insurance, Workforce, Company

1. Introduction

Workers need to get protection in order to realize the welfare of workers by taking into account developments in the business world. In giving assurance to laborers, the public authority makes arrangements in regard to federal retirement aide programs for laborers. The government managed retirement program for laborers is planned to give conviction to the continuous progression of family pay as a substitution for part or all of lost pay. Laborers' federal retirement aide has a few perspectives, including: 1) Giving essential insurance to meet the base living requirements for laborers and their families. 2) recognition for laborers has contributed their energy and contemplations to the organization where they work. [1]

Employment social security is regulated in Law Number 24 of 2011 concerning Social Security Organizing Bodies (UU No. 24 of 2011) which covers workers' rights in obtaining guarantees as compensation for employment risks. In fact, the formation of the Social Security Administering Body (BPJS) is not something new in the world of work because previously social security for workers had been regulated in Law Number 14 of 1993 concerning Workers' Social Security or commonly known as Jamsostek.

In 2004, Law Number 40 of 2004 concerning the National Social Security System was issued with the aim of establishing an integrated social security system for the people of Indonesia and the social security system would be institutionalized in a body in the form of

public law, giving birth to Law no. 24 of 2011, there was an institutional transformation of PT Askes, PT Jamsostek. PT TASPEN, PT ASABRI became BPJS.

With the transformation of the institution into BPJS, it is followed by the transfer of participants, programs, assets and viability including the rights and obligations of workers and employers. One of them is the right of workers to receive protection from social risks. This should be given by businesses by enlisting laborers as individuals from the BPJS as per what is ordered in Article 15 passage (1) of Regulation no. 24 of 2011 which expresses that businesses are progressively expected to enlist themselves and their laborers as BPJS members as per the Government backed retirement Program they are taking part in. However, in practice the awareness of the company in providing protection for its workforce is still lacking. Many companies do not register their workers with the BPJS on the grounds that the company already has private insurance that will be provided to their workers so they no longer need to be registered with the BPJS. Based on these reasons, an analysis is needed regarding the legal arrangements that require companies to register their workers as BPJS members.

The embodiment of the Indonesian rule of law is reflected in the laws and regulations made to provide guidelines for the people in carrying out their activities as citizens, (Achir, 2020) including in the aspect of work. Labor or employment in Indonesia is regulated based on Law Number 13 of 2003, specifically in Chapter 1 Article 1, it is emphasized that employment is defined as all matters related to work before, during and after work. For this situation, as per Article 1 number 2 of Regulation Number 13 of 2003 concerning Labor supply, what is implied by Work is each individual who can take care of business to deliver merchandise and additionally benefits to bring about some benefit for addressing their own requirements and for society.[2]

The position of employers and workers in labor law is the same and equal, but sociologically under certain conditions the position between employees (workers) and employers is not equal and balanced, because employees (workers) are often in a weak position.³ The world of work must be a concern together, starting with the guidance, direction, and protection of the workforce.[3] Labor is an important asset for a company that must be maintained and developed, because they are the driving force of a company. Labor or employees are also the main wealth of a company, because without their participation the company's activities will not run well. A good company or organization, namely one that looks after and maintains its employees in terms of providing guarantees for occupational health and safety facilities as a form of company concern for its employees, is called Health Facility Conditions (Hermanto & Puspitarini, 2021).

At present there are more and more industrial developments and more and more employees will work according to market needs, but often this can make employees feel exhausted at work or injured at work. This requires concern for guaranteed health and safety facilities at work, these two things cannot be separated from one another. Company goals and employee desires will be achieved if the health and safety guarantee is good. This health insurance facility will be able to increase productivity at work and feel safe at work.

However, in reality the Company often pays little attention to this matter. Here are some examples of cases that occurred in the field, namely:

First, Abdul Fatah Mas'ud, shouldn't have to worry about medical expenses for him and his family because he already has a BPJS card. The worker at PT Tandan Sawita Papua (TSP), a palm oil company in East Arso, Keerom Regency, Papua, is already a permanent employee. The company has registered Abdul with two government-owned social security, BPJS Kesehatan and BPJS Ketenagakerjaan. BPJS contributions are taken from company allowances and Abdul's monthly salary deductions. - Abdul annoyed. Angry. He thought the cost of delivery

would not be a problem anymore even if he had to have surgery because it could be covered through BPJS. It turned out that he had to swallow a bitter pill, BPJS was blocked because the company was in arrears. The leadership asked Abdul to borrow money and the company would reimburse him within a month. After the birth, the wife and children returned home. Abdul then continued to take care of claims to the company. The company asked him to complete the paperwork. Not only payment receipts, management asked for real records from the hospital. He had to go back and forth from the plantation office in Arso Timur Keerom to Abepura Hospital and then to the company's representative office, each time there was a file that the management deemed lacking. Abdul continues to bill the company. A few weeks later, the company reimbursed all delivery costs.

Second, Heren Anderi, a TSP permanent worker also experienced the same thing. He was forced to redo the Papua Health Card (KPS) to pay for his wife's birth. When I was about to use BPJS, the card was blocked because the company had not paid the monthly fee. Because the company is in arrears of Employment BPJS contributions, workers cannot claim work accident insurance, death security, and old age insurance.

Third, freelance daily workers (BHL) are even sadder, there are those who have not yet received a BPJS card, such as the pair Darwin and Sarifah. They are casual workers at TSP. Every day, the two of them drive to and from their home in Kampung Yamara PIR V, Manem District, to Kebun Tiga Division II, East Arso. In July 2020, after the morning assembly, the workers at Division II of Kebun Tiga moved towards the oil palm blocks. Darwin accompanied his wife who worked to collect loose palm fruit. Sarifah suddenly complained of a headache. After calling the assistant in Division III, the company car took Sarifah to the company clinic. From the clinic, he moved to the Pitewi Health Center but it was not treated. Sarifah was taken to the Keerom Regional General Hospital in Swakarsa. From the statement of the medical staff, the blood vessels in the 52-year-old woman's head burst and she had to be referred to the Jayapura Dok II Hospital for surgery. After two weeks of being treated, Sarifah's life could not be helped. During the treatment, the Healthy Indonesia Card (KIS) provided by the village helped Darwin even though he still had to spend millions of rupiah to buy medicine and other needs. After his wife's death, at the urging of friends, Darwin filed a death certificate and a family card. No response from the company.

Fourth, Lokataru Foundations, a legal and human rights (HAM) advocacy organization, said that PT Freeport Indonesia deactivated the participation of its workers from the National Health Insurance program (JKN) for the Social Security Administration Agency (BPJS) for Health. Membership that is deactivated applies to workers who are laid off unilaterally by the mining company from the United States (US). In fact, according to Advocate Lokataru Nurkholis Hidayat, there has been no official Termination of Employment (PHK) agreed upon between workers and company management. He further explained, even though there is an agreement between workers and company management to carry out layoffs, health insurance should still be given to workers up to six months after the termination of layoffs has been agreed. Unfortunately, he continued, the company that carries out mining activities in Grasberg, Mimika Regency, Papua, has never explained about the deactivation of BPJS Health membership for its workers.

Meanwhile, from BPJS Health, Nurkholis said, the deactivation of worker participation was carried out by Freeport. However, BPJS Kesehatan is still waiting for an official statement from Freeport stating that the workers have actually been laid off. That way, BPJS Kesehatan cannot reactivate membership status because there has been no decision made by the industrial relations dispute resolution institution or research has not been carried out on the problem between Freeport Indonesia and the All Indonesian Workers Union (SPSI) Freeport Indonesia.

The deactivation of worker participation has had an unpaid impact, where as many as 16 workers had to lose their lives because they did not get health insurance. This is because, at the same time, workers also do not have the costs to pay for hospital services.

Fifth, Revealing the identities of several victims who indicated the age under 18 as the age limit for a worker to be said to be a child worker is a violation of another article of the law. According to Article 68 of the Labor Law, children are not allowed to work. However, for certain reasons children may be allowed to work for certain types of work that are not included in the 'worst jobs' as stated in Article 74 of the Manpower Law. One of the criteria for "worst work" for children as further stated in Article 74 paragraph (2) letter d is the type of work that endangers the health, safety and morals of the child.

Based on the description of the background above, the problem (problem) that can be formulated to be discussed in this study is How is Health Insurance Management for Workers? And how is the law positive if there is no health insurance for workers for the company? With the aim of knowing the management of health insurance for workers and knowing the positive law if there is no health insurance for workers for companies.

2. Theory

2.1 Employment

The definition of employment according to Law No. 13 of 2013 is not only limited to activities during working period. According to these regulations, employment is all matters relating to labor before, during and after the working period. The labor force alluded to here is characterized as each and every individual who can take care of business that produces products as well as administrations that are valuable for himself or society overall. The guideline likewise controls unfamiliar laborers working in Indonesia. A significant prerequisite for outsiders working in Indonesia is to have a work visa.[4]

You can essentially isolate your labor force into three gatherings. Gathering is done in light of the capabilities, capacities, and abilities moved by these specialists. What are the groups we will discuss as follows:

a. **Educated Workforce**

The first is an educated workforce, an educated workforce is someone who has knowledge and expertise in a particular field. This knowledge and expertise is generally obtained by someone through the formal education they take. Examples are doctors, lawyers, notaries, and so on.

b. **Trained Workforce**

The next type of workforce is a trained workforce. Trained workers are workers who generally acquire their expertise through non-formal education such as skills training, courses, and so on. Examples of welders (welders), especially underwater welders, mechanics, cooks (chefs) and so on. Although generally through non-formal education, trained workers can also go through formal education such as surgeons, forensic experts, and autopsy experts.

c. **Uneducated and Untrained Workforce**

The last is an uneducated and untrained workforce, which basically does not require a person to have certain skills or obligations. A simple example is housemaids, porters, and so on.[5]

Based on the definition of employment that has been previously described. Not everyone can be defined as labor. The definition of non-labor is a person who has not yet entered working

age or someone who has entered working age but does not work for certain reasons. An example is a child who is less than 15 years old and someone who is more than 64 years old, housewives, students, and so on.

2.2 Employment Development

Next, we will discuss about employment development in Indonesia. Manpower development has been mandated in our basic constitution, the 1945 Constitution, which is implemented based on integration through central and regional sectoral functional coordination.

The development of employment in Indonesia itself has the following objectives:

- a. Empowering and utilizing manpower optimally and humanely
- b. Acknowledging equivalent circulation of work potential open doors and supply of labor as per the requirements of public and provincial turn of events
- c. Provide protection to the workforce in creating well-being
- d. Improve the well-being of the workforce and their families.[6]

2.3 Manpower Planning

After we have discussed the meaning of employment together, what is labor, and its classification. In this section, we will explore more about workforce planning in Indonesia. Labor supply arranging expects to do labor supply arranging efficiently which can later be utilized as a source of perspective in figuring out strategies, systems and other labor supply improvement programs on a continuous premise. The Public authority of Indonesia, as far as setting approaches and getting ready labor supply arranging programs, grouped them into two groups. Macro worker planning and micro worker planning.[6]

This was compiled based on analysis and relevant data series and compiled in employment information. Employment information itself is collected both from the government and the private sector which has important elements in manpower planning.

2.4 Employment Opportunity

If we look at it from the notion of manpower in general and in the context of its development, one of the important elements of manpower planning is employment opportunities. This article will both specifically discuss employment opportunities for people with disabilities. What are the rules that support the creation of fair and equitable job opportunities in general?

Article 5 of Regulation No. 13 of 2003 concerning Labor makes sense of overall that each specialist in Indonesia has a similar right to find a nice line of work and vocation. Despite orientation, identity, race, religion, legislative issues, as indicated by the capacity of the labor force concerned, incorporating people with inabilities.

2.5 Job Opportunities for People with Disabilities

Based on the information described above. Friends who have family members or relatives who have disabilities now know their rights to obtain decent work and livelihood. It is not justified for a company to refuse people who meet the qualifications both in terms of education and ability in the world of work on the grounds that the person concerned has limitations.[7]

In providing jobs for people with disabilities, companies must provide protection according to the type and degree of disability based on the applicable laws and regulations. Development and job training conducted by companies for people with disabilities must pay attention to the type, degree of disability, and work ability of the person concerned.

The elements of workforce planning include:

- a. Population and workforce
- b. Employment Opportunity
- c. Job training including job competence
- d. Labor productivity
- e. Industrial relations
- f. working environment conditions
- g. Labor wages and welfare; And
- h. Labor social security.[8]

2.6 Macro Workforce Planning

As explained above, manpower planning is divided into macro and micro manpower planning. What is implied by large scale labor supply arranging here is deliberate labor arranging by utilizing labor ideally and beneficially to invigorate development. The development alluded to here is monetary and social development on a public, provincial and sectoral scale which can open up the greatest conceivable business open doors, to expand the efficiency and government assistance of laborers.[9]

2.7 Micro Manpower Planning

Dissimilar to the large scale labor arranging, miniature labor arranging has a more modest extension. The degree alluded to here is simply restricted to the extent of the organization, be it the public authority or privately owned businesses. As far as understanding among large scale and miniature labor arranging have likenesses. On account of miniature laborer arranging, the significance is efficient business arranging in an office, government or private. Focusing on the ideal and useful utilization of labor supply to accomplish better execution in related organizations.

2.8 Employment Issues

As of not long ago, Indonesia is as yet encountering business issues, for example, the bad quality of the labor force, the quantity of laborers that isn't corresponding to work valuable open doors, and the exemplary issue, to be specific the joblessness rate in Indonesia. Right in February 2019 the number of workers according to the Central Statistics Agency was 136.18 people. This figure experienced an increase of 2.24 million people compared to 2018 in the same month. The good news is that the unemployment rate in February 2019 decreased to 5.01 percent from the previous period.[10]

There are as yet numerous things that should be fixed to defeat the issues above. Advancement of HR, improvement of imaginative ventures and projects that help little and medium endeavors can be a choice in defeating the above issues. One of the significant places in the thought of business is the ideal and effective utilization of labor supply.

3. Method

The methodology used in this research design is qualitative. The qualitative design approach is comprehensive and adapts to conditions in the field. As explained by Sugiyono, "This method is also called the interpretive method because the research data is more concerned with the interpretation of the data found in the field." [11] In addition, according to Putra and Lisnawati, "qualitative research designs are usually global, imprecise, uncertain, and very

flexible." Thus, the design in qualitative research is flexible and open because it is only used as an assumption in conducting research. [12] Through this qualitative approach, it is hoped that an in-depth understanding and interpretation of the meaning of the relevant facts will be obtained

The legal research method used is a normative research method. This research is aimed at analyzing laws and regulations, both in general and specifically, namely legal principles and legal doctrine to answer legal problems faced. This type of research uses qualitative research with phenomenological methods, so research that looks at awareness of social action from its own main perspective. Sources of data collection by collecting information from primary and secondary literature, after that all the information obtained is arranged in the order of the planned discussion. Data collection techniques through observation, interviews and documentation. [13] Qualitative research is data collection in a natural environment with the aim of interpreting phenomena that occur when the researcher is the key instrument, sampling of data sources is purposeful and snowball, survey techniques with triangular (combined) data analysis are inductive/qualitative and the results are. of qualitative research emphasize relevance over generalization.

4. Discussion and Anlysis

4.1 Management of Health Insurance for Workers

a. Labor Social Security Program

Workers' Social Security is based on the philosophy of independence and human dignity in facing socio-economic risks. Independence means not depending on other people in paying for treatment when sick, in paying for living in old age in taking care of the family if you die. Self-respect means that these guarantees are obtained as rights not on the mercy of other people, because indeed social security is a labor right.

In realizing the guarantees in the social security program, it requires financing that must be borne by employers and workers. But it should not be too burdensome and still within reachable limits. Therefore the protection provided as well. Only basic and essential in nature as stipulated in the implementing regulations of Law no. 3 of 1992, namely Government Regulation number 14 of 1993 concerning the implementation of the social security program for workers which has undergone 5 (five) amendments to date and the last is Government Regulation Number 76 of 2007, all of which are intended to improve services for insurance participants social labor.

The guarantees provided must also provide benefits for workers and their families in dealing with the relevant socio-economic risks. Financing and benefits of Jamsostek can be optimal, if the implementation must be carried out in mutual cooperation, where the young help the older ones, the healthy help the sick, and those with high incomes help those with low incomes.

1) Accident insurance

Word related mishaps and word related illnesses are chances looked by laborers who take care of business, to cover the deficiency of part or all of their pay made by death or handicap due work mishaps both truly and intellectually, having work mishap insurance is vital. Taking into account that psychological problems because of work mishaps are extremely relative in nature, so it is challenging to decide the level of handicap, certifications and

pay are just given in case of a super durable mental incapacity which brings about the laborer being not able to work any longer.

2) Death Guarantee

Laborers who kick the bucket not because of work mishaps will bring about loss of pay, and will enormously influence the financial existence of the families abandoned. Thusly, passing protection is required with an end goal to facilitate the weight on the family either as burial service costs or pay as cash.

3) Pension plan

The advanced age security can bring about the deficiency of wages since you are at this point not ready to work. Because of the interference of wages, it causes worry for the labor force and influences the true serenity when they are as yet working, particularly for those with low livelihoods. Reliable days give conviction of getting pay that is paid at the same time or potentially intermittently when the labor force arrives at the age of 55 (55) years or meets specific prerequisites.

4) Health care insurance

Wellbeing upkeep is expected to build the efficiency of the labor force, so they can complete their obligations as well as could be expected and comprise wellbeing endeavors in the field of recuperating (healing). Therefore, healing efforts require a large amount of funds and are burdensome if it is borne by individuals, so efforts should be made to strengthen the community through the ability of the social security program.

Besides that, employers are still obliged to carry out health care for workers which includes efforts to increase (promotive), prevent (preventive). Heal (curative). And recovery (rehabilitative), thus it is expected to achieve an optimal degree of health of the workforce as a productive potential for development. Health care insurance is not only for the worker concerned but also for the family.

b. Legal Relations in Social Security

Laborers' Government managed retirement is a public program that gives security to laborers to defeat certain financial dangers whose execution utilizes a social protection instrument. As a public program, Jamsostek provides rights and imposes certain (compulsory) obligations for employers and workers based on Law no. 3 of 1992, in the form of cash compensation and medical services, while the obligation is to pay contributions.

JAMSOSTEK program contributions are calculated based on a percentage of the total monthly wages received by workers, except for the calculation of JPK contributions which are determined on the basis of monthly wages received by workers at a maximum of Rp. 1,000,000, - with the understanding that wages are more than Rp. 1,000,000, only Rp. 1,000,000,-

This program provides basic protection, to maintain human dignity if experiencing socio-economic risks with financing that is affordable for employers and workers. old age and death, which results in reduced or cut off employee income or requires medical treatment. Work Mishap Advantage gives remuneration and recovery to laborers who experience mishaps when they go to work until they get back or experience the ill effects of business related diseases. Freedoms and Commitments of the Gatherings in the Federal retirement aide Program.

An organization that moves its gamble through an insurance understanding will actually want to build its business and dare to raise greater objectives, as well as payments gathered in an insurance agency can be taken advantage of and utilized as assets for improvement endeavors. The outcomes will be delighted in by the local area. With these positive uses, the existence of the Social Security program for the benefit of self-protection of companies, especially workers, needs to be maintained and developed.

In the implementation process will give birth to the rights and obligations of the parties, namely:

1) Rights of Companies or Entrepreneurs

- a) Receive a certificate or proof that you have become a local Social Security participant.
- b) Receive proof of receipt of contributions when paying dues every month.
- c) Receive back funds that have been issued in advance in the case of work accidents
- d) Receive the best service

2) Obligations of Companies or Entrepreneurs

- a) Register all specialists in the government managed retirement program as per the arrangements of the appropriate regulations and guidelines
- b) Report correctly data about the company, workforce, wages and changes in company activities
- c) Record every addition and reduction of workforce along with changes in wages that occur and report it to the operator (BUMN) every month.
- d) Carry out monthly bids on time (no later than the 15th of the following month)
- e) Report changes regarding; company's address; company ownership; type and line of business

3) Labor Rights

According to Law Number 3 of 1993, the rights to workers are contained in the provisions of Article 3 paragraph (2) which states that every worker has the right to Worker Social Security, life insurance (JK), JKM. And JPK. This is clearly seen in several articles in Law no. 3 of 1992. Concerning labor rights in JKK are specified in Article 8 paragraphs (1) and (2) and Article 9.

Article 8 Worker who has a work accident has the right to receive work accident insurance (paragraph 1), including workers in labor accident insurance, namely:

- a) Apprentices and students who work for companies whether they receive wages or not
- b) Those who buy up work unless the contractor is a company employed by the company (paragraph 2).
- c) They are buying up work unless it is the company that is buying it
- d) Convicts who are employed in the company (paragraph 2).

Article 9: Work accident insurance as referred to in Article 8 paragraph (1), includes:

- a) Freight Fees

- b) Expenses for examination, treatment, and/or care
- c) Rehabilitation costs
- d) Compensation in the form of money which includes: compensation for temporary incapacity to work, partial disability compensation for ever; compensation for total disability forever both physically and mentally; and death benefits

4) Manpower Obligations

Every employee who participates in Social Security is obliged to:

- a) Provide personal data clearly and correctly at the time of registration
- b) For those who have previously registered and then change jobs, they must report the previous KPJ number to the new company leader to be reported to the organizer (BUMN).

In the mean time, work privileges with respect to JK are contained in Article 12 section (1) and passage (2), in particular specialists who bite the dust not because of a work mishap, their families are qualified for death benefits as alluded to in passage (1) include: memorial service costs and pay as Cash.

Labor rights regarding. With JHT (Old Age Security) contained in Article 14 paragraph (1) and paragraph (2) and Article 15, while workers' rights to JHT are contained in Article 16 paragraph (1) and paragraph (2), namely workers, husbands or wife. and children are entitled to health care insurance. Health care insurance covers: first level outpatient care, advanced level outpatient care; inpatient pregnancy check-up and delivery assistance; diagnostic support; special services and emergency services.

Following up on the explanations regarding labor rights above, it can be explained that labor rights are: (1) receiving a social security participant card (KPJ), (2) receiving a guarantee in the form of money which is the realization of JKK, JK, and JHT, (2)) in the form of services, namely JPK.

As for the rights of JPK Program Participants:

- a) Get the same opportunity to get health services. Optimum and comprehensive, according to the needs with the set service standards, except for special services such as glasses, dentures, false eyes, hearing aids, assistive devices for moving hands and feet are only given to workers and not given to their family members
- b) For workers with families, dependent participants who are included consist of a husband/wife and 3 children with a maximum age of 21 years and not married.
- c) Choosing a health facility is prioritized in an appropriate area or close to where you live.
- d) In an emergency, participants can immediately ask for help from the Health Service Executor (PPK) appointed by PT Jamsostek (Persero) or stay
- e) Participants have the right to change Level I outpatient health facilities if on the Health Care Card the choice of health facility is no longer suitable and is only permitted after 6 (six) months to

choose Level A I outpatient health facilities, except for moving domicile

- f) Participants have the right to write down or report complaints if they are not satisfied with the implementation of JPK by using the JPK form provided at the company where the workforce works, or PT. local JAMSOSTEK (Persero).
- g) Workers/workers' wives are entitled to first, second and third birth assistance
- h) Workers who already have 3 children before becoming a participant in the JPK program, are no longer entitled to get childbirth assistance. [14]

Meanwhile, the obligations of JPK Program Participants include:

- a) Completing administrative procedures, including filling out the Composition List form la). FamilyA (Social Security Form)
- b) Signing Health Care Card (KPK)
- c) Having a Health Care Card (KPK) as proof In an emergency, participants can directly ask for help from the Health Service Executor (PPK) appointed by PT Jamsostek (Persero) or not
- d) Follow established health service procedures
- e) Immediately report to PT. JAMSOSTEK (Persero) if there is a change in family members, for example: single status to married, additional children, married children and/or 21 year old children. And vice versa if the status of being married becomes single
- f) Immediately report to the Office of PT. JAMSOSTEK (Persero) if the participant's Health Care Card (KPK) is lost/damaged to get a replacement by bringing a statement from the company or when the card's validity period has expired.
- g) If you are no longer a participant, the KPK will be returned to the company. [15]

The Social Security Program is the right of every worker, both in work relations and workers outside of work relations. Therefore, the Social Security program must be carried out by every company (article 3 paragraph [2] in conjunction with Article 4 paragraph (1) and paragraph (2) of Law No. 3 of 1992 concerning Social Security). Even reaffirmed in Law no. 3 of 1992 that employers and workers are obliged to participate in the Social Security program (article 17).

Requirements and procedures for participation in the Social Security program are further regulated in PP no. 14 of 1993 concerning the Implementation of Jamsostek, which among other things stated, that employers who (had) employed as many as 10 (ten) workers, or paid wages of at least IDR 1 million a month, were obliged to enroll their workforce in the Social Security program at the organizing body, namely Jamsostek (Persero). Thus the provisions of article 2 paragraph (3) PP No. 14 of 1992.

This confirms that the status of the organizing body (PT. Jamsostek) is the guarantor, and this is related to the parties in insurance law which states that "in Jamsostek there is an insurer, namely BUMN as the organizing body as the insured, namely the entrepreneur and there are interested third parties, namely labor. [16]

Based on the above provisions, it is clear that the legal relationship that occurs between the entrepreneur as the insured party and the organizing body as the birth insurer is not based on an agreement from the agreement of both parties, but due to statutory provisions that are mandatory, and a third party, namely Labor is an interested party. Furthermore, when viewed from the purpose of Jamsostek to provide protection and improve the welfare of workers, the legal relationship of insurance is classified as compulsory social insurance (compulsory insurance).

Thus, if the company has employed 100 or more workers (in an employment relationship), then of course it is very obligatory to participate and include its workforce in the Social Security program at PT Jamsostek (Persero). If the company does not participate/does not include its workforce in the Social Security Program, then in addition to being threatened with imprisonment (prison) for a maximum of 6 (six) months or a fine of up to Rp. 50 million (article 29 paragraph [1] of Law No. 3 Year 1992) may also be subject to administrative sanctions in the form of revocation of business licenses (article 47 letter a PP No.14 of 1992).

In fact, companies are required to bear all the consequences that occur and are related to the social security program, such as the consequences in the event of a work accident. death and/or old age security as well as health care insurance (article 8 paragraph [1] and article 12 paragraph [1] article 14 paragraph [1] and article 16 paragraph [1] Law No. 3 of 1992).

4.2 Positive law if there is no health insurance for workers for the company

a. Legal Consequences for Companies That Do Not Participate in Social Security

The Law Number 3 of 1992 concerning Social Security for Workers includes sanctions for anyone who does not fulfill the specified obligations. Criminal sanctions are specified in Article 29 while administrative sanctions, compensation or fines according to Article 30 of the Act, will be further regulated in Government Regulations.

1) Imprisonment or fine

The criminal sanctions specified in Article 29 of Law Number 3 of 1992 are in the form of confinement or fines. Article 29 paragraph (1) of the Law in full determines, "Whoever does not fulfill the obligations referred to in Article 4 paragraph (1): Article 10 paragraph (1), paragraph (2) and paragraph (3); Article 18 paragraph (1), paragraph (2), paragraph (3), paragraph (4), and paragraph (5): Article 19 paragraph (2); Article 22 paragraph (1) and Article 26, is punishable by imprisonment for a period of 6 (six) months or a maximum fine of Rp. 50,000 000,- fifty million rupiah."

In paragraph (2) it is stipulated that in the case of the repetition of the crime referred to in paragraph (1) for the second or more times after the final decision has obtained permanent legal force, then the violation is subject to imprisonment for a period of 8 (eight) months." The crime referred to in paragraph (1) is a violation. This means that the crime is not classified as a crime, which carries a heavier penalty.

Wiryo Prodjodikoro stated that "...the punishment of imprisonment only threatens minor criminal acts." [17] So the criminal acts referred to in Article 29 above are included as minor crimes. The threat of punishment is alternative. You can choose between imprisonment or a fine. Depends on the demands of the prosecutor and the judge's decision.

The legitimate ramifications for organizations that don't run this Jamsostek program are that business visionaries can be liable to sanctions as detainment for a limit of 6 (six) months or a greatest fine of Rp. 50,000,000.- (fifty million rupiah). If after being subject to these sanctions the entrepreneur still does not comply with the provisions he violated, then he may be subject to another sanction in the form of imprisonment for a maximum of 8 (eight) months and his business license revoked.

When the entrepreneur does the following things:

- a) Does not fulfill workers' rights to join the Social Security program
- b) Not reporting work accidents that befall workers to the Office of the Department of Manpower and the Organizing Body within no more than 2 times 24 hours (2 days)
- c) Failure to report to the Office of the Ministry of Manpower and the Organizing Body within no more than 2 times 24 hours (2 days) after the victim is declared by the treating doctor that he has recovered, is disabled or has died
- d) If the entrepreneur phases out the participation in the social security program, but also stages the work accident security program (the work accident program absolutely applies to all workers without exception)

The above is based on the provisions stipulated in Article 29 paragraphs (1) and (2) of Law no. 3 of 1992 & article 27 sub a PP No. 14 of 1993. Other sanctions that may be applied are based on the provisions of Article 29 paragraph (1) and (2) of Law no. 3 of 1992, entrepreneurs can be subject to sanctions in the form of imprisonment for a maximum of 6 (six) months or a maximum fine of Rp. 50,000,000.- (fifty million rupiah).

If after being subject to these sanctions the entrepreneur still does not comply with the provisions he violated, then he may be subject to repeated sanctions in the form of imprisonment for a maximum of 8 (eight) months and, if the entrepreneur does the following:

- a) Not taking care of the rights of workers affected by work accidents to the Organizing Body until they get their rights
- b) Does not have a list of workers and their families, a list of wages along with changes and a list of work accidents in a company or part of an independent company
- c) Does not submit employment data and company data related to the implementation of the Jamsostek program to the Organizing Body
- d) Submitting incorrect data resulting in workers not being registered as members of the Social Security program
- e) Submitting false data resulting in a lack of bail payment to the victim
- f) Submitting false data resulting in excess payment of the guarantee by the Organizing Body
- g) If the employer has deducted labor wages for the social security program but has not paid it to the Organizing Body within the stipulated time

2) Administrative Sanctions

Without bias to the crook arrangements alluded to in Article 29 passage (1) and section (2), as per Article 30 Regulation Number 3 of 1992, against business visionaries, laborers and Coordinating Bodies that don't follow the arrangements of this Regulation and guidelines execution is dependent upon managerial authorizations, remuneration, or fines which will be directed in an Administration Guideline.

The sanctions as mentioned above are regulated in Article 47 of Government Regulation Number 14 of 1993 concerning the Implementation of the Jamsostek Program as amended several times, most recently by Government Regulation Number 84 of 2010.

In essence, Article 47 of the Government Regulation determines:

- a) Entrepreneurs who don't satisfy the arrangements of Article 12 passage (3). Article 4, Article 5 section (1). Article 6 section (2), Article 18 passage (1), passage (2), and passage (3), and Article 19 and Article 20 passage (1), and have been given an admonition yet don't complete their commitments are dependent upon managerial assents as disavowal permit to operate.
- b) Entrepreneurs who don't consent to the arrangements alluded to in Article 10 section (3) are dependent upon a fine of 2% for every long stretch of postponement, determined from the contribution that ought to have been paid.
- c) An Organizing Body that does not comply with the provisions referred to in Article 26 Law Number 3 of 1992 is subject to compensation of 1% of the total guarantee as stipulated in this Government Regulation, for each day of delay and is paid to the workforce concerned.

If the authorization to be forced is an authoritative assent as renouncement of permit to operate, then the BAP made by the supervisory employee of the manpower office will be forwarded by the manpower office to the district attorney for further investigation or investigation up to the district court. The choice of the area court as renouncement of the permit to operate was done mutually by the Public Police and the Head prosecutor's Office.

In addition to the sanctions mentioned above, there are also administrative sanctions in the form of revocation of business licenses as stipulated in Article 47 sub a PP No. 14 of 1993. This warning can be imposed if the entrepreneur takes the following actions:

- a) Not registering the company and its workforce as participants in the Social Security program with the Organizing Body even though the company meets the criteria for the Social Security program to take effect
- b) Not submitting employee social security program participant cards to each worker within 7 (seven) days after receipt from the Administrative Body
- c) Not reporting changes:
 - (1) Company's address
 - (2) company ownership

- (3) The type or field of business, the total workforce and the size of their families
- (4) Wages for each worker no later than 7 (seven) days after the change occurs:

d) Do not provide first aid in accidents for workers

b. Form of Work Safety Guarantee According to Positive law

Good planning is very important for work safety as in production. And this issue must be really considered at the time of planning and not only thought about later after the company has started operating, planning remains important to achieve the highest safety standards or further efficiency.

In achieving the goals of occupational safety and health, preventive efforts are made both in the form of education and outreach to take actions to prevent humans from disease, work accidents and efforts to extend human life by improving the environment and preventing events and causes that result in stressed. [18]

1) Good housekeeping and regularity

The maintenance of good housekeeping and regularity is very important for occupational safety and health. If everything is given a place and everything is in its intended place, accidents tend to disappear. Orderliness also means the neat storage of things and the proper disposal of industrial waste.

Among the conditions of work safety in Law No. 1 of 1970, among others:

- a) Prevent and reduce accidents
- b) Provide assistance in accidents
- c) Provide protective equipment

2) Work Clothes

Work clothes, including shoes, are often inadequate for the job. Sometimes the workforce is dressed in old, worn clothes, which are no longer fit for use. This situation is not only detrimental in terms of safety, it also shows a low quality of life.

Ordinary work clothes cannot protect workers against hot metals, acids and various other risks.

3) Personal Protection Equipment

A good way of preventing accidents is the elimination of danger. However, if this is not possible, it is necessary to provide self-protection to workers.

The various means of self-protection, among others:

a) Spectacles

One of the most difficult problems in prevention. Eye accident. Most people are not used to wearing glasses while working for the reason that it interferes with reducing the enjoyment of work.

b) Safety shoes

Safety shoes must be able to protect workers against accidents caused by heavy loads on the feet.

c) Gloves

It must be given to workers with the consideration that the fingers will be free and flexible and do not hinder work

- d) Safety Hat or Helmet
Safety hats must be worn by workers who may be hit on the head by falling objects.
- e) Ear Protection
If necessary, ears should be protected with noise protection devices.
- f) Warnings and signs
Warnings and signs can also be used for various purposes, including to carry messages of instructions, warnings or to provide information in general. For example, “No Smoking”, or “High Voltage alert”
- g) Description
Lighting is an important aspect of the physical environment for work safety. Several studies have proven that the right lighting and adapted to the job results in maximum production and minimal inefficiency, and thus indirectly helps reduce the occurrence of accidents.
- h) Noise
Noise affects concentration and can contribute to accidents. Noise makes people lazy to work and affects production factors. [19]

5. Conclusion

Article 22 paragraph 1 of Law no. 3 of 1992 and PP No. 14 of 1993, it is stated that employers are required to pay insurance premiums and collect insurance premiums borne by workers by deducting workers' wages and sending it to the organizing body within a certain period of time. This means that there is a justified legal relationship between the employer as the insured and the institution (PT. Jamsostek) as the insured and the workforce as an interested party.

In the implementation of social security in Law no. 3 of 1992, employers responsible for social security are subject to two types of sanctions, namely administrative sanctions and criminal sanctions, namely: imprisonment or fines (Article 29 of Law No. 3 of 1992) and late payment fines (Article 22 Paragraph 1 of Law No. 3 1992 jo PP No. 14 Paragraph 10 Paragraph 3 of 1993

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