

Legal Protection for Nasional Health Insurance (JKN) Participants in the Case of Default in Health Facility Services Based on Health Law Number 17 of 2023

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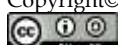
Abstract

This study aims to examine legal protection for National Health Insurance (JKN) participants in dealing with cases of default in health facility services, with reference to Health Law Number 17 of 2023. The main focus of the research is to understand the extent to which this law provides legal protection for the rights of JKN participants, especially when the health services received are not in accordance with the applicable provisions. Through a normative approach, this study analyzes the provisions contained in the law related to the obligations of health facilities and the rights of JKN participants, as well as the legal impact in the event of a default in health services. This study also identifies forms of default that may occur in the context of implementing JKN, both from the health facility and the JKN program organizer itself. By using an analytical legal approach, it is hoped that solutions can be found to improve the protection mechanism for participants, including legal remedies that can be taken by JKN participants if their rights are not fulfilled. In this study, it is also discussed about the role of supervision and sanctions given to parties who commit defaults, as well as the government's obligation to ensure that health services provided to JKN participants are in accordance with the set standards. Through the results of the analysis, this study concluded that although Health Law Number 17 of 2023 provides a strong legal basis to protect the rights of JKN participants, there are still gaps in its implementation that can harm participants. Therefore, it is recommended that there be increased supervision, a better understanding of the rights of JKN participants, and stricter law enforcement against health facilities that commit defaults. This research makes an important contribution to the development of the health legal system in Indonesia.

Keywords: Legal Protection, National Health Insurance, Service Default

Abstrak

Studi ini bertujuan untuk meneliti perlindungan hukum bagi peserta Jaminan Kesehatan Nasional (JKN) dalam menghadapi kasus-kasus kelalaian dalam pelayanan fasilitas kesehatan, dengan merujuk pada Undang-Undang Kesehatan Nomor 17 Tahun 2023. Fokus utama penelitian ini adalah untuk memahami sejauh mana undang-undang ini memberikan perlindungan hukum bagi hak-hak peserta JKN, khususnya ketika pelayanan kesehatan yang diterima tidak sesuai dengan ketentuan yang berlaku. Melalui pendekatan normatif, studi ini menganalisis ketentuan-ketentuan yang terdapat dalam undang-undang terkait kewajiban fasilitas kesehatan dan hak-hak peserta JKN, serta dampak hukum dalam hal terjadi kelalaian dalam pelayanan kesehatan. Studi ini juga mengidentifikasi bentuk-bentuk kelalaian yang mungkin terjadi dalam konteks pelaksanaan JKN, baik dari fasilitas kesehatan maupun



penyelenggara program JKN itu sendiri. Dengan menggunakan pendekatan hukum analitis, diharapkan dapat ditemukan solusi untuk meningkatkan mekanisme perlindungan bagi peserta, termasuk upaya hukum yang dapat ditempuh oleh peserta JKN jika hak-hak mereka tidak terpenuhi. Dalam penelitian ini, juga dibahas tentang peran pengawasan dan sanksi yang diberikan kepada pihak yang melakukan pelanggaran, serta kewajiban pemerintah untuk memastikan bahwa pelayanan kesehatan yang diberikan kepada peserta JKN sesuai dengan standar yang ditetapkan. Melalui hasil analisis, penelitian ini menyimpulkan bahwa meskipun UU Kesehatan Nomor 17 Tahun 2023 memberikan landasan hukum yang kuat untuk melindungi hak-hak peserta JKN, masih terdapat celah dalam implementasinya yang dapat merugikan peserta. Oleh karena itu, disarankan untuk meningkatkan pengawasan, pemahaman yang lebih baik tentang hak-hak peserta JKN, dan penegakan hukum yang lebih ketat terhadap fasilitas kesehatan yang melakukan pelanggaran. Penelitian ini memberikan kontribusi penting bagi pengembangan sistem hukum kesehatan di Indonesia.

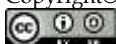
Kata kunci: Perlindungan Hukum, Asuransi Kesehatan Nasional, Pelanggaran Pelayanan

Introduction

Default is a legal term that refers to the failure or negligence of the parties in fulfilling the obligations that have been agreed in an agreement. In the context of contract law, default occurs when one of the parties does not fulfill or does not carry out obligations in accordance with the content of the contract or agreement that has been made, either because it is not performed, late in performing, or performing an exercise that is not in accordance with the agreement. Examples of defaults in health services can be in the form of delays or failures of health facilities in providing medical services in accordance with the standards promised to patients, such as refusing to provide services that are already the patient's right under health insurance, or not meeting the quality of service requirements guaranteed in the agreement with health insurance providers (e.g. BPJS Kesehatan). This default may result in losses for the aggrieved party and open up the opportunity for legal action to obtain compensation or the fulfillment of other rights.

The National Health Insurance (JKN) in Indonesia is one of the most important programs in the country's health system. Launched in 2014 through BPJS Kesehatan, this program aims to provide fair and equitable access to health services for all Indonesians, regardless of their economic and social status. With the existence of JKN, every Indonesian citizen, both able and underprivileged, has the right to receive health services guaranteed by the state. The program includes a wide range of services, from outpatient and inpatient to more complex medical procedures, at an affordable cost to participants. In addition, JKN is expected to be able to reduce the gap in access to health services in remote areas and ensure that every individual receives adequate health protection. However, although JKN has an important role in improving access and quality of health services, its implementation still faces various challenges. One of them is the quality of service that does not always meet the expectations of the participants. Several problems, such as delays in services, difficulty in access, and complaints about inadequate health facilities, often arise among JKN participants. Therefore, it is important to continue to improve the effectiveness and quality of JKN services so that the main goal, which is to provide equitable and affordable health services, can be better achieved. This includes providing legal protection for participants in cases of default or non-conformity of health services guaranteed by JKN.

Cases of default in health services are a significant challenge in the implementation of the National Health Insurance (JKN) in Indonesia. This default includes the failure of health



facilities to fulfill their obligations to JKN participants, such as denial of service, delay in providing services, or inconsistency between the services provided and the promised standards. For example, the Ombudsman of the Republic of Indonesia noted the existence of maladministration practices in the form of refusal or forced dismissal of patients who still need medical help, which clearly violates regulations and harms JKN participants.

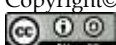
In addition, disagreements between BPJS Kesehatan and health facilities regarding payment claims or interpretation of service rules also often lead to disputes. This can cause a breakdown in cooperation between BPJS and hospitals, which ultimately disrupts the continuity of services for JKN participants. For example, at the end of 2024, BPJS Kesehatan will stop collaborating with two private hospitals in Brebes Regency due to being proven to have committed fraudulent acts in the form of fictitious claims in the JKN program. As a result, 36 dialysis patients had to be diverted to other hospitals, creating inconvenience and potential risks for patients.

The implementation of Health Law Number 17 of 2023 is expected to overcome this challenge by providing a strong legal basis for the protection of JKN participants. However, the effectiveness of this regulation in handling default cases still needs to be further evaluated. It is important to ensure that the existing legal mechanisms are easily accessible to participants and can provide balanced fairness between participants and healthcare providers. Thus, this study aims to analyze the role of the Health Law in improving the quality of health services and legal protection for JKN participants in dealing with default cases.

Clear legal protection for National Health Insurance (JKN) participants is essential to ensure their rights are protected, especially in dealing with cases of default by health facilities. Health Law Number 17 of 2023 provides a strong legal basis for the implementation of health services, but its implementation still requires strengthening in terms of supervision and law enforcement. Without strict regulations and clear legal mechanisms, JKN participants are vulnerable to becoming victims of injustice in health services. Therefore, more specific and detailed regulations are needed regarding the rights of JKN participants in dealing with health service defaults. The regulation must include complaint procedures, dispute resolution mechanisms, and sanctions for health facilities that do not meet their obligations. With clear regulations, JKN participants can more easily claim their rights and get justice, so that the quality of health services can improve and public trust in the JKN system is maintained.

The implementation of effective legal protection for National Health Insurance (JKN) participants faces a number of significant challenges. Although Health Law Number 17 of 2023 provides a strong legal basis, in practice, there are still obstacles in enforcing the rights of participants. Some of the main challenges include the lack of socialization regarding the rights of participants, limited access to information related to the complaint procedure, and participants' ignorance of the legal mechanisms that can be taken in cases of health service defaults. In addition, the lack of coordination between BPJS Kesehatan, health facilities, and legal institutions has also worsened this situation. As a result, many aggrieved participants do not know the right steps to claim their rights, thus reducing the effectiveness of the legal protection they should receive.

In addition, structural challenges such as limited budgets and human resources in law enforcement agencies are also obstacles in the implementation of legal protection. For example, in the case of default in payment of Aceh Health Insurance contributions, the Aceh Government faces difficulties in providing adequate budgets, which leads to late payments and potentially harms participants. This delay occurred due to a mismatch between the amount of the budget set and the amount of needs within a period of one year. In addition,



the data reconciliation process between BPJS Kesehatan and the Aceh Government has also experienced delays, which worsens the situation. These obstacles show that in addition to legal aspects, administrative and financial factors also affect the effectiveness of legal protection for JKN participants. What is the legal protection for JKN participants in the case of default in health facility services? What are the dispute resolution mechanisms regulated in Health Law Number 17 of 2023?

Methods Research

The methodology of this study uses a normative-empirical research type with a normative juridical approach, which aims to analyze and understand the applicable legal norms related to legal protection for National Health Insurance (JKN) participants. The data sources used in this study are secondary data, which includes the study of documents such as the Health Law Number 17 of 2023, related regulations, and relevant legal literature. The data collection technique used is a literature study, by collecting and analyzing various legal documents that are the basis of theory and policy in the JKN system. For data analysis, this study uses a qualitative approach with an analytical descriptive method, which aims to describe and analyze in depth the implementation of legal protection in the JKN system and provide recommendations based on existing findings.

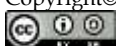
Results and Discussion

Legal Protection for JKN Participants in Default Cases

Health Law No. 17 of 2023 provides a strong legal basis in protecting the rights of National Health Insurance (JKN) participants. In this context, the rights of JKN participants are not only limited to access to decent health services, but also include protection of the quality and sustainability of services. In general, this law guarantees the right of participants to receive health services that include promotive, preventive, curative, and rehabilitative services in accordance with the standards set by the government. In addition, participants are also entitled to clear and transparent information regarding the types of health services they can receive and their rights in the treatment process. In this case, the Health Law affirms the rights of participants to obtain services that suit their needs and protects them from possible waiver of rights.

In addition to the right to quality health services, the Health Law also regulates the rights of JKN participants related to the right to sustainable access to services even if there is a change in the status of participants or certain conditions. For example, JKN participants are entitled to receive services even if they experience termination of employment or a shift in economic status. This law expressly regulates the obligations of the government and program organizers to ensure access to services without discrimination, be it related to age, gender, economic status, or location. This is in line with the principle of universal coverage which is one of the main goals of the JKN system, which aims to provide access to health to all levels of Indonesian society without exception.

However, although the Health Law has provided legal protection for JKN participants, the implementation of this protection still faces several challenges. A number of cases show that although these rights are theoretically protected, there are still obstacles in terms of coordination between the organizers, health facilities, and participants. Therefore, it is important to continue to strengthen the supervision and law enforcement mechanism in every health service process for JKN participants, to ensure that their rights can be guaranteed and protected to the maximum. Thus, to improve the quality of protection of the rights of JKN



participants, continuous evaluation and reform are needed in the national health insurance system.

The responsibility of health facilities in fulfilling service obligations.

Health facilities have a great responsibility in fulfilling health service obligations to the community, especially for National Health Insurance (JKN) participants. Within the framework of Health Law No. 17 of 2023, health facilities are required to provide services in accordance with medical standards, as well as fulfill the rights of JKN participants without discrimination. This responsibility includes not only the technical aspects of health services, but also the obligation to maintain the quality of services, provide clear information, and respect the patient's right to privacy and confidentiality. This obligation aims to ensure that every individual, especially JKN participants, receives proper health services that are in accordance with their medical needs.

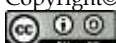
In addition to the obligation to provide quality medical services, health facilities are also required to meet the standard operating procedures (SOPs) set by the government and related supervisory bodies. This responsibility covers various aspects, from the cleanliness and safety of the facility to the skills of the medical personnel on duty. Health facilities must ensure that services are provided by competent medical personnel, as well as provide adequate facilities and infrastructure to support the sustainability of health services. In the event of a violation of this obligation, health facilities may be subject to administrative or criminal sanctions in accordance with applicable regulations. Therefore, it is important for healthcare facilities to ensure that the internal surveillance system is running properly and always complies with the established regulations.

The implementation of this responsibility not only has an impact on the quality of health services, but also on the satisfaction and protection of patients' rights, including JKN participants. Health facilities must ensure that the service process takes place in a transparent and fair manner, so that the rights of JKN participants are not neglected. In the event of negligence or default in service, the health facility is obliged to provide compensation or compensation to the patient. In addition, health facilities are also responsible for educating patients about their rights in receiving medical services. With this obligation, it is hoped that the quality of health services in Indonesia can continue to improve, so that people feel safe and protected in accessing health services

Case study: concrete examples of defaults and their impact on JKN participants.

One concrete example of default in the service of health facilities related to the National Health Insurance (JKN) occurs when a hospital does not provide medical services in accordance with the standards set by the government, even though JKN participants have followed the correct procedures and met the administrative requirements. For example, there are cases where JKN participants experience delays in emergency medical procedures because health facilities do not have adequate medical equipment or trained medical personnel. This clearly violates the obligation of health facilities required by Health Law No. 17 of 2023 to provide services in accordance with applicable medical standards. The impact of this default is very detrimental to JKN participants, because delays in medical treatment can have fatal consequences on the patient's health condition, and even cause serious complications that should not have occurred.

Another impact of this default is the loss of public trust in the JKN system and health facilities that provide these services. JKN participants who feel that their rights are not fulfilled have



the potential to file a claim against the health facility concerned. If the claim is not taken seriously or if there is no follow-up from the organizers, JKN participants can feel disadvantaged, leading to dissatisfaction with the overall quality of health services. In addition, defaults in the service of health facilities also result in the waste of state resources, as health facilities that do not carry out their obligations properly can cause legal problems and the need to bear additional costs as compensation for such negligence. Therefore, it is important for the government to strengthen supervision and law enforcement mechanisms to prevent these defaults from occurring.

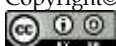
Dispute Resolution Mechanism in Health Law Number 17 of 2023

Health Law Number 17 of 2023 provides a more comprehensive dispute resolution mechanism, including an out-of-court dispute resolution approach. The purpose of this approach is to provide faster, more efficient, and less burdensome solutions to the judicial system, especially in the case of disputes involving National Health Insurance (JKN) participants with health facilities or organizers. This out-of-court dispute resolution approach includes a variety of methods, such as mediation, conciliation, and arbitration. In this context, the disputing parties will be involved in a more deliberative and non-adversarial settlement process, with the aim of reaching a mutual agreement without the need to go through formal court procedures. Mediation, as one of the methods of resolving disputes outside of court, is an approach in which the parties involved in the dispute are met with an independent mediator who is in charge of helping them reach an agreement. This mediator does not have the authority to decide disputes, but rather focuses on facilitating communication between the two parties to find a solution that is satisfactory to both parties. In the context of JKN, this mediation is often used when there are complaints from participants regarding the quality of health services received or violations of the rights of JKN participants. This mediation process provides an opportunity for JKN participants and health facilities to understand each other's positions and reach a fair settlement without having to go through a long legal path.

In addition to mediation, conciliation is also an important method in resolving disputes regulated by Health Law Number 17 of 2023. Conciliation is similar to mediation, but the conciliator has the authority to propose solutions or recommendations that are acceptable to both parties. In this case, the conciliator acts more actively in providing direction or suggestions that can help both parties find common ground. For disputes between JKN participants and health facilities, conciliation is an effective option to resolve problems related to service standards or costs that are not in accordance with the provisions that have been set by the government. This conciliation process often involves a third party, such as a JKN supervisory agency or a legal entity in charge of ensuring compliance with regulations.

This out-of-court dispute resolution is not only profitable in terms of time and cost, but also prioritizes a more harmonious relationship between JKN participants and health service providers. Although dispute resolution through mediation and conciliation can provide faster results, if both parties cannot reach an agreement, Health Law Number 17 of 2023 still provides a path to resolve disputes through legal channels. Therefore, this approach provides flexibility for the parties involved in the dispute to choose the method of settlement that best suits their situation. With this dispute resolution mechanism, it is hoped that the quality of health services and the protection of the rights of JKN participants can continue to be improved.

The role of mediation and arbitration in dispute resolution.



Mediation and arbitration are alternative methods in dispute resolution that are increasingly popular in various countries, including Indonesia. Mediation is a process in which the parties involved in a dispute seek to reach an agreement with the help of a neutral mediator. In mediation, the mediator does not have the authority to decide the outcome of the dispute, but rather acts as a facilitator to help the parties find a common solution. The advantages of mediation are the flexibility and confidentiality of the process, as well as its ability to maintain good relations between the parties after the dispute has been resolved. This process is often chosen because it can save time and costs compared to litigation in court. Meanwhile, arbitration is an out-of-court dispute resolution process involving one or more arbitrators appointed by the parties to the dispute. In contrast to mediation, in arbitration, the arbitrator has the authority to issue a binding award for the parties. The arbitration process is generally more formal and structured compared to mediation, but it is still faster and more efficient compared to litigation. Arbitration is very popular in commercial and contractual disputes, as it provides legal clarity and certainty for the parties involved. The final and binding nature of the arbitral award also provides a sense of security for parties who want to avoid the uncertainty of the court's decision.

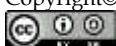
Both methods have their own advantages and disadvantages, but they both play an important role in reducing the burden on the courts and providing a more efficient alternative to dispute resolution. With the growing awareness of the importance of resolving disputes that do not rely solely on the court process, mediation and arbitration may be the preferred option for many parties, especially in cases involving business relationships and international contracts. Therefore, a good understanding of the mechanisms and advantages of these two methods is very important for legal professionals and the wider community.

Advantages and challenges of implementing dispute resolution mechanisms.

The implementation of dispute resolution mechanisms, such as mediation, arbitration, and litigation, provides various advantages in overcoming legal problems that arise between the parties to the dispute. One of the main advantages of alternative dispute resolution methods is time and cost efficiency. Mediation and arbitration processes are typically much faster than court processes, which often take years. This provides an advantage for parties who want to resolve disputes without having to be stuck in lengthy and expensive legal procedures. In addition, with mediation, the parties can maintain business and social relations, as the process is cooperative and non-confrontational. Arbitration also offers legal certainty because the award issued is binding and final.

However, while this mechanism has its advantages, its implementation also faces a number of challenges. One of the main challenges is the lack of understanding and awareness from the public and business people regarding alternative dispute resolution mechanisms. Many parties still prefer to resolve disputes through the courts because they feel safer with a familiar and more formal process. In addition, despite the lower costs, mediation and arbitration still cost a considerable amount of money, especially if they involve professionals who are competent in the field. Limited knowledge of these alternative dispute resolution procedures and mechanisms often leads to hampered effective implementation.

Another challenge that is no less important is the supervision and enforcement of decisions made through mediation and arbitration. Although the arbitral award is final and binding, there is a possibility that either party will not comply with the award. Therefore, an effective mechanism is needed to ensure that the decisions taken can be implemented without hindrance. In some countries, including Indonesia, despite regulations governing arbitration



and mediation, oversight of the implementation of decisions is still weak. This is an obstacle in creating a sense of justice and certainty for parties who use alternative dispute resolution mechanisms.

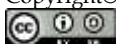
Conclusion

Legal protection for National Health Insurance (JKN) participants is an important aspect in ensuring accessibility and quality of fair and equitable health services in Indonesia. Based on Health Law Number 17 of 2023, JKN participants have the right to receive health services in accordance with the standards set by the government. In the case of default or negligence of health facilities in providing services to JKN participants, the law provides protection to participants by regulating the mechanism of claims and sanctions against service providers who do not fulfill their obligations. This law emphasizes that health facilities that are members of the JKN system must ensure that the rights of participants are fulfilled, including in terms of quality and timeliness of services. Nevertheless, although Health Law Number 17 of 2023 provides legal protection, major challenges remain in its implementation. JKN participants must be able to prove the existence of a default in service, which often involves a complex process and requires strong evidence. In addition, even though there are clear regulations, supervision and law enforcement of violations in the service of health facilities is still a homework that needs to be improved. Limitations in supervision, as well as uncertainty in the dispute resolution process, often cause dissatisfaction among JKN participants. Therefore, to achieve optimal legal protection for JKN participants, there needs to be improvements in the aspects of supervision, education about the rights of participants, and stricter law enforcement against health facilities that commit defaults.

Although Health Law Number 17 of 2023 provides a strong legal basis for the protection of JKN participants, the effectiveness of the implementation of this protection is highly dependent on synergy between the government, health facility providers, and the community. With improvements in the supervision and law enforcement mechanisms, as well as increased awareness of the rights of JKN participants, it is hoped that legal protection for participants can run more effectively and provide a sense of security to all parties involved.

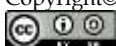
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