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The Connection Between The Implementation Of The Right To Health Through The Health Insurance System And State Policy Forms In Mandatory Spending

Fatkhul Muin
Universitas Sultan Ageng Tirtayasa Serang-Banten Indonesia

Corresponding Author: Fatkhul Muin, Email: fatkhulmuin@untirta.ac.id

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ABSTRACT

Study Purpose: This research focuses on state legal policies regarding efforts to fulfill the right to health through a social security system within the budget.

Materials and Methods: This study employed qualitative research with an approach to government policy, including legislation, which serves as the basis for the analysis.

Results: State policy regarding the fulfillment of every citizen's constitutional right to health is inseparable from government policy in preparing regional budgets for health. Health spending, as mandatory spending, is clearly stipulated in law and must be met by the government. In the 2026 Financial Note and Draft State Budget, the health budget is set at IDR 244 trillion. This figure represents a 15.8% increase compared to the 2025 outlook of IDR 210.6 trillion. This budget must be a government priority in fulfilling the right to health for every citizen through health insurance. The World Health Organization (WHO) has agreed to achieve Universal Health Coverage (UHC) by 2014. UHC is a health system that ensures that every citizen in the population has equitable access to quality promotive, preventive, curative, and rehabilitative health services at affordable costs. Therefore, the State Budget, which focuses on health, must be able to reduce the burden on society.

Conclusion: Mandatory spending in the health sector must be the basis for the government to fulfill the right of every citizen to health insurance and align with Universal Health Coverage (UHC), which is oriented towards the state's strategic role in fulfilling citizens' health rights.

Keywords: State Policy, Mandatory Spending, Health and Government Insurance System

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INTRODUCTION

Every country in the world certainly has regulations on how to protect the basic rights of its citizens, such as the right to health insurance, because health is one of the basic human needs. In relation to Human Rights (HAM), health is one of the basic rights that must be fulfilled by the state. How to fulfill this right, the methods applied by each country are certainly different, many factors influence such as the interests of the state, paradigms and the applicable legal system. If the state regulates health insurance, the regulations that serve as the basis are usually regulated in the constitution or UUD which is the basic regulation and will then be elaborated in its implementing regulations. The implementing regulations will contain the rights and obligations concerning the parties, namely health insurance participants, health insurance organizers and health facility providers. (Retno Kus Setyowati) Article

28H of the 1945 Constitution regulates the right to welfare. Article 28H paragraph 1 states that everyone has the right to live in physical and spiritual prosperity, to have a home, and to have a good and healthy living environment, and has the right to receive health services. Health is a state of physical, mental, and social well-being that enables every individual to live productively in a social and economic way. In regulating health issues, a special body is needed that is responsible for organizing health insurance, where the body must provide good quality services in order to achieve satisfaction with health services. In Indonesia, a Social Health Security Administration has been established which is in line with the World Health Organization's goal of developing health insurance for all residents. (Besse Wahyuni)

Health development aims to increase awareness, willingness, and ability to live healthily for everyone in order to achieve the highest level of public health, as an investment for the development of socially and economically productive Human Resources (HR). In achieving this goal, competent, responsible health HR are needed, uphold the code of ethics, continuously improve their quality through education and training, and are evenly distributed throughout Indonesia. According to the 2009 National Health System (SKN), health HR are professional health workers including strategic health workers and non-professional health workers, as well as supporting or supporting health workers who are involved and work and dedicate themselves to health efforts and management. Health HR is one of the subsystems in the SKN as stated in Presidential Regulation Number 72 of 2012 concerning the National Health System. The objective of the implementation of the health HR subsystem is the availability of competent health HR according to needs, distributed fairly and evenly, and optimally utilized in supporting the implementation of health development, in order to achieve the highest level of public health. Health workers are part of health HR. (Rahmi Yuningsih)

One of the priorities of health reform is to improve and equitably distribute quality services to communities in remote and island areas through various action plans. The creation of these action plans is expected to increasingly meet the need for basic health services, thereby ensuring the health of communities in remote and island areas. (Ignasius Luti) Legally, the people's right to obtain proper health services is regulated in Article 28 H and Article 34 of the 1945 Constitution of the Republic of Indonesia. Law Number 40 of 2004 concerning the National Social Security System and Law Number 24 of 2011 concerning the Establishment of the Social Security Administration Agency (BPJS) and Presidential Regulation Number 12 of 2013 in conjunction with Presidential Regulation Number 111 of 2013 concerning National Health Insurance are forms of government commitment in providing welfare (welfare state) in the form of health protection guarantees for all Indonesian people. According to Law Number 23 of 2014 concerning Regional Government, the health sector is one of the affairs that is a regional affair. This makes regional governments have to prepare and improve services in the health sector as a whole. The policy of the District/City Government in the health sector should also support the national policy in the National Social Security System which is stipulated by Law Number 40 of 2004 concerning the National Social Security System, the implementation of which is stipulated by Law Number 24 of 2011 concerning the Social Security Administering Body, which is implemented simultaneously in all regions.

METHOD

Legal research is a process of discovering legal rules, principles, and doctrines to address a given legal issue. This is consistent with the prescriptive nature of legal science. Unlike research conducted in descriptive science, which examines the truth of whether a fact is caused by a specific factor, legal research is conducted to generate new arguments, theories, or concepts as prescriptions for resolving the problem at hand. While in descriptive science, the desired answer is true or false, in legal research,

the desired answer is right, appropriate, inappropriate, or wrong. (Gunardi) In research on the relationship between the form of state policy in mandatory spending and the fulfillment of health rights through the health insurance system, a qualitative research method with a legal approach is used as an analysis of state policy on the fulfillment of citizens' constitutional rights to health services and fulfillment by the state by analyzing in depth using this method.

FINDING AND DISCUSSION

The quality of healthcare services can be improved by enhancing the standards of healthcare facilities and the professionalism of medical personnel. Good service quality must be continuously monitored through ongoing measurements to identify weaknesses and deficiencies, allowing for appropriate action based on existing priorities. Currently, it is apparent that both public and private healthcare providers increasingly expect high-quality services. This reflects growing public awareness and expectations regarding healthcare standards. With the advancement of technology and access to information, the public has become more critical and selective in choosing healthcare providers, expecting not only adequate facilities but also professionalism and competence from the medical personnel who serve them. The 1945 Constitution of the Republic of Indonesia states that the primary goal of Indonesia's development is the health sector. This emphasizes the importance of the government prioritizing public welfare by providing quality and equitable healthcare services throughout Indonesia. By mandating healthcare as an integral part of the national development agenda, the state aims to improve the quality of life of the population and ensure the right of every citizen to equitable access to essential healthcare services. The government is responsible for implementing healthcare initiatives, thus necessitating public health insurance. The government implements this through the National Social Security System (SJSN) (Pamungkas et al). National Health Insurance (JKN) is Indonesia's commitment to achieving the Sustainable Development Goals (SDGs) by ensuring universal health coverage (UHC). (Nurul Fifi Alayda)

The government is responsible for implementing public health insurance through the National Social Security System (SJSN) for individual health efforts. The implementation of the National Social Security System includes health insurance, work accident insurance, old age insurance, pension insurance, and death insurance. In line with the Law No. 40 of 2004 concerning the National Social Security System, this is implemented through a mandatory social health insurance mechanism/National Health Insurance (JKN), where everyone is obliged to participate in the program. The goal is to ensure that all Indonesian citizens are protected by the insurance system, so that the government can meet the basic needs of adequate public health. The National Health Insurance developed in Indonesia is part of the National Social Security System (SJSN). (Novia Yuliannisa Nuurjannah)

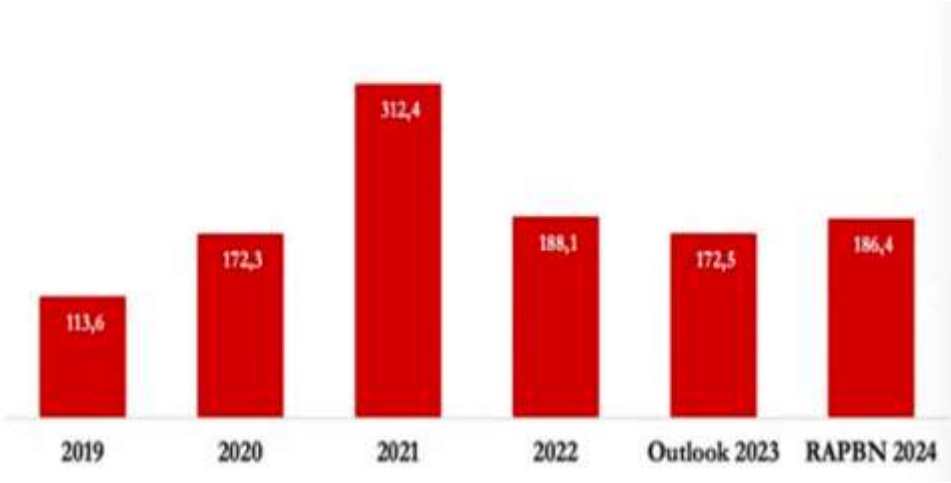
The responsibility of the Indonesian Government to provide health protection for the Indonesian people is realized through the Government Policy on National Health Insurance (JKN), to support this Policy the Indonesian Government established Law Number 24 of 2011 concerning the Social Security Administering Body, this Law mandates that it is necessary to establish an Organizing Body in the form of a legal entity to organize a health insurance program. In an effort to meet these needs, the government gives trust to health service providers consisting of three elements, namely: the Social Security Administering Body (BPJS) Health, Health Service Providers (PPK) and the community. To support the National Health Insurance (JKN) on January 1, 2014, the Social Security Administering Body (BPJS) was inaugurated as a public legal entity formed to organize a health insurance program for all Indonesian people. (Novia Yuliannisa Nuurjannah)

BPJS Health as a legal entity One of the government's efforts to build public health in the current era is through the National Health Insurance (JKN) program organized by the Social Security Administering Body (BPJS). National health insurance (JKN) is a government program that aims to provide comprehensive health insurance for all Indonesian people to be able to live healthy, productive and prosperous lives. In the National Social Security System Law (SJSN) it is mandated that all residents are required to become health insurance participants, including foreign citizens who have lived in Indonesia for more than six months. The obligation to register for BPJS Health is carried out no later than January 1, 2019, if after that time they are still not registered as BPJS Health participants, they will be subject to administrative sanctions in the form of written warnings, fines, and/or not receiving certain public services, this is regulated in Article 17 paragraph (2) of the BPJS Law, Sanctions for not receiving certain public services are carried out by the government. (Besse Wahyuni)

The government is constantly striving to improve the quality of national public health services, one such effort is through social security. Every company is required to register its workers/employees as BPJS members. Non-employees must register themselves and their families as BPJS Kesehatan members independently. BPJS Kesehatan members then pay a fee based on the class chosen by each member. For those categorized as poor, BPJS Kesehatan fees are suspended by the government through the Contribution Assistance Program (PBI). (Putri Utami)

The government has allocated a health budget of approximately Rp217.3 trillion for 2025. This budget reaches 6 percent of the total 2025 State Budget, even though mandatory spending or budget allocation obligations for health have been removed in Health Law No. 17 of 2023. With this 6 percent allocation, the government is certainly committed to managing it effectively and efficiently to improve the quality and access to health services. that of the total health budget, the Ministry of Health (Kemenkes) will manage approximately Rp129.8 trillion. In detail, Rp105.6 trillion will be managed by the Ministry of Health, while Rp24.2 trillion is allocated to regional governments (pemda) in the form of special allocation funds for physical and non-physical. These funds will be used to support various flagship programs of President Prabowo Subianto in realizing healthy and productive human resources (HR), as well as the success of the health transformation agenda. Meanwhile, the President's quick win program in the health sector, which will be implemented starting in 2025, includes free health checks, reducing TB cases, and building Class D/D Pratama Regional Hospitals to Class C. Other strategic programs of the Ministry of Health include accelerating the reduction of stunting through providing nutritious food for pregnant/breastfeeding mothers and toddlers, as well as controlling infectious diseases such as malaria and AIDS. In addition, the 2025 health budget includes strengthening access and health services in all regions, such as improving the National Health Insurance (JKN) program, providing facilities and infrastructure, and strengthening the independence of the domestic pharmaceutical industry. (https://kemkes.go.id/id/walau-tak-ada-lagi-mandatory-spending-anggaran-kesehatan-2025-tetap-di-atas-5)

Part I
Health Budget Chart



Source: https://www.liputan6.com/bisnis/read/5408012/kesehatan-dan-ekonomi-sama-penting-ini-cara-kemenkeu-siasati-masalah-keterbatasan-anggaran?page=3

Health care is different from health insurance. Health care is an organic governmental matter, while health insurance is part of social security. Although identical, a distinction must be made because the two matters are regulated by different laws and regulations. Therefore, the bodies or institutions that administer each of these matters are two different entities. Governmental health care is administered by the Ministry of Health based on the Health Law (Law Number 36 of 2009 concerning Health). Meanwhile, health insurance, which is part of social security, is administered by the BPJS Kesehatan based on the SJSN Law and the BPJS Law. In this regard, as stated above, long before health insurance was administered solely through the JKN program by BPJS, regional governments also played a role in administering these matters. Through Article 22 letter h of Law No. 32 of 2004, "In implementing autonomy, regions have the obligation to: h. develop a social security system," regions developed a health insurance program as a subsystem of social security, which was later popularly known as Jamkesda. This is also reinforced by Constitutional Court Decision No. 007/PUU-III/2005 which tests the constitutionality of the social security administering body as referred to in Article 5 paragraphs (2), (3), and (4) of the SJSN Law. (Adinda Tenriangke Muchtar)

Based on Law Number 36 of 2009 concerning Health, Article 5 paragraph (1) states that everyone has the same right to access resources in the health sector. Furthermore, paragraph (2) states that everyone has the right to obtain safe, quality, and affordable health services. Then, in paragraph (3) states that everyone has the right to independently and responsibly determine the health services needed for themselves. Furthermore, Article 6 states that everyone has the right to a healthy environment for achieving a degree of health. Health development is seen as an investment to improve the quality of human resources which can be measured through the Human Development Index (HDI). One of the determinants of the HDI or Human Development Index (HDI) is Life Expectancy (UHH) which is able to show achievements in the health sector of a country. (Erna)

There are several JKN principles that refer to the following principles of the National Social Security System (SJSN): (Sri Maryuni)

1) The Principle of Mutual Cooperation. Mutual cooperation has become a fundamental principle of social life and is also deeply rooted in our culture. In the National Social Security System (SJSN), the principle of mutual cooperation means that able-bodied participants help less fortunate participants, healthy participants help sick or high-risk participants, and healthy

participants help the sick. This is realized because SJSN participation is mandatory for all citizens, without discrimination. Thus, through the principle of mutual cooperation, social security can foster social justice for all Indonesians.

2) The Principle of Non-Profit. The management of trust funds by the BPJS is non-profit, not for profit. Instead, the primary objective is to best serve the interests of participants. Funds collected from the public are trust funds, and their development results will be utilized to the maximum benefit of participants. The principles of transparency, prudence, accountability, efficiency, and effectiveness underlie all management activities of funds derived from participant contributions and their development results.
3) The Principle of Portability. The principle of social security portability is intended to provide continuous security to participants even if they change jobs or residence within the territory of the Unitary State of the Republic of Indonesia.
4) The Principle of Mandatory Participation. Mandatory participation is intended to ensure that all citizens participate and receive protection. Although participation is mandatory for all citizens, its implementation is still adjusted to the economic capabilities of the people and the government, as well as the feasibility of program implementation. The first stage begins with workers in the formal sector, and the informal sector can then become participants independently, so that the SJSN can ultimately cover all citizens.
5) The Principle of Trust Funds. Funds collected from participant contributions are entrusted to the implementing agencies to be managed optimally in order to optimize these funds for participant welfare.
6) The Principle of Social Security Fund Management Results. All proceeds are used for program development and for the greatest benefit of participants.

The use of technology in health development is directed at two areas: the digitalization of health services and the digitalization of health information systems. In its implementation, many obstacles remain, one of which is the unequal availability of internet networks. Data from the 2019 Health Facility Research (Rifaskes) shows that 13% of Community Health Centers (Puskesmas) still have limited internet access. Furthermore, there is no formation of special personnel to manage health information systems at Puskesmas, so efforts to digitize services and information systems are not optimal. One implication at the health service level is that service processes are still manual, resulting in inefficiency and the potential for errors in data recapitulation. The use of information technology in the health sector is also still suboptimal, such as the development of telemedicine by the Ministry of Health to connect referral health services for providing consultation services to primary health care providers (FKTP) or hospitals in remote areas. (Pungkas Bahjuri Ali, et.al)

Health-focused development is a strategic step to address health issues and achieve a comprehensive level of public health at all levels. The following are strategic steps that can be taken to control disease transitions: (Suprapto, et.al.)

1) Mobilize and empower communities to cultivate a healthy lifestyle. Culture is formed from habits. Daily healthy habits become accustomed to the body, thus becoming a healthy culture. This strategy targets all levels of society. Promoting a healthy lifestyle is the responsibility of all elements of society, because our behavior can be seen and judged by others, ultimately leading to a willingness and ability to follow suit.
2) Increase public access to quality healthcare services. Healthcare facilities should be provided widely to the community, regardless of economic status. The primary goal of this strategy is for every poor person to receive quality healthcare. Vulnerable groups (infants, children, the elderly) who are at high risk can be protected from disease. Competent medical personnel are

available in every village. Each community health center (Puskesmas) can reach and be reached by the entire community in its working area. Healthcare services in all hospitals, Puskesmas, and their networks meet quality standards.

3) Improve the health surveillance, monitoring, and information system. Every disease incident is reported promptly to the village head, who then forwards it to the health agency. Every extraordinary event (KLB) and disease outbreak can be handled quickly and appropriately, preventing a negative impact on public health. All medicines, food, and other medical supplies are available and meet requirements. Environmental pollution is controlled in accordance with health standards, and a health information system based on facts (data and evidence) functions.
4) Increase Health Financing. Health development is a budget priority for both central and regional governments, with government health budgets prioritizing promotive and preventive efforts. Furthermore, the creation of a health financing guarantee system, especially for the poor, is essential. The poor also deserve full government attention.

A current strategic issue related to the health sector is the Social Security Agency (BPJS). BPJS plays a crucial role in improving the performance of health services. This issue was deliberately chosen to understand how the pattern of improving the provisions of laws and regulations in the implementation of the national social security system (SJSN) is being attempted. SJSN is a procedure for administering social security programs by several social security agencies. This system has implications for improving public welfare and alleviating poverty by guaranteeing health and employment services. BPJS itself was born from Law Number 40 of 2004 concerning SJSN, which mandates the implementation of BPJS. Indonesia is a welfare state. This is evident from the ideals contained in the 1945 Constitution of the Republic of Indonesia. The characteristics of the Indonesian welfare state are seen in the 1945 Constitution of the Republic of Indonesia after the amendment (in 2002) Chapter XIV entitled National Economy and Social Welfare, especially in Articles 33 and 34. If Article 33 tends more towards the national economy, then Article 34 prioritizes social welfare. Meanwhile, the ideals of developing a social security system as a consequence of adopting a new welfare state emerged in the amendment to Article 34 paragraph (2) of the 1945 Constitution of the Republic of Indonesia which explicitly states that the State develops a Social Security System for all people and empowers the weak and underprivileged in accordance with human dignity. Furthermore, further provisions regarding the SJSN are regulated in Law Number 40 of 2004 concerning the SJSN. (https://bphn.go.id/data/documents/ae_pemenuhan_hak_kesehatan.pdf). The state's responsibility for health services and financing is a responsibility that must be carried out by the state.

CONCLUSIONS

The state's policy on health insurance is part of fulfilling the constitutional rights of every citizen. As a form of fulfilling these rights, mandatory spending on the health budget is expected to impact changes and improve health services for the community. Meanwhile, health insurance, which is part of social security, is administered by the BPJS Kesehatan based on the SJSN Law and the BPJS Law. In this regard, as stated above, long before health insurance was administered solely through the JKN program by BPJS, regional governments also played a role in administering these matters. In line with the Law No. 40 of 2004 concerning the National Social Security System, this is implemented through a mandatory social health insurance mechanism/National Health Insurance (JKN), where everyone is obliged to participate in the program. The goal is to ensure that all Indonesian citizens are protected by the insurance system, so that the government can meet the basic needs of adequate public health.

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