

## *JURIDIC REVIEW ON THE MAINTENANCE OF LABOR HEALTH THROUGH THE BPJS PROGRAM*

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### **Abstract**

*Health Care Insurance is a form of health protection guarantee, with the intention that participants get health benefits or protection to meet health needs for everyone who has paid their dues or whose contributions have been borne by the government. National Social Security is a government and community plan designed to determine the amount of social welfare protection for all people in order to meet their needs and social welfare. The Social Security Administering Body (BPJS) is the institution that manages or operates the National Social Security System Plan (SJSN). But the form of implementation in BPJS is that many health insurance services are provided to participants whose needs are limited. This health service is needed by the community to overcome their health problems. With this research aims to be able to determine the health care insurance for workers associated with optimal health services for workers. In addition, it is also known the form of services provided by BPJS in protecting some rights to the health of workers.*

**Keywords:** *Social Security, Health, Employment, BPJS.*

### **Abstrak**

Isu Hak Asasi Manusia (HAM) menjadi agenda yang semakin penting, masyarakat Jaminan Pemeliharaan Kesehatan yaitu bentuk dari jaminan perlindungan kesehatan, dengan maksud supaya peserta mendapatkan manfaat kesehatan ataupun perlindungan untuk memenuhi kebutuhan kesehatan bagi setiap orang yang sudah membayar iurannya atau iurannya telah dtanggung oleh pemerintah. Jaminan Sosial Nasional adalah rencana pemerintah dan masyarakat yang dirancang untuk menentukan besaran perlindungan kesejahteraan sosial bagi semua masyarakat agar dapat mencukupi kebutuhan serta kesejahteraan sosialnya. Badan Penyelenggara Jaminan Sosial (BPJS) adalah lembaga yang mengelola atau mengoperasikan Rencana Sistem Jaminan Sosial Nasional (SJSN). Tetapi wujud pelaksanaannya di dalam BPJS banyak asuransi kesehatan Layanan yang diberikan kepada peserta yang dibatasi kebutuhannya. Layanan kesehatan ini sangat dibutuhkan oleh kalangan masyarakat untuk mengatasi permasalahan kesehatannya. Dengan ini penelitian bertujuan agar bisa mengetahui jaminan pemeliharaan kesehatan terhadap tenaga kerja yang dikaitkan terhadap pelayanan atas kesehatan yang optimal untuk para tenaga kerja. Selain itu juga diketahuinya bentuk pelayanan yang diberikan oleh BPJS dalam melindungi beberapa hak atas kesehatan para tenaga kerja.

**Kata Kunci:** *Jaminan Sosial, Kesehatan, Ketenagakerjaan, BPJS.*

## PRELIMINARY

The employment discussion is a form of a strategy that aims to realize the achievements of the development of the Indonesian nation. The state and nation certainly have a role in realizing the existence of national development efforts, by paying attention to the welfare guarantees provided for workers. Healthy development is one form of things that cannot be separated from national development, so it can be seen that healthy development must have clear references to healthy development, which can be guided by various components of development participants<sup>1</sup>.

Health insurance is a form of factor that is considered important in the creation of perfect human resources, so that it is considered to be able to assist in achieving national development that is in line with the expectations of the Indonesian people. Health insurance in general can be obtained by providing adequate medical facilities and services for workers<sup>2</sup>.

Social security is a right that must be obtained by humans, and also includes part of the safety factor that must be determined by the Indonesian people, which is stated in Article 28H paragraph (1) of the 1945 Second Amendment of the 1945 Constitution of the Republic of Indonesia. By maintaining the interests of human rights in terms of health in accordance with the will of the Indonesian nation, so that it is stated in Article 34 paragraph (3) of the Fourth Amendment of the 1945 Constitution, the state has an obligation to provide adequate health insurance facilities and universal service facilities, as well as to facilitate labor. Adequate sanitation facilities and infrastructure or services will support the health insurance plan, especially in terms of developing the employment system. Therefore, to continue the development of services and health for workers in social security services, it is one part that is mandatory and must be observed by every worker.

The state tries to facilitate services regarding health insurance, including specifically when employment development is carried out through the Workforce Social Security plan (JAMSOSTEK), the plan as a plan that is specialized in determining social security provided to private workers, including work accident insurance, death insurance and pension insurance. . Age insurance and health benefits. Authorized under Article 5(4). Decree No. 40 of 2004 concerning the national social security system is expected to allow for the establishment of a new social security management body. The interpretation of Article 5 Paragraph 4 of Law no. 40 of 2004 is related to the national social security system. BPJS was established to be able to adapt to the dynamics of developments regarding health services, to provide opportunities for use by existing and new health service management institutions so that plans can be developed both in the form of plans related to membership and social security. Therefore, based on Pancasila and the 1945 Constitution of the Republic of Indonesia, we are expected to continue to work hard in realizing just and equitable social security for all Indonesian people in accordance with Indonesia's national development plan.

The National Social Security Administering Body (BPJS) was established in accordance with Law Number 24 of 2011 concerning the Implementation of National Social Security to implement a national social security plan that has been designed to provide peace and security to the people of Indonesia. Social security providers include BPJS Health and BPJS Employment, which are contained in Article 5 paragraph (2) of Law Number 24 of 2011

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<sup>1</sup> Abdul Khakim, *Pengantar Hukum Ketenagakerjaan Indonesia Berdasarkan Undang-Undang Nomor 13 Tahun 2003* (Bandung: Citra Aditya Bakti).

<sup>2</sup> Alfrenso E. R. Helweldery, 'Sanksi Atas Pelanggaran Terhadap Pelaksanaan Jaminan Sosial Ketenagakerjaan Menurut Undang-Undang No. 24 Tahun 2011 Tentang Badan Penyelenggara Jaminan Sosial (BPJS)', *Lex Er Societatis*, 7.4 (2019), 82.

concerning BPJS. The establishment of the Social Security Administering Body (BPJS) and the start of the implementation of BPJS Health starting on January 1, 2014, the implementation of social security, precisely for workers, no longer provides health insurance plans. Subsequently, the Ministry of Manpower was changed to BPJS Employment on January 1, 2014.

The issuance of the form of activities in health insurance can be seen from the existence of BPJS employment which is included in the form of activities that will be carried out so that health insurance can be carried out separately, so that health insurance participants can cover all Indonesian people. Regarding this health insurance program, workers are expected to participate in re-registering the BPJS health package 4. The purpose of registration is so that workers or workers can obtain health services and need to pay a monthly fee for the BPJS health insurance program.

Health insurance plans face obstacles in the service of primary medical institutions and high-level referral medical institutions. Barriers to services in the health sector are not in line with the objectives of the existence of BPJS against Article 3 of Law no. 24 which discusses the Implementation of the S . Guarantee Social Affairs 2011 is not in line with the implementation of guarantees for the fulfillment of basic needs that are appropriate for each participant and for the lives of family members.

## RESEARCH METHODS

### 1. Type of Research

Using the form of empirical legal studies. Empirical legal studies are research that focuses on the behavior of the legal profession<sup>3</sup>. Empirical legal research is aimed at informants and is primary data assisted through the process of using secondary data. Secondary data is data in which there are parts of primary and secondary data<sup>4</sup>.

### 2. Data Source

The study used refers to the empirical study method, then primary and secondary legal materials are needed to be used as guidelines.

#### a. Primary data

Primary data is data that is original which is based on the results of empirical studies (Studies conducted through a direct face-to-face process by the community). The main data used to conduct empirical legal studies is to use data received directly from the informants who are subjects who have suggested answers based on interviews directly related to the study.

#### b. Secondary Data

Secondary data is obtained through a literature review or various forms of literature or library materials or research materials (commonly called legal materials) related to the formulation of the problem. The auxiliary data used for this study include: auxiliary legal materials are rules that explain the main rules. Secondary legal materials consist of legal opinions, legal principles, and legal experts obtained from the internet, journals, periodicals, study results, scientific books, documents.<sup>5</sup>

### 3. Data Collection Method

#### a. Studying and understanding primary legal data materials and secondary legal data materials as well as reading other references such as study results, periodicals, scientific books and the internet.

#### b. Literature research is obtained from the results of studying primary and secondary legal data.

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<sup>3</sup> Soerjono Soekanto and Sri Mamudji, *Penelitian Hukum Normative: Suatu Tinjauan Singkat* (Jakarta: Raja Grafindo Persada, 2001).

<sup>4</sup> Bambang Waluyo, *Penelitian Hukum Dalam Praktek* (Jakarta: Sinar Grafika, 2002).

<sup>5</sup> Soetandyo Wignyosoebroto, *Hukum, Metode Dan Dinamika Masalahnya* (Jakarta: Elsam dan Huma, 2002).

#### 4. Data Analysis Method

The data collection process aims to be analyzed according to the qualitative method in which the method focuses on the identification process by paying attention to the flow in accordance with the rule of law, legal progress, and facts contained in the environment and then getting an idea of the problems studied<sup>6</sup>.

#### 5. Ways of Thinking

Using inductive thinking processes. Inductive thinking is a form obtained from the results of general thoughts, namely conclusions based on statutory regulations.

### DISCUSSION

The National Social Security System is a procedure in which several social security management bodies manage plans for administering social security. The government in 2014 enacted Law no. 40 of 2004 which discusses the National Social Security System (SJSN). Enforcement of Law No. 40 of 2004 concerning the National Social Security System, including one form of implementation of Article 34 paragraph (2) of the 1945 Constitution. The establishment of the National Social Security System (SJSN) is based on the principles of humanity, public interest and justice. And based on the principle of gotong royong, non-profit management results, openness, prudence, accountability, portability, mandatory participation, duty funds and funds in the form of social security used in planning or interests for each participant. On November 25, the implementation of the Social Security Administering Body or BPJS has begun. Based on Article 5 paragraph (1) and Article 52 paragraph (2) of the Law on the National Social Security System (SJSN) as well as with the decision of the case Number 007/PUU-III/2005, the Government began to enact the BPJS Law as the executor of the provisions of that article.

The Social Security Administering Body (BPJS) is one of the legal entities established in order to manage the forms of activities regarding social security. The purpose of the establishment of BPJS is to provide guarantees to participants and their family members in order to meet a proper standard of living. Based on Article 5 paragraphs (2) and (6) of Law Number 24 of 2011 concerning the Social Security Administering Body, it can be seen that BPJS is grouped into 2 parts, namely<sup>7</sup>:

#### 1. BPJS Health

BPJS Health is one of the bodies with legal force, so it is considered to be able to manage the form of activities regarding insurance in the health sector. The health insurance in question is in the form of guarantees for the protection of health for participants with the intention that participants receive various medical and health benefits as well as guarantees for meeting health needs that will be received by everyone who is considered to have paid dues or has been paid by the governments<sup>8</sup>. The implementation of health insurance basically consists of membership, membership fees, health service providers, quality control and cost control, as well as reports and reviews of usage. BPJS Kesehatan has several membership groups, including<sup>9</sup>:

- a. People who are recipients of the Health Insurance Contribution Assistance (PBI) are meant to be someone who is considered incapable, one of which is included in the category of the poor, which has also been regulated in government regulations and

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<sup>6</sup> Soerjono Soekanto and Sri Mamuji, *Penelitian Hukum Normatif: Suatu Tinjauan Singkat* (Jakarta: Rajagrafindo Persada, 2001).

<sup>7</sup> W. Kurniawati and R.D Rachmayanti, 'Identifikasi Penyebab Rendahnya Kepesertaan JKN Pada Pekerja Sektor Informal Di Kawasan Pedesaan', *Jurnal Administrasi Kesehatan Indonesia*, 6.1 (2018), 31–32.

<sup>8</sup> Achmad Djunawan, 'Benarkah Subsidi Jaminan Kesehatan Meningkatkan Pemanfaatan Pelayanan Kesehatan Primer Oleh Penduduk Miskin Perkotaan', *Jurnal Kebijakan Kesehatan Indonesia: JKKI*, 8 (2019), 24.

<sup>9</sup> N Nuurjannah, 'Implementasi Kebijakan Jaminan Kesehatan Nasional Di Rumah Sakit Umum Daerah Kota Bandung', *Jurnal Ilmiah Administrasi Pemerintahan Daerah*, 13.2 (2022), 33–34.

legislation. In addition, people become participants in the PBI for health insurance, namely people experiencing physical disorders or total disabilities and people who are less able to live their lives.

- b. Participants who are not PBI Health Insurance are divided into three parts, namely Workers who are Wage Recipients in Health Insurance, Non-Wage Recipient Workers and their family members are foreigners who work in Indonesia for at least 6 months and their family members are workers outside of an employment relationship or usually referred to as self employed, and/or self-employed workers who are not wage earners.
- c. Non-employees and their family members are investors, independence pioneers, employers, retirees, veterans.

Based on the membership group, a change can be made to the data and membership status by reporting it to the BPJS Health. To make changes regarding PBI participants to non-PBI participants, it is done when making payments in the form of contributions for the first time. There are several health insurance services provided to BPJS Kesehatan to workers including health services from health institutions at the first level, health services at the advanced level, emergency services, drug services, medical devices and medical consumables, ambulance services, and medical services. screening<sup>10</sup>.

## 2. BPJS Employment

BPJS Employment is a general program for the community which can provide protection for workers to overcome socio-economic risks in the management of certain services and the use of social security mechanisms. BPJS Ketenagakerjaan membership generally consists of participants who are wage recipients who have worked for employers other than state administrators, and participants who are not wage recipients. Participants who are classified as wage earners who work for employers other than state officials are divided into 3, namely:

- a. Workers in the Company
- b. Individual workers
- c. Foreigners who work in Indonesia no later than 6 months.

In addition, BPJS Employment also has 4 programs that are always carried out, including<sup>11</sup>:

- a. Work Accident Insurance (JKK)

The form of benefits distributed to workers is in the form of cash and health services provided to workers if there is a work accident in the work environment. The work error guarantee itself provides several benefits for workers, such as providing health services in accordance with the needs experienced in the form of medical health or compensation in the form of money.

- b. Old Age Guarantee (JHT)

The stipulation of old-age insurance is no later than 30 days before the worker reaches retirement age. Old Age Security is a form of benefit that is given in the form of money when the employee has entered retirement, dies or suffers from a total disability. And also BPJS Employment also provides various other services for workers who have met the requirements such as facilities in terms of housing finance and other benefits<sup>12</sup>.

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<sup>10</sup> A. N Maulana, Y Purwaningrum, farah, thabrany, hasbullah, Fitrianti, and F Tri Hartini, 'Mengukur Kemampuan Mengiur Untuk Jaminan Kesehatan Nasional (JKN) Tahun 2021 Di Indonesia', *Jurnal Jaminan Kesehatan Nasional*, 2.1 (2022) <<https://doi.org/10.53756/jjkn.v2i1.51>>.

<sup>11</sup> Lalu Husni, *Pengantar Hukum Ketenagakerjaan Indonesia* (Jakarta: Raja Grafindo Persada, 2017).

<sup>12</sup> BPJS Ketenagakerjaan, *Program Jaminan Kecelakaan Kerja (JKK)* <<https://www.bpjsketenagakerjaan.go.id/program-jaminankecelakaan-kerja.html>>.



c. Pension Guarantee

Aims to take care of life for workers and/or their heirs after receiving income for workers who have entered retirement age and have permanent disabilities and die.

d. Life insurance

The benefits distributed to the workers' families are in the form of cash given to the heirs when the worker dies, not as a result of a work accident. Usually the benefits that can be taken are in the form of financial compensation or educational scholarships for the children of these workers.

The Social Security Administering Body has its own function. Based on the BPJS Law, BPJS has a function in terms of organizing programs in the field of health insurance. Based on the Law, the SJSN is held in line with the principles of social insurance and the principle of equity in order to ensure that participants get various benefits from health care and basic protection by fulfilling the needs regarding the importance of health.

In accordance with Article 10 of the BPJS Law, in carrying out its duties, the Social Security Administering Body has obligations including, among others:

1. Execute or obtain a registration made by the participant
2. Collecting and collecting dues from participants or providing work
3. Obtain assistance in the form of contribution funds by the government
4. Running social security funds used for the benefit of participants
5. Combine and manage various data from participants participating in the social security program
6. Fulfill various benefits or finance various services in the health sector in accordance with the provisions contained in the social security program
7. Recommend information related to the implementation of social security programs to participants or the public.

So it can be concluded that the Health Insurance Administering Body in carrying out its duties, has the duty to register and record participants and manage data for each participant, collect and collect funds in the form of contributions given by the government, manage funds regarding social security, useful payments or take care of other forms of payment. services provided in the health sector and their duties are in the form of conveying information in the form of socialization regarding social security programs and the disclosure of information provided to participants and the public. In addition to these functions, the Health Insurance Administering Body also has several authorities regulated in Article 11 of the BPJS Law, including<sup>13</sup>:

1. Collecting dues
2. Placing social security funds for short-term and long-term investments by considering aspects of liquidity, solvency, prudence, security of funds, and adequate returns
3. Supervise and examine the compliance of participants and employers in fulfilling their obligations in accordance with the provisions of the national social security laws and regulations
4. Make an agreement with health facilities regarding the amount of payment for health facilities that refers to the standard tariff set by the Government
5. Make or terminate employment contracts with health facilities
6. Imposing administrative sanctions on participants or employers who do not fulfill their obligations

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<sup>13</sup> A Khakim, *Dasar-Dasar Hukum Ketenagakerjaan Indonesia* (Bandung: Citra Aditya Bakti, 2004).

7. Report the employer to the competent authority regarding non-compliance in paying Contributions or in fulfilling other obligations in accordance with the provisions of the legislation
8. Cooperating with other parties in the context of administering the Social Security program.

BPJS has the power to demand payment of contributions, the power to supervise and the power to impose administrative sanctions in the case of arrears, congestion or non-payment, so that the status of BPJS as one of the bodies in the field of public law can be strengthened.

## CONCLUSION

The national social security system is a procedure in which some social security management institutions manage social service management plans. The Social Security Administering Body (BPJS) is a legal entity established to manage social security plans. The purpose of BPJS Kesehatan is to carry out projects in the field of health services. BPJS Kesehatan provides various health services, including health services for early-level health institutions, advanced health services, initial aid services, drug services, health equipment and medical consumables, ambulance services and screening services. BPJS Employment is a public program that provides protection for workers to overcome the socio-economic risks of managing certain activities and the use of social security mechanisms. For the BPJS law, BPJS has the function of administering the health insurance ministry plan. In carrying out its duties, the health insurance management body is tasked with registering membership and managing membership information, collecting and collecting contributions from the government and other contribution funds, managing social security funds, paying for benefits or subsidizing health services, and its responsibility is to provide data to citizens. Participants in the context of socializing the social security plan and the disclosure of various data to participants and residents.

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