

## HEALTH INSURANCE FOR WORKERS IN PANDEMIC TIME

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### Abstract

The current Covid-19 (Coronavirus Disease-19) pandemic has become a challenge and also a new problem. The pandemic that has been going on for more than a year has had a significant impact on many lines of human life. The purpose of this paper is to find out the efforts made by the government in order to ensure the health of workers during a pandemic. This study uses a normative juridical approach, because it uses secondary data as the main data. Data collection was carried out through a literature study, which is a data collection technique that was carried out through a literature study as literature which can provide a theoretical basis relevant to the issues to be discussed. Based on data reported by the Ministry of Manpower, there are 2.8 million workers directly affected by Covid-19. They consist of 1.7 million formal workers laid off and 749.4 thousand laid off (Labor). However, it was unlucky for the company to terminate the employment relationship, arguing that it was "force majeure". With this statement, companies must protect and guarantee the needs of workers/laborers in accordance with the constitutional mandate. In addition to the government providing efforts through regulations related to workers' health insurance, in the context of the Covid-19 pandemic, the government is trying to provide health protection for workers through tactical matters, namely Work From Home and the application of the principle of Social Distancing based on regulations on large-scale social restrictions in work environment.

**Keywords:** Covid-19 Pandemic, Labor, Health Protection, Government

### Abstrak

Pandemi Covid-19 (Coronavirus Disease-19) yang terjadi saat ini, telah menjadi tantangan dan juga permasalahan baru. Pandemi yang sudah terjadi lebih dari setahun ini telah memberi dampak yang signifikan terhadap banyak lini kehidupan manusia. Tujuan dari makalah ini adalah untuk mengetahui upaya yang dilakukan oleh pemerintah dalam rangka menjamin kesehatan buruh dimasa pandemi. Penelitian ini menggunakan metode pendekatan yuridis normatif, karena menggunakan data sekunder sebagai data utama. Perolehan data dilakukan melalui studi kepustakaan, yaitu suatu teknik pengumpulan data yang dilakukan melalui studi kepustakaan sebagai literatur yang dapat memberikan landasan teori yang relevan dengan masalah yang akan dibahas. Berdasarkan data yang dilansir dari Kementerian Ketenagakerjaan, terdapat 2,8 juta pekerja yang terkena dampak langsung akibat Covid-19. Mereka terdiri dari 1,7 juta pekerja formal dirumahkan dan 749,4 ribu di-PHK (Ketenagakerjaan). Namun naasnya perusahaan yang memutuskan hubungan bekerja beralih dengan alasan "force majeure". Dengan pernyataan tersebut maka perusahaan harus melindungi dan menjamin kebutuhan para pekerja/buruh sesuai dengan amanah konstitusi. Selain pemerintah memberikan upaya melalui regulasi terkait jaminan kesehatan para buruh, dalam konteks pandemi covid-19, pemerintah berupaya memberikan perlindungan kesehatan terhadap buruh melalui hal-hal yang bersifat taktis, yaitu Work From Home dan pemberlakuan prinsip Social Distancing berdasarkan regulasi pembatasan sosial berskala besar di lingkungan kerja.

**Kata Kunci;** Pandemi Covid-19, Buruh, Perlindungan Kesehatan, Pemerintah

## PRELIMINARY

The current Covid-19 (Coronavirus Disease-19) pandemic has become a challenge and also a new problem. The pandemic that has been going on for more than a year has had a significant impact on many lines of human life. Several important sectors were also affected, such as the economy, health, tourism, manufacturing and many more. In addition, the pre-existing problems have been exacerbated due to this pandemic. For example, the Central Statistics Agency (BPS) released around 29.12 million people of working age in Indonesia affected by the COVID-19 pandemic in August 2020.

The Open Unemployment Rate (TPT) jumped to 7.07 percent from 5.23 percent. This is one of many other problems that have been exacerbated by the pandemic. Governments in all countries, including the government of Indonesia, have made efforts to deal with the pandemic by making certain policies.

The Indonesian government itself is faced with two priority sectors that must be restored and saved. These sectors are the economic and health sectors. In planning and implementing it, the government is often criticized because the policies and steps taken are considered to be inappropriate and ineffective. Indeed, these two sectors are very important so they must be a priority to save. However, the government cannot immediately save the two sectors at the same time. This is because there are many factors that must be taken into consideration and see how the actual condition of the Indonesian state is.

The government has pursued various policies to save the economy and public health, one of which is by issuing Government Regulation in Lieu of Law of the Republic of Indonesia (Perppu) Number 1 of 2020. This Perppu allows administrators of the State Revenue and Expenditure Budget (APBN) to refocus and reallocate the budget in the health sector which is a priority during the handling of the Covid-19 pandemic. What is interesting here is the fate of those who are directly involved in the economic sector, whose health and safety must also be guaranteed at the same time, namely laborers.

Workers have a very important role in the sustainability and activity of the industry. The current pandemic has forced many workers to be laid off due to companies that have stopped operating. The pandemic has also raised new problems in this regard. Many companies did not provide proper facilities to workers during this pandemic. Of course this threatens the safety and health of workers. Under these conditions, the government needs to be present to protect and guarantee the health and safety of labor workers.

Based on the background above, a study was carried out with the title "Government's Efforts to Ensure Workers' Health During a Pandemic". Based on this background, the problem is What are the conditions for workers during a pandemic and what are the government's efforts to ensure the health of workers during a pandemic?

## RESEARCH METHODS

To find out and discuss the problems that occur, it is necessary to have an approach using certain scientific methods. Legal research According to Soerjono Soekanto, in his book Introduction to Legal Research explains that legal research is basically a scientific activity based

on certain methods, systematics and ideas that aim to study one or several specific legal symptoms by way of analyzing them, except for that an examination is also carried out. in-depth knowledge of these legal facts to then seek a solution to the problems that arise in the symptoms concerned.

This means that legal research is basically an activity based on certain methods, systematics, and ideas that are expected to be able to provide solutions to problems that arise in deviations from and criticism of the behavior or symptoms in question.

The research method used by researchers in this writing is as follows:

#### 1. Type of Research

At this writing, it uses a descriptive analysis method, namely describing legislation with legal theories in the practice of implementing positive law concerning the problems above<sup>2</sup>. In this writing, the aim is to examine and analyze the health insurance provided to workers during a pandemic like today.

#### 2. Approach Method

This study uses a normative juridical approach, because it uses secondary data as the main data<sup>3</sup>. Data acquisition is carried out through library research, which is a data collection technique carried out through library research as literature which can provide a theoretical basis that is relevant to the issues to be discussed. -scientific papers, papers, articles, mass media, and other secondary data sources related to the problem<sup>4</sup>.

### DISCUSSION

The Covid-19 pandemic has now become quite a crucial problem, because it does not only have an impact on the health aspect but also on the economic aspect. The Indonesian government has decided that Covid-19 in Indonesia is a type of disease that causes a public health emergency.

The Indonesian government has issued PP No. 21 of 2020 concerning the implementation of the Large-Scale Social Restrictions (PSBB) system in several regions which aims to break the chain of distribution of Covid-19, but it is undeniable that this has an impact on the economic sector, causing real implications that many companies must face. Almost all sectors of the national economy experienced a slowdown which led to fears that Covid-19 would cause an economic crisis which would lead to mass layoffs<sup>5</sup>.

Thus the impact of the pandemic has serious implications for workers or factory workers. As a result of this, many of them lost their permanent jobs, which led to an increase in the number of unemployed in Indonesia. In the world of employment in Indonesia, labor

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<sup>1</sup> Soejono Soekanto, *Pengantar Penelitian Hukum* (Bandung: Citra Aditya Bakti, 1986).2

<sup>2</sup> Ronny Hanitjo Soemitro, *Metode Penelitian Hukum Dan Jurimetri* (Jakarta: Ghalia Indonesia, 1990).97

<sup>3</sup> Ronny Hanitjo Soemitro, *Metode Penelitian Hukum* (Jakarta: Ghalia Indonesia, 1985).93

<sup>4</sup> Ronny Hanitjo Soemitro. 94

<sup>5</sup> K Fadilah and A. A. Nugroho, 'Pemutusan Hubungan Kerja Pada Saat Pandemi Covid-19 Di Indonesia Ditinjau Dari Perspektif Hukum Ketenagakerjaan', *Justita : Jurnal Ilmu Hukum Dan Humaniora*, 8.1 (2021), 3353

relations do not necessarily run optimally or it can be said that they experience problems that can be caused by the worker or the company<sup>6</sup>.

Among workers who feel aggrieved by the policies of the company, as well as companies who feel aggrieved by the negligence of the workers. From these factors, it is possible for disputes to exist between workers and employers in terms of Termination of Employment (PHK) coupled with the Covid-19 pandemic which has spread throughout the world including Indonesia. Thus, several companies issued policies to terminate employment relations with several workers who were felt to have resulted in increasing the company's losses.

Based on data reported by the Ministry of Manpower, there are 2.8 million workers directly affected by Covid-19. They consist of 1.7 million formal workers laid off and 749.4 thousand laid off (Labor). However, it was unlucky for the company to terminate the employment relationship, arguing that it was "force majeure". This reason has become a debate among workers and experts who question the reasons for force majeure to be acceptable or not in terminating work relations during the Covid-19 pandemic<sup>7</sup>.

As a result of the condition of workers who lose their permanent jobs, this also has an impact on unstable economic conditions, and especially health that is not guaranteed. Therefore, it is necessary to protect workers who are affected by Covid-19, especially in the health aspect.

In labor law, companies and workers have rights and obligations that must be granted and protected. The government through companies has the responsibility and obligation to guarantee health, safety, wages and fair treatment of workers. Because workers / laborers are one of the most important assets in influencing the success of a company. With this statement it is a logical consequence that a company must protect and guarantee the needs of workers/laborers in accordance with the constitutional mandate of Article 27 paragraph 2 of the 1945 Constitution of the Republic of Indonesia which states "every citizen has the right to work and a decent living" with due regard to human rights. echoed by the Universal Declaration of Human Rights<sup>8</sup>.

The government seeks to provide guarantees for the provision of workers' health rights in the form of natural regulations in various statutory regulations. First, Article 166 paragraphs 1 and 2 of Law Number 36 of 2009 Concerning Health which states that.

- 1) The employer or employer is obliged to ensure the health of workers through prevention, improvement, treatment and recovery and is obliged to bear all costs for maintaining the health of workers.
- 2) Employers or employers bear costs for work-related health problems suffered by workers in accordance with statutory regulations.

Second, Article 35 paragraph (3) of Law Number 13 of 2003 concerning Manpower which states that: "Employers in hiring workers are obliged to provide protection that includes

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<sup>6</sup> I. N. Juaningsih, 'Analisis Kebijakan PHK Bagi Para Pekerja Pada Masa Pandemi Covid-19 Di Indonesia', *ADALAH*, 2020, 192.

<sup>7</sup> Juaningsih.192-193

<sup>8</sup> Juaningsih.192

welfare, safety and health, both mental and physical workers"<sup>9</sup>. In addition, the government also issued regulations regarding health insurance for workers in article 86 of the Labor Law Number 13 of 2003 which is regulated as follows<sup>10</sup>:

- a. Every worker/laborer has the right to obtain protection for:
  - 1) Occupational safety and health;
  - 2) Morals and decency; and
  - 3) Treat according to human dignity and values as well as religious values.
- b. To protect the safety of workers/laborers in order to realize optimal work productivity, work safety and health measures are implemented
- c. The protection referred to in paragraphs (1) and (2) is carried out in accordance with the applicable laws and regulations.

In addition to the government providing efforts through regulations related to workers' health insurance, in the context of the Covid-19 pandemic, the government is trying to provide health protection for workers through tactical matters, including the following.

### **Work From Home**

Since the Covid-19 pandemic, Work From Home (WFH) is a term that has risen in popularity in society, because this is related to employment issues. Work routines that are usually in the office or company must move to the house. Basically, the term WFH has been known by freelancers for a long time. Basically, before the pandemic, there were several companies that did remote work, which worked in a way similar to WFH. WFH comes from one of the Articles in the Labor Law. In article 86 paragraph (1) which explains that it is absolutely guaranteed to every worker/ laborer for occupational safety and health protection<sup>11</sup>. The Work From Home policy issued by the government aims to guarantee the health of workers in the pandemic era. This policy is expected to reduce the transmission of Covid-19 by minimizing physical contact between fellow workers. In WFH, it is appropriate to have several methods of prevention which can be grouped as follows<sup>12</sup>.

- a) The company may temporarily stop all of its business activities.
- b) The company may temporarily reduce some of its business activities (part of the employees, time and operational facilities).
- c) Companies that cannot stop their business activities, considering the direct interests related to health services, the need for basic commodities, and fuel oil (BBM).

Thus, the use of the Work From Home method recommended by the government through company instruments is a form of health insurance for workers/workers. This is expected to break the chain of Covid-19.

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<sup>9</sup> I Rahmatullah, 'Jaminan Hak Kesehatan Pekerja Work From Office Selama Masa PSBB Covid-19', *ADALAH*, 4.1 (2020), 59–60.

<sup>10</sup> Pemerintah Republik Indonesia, *Undang-Undang Tahun 2003 No.13 Tentang Ketenagakerjaan* (Indonesia: Lembaran Negara Republik Indonesia, 2003). Chapter.56

<sup>11</sup> N. R Hartono and A. S. Ramadhani, 'Tinjauan Yuridis Kebijakan Work From Home Berdasarkan Undang-Undang Ketenagakerjaan', *Jurnal Supremasi*, 10.2 (2020), 69.

<sup>12</sup> K Prajnaparamitha and M. R. Ghoni, 'Perlindungan Status Kerja Dan Pengupahan Tenaga Kerja Dalam Situasi Pandemi COVID-19 Berdasarkan Perspektif Pembaharuan Hukum', *Administrative Law & Governance Journal*, 3.2 (2020), 322.

## Enforcement Of The Principle Of Social Distancing Based On Regulations On Large-Scale Social Restrictions In The Work Environment

The pandemic necessitates the importance of breaking the chain of transmission and protecting the population from risk. Breaking the chain of transmission of the virus can be done individually by practicing personal hygiene, especially washing hands and as a group by means of social distancing. Social distancing is the practice of widening the distance between people in an effort to reduce the chance of disease transmission. Indonesia has called for Large-Scale Social Restrictions (PSBB) as an effort to social distancing. PSBB is a restriction on certain activities of residents in an area suspected of being infected with Covid-19 in such a way as to prevent the possibility of spreading the virus. PSBB regulates closing schools and workplaces; religious activity; activities in public places or facilities; social and cultural activities; modes of transportation, as well as restrictions on other activities specifically related to aspects of defense and security. Individual quarantine, which is only intended for individual patients, is no longer considered effective in breaking the chain of viruses during a pandemic<sup>13</sup>.

The application of the principle of social distancing is carried out through a scheme for establishing Large-Scale Social Restrictions in an area. Likewise with Law no. 6 of 2018 concerning Health Quarantine. In considering, this Law also does not mention Article 12 of the 1945 Constitution concerning a state of danger, but only Article 5 paragraph (1), Article 20, Article 28 H paragraph (1), Article 34 paragraph (3) of the Constitution of the Republic of Indonesia Year 1945. In Part Five of this Law, it is regulated regarding Large-Scale Social Restrictions (PSBB), namely Article 59 explains as follows<sup>14</sup>.

- 1) Large Scale Social Restrictions are part of the Public Health Emergency response;
- 2) Large-Scale Social Restrictions are aimed at preventing the spread of Public Health Emergency diseases that are currently occurring between people in a certain area;
- 3) Large-Scale Social Restrictions as referred to in paragraph 1 at least include:
  - a. closing schools and workplaces;
  - b. restrictions on religious activities; and/or
  - c. restrictions on activities in public places or facilities.
- 4) Implementation of Large-Scale Social Restrictions in coordination and cooperation with various related parties in accordance with the provisions of laws and regulations.

## CONCLUSION

As a result of the Covid-19 endemic, the Indonesian Government has now decided that Covid-19 in Indonesia is a type of disease that causes a public health emergency. The Indonesian government has issued PP No. 21 of 2020. Almost all sectors of the national economy are experiencing a slowdown which has led to fears that Covid-19 will cause an economic crisis which will lead to mass layoffs. Thus the impact of the pandemic has serious implications for

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<sup>13</sup> A. A Pradana and C. Casman, 'Pengaruh Kebijakan Social Distancing Pada Wabah COVID-19 Terhadap Kelompok Rentan Di Indonesia', *Jurnal Kebijakan Kesehatan Indonesia: JKKI*, 9.2 (2020), 61.

<sup>14</sup> Pemerintah Republik Indonesia, *Undang-Undang Nomor 6 Tahun 2018 Tentang Karantina Kesehatan* (Indonesia: Lembaran Negara Republik Indonesia, 2018).

workers or factory workers. Among workers who feel aggrieved by the policies of the company, as well as companies who feel aggrieved by the negligence of the workers. Based on data reported by the Ministry of Manpower, there are 2.8 million workers directly affected by Covid-19. They consist of 1.7 million formal workers laid off and 749.4 thousand laid off. However, it was unlucky for the company to terminate the employment relationship, arguing that it was "force majeure". This reason has become a debate among workers and experts who question the reasons for force majeure to be acceptable or not in terminating work relations during the Covid-19 pandemic.

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