



LEGAL REVIEW OF PATIENTS' RIGHTS IN THE HEALTH INSURANCE SYSTEM

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Abstract

The health insurance system is a mechanism that provides financial protection against health risks for the community. This study aims to review the legal framework related to patient rights in the health insurance system in Indonesia and evaluate legal certainty regarding patient rights. The research method used is a literature study approach. Findings from the literature study show that Indonesia has a fairly comprehensive legal framework to protect patient rights in the health insurance system, although there are still challenges in implementation and legal certainty. Identified problems include lack of clarity in regulations, complex claims processes, potential denial of claims, and lack of emphasis on consumer protection. In developing regulations, it is recommended to increase regulatory detail and clarification, standardization of the claims process, transparency regarding claim rejections, and stronger integration with the Consumer Protection Law. Challenges faced in developing a health insurance system include ambiguity and complexity in regulations as well as the need for stability in these regulations.

Keywords: patient rights, health insurance, insurance companies, consumer protection.

Introduction

The current condition of the health insurance industry in Indonesia reflects a sector that is experiencing significant growth in line with economic development and public awareness of the importance of health protection. There is an increase in the number of health insurance participants, both through government programs and private products, which reflects public awareness of the need for financial protection in facing health risks. However, challenges such as disparities in access to health services between regions and between social groups, as well as the unequal expansion of health insurance coverage, need further attention. Along with this growth, it is important to continue to strengthen regulations, improve the quality of health services, and ensure the sustainability of the health insurance industry so that it can provide maximum benefits for the Indonesian people. Indonesia as a developing country faces various dynamics in the health insurance sector which affect the sustainability and access to health services for the community.

Stable economic growth, urbanization, and increasing living standards have driven public awareness of the need for health insurance to protect themselves and their families from financial risks due to high health care costs. This is reflected in the increasing number of participants in health insurance programs from both the Health Social Security Administration (BPJS) and private health insurance.

Currently, BPJS Health as the body that manages the national health insurance program has become the main pillar in providing health protection for the Indonesian people. However, there are a number of challenges faced, such as funding sustainability and improving service quality.

While the private health insurance sector continues to experience rapid growth in Indonesia, the dynamics that occur create challenges and opportunities that need to be considered in more depth. Private health insurance companies have implemented various strategies to face increasingly fierce competition in the market. The launch of various insurance products specifically designed with certain benefits and advantages is concrete evidence of the company's efforts to attract participant interest.

The diversity of health insurance products offered by private companies covers various segments, ranging from products for individuals, families, to corporate products. In addition, there are innovations in providing comprehensive insurance packages, including not only basic protection against medical costs, but also additional services such as online medical consultations, emergency services, and preventive health benefits.

However, this rapid growth also raises several issues that need attention. One of them is the complexity of regulations which may result in uncertainty for consumers regarding insurance provisions. Therefore, protecting consumers' rights to fully understand the insurance products they purchase is very important (Schwarcz, 2006). Consumers must be involved proactively in obtaining clear and adequate information regarding coverage, claim payments, as well as their rights and obligations as insurance participants.

According to Robinson (1999), increasingly fierce competition among private health insurance companies has also given rise to innovation in customer service. Several companies have adopted advanced technology to simplify the claims process, provide responsive customer service, and increase information accessibility for participants. However, it is important to remember that along with various technological advances, protecting consumer data must also be a top priority to prevent potential security risks.

To protect consumer rights in the context of private health insurance, there needs to be greater transparency in the delivery of information, more intensive consumer education about the type of insurance product they choose, and an easily accessible complaint mechanism. The government and supervisory authorities need to be active in ensuring that the business practices of private health insurance companies remain in accordance with ethical and legal standards, and provide strict sanctions if violations of consumer rights are found.

In the context of the dynamics of the health insurance industry which is run by private companies, protecting consumer rights is not only the responsibility of the company, but also involves the involvement of the government, supervisory authorities and consumer organizations. Only with a comprehensive, collaborative approach can society enjoy the maximum benefits of this rapidly growing private health insurance industry, while remaining protected effectively and fairly (Torchia et al., 2015).

However, the condition of the health insurance industry in Indonesia is also characterized by several challenges, such as regulatory complexity, uncertainty regarding premiums, and expanding access to health services in more remote areas. In this context, there needs to be a collaborative effort between the government, insurance companies and other stakeholders to create a conducive environment for the development of the health insurance industry.

With the rapid growth of this sector, it is important to continue to evaluate, update regulations and innovate so that the health insurance industry can provide effective, affordable and quality protection for the Indonesian people. Apart from that, increasing public awareness of the benefits of health insurance needs to continue to be improved to support the sustainable growth of this sector.

The aim of this study is to determine the legal framework related to patient rights in health insurance and to evaluate legal certainty regarding patient rights in the health insurance system. Apart from that, it also reviews the challenges faced in developing a health insurance system in Indonesia.

Method

The research method used in this study is a literature study approach. This approach was chosen because the main aim of the research was to analyze the legal framework related to patient rights in the health insurance system in Indonesia and evaluate legal certainty regarding patient rights. Literature studies enable in-depth investigation of various sources of written information relevant to the research topic.

After the literature sources were selected, an in-depth analysis of the content relevant to the legal framework and patient rights in health insurance was carried out. Information from the literature is then synthesized to form a complete and comprehensive framework for understanding. This involves comparing, classifying, and organizing information to support discussions in research.

The findings from the literature study are presented systematically in the research manuscript. Information is divided based on themes or aspects relevant to the legal framework of patient rights in health insurance. These findings are then used to support discussions and conclusions in the research.

The literature study approach in this research allows for the collection of comprehensive and in-depth information regarding the legal framework related to patient rights in health insurance. By detailing the process of identification, selection, analysis and synthesis of literature, it is hoped that this research can make a significant contribution to the understanding and evaluation of the health insurance system in Indonesia.

Result and Discussion

Legal Framework Governing Patients' Rights in Health Insurance

The legal framework that regulates patient rights in health insurance in Indonesia has the main objective, namely creating a balance between the rights and obligations of patients and health insurance providers, both government and private. This is done to ensure that every citizen has access to proper health services. Within this legal framework, there are several related regulations and laws that provide the basis for protecting patient rights.

The Law on Health in Indonesia is one of the main foundations that regulates the rights and obligations of patients and health service providers. Patient rights regulated in this law include the right to information, the right to receive safe, comfortable and quality health services, and the right to receive fair and non-discriminatory treatment.

One of the laws related to health insurance is Law Number 40 of 2004 concerning the National Social Security System (SJSN). This law covers the health insurance program regulated by the Health Social Security Administering Body (BPJS). BPJS Health has the responsibility to provide health protection to participants registered in the health insurance program. Health insurance in Indonesia is regulated in Presidential Regulation of the Republic of Indonesia No. 12 of 2013, which guarantees health protection for participants who have paid contributions or whose contributions are paid by the government. BPJS Health is a legal entity tasked with administering the Health Insurance program. BPJS Health participants are entitled to benefits that include promotive, preventive, curative and rehabilitative services including drug services and consumable medical materials according to medical needs.

Apart from regulations regarding health insurance, there are also regulations that regulate the rights and obligations of patients in the

context of health services, such as Law Number 36 of 2009 concerning Health. Although not specifically related to health insurance, this regulation is still relevant because it involves patient rights in receiving health services.

KODEKI (Indonesian Medical Code of Ethics) also has an important role in protecting patient rights in health insurance. KODEKI regulates the behavior and practice of doctors, including in the context of relationships with patients. Doctors are expected to provide competent services, respect patient rights, and maintain the confidentiality of patient information.

By involving laws related to social security, regulations regarding patient rights in health services, and KODEKI as an ethical guide for doctors, the legal framework in Indonesia seeks to protect patient rights and ensure quality and dignified health services.

Regarding insurance offered by private companies, in carrying out their business practices, the provisions regarding insurance are regulated in various laws and regulations. This aims to create a healthy business climate and fairness for all parties who use insurance products or services.

Chapter IX of the Commercial Code (KUHD) provides an explanation regarding insurance or coverage. Several articles in the KUHD are used as the basis for the principles of insurance agreements. Law Number 40 of 2014 concerning Insurance (Insurance Law) is a form of updated provision that replaces Law Number 2 of 1992 concerning Insurance Business.

This law broadly regulates provisions such as the scope of insurance, legal entity form and ownership of insurance companies, business licensing, business administration, insurance business governance, and administrative sanctions. Through this law, emphasis is also placed on the role of the Financial Services Authority (OJK) as an institution that regulates and supervises the financial services sector as intended in the Law concerning the Financial Services Authority. Furthermore, several articles in the Insurance Law explain that more detailed provisions and explanations regarding insurance will be regulated through the Financial Services Authority Regulation (POJK).

Along with economic development and innovation of insurance products or services, this government regulation has undergone three changes as follows:

1. Government Regulation Number 63 of 1999 is a change made to adjust to developments in the insurance industry and the national economy. Government Regulation Number 39 of 2008 is the second amendment to Government Regulation Number 73 of 1992 which was made as a form of anticipation of developments in the insurance industry, therefore adjustments were made to the provisions for carrying out insurance business.
2. Government Regulation Number 81 of 2008 is the third amendment to Government Regulation Number 73 of 1992 which was made as a form of anticipation of the global economic crisis at that time. In this change there are adjustments to the provisions for phasing in the fulfillment of own capital for insurance companies and reinsurance companies.

Law of the Republic of Indonesia Number 8 of 1999 concerning Consumer Protection (Consumer Protection Law) regulates provisions related to consumer protection in Indonesia. In general, this law contains provisions regarding the rights and obligations of consumers and business actors as well as determining sanctions. Article 2 of this law explains that consumer protection is based on benefits, justice, balance, consumer security and safety, as well as legal certainty. Furthermore, Article 3 explains the objectives of consumer protection, which include increasing consumer empowerment and raising awareness of business actors to be honest and responsible in business.

In particular, the principle of consumer protection in the financial services sector is regulated through POJK Number 1/POJK.07/2013 concerning Consumer Protection in the Financial Services Sector (POJK Consumer Protection). 17 Based on the definition according to Article 1 paragraph 3, what is meant by consumer in this POJK is protection. Consumer is protection for consumers with coverage of the behavior of financial services business actors.

In the context of health insurance, patients have the right to receive benefits in accordance with the agreed insurance policy, including medical services, medicines and other supporting services. This right must be

matched with clear information regarding insurance coverage, claim procedures, and other rights related to the insurance policy. On the other hand, patients also have obligations, such as paying insurance premiums on time and providing correct information regarding their health condition. In addition, it is expected that patients comply with the procedures established by the health insurance provider in accessing health services.

In accessing health services, patients are also expected to comply with the procedures established by the health insurance provider. This compliance includes selecting a health service provider who collaborates with insurance, using agreed facilities, as well as reporting and participating in the claims process honestly and on time. This compliance is the key to maintaining the sustainability of the health insurance program and maintaining a balance between patient rights and obligations.

Legal protection of patient rights is regulated in several laws, including the right to receive quality health services in accordance with professional standards and standard operational procedures. Patients also have the right to file a complaint regarding the quality of service they receive and the right to sue and/or sue the hospital if they are suspected of providing services that do not comply with standards.

The legal framework for health insurance in Indonesia forms a comprehensive basis for protecting patients' rights and regulating their obligations in the health insurance system. With a good understanding of these rights and obligations, it is hoped that active participation from health insurance participants can increase, provide optimal benefits for patients, and maintain sustainability and fairness in the provision of health services.

Evaluation of Legal Certainty regarding Patient Rights in the Health Insurance System

Although health legislation in Indonesia has begun to pay attention to and protect patients' rights, there is still a lack of detail and clarity which can result in a lack of protection of patients' rights. This shows that efforts are still needed to improve implementation and legal certainty regarding patient rights in the health insurance system.

In health insurance claims, consumers generally face two main problems, namely difficulties in submitting claims and potential rejection of claim disbursement. Regarding submitting claims, each health insurance company has different policies and mechanisms in the claims process. The insured and insurer have an obligation to comply with the agreed regulations, including the contents of the policy and the applicable laws and regulations in Indonesia. Article 11 letter m POJK Insurance Products and Marketing of Insurance Products regulates that health insurance policies must include provisions regarding procedures for settling and paying claims. Insured parties are advised to understand the provisions of their policy and comply with the applicable rules when submitting a claim. Using insurance broker services also allows the broker to act on behalf of the insured in the claims process.

On the other hand, the second problem is related to the refusal to disburse claims. Money replacement methods, both cashless and reimbursement, have provisions that the insured party needs to understand. The insurer has the right to delay or refuse disbursement of claims if there are certain conditions, such as incomplete documents, being under further investigation, or there are indications of fraud or false information. The health insurance policy must also contain provisions that explain certain conditions that can result in delays or even rejection of claim disbursement. Therefore, a good understanding of the claim's provisions and the obligations of the parties involved can help overcome problems that may arise in the health insurance claims process.

According to Herzlinger (2004), the type of problem that consumers often face regarding health insurance policies is related to the mechanism for canceling or closing the policy. Article 27 paragraph 1 POJK Insurance Products and Marketing of Insurance Products states that all forms of termination of coverage, whether at the will of the insured or the insurer, must be done in writing. Therefore, the insured party has an obligation to fill out a letter of cancellation or closure of the health insurance policy according to these provisions.

In the event that the insured party uses the services of an insurance agent or insurance broker company, they can ask for assistance from the party concerned in the process of canceling or closing insurance. Examples of causes related to policy cancellation will be explained further in the next

discussion. If health insurance is closed through bancassurance, the insured party can contact telemarketing from the relevant institution to close or cancel health insurance (Gonulal et al., 2012). Understanding policy cancellation procedures is important so that consumers can overcome problems that may arise and carry out the process in accordance with applicable regulations.

Consumers often face problems related to health insurance premiums, as reported by Financial Services Authority Consumer Services. One issue that arises is the refund of health insurance premiums. This problem is closely related to the previous discussion regarding cancellation or settlement of health insurance policies.

In the context of premium refunds, it should be noted that each health insurance company, as the insurer, has a different policy regarding this matter. Some conditions related to the return of premiums involve the termination of the insured's benefits, whether at the will of the insured or the insurer.

If the termination of benefits is caused by the insured's will, most health insurance companies tend not to provide a refund of premiums previously paid by the insured. However, if the termination of benefits occurs at the will of the insurer, the health insurance company can return the premium amount to the insured in accordance with the calculations and agreements that have been previously determined, as regulated in Article 27 paragraph 2 POJK Insurance Products and Marketing of Insurance Products.

Article 3 POJK explains the conditions related to terminating coverage for insurance products, whether they have savings or investment elements, where the company must pay a certain amount of cash value, accumulated reserve funds, or accumulated investment funds of participants in accordance with applicable regulations.

Health insurance companies generally include clauses related to this condition in the policy. An example of this clause can be accessed in the attached graphic which is part of a health insurance policy. A deep understanding of these provisions is the key to overcoming problems related to premium refunds in the context of termination of benefits or cancellation of health insurance policies.

From the evaluation carried out, it appears that Indonesia has a fairly comprehensive legal framework to protect patient rights in the health insurance system. However, there are still challenges in implementation and legal certainty that require further attention to ensure that patient rights can be protected effectively and consistently.

Identify Problems related to Health Insurance and Potential Improvements in Existing Regulations

The first identified weakness is the lack of clarity in the details and clarity of legislative regulations, which can result in a lack of protection for patient rights. These deficiencies create opportunities for varying interpretations and increase the level of uncertainty in the implementation of these regulations. Second, the complex health insurance claims process, with different policies and mechanisms in each company, can make it difficult for the insured party to understand and navigate, potentially creating obstacles and difficulties in submitting claims.

The next weakness is related to the potential for claim rejection which can occur for reasons such as incomplete documents or indications of fraud. Unclearness regarding conditions that can cause delays or rejection of claims can be a source of dissatisfaction and conflict in the relationship between the insured and the health insurance company (Tapp & Dulin, 2010). Furthermore, a lack of emphasis on the Consumer Protection Act as a basis for patient rights may harm the role of consumers and reduce emphasis on protecting consumer rights in the health insurance context. Rapid changes in insurance laws create their own challenges, giving rise to difficulties in understanding and consistent implementation.

In Identification of Regulatory Development, first of all, it is necessary to increase detail and clarification in regulations to reduce the potential for diverse interpretations and provide greater legal certainty regarding patient rights in health insurance. Second, efforts need to be made to standardize the claims process between health insurance companies, thereby facilitating understanding and reducing administrative obstacles for the insured.

Furthermore, regulations must ensure transparency regarding claims rejection conditions so that the insured party has a clear understanding

and can take the necessary preventive steps. According to Perleth et al. (2001), stronger integration between health insurance regulations and the Consumer Protection Law is necessary to ensure more effective protection of consumer rights in the health insurance context.

Lastly, efforts need to be made to create stability in regulations related to health insurance so that they do not change too frequently. This can help the parties involved to better understand and apply regulations consistently, creating a more reliable and trustworthy environment for the parties involved in health insurance (McGraw, 2013).

Challenges faced in developing a health insurance system in Indonesia

The health insurance system in Indonesia is faced with a series of significant challenges regarding the rights of insurance users or participants. First of all, the lack of clarity and complexity in health insurance regulations is a major obstacle. This ambiguity can result in diverse interpretations, increase the potential for conflict, and harm participants (Davari et al., 2012). Therefore, efforts are needed to simplify and explain regulations, ensuring that user rights are clearly set out and easily accessible (Aisyah & Issalillah, 2022).

The next challenge lies in the lack of transparency in the claims process. Insurance participants often have difficulty understanding claim procedures and conditions that can cause rejection. These limitations create dissatisfaction and distrust among participants, emphasizing the need for increased transparency from insurance companies (De (Allegrì et al., 2009; Bazayr et al., 2020).

Furthermore, insurance participants face uncertainty regarding the availability and quality of health services. These difficulties can involve the network of service providers, accessibility of health facilities, and understanding the scope of insurance coverage (Gobah & Liang, 2011). Therefore, efforts are needed to provide clearer and more transparent information regarding the network of service providers and the rights and responsibilities of participants regarding the selection of health facilities.

Limited consumer protection is also an important issue. Even though there is a Consumer Protection Law, the integration of consumer rights in the context of health insurance needs to be strengthened. Thus,

further attention is needed to ensure effective protection for the rights of insurance participants (Odeyemi, 2014).

Lastly, financial challenges and premiums come into focus. Some insurance participants may experience financial difficulties related to premium payments, which may threaten the accessibility of health insurance. Therefore, careful evaluation of premium policies and consideration of the balance between premium increases and the benefits provided need to be carried out to ensure sustainability and fairness in the health insurance system.

All these challenges highlight the need for reform and renewal in the health insurance system in Indonesia. Active collaboration between the government, insurance companies and related institutions is the key to achieving a more transparent, fair and sustainable health insurance system.

Conclusion

Based on a study of the legal framework related to patient rights in health insurance in Indonesia, as well as an evaluation of legal certainty regarding patient rights in the health insurance system, it can be concluded that Indonesia has a fairly comprehensive legal basis to protect the rights of health insurance participants. However, there are several challenges that need to be overcome to develop a better health insurance system in Indonesia.

First, the lack of clarity and complexity in health insurance regulations can create diverse interpretations and increase the potential for conflict between the parties involved. Therefore, it is necessary to simplify and clarify regulations to ensure clarity on the rights of insurance participants.

Second, the complexity of the health insurance claims process and the lack of transparency in the claims mechanism can make it difficult for participants to understand the claims procedure. Therefore, efforts are needed to standardize the claims process between health insurance companies and increase transparency to make it easier for participants to understand.

Third, there is uncertainty regarding the availability and quality of health services, which can involve the network of service providers and the accessibility of health facilities. In this case, it is necessary to provide clearer

and more transparent information regarding the network of service providers and the rights and responsibilities of participants regarding the selection of health facilities.

Fourth, consumer protection in the context of health insurance needs to be strengthened, even though there is already a Consumer Protection Law. Better integration between health insurance regulations and the Consumer Protection Law can ensure effective protection of participants' rights.

Fifth, financial challenges and premium policies are the main focus, and careful evaluation of premium policies needs to be carried out to ensure sustainability and fairness in the health insurance system.

As a solution, reform and renewal is needed in the health insurance system in Indonesia. Active collaboration between the government, insurance companies and related institutions is the key to achieving a more transparent, fair and sustainable health insurance system. Improving regulations, increasing transparency and strengthening consumer protection are crucial steps in facing the identified challenges. In this way, Indonesia can improve and optimize the health insurance system to provide optimal benefits for participants and maintain fairness in health services.

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