



## **Fulfillment Of The Rights Of Health BPJS Patients In Health Services Based On Lawv Number 36 Of 2009 Concerning Health (Study in Palagimata Hospital)**

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### **ABSTRACT**

*This study aims to determine the fulfillment of BPJS Patient Rights If there is a refusal in health services at the Palagimata Regional General Hospital Baubau City, to find out the Civil Law analysis of BPJS Patient Rights If there is a health services at the Palagimata Regional General Hospital Baubau City. The research method used is empirical normative with a descriptive research approach. Empirical normative research approach is research that examines the implementation or implementation of positive legal provisions (legislation) and written documents in action (factual) on a particular legal event that occurs in society. The results showed that legal protection of patients' rights against BPJS Health participants who experience denial of health services in hospitals is divided into two forms, namely preventive protection with repressive protection. The form of legal protection provided to BPJS Kesehatan participants for health services at the hospital is the right to claim compensation with the form of civil liability in Articles 1367 and 1365. The role of the government when it occurs in overcoming cases of denial of service in hospitals against BPJS Kesehatan participants is to increase the capacity of health service facilities, re-design the health service referral system, and optimize Minimum Service Standards.*

**Keywords:** *Fulfillment Of Patient Rights, BPJS Participants, Health Services.*

### **1. Introduction**

Health is part of the basic rights of every human being and is a basic need of every human being that cannot be reduced under any circumstances. As an effort to obtain health rights, the community will receive a health service. Health services are one of the forms of services most needed by the community.(Sundoyo, 2012)(Koswara, 2018)

Health is also one of the things that is very important for humans in living their lives, because health is a basic human need. (Romero, et al, 2023) As mandated by the 1945 Constitution of the Republic of Indonesia in Article 28 h paragraph (1) which states that "Everyone has the right to live physically and mentally, have a place to live and get a healthy and decent living environment and obtain health services". In addition, Article 34 paragraph (3) of the 1945 Constitution of the Republic of Indonesia also states that "The State is responsible for the provision of health care facilities and proper public service facilities". To make this happen, the Indonesian government established Law Number 40 of 2004 concerning the National Social Security System, as evidence that the government has a great commitment to realizing social welfare for all its people.( Isriawaty,2024) (Faizah, 2023) The rights and obligations of participants in ensuring the implementation of health insurance that covers the entire population of Indonesia are explained in BPJS regulation No. 1 of 2004. Community participation in BPJS health is very important to guarantee their right to a healthy life. (Ernawati & Aini,2024) When talking about rights, it is always closely related to obligations, as

well as in this case, so that people can get their rights in good health, they must also pay attention to their obligations as users of health services. (Salim, 2020)

Health services as the main activity of the Hospital places doctors and nurses as health workers who are most closely related to patients in disease management. There are several relationships in the health service effort, namely the relationship between the Hospital and doctors; nurses and patients; the relationship between doctors and nurses and patients; and the relationship between nurses and patients. (Sri Praptianingsih, 2016)

The community as a user who obtains services must understand the services that will be obtained and also understand the process of obtaining optimal service by following the health BPJS which is now being launched. (Dima & Udju, 2024) In this study the author wants that health services in all public hospitals. both private and public can prioritize the rights of patients in fulfilling their rights as BPJS / JKN participants themselves, because if this is allowed to continue the ineffectiveness of a service, there is a right that results in default in the Civil Code against patients in the relationship of engagement on health services which is between (Consumers and Hospitals), because in this case the patient has paid BPJS contributions every month but in the agreement to obtain rights as a patient not in accordance with what has been promised in the fulfillment of proper health services. (Nuraeni & Sihombing, 2024)

## 2. Methods

This type of research uses empirical juridical research, namely a study in which researchers make direct observations in the field to obtain data that can really be trusted as data study material. In empirical juridical research, it examines a research in the field that leads to the implementation of normative legal provisions by means of in action that occurs in society. (Sugiyono, 2019)

## 3. Findings and Discussions

### 3.1 Fulfillment of BPJS Patient Rights in General Hospital Baubau City.

Health is a human right or the right of every individual (the right of selfdetermination) which must be realized through the guarantee of providing quality health by health services and the government Health services are one of the important factors in realizing the health insurance maintenance program in Indonesia organized by BPJS Kesehatan. In addition, health services are an absolute right for BPJS Kesehatan participants.

Health services for patients BPJS participants have rights and obligations. His rights as a BPJS participant are :

- a. Obtain complete information
- b. Have the right to ask questions,
- c. Entitled to receive services in accordance with their contributions,
- d. The right to security,
- e. The right to be heard,
- f. The right to vote,
- g. The right to obtain goods/services in accordance with the exchange value given,
- h. The right to get compensation,
- i. The right to obtain legal settlement,
- j. The right to be protected from the negative effects of unfair competition,
- k. The right to consumer education.

The rights of BPJS Kesehatan participants are as follows:

- a. Obtain a participant card as a participant's identity to obtain health services
- b. Obtaining benefits and information about rights and obligations as well as health service procedures in accordance with applicable regulations
- c. Obtain health services at health facilities that cooperate with BPJS health
- d. Submitting complaints/complaints, criticisms and suggestions verbally or in writing to the health bpjs.

Law Number 29 of 2004 concerning Medical Practice provides protection for patients, in this regulation the rights of patients are regulated in Article 52 of Law Number 29 of 2004 as follows:

- a. Obtain a complete explanation of medical treatment as referred to in Article 45 paragraph (3)
- a. referred to in Article 45 paragraph (3);
- b. Request the opinion of a doctor or other doctor;
- c. Obtain services in accordance with medical needs;
- d. Refuse medical treatment;
- e. Obtain the contents of medical records.

Protection of patients' rights as consumers is also stated in Article 32 of Law Number 44 of 2009 concerning Hospitals, namely:

- a. Obtaining information regarding the rules and regulations that apply at the Hospital;
- b. Obtaining information about patient rights and obligations;
- c. Obtaining services that are humane, fair, honest, and without discrimination;
- d. Obtaining quality health services in accordance with professional standards and standard operating procedures;
- e. Obtaining effective and efficient services so that patients avoid physical and material losses;
- f. Submitting complaints about the quality of service obtained;
- g. Choose a doctor and treatment class according to his/her wishes and the applicable regulations in the Hospital;
- h. Requesting consultation about his/her illness to other doctors who have a License to Practice (SIP) both inside and outside the Hospital;
- i. Obtain privacy and confidentiality of the illness suffered including medical data;
- j. Receive information which includes the diagnosis and procedure of medical action, the purpose of medical action, alternative actions, risks and complications that may occur, and the prognosis of the action taken and the estimated cost of treatment;
- k. Give consent or refuse the action that will be carried out by health workers for the disease he/she suffers;
- l. Accompanied by his/her family in critical condition;
- m. Performing worship according to his/her religion or beliefs as long as it does not disturb other patients;
- n. Obtaining security and safety for himself/herself during treatment at the Hospital;
- o. Submitting proposals, suggestions, improvements to the Hospital's treatment of him/her;
- p. Refuse spiritual guidance services that are not in accordance with his/her religion and beliefs;
- q. Suing and/or demanding the Hospital if the Hospital is suspected of providing services that are not in accordance with standards either civilly or criminally; and

- r. Complain about Hospital services that are not in accordance with service standards through print and electronic media in accordance with the provisions of laws and regulations.

In the practice of services, it often occurs in regional public hospitals, both private and regional government hospitals, there is always less than optimal service experienced by patients, for example, delays in handling, patient refusal and this has become a common thing to hear in the ears of the community, especially the Baubau City Regional General Hospital. this is if we refer to the Health Law Number 36 of 2006 concerning Health, which actually regulates health services by hospitals where in Article 32 paragraph 2. says that in an emergency, health service facilities, both government hospitals and private hospitals are prohibited from refusing patients and asking for an advance payment. In this regard, the laws and regulations have indeed regulated that hospitals should not refuse patients. Whereas we know that hospitals have a very strategic role in efforts to accelerate the improvement of public health status. The new paradigm of health services requires hospitals to provide quality services according to the needs and desires of patients while still referring to the professional and medical code of ethics.

The minimum service standard policy in the health sector affects several other interests including community welfare, protection of health rights, easy access to health and health services. This is in accordance with the opinion of the Medical Support Subsection of Baubau City Hospital in the interview, as follows. "The existence of minimum service standards in the health sector will certainly improve the welfare of the community. The community will get health protection." (Interview with one of the Medical Support Subsection of Baubau City Hospital, Mrs. Suherti, S.ST, on Wednesday morning, March 5, 2024 at 10:00 a.m. Wita)

### **3.2 Civil Law Analysis of BPJS Patient Rights in Health Services at General Hospital Baubau City.**

Based on the results of the interview at one of the Medical Services Section (RSUD) Palagimata Baubau City on Wednesday morning March 6, 2024 at 10.00 Wita by Mr. Sofyan, S.Kep.,NS.,M.Kes The number of BPJS participant patients who entered the service of the Emergency Department (IGD) unit and then entered the hospitalization during January-December 2023 was 2771 patients.

Regarding the Civil Law Analysis if in the future the health services of BPJS participants are not accommodated regarding the rights of BPJS patients in health services at a Regional General Hospital (RSUD) palagimata Baubau city, then in civil studies according to the author's opinion, the form of hospital liability for BPJS Health participants for health services in the hospital responsibility as stated by Mahrus Ali is Vicarious Liability. This Vicarious Liability is a responsibility arising from mistakes made by others within the scope of their work.( Mahrus Ali, 2002)

Based on Vicarious Liability, health workers on duty at the hospital are representatives of the hospital, so the hospital must be responsible for its employees. In addition, the hospital must have clinical guidelines that can be used as a standard for its health workers to carry out their duties on behalf of the hospital. The doctrine of vicarious liability is also in line with Article 1367 of the Civil Code which states that: A person is not only responsible for losses caused by his own actions, but also for losses caused by the actions of other people who are his dependents or caused by goods under his supervision. This is in line with what is mentioned in Article 46 of Law Number 44 of 2009 concerning Hospitals, which states that hospitals are legally responsible for all losses caused by negligence committed by health workers in hospitals. In addition, Article 46 of Law Number

44 of 2009 concerning Hospitals is strengthened by the doctrine of Liability Without Fault, which means responsibility without fault.

The meaning of the doctrine above is that the hospital is responsible for all actions taken by its employees. Civilly, the responsibility given by the hospital to BPJS Kesehatan participants who experience rejection is the provision of compensation, as stipulated in Article 32 letter q of Law Number 44 of 2009 concerning Hospitals which states that every patient has the right to sue or sue the hospital if the hospital provides services that are not in line with existing standards either civilly or criminally. In addition, the provision of compensation is also in line with what is mandated in Article 1365 of the Civil Code which states that every act that violates the law and causes harm to another person, obliges the person who causes the loss through his fault to compensate for the loss. Not only that, Article 58 paragraph (1) of Law Number 36 of 2009 concerning Health states that everyone has the right to claim compensation against a person, health worker and health provider who causes harm due to errors or omissions that occur in the health services received by him. The provision of compensation provided by the hospital aims to improve the situation by way of compensation in the form of a sum of money.

#### **4. Conclusion** [Bookman Old Style 11 pt]

Based on the results of the research and the explanation above, the need for legal protection of patient rights against BPJS Health participants who experience health services in hospitals is divided into two forms, namely preventive protection with repressive protection. Preventive legal protection is a form of protection given to BPJS Kesehatan participants in the form of regulations in order to obtain safe, quality and affordable health services from health facilities and this protection also gives BPJS Kesehatan participants the right to submit complaints and complaints about services provided by the hospital to themselves or their family members. when it occurs in overcoming cases of denial of service in hospitals to BPJS Kesehatan participants is to increase the capacity of health service facilities, redesign the health service referral system, and optimize Minimum Service Standards (SPM).

In addition, hospitals are also responsible for losses suffered by BPJS Kesehatan Participants. This is because the hospital is a full health provider who is legally responsible for all losses caused by errors and omissions committed by health workers who are or work under the auspices of the hospital. Based on the problems that the researchers have described above, although some of the interview results are in accordance with the procedure, but things that are very tabuh events such as rejection still occur, but this is covered, so researchers can provide several recommendations as a reference when there is a problem in the future, including the following:

1. It is hoped that BPJS Kesehatan participants will not remain silent if they experience treatment of denial of health services by the hospital. BPJS Kesehatan participants can take action in the form of submitting complaints and demanding compensation if they get unlawful treatment. In addition, there needs to be assertiveness from the government in making regulations to provide more strict sanctions to hospitals that are partners of BPJS Kesehatan.
2. The Baubau City Regional General Hospital should be able to take full responsibility for the service of health rights by patients. This can be seen in the provisions of Article 46 of Law Number 44 of 2009 concerning Hospitals.

In addition, Article 46 of Law Number 44 of 2009 concerning Hospitals is strengthened by the Doctrine of Vicarious Liability, where health workers on duty at the hospital are representatives who represent the hospital, so that the hospital is fully responsible for all actions taken by health workers who work at the hospital to increase supervision of public and private hospitals in providing health services.

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