

Legal Review of the Implementation of the Bpjs Health Program in Expanding Health Service Coverage in Indonesia

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Abstract

Healthcare is a constitutional right guaranteed by the 1945 Constitution of the Republic of Indonesia, but access gaps remain a serious problem in Indonesia. This study aims to analyze the legal aspects of implementing the BPJS Health program to improve access to health services and identify existing legal barriers. The research method uses a normative legal approach, with a regulatory and conceptual framework, analyzing primary, secondary, and tertiary legal materials in a descriptive-analytical, qualitative manner. The results of the study show that the BPJS Health program has a strong legal basis based on the 1945 Constitution of the Republic of Indonesia, Law Number 40 of 2004 concerning the National Social Security System, Law Number 24 of 2011 concerning the Social Security Administration Agency, and Law Number 17 of 2023 concerning Health, with a membership coverage of 89% of the population (242 million people). However, its implementation faces legal problems: a gap between norms and practice, a financial deficit of IDR 13 trillion, delays in claim payments, and weak legal protection for participants. The study recommends regulatory reform, financial system improvements, strengthening of legal protection mechanisms, and increased coordination between institutions to achieve equitable and sustainable Universal Health Coverage.

Keywords: *BPJS Kesehatan, National Health Insurance, Legal Protection, Access to Health Services, Universal Health Coverage*

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Introduction

Healthcare is a fundamental right of every citizen guaranteed by the Constitution, as affirmed in Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which states that every person has the right to physical and spiritual prosperity, to a place to live, and to a good and healthy environment, as well as the right to healthcare. This constitutional recognition is in line with international legal instruments such as Article 25 of the Universal Declaration of Human Rights and Article 12 of the International Covenant on Economic, Social, and Cultural Rights, which recognize the right of everyone to an adequate standard of health. This constitutional mandate is reinforced by Law No. 17 of 2023 on Health, which affirms the state's role in providing equitable, quality, and affordable health services to all people without discrimination.

The reality on the ground shows that disparities in access to health services remain a serious problem in Indonesia. Data from the Ministry of Health in 2023 shows that disparities in health services between urban and rural areas remain very high, with the ratio of doctors per 100,000 populations in remote areas reaching only a quarter of the WHO standard (Ministry of Health of the Republic of Indonesia, 2024). Geographical inequality, limited health facilities, uneven distribution of medical personnel, and financial barriers are the main factors preventing people, especially vulnerable and low-income groups, from accessing adequate, quality health services. This condition contradicts the principles of social justice and human rights guaranteed by the Constitution. It raises questions about the effectiveness of the national health system in reaching all levels of society.

To ensure equitable access to health services and protect the health of all Indonesians, the government has initiated the National Health Insurance (JKN) program through the Social Security Agency for Health (BPJS) (Thabrany, 2014). This program is implemented in accordance with Law Number 40 of 2004 concerning the National Social Security System and Law Number 24 of 2011 concerning the Social Security Administration Agency, which was later reinforced by Law Number 17 of 2023 concerning Health. BPJS Health is a public legal entity established to administer health insurance programs for all Indonesian citizens, with the aim of providing health protection to all Indonesians through a mandatory, comprehensive social health insurance mechanism.

Since its launch on January 1, 2014, BPJS Kesehatan has become a mainstay of the national health system with very broad coverage. By the end of 2023, BPJS Kesehatan membership had reached more than 242 million people, or around 89% of Indonesia's total population, making it one of the largest health insurance programs in the world. The JKN-KIS (National Health Insurance-Healthy Indonesia Card) programs managed by BPJS Kesehatan cover a wide range of health services, from primary to advanced referral care. This program is designed to eliminate financial barriers that have been a major obstacle to the community's access to health services, especially for the poor and underprivileged. Based on BPJS Kesehatan data for 2023, the Contribution Assistance Recipient (PBI) program has covered more than 96 million underprivileged people whose contributions are fully covered by the government.

The presence of BPJS Kesehatan has brought significant changes to the healthcare landscape in Indonesia. Millions of people who previously lacked access to health services can now use health facilities without worrying about high medical costs. A study conducted by Afifah (2024) shows that the JKN program has increased the utilization of public health services, particularly for outpatient and inpatient services, with the number of visits to health facilities increasing significantly since the implementation of this program. This program has also encouraged improvements in the referral system, increased the quality of healthcare services, and expanded healthcare infrastructure in various regions. These achievements show that BPJS Kesehatan has made a positive contribution to efforts to achieve Universal Health Coverage (UHC) in Indonesia.

However, the implementation of the BPJS Kesehatan program in practice still faces various complex challenges. Some of the crucial issues that often arise include: delays in claim

payments to health facilities, which have an impact on service quality; limited referral quotas, which hinder patient access to specialist services; disparities in service quality between health facilities in urban and rural areas; a BPJS Kesehatan financial deficit reaching IDR 13 trillion in 2023, and ongoing public complaints regarding complicated administrative procedures and long waiting times for services. The 2024 Indonesian House of Representatives report also indicates various problems in the implementation of health regulations that need to be addressed immediately by the Ministry of Health, including those related to service standards and oversight mechanisms for health facilities that collaborate with BPJS.

Another equally important issue is the suboptimal participation in BPJS Kesehatan, especially among informal workers and people living in remote areas. BPJS Kesehatan data shows that the rate of compliance with premium payments among non-salaried workers remains low, with arrears totaling trillions of rupiah. There are still millions of Indonesians who are not registered as BPJS Kesehatan participants or who have difficulties in paying their premiums regularly. This condition is exacerbated by the gap in public understanding of their rights and obligations as BPJS participants, as well as the lack of health literacy among the lower-middle class. This condition raises questions about the effectiveness of the implementation of the universal health insurance program in Indonesia and the system's ability to expand health service coverage to all levels of society.

From a legal perspective, several issues need to be examined in depth. First, regarding the regulation of the rights and obligations of participants, health facilities, and BPJS Kesehatan itself within the framework of applicable laws and regulations. In practice, there are still inconsistencies between the legal norms set out in the laws and regulations and their implementation in the field, particularly in relation to minimum service standards, referral mechanisms, and the protection of patient rights. Second, there are issues related to law enforcement mechanisms and the resolution of disputes arising from the implementation of the BPJS Kesehatan program. Third, it concerns legal protection for BPJS Kesehatan participants in exercising their rights to quality and affordable health services (Hadjon, 1987). This legal issue is important because it directly affects the guarantee of legal certainty for all parties involved in the national health insurance system.

Law Number 17 of 2023 concerning Health has comprehensively regulated the health insurance system, including the role of BPJS Kesehatan in providing health services. This regulation mandates improvements to the health service system to be more integrated, accountable, and patient-oriented. However, implementing this regulation in the field still requires in-depth study to ensure that the BPJS Kesehatan program is truly effective in improving access to health services and achieving the goal of universal health coverage in Indonesia. Various derivative regulations, such as Government Regulation No. 28 of 2024 concerning Health Insurance, Minister of Health Regulation No. 21 of 2024 concerning the Implementation of Health Services, and Minister of Health Regulation No. 26 of 2024 concerning Health Service Tariffs, also need to be evaluated for their effectiveness in supporting the expansion of health service coverage.

This research is important to analyze the legal aspects of the implementation of BPJS Kesehatan, identify legal barriers to expanding the coverage of health services, evaluate the gap between legal norms and practices in the field, and formulate policy recommendations that can strengthen the legal basis and improve the effectiveness of the BPJS Kesehatan program in ensuring equitable, fair, and sustainable access to health services for all Indonesians. The legal review of the implementation of the BPJS Kesehatan system will use a regulatory and conceptual approach to identify the strengths and weaknesses of the existing system and analyze how the legal system can be more effective in supporting the expansion of healthcare coverage. Thus, this research is expected to make a significant academic contribution to the development of health law in Indonesia and to provide policymakers with input for improving the national health insurance system to achieve true universal health coverage.

Research Methodology

This study uses a normative legal research method, with a statute-based and conceptual approach, to analyze the legal aspects of the implementation of the BPJS Health system to expand health service coverage in Indonesia. The data sources consist of primary legal materials, including the 1945 Constitution of the Republic of Indonesia, Law Number 40 of 2004 concerning SJSN, Law Number 24 of 2011 concerning BPJS, Law Number 17 of 2023 concerning Health, and related implementing regulations. Secondary legal materials include health law books, scientific journals, and official government reports, as well as tertiary legal materials such as legal dictionaries and encyclopedias.

Data collection techniques included library research and documentation of laws, regulations, and relevant literature. The data were analyzed qualitatively using descriptive-analytical methods through the following stages: identifying legal norms, inventorying laws and regulations, systematic interpretation, evaluating the implementation of regulations, and drawing conclusions. The results of the analysis were presented descriptively to provide a comprehensive overview of the legal review of the implementation of the BPJS Health system to expand health service coverage in Indonesia.

Results

1. Legal Basis for the Implementation of the BPJS Health Program in Expanding Health Service Coverage

The right to Health is a constitutional right guaranteed in Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which states that every person has the right to live in physical and spiritual prosperity, to have a place to live, and to have a good and healthy environment, as well as the right to obtain health services. This constitutional recognition is in line with international legal instruments such as Article 25 of the Universal Declaration of Human Rights and Article 12 of the International Covenant on Economic, Social, and Cultural Rights, which recognize the right of everyone to an adequate standard of Health.

The implementation of the constitutional mandate is realized through a comprehensive hierarchy of laws and regulations. Law Number 40 of 2004 concerning the National Social Security System provides the legal umbrella for the implementation of the social security system based on the principles of cooperation, non-profit, openness, prudence, accountability, portability, and mandatory participation. Law Number 24 of 2011 concerning the Social Security Administration Agency establishes BPJS Kesehatan as a public legal entity responsible for administering health insurance programs. The latest regulation, Law Number 17 of 2023 concerning Health, emphasizes the government's obligation to ensure the availability of health care facilities and to administer health insurance to improve public access.

BPJS Kesehatan has a special position as a public legal entity established by law, with the following characteristics: established for the public interest, exercising public authority, and subject to public law. The main function of BPJS Kesehatan is to administer health insurance programs, including participant registration, contribution collection, management of the social security fund, and payment of health service benefits, in accordance with applicable regulations. This system is designed to eliminate financial barriers that have been a major obstacle to the community's access to health services, especially for the poor and underprivileged.

2. Strategy to Expand Health Service Coverage Through the BPJS Health Program

The JKN program adheres to the principle of mandatory participation for all Indonesian citizens, divided into the following categories: Contribution Assistance Recipients (PBI), whose contributions are paid by the government and cover more than 96 million people, and non-PBI, which consists of Wage Earners, Non-Wage Earners, and Non-Workers. By the end of 2023, BPJS Kesehatan membership will reach more than 242 million people, or 89% of Indonesia's total population, making it one of the largest health insurance programs in the world.

The expansion of health service coverage was carried out through several key strategies. First, expanding universal membership by achieving 100% coverage of Indonesia's population through the PBI program for the poor and vulnerable, as well as independent membership for informal workers and the general public. Second, the development of a network of health facilities in collaboration with BPJS Kesehatan, comprising more than 23,000 Primary Health Facilities (FKTP) and 2,800 Advanced Referral Health Facilities (FKRTL) spread across Indonesia, including in remote and island areas.

Third, the implementation of a tiered referral system comprising three levels: Primary Health Facilities as the initial gateway to services; Advanced Referral Health Facilities for specialist services; and sub-specialist services at national referral hospitals. This system aims to control costs, improve efficiency, guarantee service quality, and encourage the strengthening of primary health services. Fourth, the provision of comprehensive benefit packages covering promotive, preventive, curative, and rehabilitative services without ceiling limits for various types of diseases, including catastrophic illnesses such as cancer, kidney failure, and heart disease.

BPJS Kesehatan data for 2023 recorded more than 220 million visits to FKTP and more than 25 million referral cases to FKRTL, demonstrating the program's success in reducing financial barriers for the community and significantly increasing the utilization of health services. The PBI program, in particular, has improved access to previously unaffordable healthcare services for people with low incomes, with 45% increases in outpatient and 38% in inpatient visits since the implementation of the JKN program.

3. Legal Issues in Expanding Health Service Coverage

Although the BPJS Health program has succeeded in expanding health service coverage quantitatively, its implementation still faces various legal issues that hinder the effective expansion of service access. First, there is a gap between legal norms and field practices regarding minimum service standards. Although regulations stipulate the service standards that must be met, in practice, there are still many complaints about long waiting times, limited medicines and medical equipment, and disparities in service quality between urban and rural health facilities. Research shows that 62% of BPJS participants in remote areas experience difficulties in accessing specialist services due to limited facilities and medical personnel.

Second, problems with the tiered referral system, including referral rejections due to full quotas, delays in the referral process, and suboptimal reverse referrals. Legally, referral rejections without clear medical reasons can be considered violations of patients' rights to the health services guaranteed by law. However, law enforcement mechanisms for addressing these violations remain weak, and many participants do not know how to file complaints or assert their rights.

Third, the BPJS Kesehatan financial deficit, which reached IDR 13 trillion in 2023, is a serious structural problem that threatens the program's sustainability. Legally, this deficit threatens BPJS's ability to fulfill its legal obligations under Article 17 of the BPJS Law to guarantee benefit payments to participants. The factors causing the deficit include: underpricing of contributions compared to the actual cost of claims, high catastrophic service costs, low contribution payment compliance, especially among the Non-Salaried Workers (PBPU) segment, with arrears reaching trillions of rupiah, poor quality and cost control systems, and moral hazard on the part of participants and health service providers.

Fourth, delays in claim payments to health facilities, which must be paid within 15 working days in accordance with Government Regulation No. 28 of 2024, remain a serious problem. These delays in claim payments disrupt the cash flow of health facilities, hamper operations, and degrade service quality for BPJS participants. Legally, late payments can be classified as default, but health facilities' bargaining position is very weak against BPJS, which is a monopsony in the national health insurance system.

Fifth, coordination issues between institutions face various obstacles. The 2024 Indonesian House of Representatives report identifies various problems in the implementation of health regulations that the Ministry of Health must address immediately, including issues related to service standards and oversight mechanisms for health facilities collaborating with BPJS (House of Representatives/Antara News, 2024). Coordination problems include inconsistencies in regulations between the central and regional governments, overlapping authorities among the Ministry of Health, BPJS Kesehatan, and local governments, weak supervision and enforcement of service standards violations, and a lack of policy synchronization across sectors involved in the implementation of health insurance.

4. Legal Protection for Participants in the Expansion of Health Service Coverage

The legal relationship between participants and BPJS Kesehatan is based on the regulation of rights and obligations in laws and regulations. Participants' rights include: obtaining a participant identity card, receiving health services at participating facilities, obtaining information about rights and obligations, submitting complaints, and receiving quality services in accordance with standards. Participants' obligations include: registering as participants, paying contributions regularly, reporting changes in membership data, complying with established service procedures, and safeguarding participant ID cards.

In Philipus M. Hadjon's theory of legal protection, legal protection is divided into preventive protection, which aims to prevent disputes, and repressive protection, which aims to resolve disputes that arise. Preventive protection is realized through service standard regulations, clear service procedures, and effective monitoring mechanisms. Repressive protection is realized through complaint mechanisms, dispute resolution, and enforcement of sanctions for violations of participant rights.

BPJS Kesehatan provides various complaint channels through Care Center 165, its official website, the JKN mobile application, social media, and branch offices throughout Indonesia. However, the effectiveness of these complaint mechanisms is still hampered by several factors: the lack of serious follow-up on participant complaints, the long time taken to resolve complaints, and the lack of transparency in the complaint handling process. Data shows that only 45% of participant complaints are followed up with concrete improvements within 30 days.

The dispute resolution mechanism between participants and BPJS Kesehatan or health facilities can be pursued through several channels. First, the internal channel through a complaint and mediation mechanism facilitated by BPJS Kesehatan. Second, through independent institutions such as the Ombudsman of the Republic of Indonesia for complaints related to public services. Third, through formal legal channels such as civil lawsuits in court or criminal complaints if there are criminal elements in the violation that occurred.

To strengthen the legal protection of participants in the expansion of health service coverage, several strategic steps are needed. First, more detailed and implementable regulatory improvements related to minimum service standards, oversight mechanisms, and strict sanctions for violations of service standards by health facilities. Second, strengthening independent oversight mechanisms through the establishment of special agencies or commissions tasked with overseeing the implementation of the BPJS Kesehatan program and protecting the rights of participants. Third, increasing the transparency and accountability of program implementation through the publication of performance data, financial reports, and public participation mechanisms in program oversight.

Fourth, imposing strict and consistent sanctions on health facilities that violate service standards or discriminate against BPJS participants. Fifth, educating and socializing the public about their rights and obligations as BPJS Kesehatan participants, service procedures, and available complaint mechanisms. Sixth, providing legal assistance to participants who face problems in obtaining their rights to health services, especially for the poor and vulnerable groups who have limited access to information and legal resources.

Health insurance system reform must ensure a balance between the rights and obligations of all parties involved participants, BPJS Health, health facilities, and the government to achieve Universal Health Coverage that is fair, sustainable, and truly capable of expanding health service coverage to all Indonesians without discrimination.

Conclusion

Based on the legal analysis that has been conducted, it can be concluded that the BPJS Kesehatan program has a strong legal basis within the Indonesian constitutional framework, starting from Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia, Law Number 40 of 2004 concerning SJSN, Law No. 24 of 2011 concerning BPJS, to Law No. 17 of 2023 concerning Health. The JKN program has succeeded in expanding health service coverage to 89% of Indonesia's population (242 million people) and in significantly increasing utilization of health services, especially for the poor and underprivileged, through the PBI program.

However, the implementation of the program still faces various serious legal problems, including gaps between legal norms and practices in the field related to service standards and referral systems, a financial deficit of Rp 13 trillion that threatens the sustainability of the program, delays in claim payments that affect service quality, and weak coordination and supervision between institutions. Legal protection for participants is not yet optimal, with complaint and dispute resolution mechanisms remaining weak, so participants' rights to quality health services are not fully guaranteed. Comprehensive regulatory reform, strengthening the financial system, improving legal protections for participants, and better coordination among institutions are needed to achieve equitable and sustainable Universal Health Coverage for all Indonesians.

References

- [1] Afifah, N. (2024). Analisis peningkatan utilisasi layanan kesehatan dalam program Jaminan Kesehatan Nasional.
- [2] Ardinata, M. (2020). Hak atas kesehatan sebagai hak konstitusional warga negara.
- [3] Astuti, E. K. (2009). Pendekatan konseptual dalam penelitian hukum kesehatan.
- [4] Basri, H., et al. (2025). Kesenjangan norma hukum dan implementasi standar pelayanan kesehatan di Indonesia.
- [5] Basuki, U. (2020). Merunut konstitusionalisme hak atas pelayanan kesehatan sebagai hak asasi manusia. *Jurnal Hukum Caraka Justitia*.
- [6] BPJS Kesehatan. (2024). Laporan tahunan BPJS Kesehatan 2023.
- [7] Dewi, S. (2019). Program Penerima Bantuan Iuran dan akses pelayanan kesehatan masyarakat miskin.
- [8] Elungan, A., & Tjenreng, M. (2025). Sistem rujukan berjenjang dalam program Jaminan Kesehatan Nasional.
- [9] Fajar, M., & Achmad, Y. (2010). Dualisme penelitian hukum normatif dan empiris. *Pustaka Pelajar*.
- [10] Hadjon, P. M. (1987). *Perlindungan hukum bagi rakyat di Indonesia*. Bina Ilmu.
- [11] House of Representatives/ANTARA News. (2024). Laporan DPR RI tentang implementasi regulasi kesehatan.
- [12] Kementerian Kesehatan RI. (2024). Data disparitas pelayanan kesehatan dan rasio tenaga medis Indonesia.
- [13] Kompas.com. (2024). Defisit keuangan BPJS Kesehatan tahun 2023. Diakses dari <https://www.kompas.com>
- [14] Maharani, D. (2020). Dampak program JKN terhadap akses pelayanan kesehatan masyarakat.
- [15] Marzuki, P. M. (2021). *Penelitian hukum: Edisi revisi*. Kencana Prenada Media Group.
- [16] Nasution, B. (2013). *Kedudukan BPJS Kesehatan sebagai badan hukum publik*.

- [17] Peraturan Menteri Kesehatan Nomor 21 Tahun 2024 tentang Penyelenggaraan Pelayanan Kesehatan.
- [18] Peraturan Menteri Kesehatan Nomor 26 Tahun 2024 tentang Tarif Pelayanan Kesehatan.
- [19] Peraturan Pemerintah Nomor 28 Tahun 2024 tentang Jaminan Kesehatan.
- [20] Pratiwi, R. (2018). Literasi kesehatan dan pemahaman masyarakat tentang hak dan kewajiban peserta BPJS.
- [21] Sobeang, M. L. (2022). Evaluasi implementasi regulasi kesehatan dalam mewujudkan Universal Health Coverage.
- [22] Soekanto, S. (2014). Pengantar penelitian hukum. UI Press.
- [23] Soekanto, S., & Mamudji, S. (2021). Penelitian hukum normatif: Suatu tinjauan singkat (17th ed.). Rajawali Pers.
- [24] Thabrany, H. (2014). Jaminan Kesehatan Nasional. Rajawali Pers.
- [25] Tim Nasional Percepatan Penanggulangan Kemiskinan. (2020). Kepesertaan BPJS Kesehatan dan kendala pembayaran iuran.
- [26] Trisnantoro, L. (2014). Aspek strategis kepesertaan Jaminan Kesehatan Nasional.
- [27] Undang-Undang Dasar Negara Republik Indonesia Tahun 1945.
- [28] Undang-Undang Nomor 17 Tahun 2023 tentang Kesehatan.
- [29] Undang-Undang Nomor 24 Tahun 2011 tentang Badan Penyelenggara Jaminan Sosial.
- [30] Undang-Undang Nomor 40 Tahun 2004 tentang Sistem Jaminan Sosial Nasional.
- [31] Widjaja, G. (2023). Undang-Undang Nomor 17 Tahun 2023 tentang Kesehatan: Analisis dan implementasi.