

Optimization Of Social Justice Principles In Health Insurance By The Health Social Insurance Administration Agency (BPJS) In Indonesia

Sri Zanariyah, Adi Sulistiyono, M.Najib Imanullah, Arief Suryono

| Article Info | Abstract |
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| <p>Article History</p> <p>Received: May, 2021</p> <p>Accepted: August, 2021</p> <hr/> <p>Keywords : Optimization, Health Insurance, Social Justice</p> <p>DOI: 10.5281/zenodo.5294967</p> | <p><i>This research aims to examine the optimization of the principles of social justice in health insurance organized by the Health Social Insurance Administering Body (BPJS Kesehatan) in Indonesia, so as to find a concept so that the principles of social justice in the implementation of health insurance in Indonesia can run optimally. This research includes normative legal research, analytical descriptive, using secondary data, collected by means of literature study and document study through statutory and conceptual approach. The results of the research indicate that the principle of social justice in health insurance organized by BPJS Kesehatan can run optimally, based on a study of membership, payment of contributions and health insurance benefits, so it is necessary to make changes to the laws and regulations relating to the implementation of health insurance based on the principles of social insurance and health insurance. The concept formulated in the form of changes to the grouping of participants and the amount of contributions, in the Non-Contribution Recipients (PBI) group, in particular Non-Workers (BP) investors and employers, is determined to be proportionally larger than the Non-Wage Recipient Participant (PBPU) group, so it is necessary given a health service class in addition to the VIP/Executive Class. Therefore, it is necessary to change the health insurance regulations related to participation, the amount of contributions and benefits of health services that apply in Indonesia. To the Parliamentary to be actively involved in carrying out one of its functions of carrying out supervision to the government in carrying out the applicable laws and regulations.</i></p> |

Introduction

The right of social insurance in the international world is a human right. It contained in the United Nations (UN) Declaration of Human Rights, that everyone has the right to protection and security in the event of illness, disability, old age, death, and unemployment. Therefore, the ILO (International Labor Organization) in Convention No. 102 of 1952 concerning Minimum Standards for Social Security states: "at least three of the nine branches of the social security program. which at a minimum must be given to workers, namely old age insurance, work accident insurance, and guarantees. health care". As a participating country, Indonesia must comply with this provision.

In Indonesia, social insurance, including health insurance, is the protection of the state for its citizens, which is mandated in the 1945 Constitution, including in the chapter on human rights, namely Article 28H paragraph (1). Paragraphs (2) and (3) of the 1945 Constitution of the Republic of Indonesia: "the right to live in prosperity including to obtain health services,..." So that the State is responsible for the poor and the underprivileged, develops a social insurance system for all the people and empowers the weak and underprivileged in accordance with human dignity, including the provision of proper health care facilities and public service facilities as regulated in Article 34 paragraph (1), paragraph (2) and paragraph (3) of the 1945 Constitution.

The embodiment of the implementation of the constitution has been enacted by Law Number 40 of 2004 concerning the National Social Insurance System. Article 2 of the Law on the National Social Insurance System regulates the principles of implementing a social security system, one of which is the principle of social justice for all Indonesian people. Health Insurance, regulated in Article 19 paragraph (1) of the Law on the National Social Insurance System, that social insurance is not only given to participants based on the value of certain contributions or payments with certain risks in this case health risks, but the benefits provided to participants are so that participants get the benefits of health care and protection in meeting basic health needs.

The implementation of health insurance carried out by BPJS Kesehatan is still widely questioned by the public, there are reports of complaints about BPJS service procedures are quite high, public complaints include in the management of the bureaucracy, registration, to long queues and also related to the amount of contributions.

This also appears to occur in several hospitals in Bandar Lampung Indonesia, as health service centers, the results of observations show that there are long queues for BPJS Health participants, there is different treatment with those who use independent facilities, not health insurance participants. Problems related to health services, the implementation of health insurance, shows that the implementation of health insurance in Indonesia is still not optimal. Therefore, it is necessary to conduct a study on the optimization of the principles of social justice in health insurance carried out by BPJS Kesehatan for Health in Indonesia. In this study, the problems discussed are: How the principles of social justice in health insurance implemented by BPJS Kesehatan can be implemented optimally in Indonesia.

A. METHOD

This research is normative legal research, which is descriptive analytical, using secondary data sourced from primary legal materials in the form of laws and regulations, secondary legal materials in the form of theories related to social justice, systems theory and engagement theory, as well as the opinions of experts in the field of social justice, health insurance from the social aspect, especially the legal aspect. Data were collected by literature and document study through statutory and conceptual approach. The data are analyzed deductively to draw conclusions by providing the concept of optimizing the principles of social justice for health insurance implemented by the BPJS Kesehatan in Indonesia.

B. DISCUSSION

Health insurance, which is held nationally in Indonesia, is a positive step in an effort to achieve people's welfare. To realize the constitutional order in terms of implementing social security nationally, Law Number 40 of 2004 concerning the National Social Insurance System was enacted. This provision shows that the fulfillment of the basic needs of a decent living is a benchmark for the implementation of social insurance, therefore it is necessary to regulate it in a mechanism for its implementation through a national social insurance system as regulated in Article 1 point 2 "The national social insurance system is a procedure for administering the social insurance program held by Social Insurance Administering Body". The administering body is determined by law, until in the end a separate body is formed instead of the previous insurance provider, namely the Social Insurance Administering Body (BPJS) which was established based on Law No. 24 of 2011 concerning BPJS.

Justice needs to be given to all parties regardless of religion, nation, skin color, language and so on, so that social justice exists in the relationship between the government and its citizens, in a reciprocal manner, the State is obliged to provide protection to the community (distributive justice) followed by obligations society towards the state as a citizen not only demands that their rights be fulfilled but balanced by carrying out their obligations, justice also exists in the relationship between individuals in society (commutative justice), as Notonegoro thinks about social justice. According to Notonegoro social justice is the fulfillment of everything that has become a right in living together as a nature of the relationship between one another, resulting in that fulfilling each right in a relationship between one another is a must*.

The principle of social justice in the health insurance system is the basis for implementation which is applied equally to all Indonesian people, by following the rules that have been set. The application of provisions in social insurance to the entire community in a balanced and proportional manner, between receiving benefits and the obligation to pay contributions, the existence of equal treatment not only in rights but also in terms of responsibilities. Health Insurance is one of the social security programs specified in Article 18 of the Law on the National Social Insurance System. To get health insurance benefits, everyone is obliged to become a participant in the health insurance program, in accordance with the principles of health insurance implementation contained in Article 19 paragraph (1) of the Law on the National Social Insurance System: "Health insurance is administered nationally based on the principle of social insurance and the principle of equity." Followed by the provisions of Article 19 paragraph (2): "Health insurance is held with the aim of ensuring that participants obtain health care benefits and protection in meeting basic health needs". Social insurance as formulated in Article 1 point 3 of the Law on the National Social Insurance System, is a mandatory mechanism for collecting funds from contributions in order to provide protection against socio-economic risks that befall participants and/or their families.

It is explained in the explanation of Article 19 paragraph (1) of the Law on the Social Insurance System which stipulates that the principle of social insurance consists of:

1. Mutual cooperation between rich and poor, healthy and sick, old and young, and high and low risk;
2. mandatory and non-selective participation;
3. Contribution based on percentage of wages/income;
4. Non-profit.

Mutual cooperation is a criterion as social insurance, it is a form of mutual help which is human nature, that no human can live alone but need each other. The principle of mutual cooperation is the principle of togetherness among participants in bearing the burden of health insurance costs, which is realized by paying

contributions for each participant, according to the level of salary, wages, or income. For people who are poor and incapable, the contribution is borne by the State, as mandated by the constitution Article 34 paragraph (1) of the 1945 Constitution of the Republic of Indonesia. Participants in this group are included in the Contribution Assistance Recipients (PBI), which is further regulated in Article 3 Presidential Regulation Number 82 of 2018 concerning Health Insurance that participants in the PBI Health Insurance are determined by the minister who organizes government affairs in the social sector.

The implementation of health insurance with a social insurance system is followed by the principle of equity, namely equality in obtaining services according to their medical needs which is not tied to the amount of contributions that have been paid. So that participants have the right to get health services to the maximum according to the state of the level of health that requires health services. The application of the principle of mutual cooperation with an understanding to help each other between participants, so that health benefits are given not based on the amount of contributions given, mutual cooperation between the able and the poor, the sick and the healthy, the old and the young, managed by BPJS Kesehatan.

The problems faced by participants with certain diseases who have to bear the medical costs of part of what is needed according to the results of the doctor's examination, such as those experienced by dialysis patients due to kidney failure, this is contrary to the principle of equity as regulated in the Law on the National Social Insurance Security System. Limitations on the provision of benefits to health insurance can be seen in the Decree of the Minister of Health of the Republic of Indonesia Number HK.01.07/2018 concerning Amendments to the Decree of the Minister of Health of the Republic of Indonesia Number 01.07/2017 concerning National Formulary. In the decision, there are types of drugs that are no longer included in the National Formulary, so that the Decree of the Minister of Health may result in not fulfilling the participant's right to certain drugs needed for recovery from the illness suffered by the participant.

The health insurance program should continue to be developed in order to achieve health status for all people in Indonesia, and the government's obligation to develop a social security system including health insurance by providing health facilities and other public facilities, as stipulated in the 1945 Constitution of the Republic of Indonesia concerning Social Welfare, including health. However, in implementing a comprehensive government in all aspects of life, there are obstacles in the financial sector. The financial report showed that there was a health insurance financial deficit from 2014 (Rp 1.9 billion) to 2018 (Rp 19.4 billion).

Based on the state of the health insurance financial deficit, it resulted in an increase in health insurance contributions based on Presidential Regulation Number 75 of 2019 concerning Amendments to Presidential Regulation Number 82 of 2018 concerning Health Insurance. It regulates the increase in Health Insurance contributions which is quite high, causing rejection from the public, this provision cannot be effective, with a material review by the Supreme Court Council, where the Supreme Court grants a judicial review of Presidential Regulation Number 75 of 2019 concerning Amendment to Presidential Regulation Number 82 of 2018 concerning Health Insurance in particular the rules for increasing BPJS contributions which are quite significant, namely 100% starting January 1, 2020. In its decision, the Supreme Court canceled the rules for increasing BPJS contributions as stated in Article 34 paragraph (1), and paragraph (2) Presidential Regulation Number 75 of 2019, the decision to cancel the increase in BPJS Health contributions will be enforced on February 27, 2020 or not retroactively.

The latest change in health insurance provisions occurred after there were objections from the community over the increase in health insurance contributions, especially for participants who were grouped into Non-Wage and Non-Workers participants. Economic conditions that tend to decline due to the COVID-19 pandemic, where Indonesia is one of the countries experiencing this period, so the increase is not in accordance with the economic capacity of the community in general. However, the Supreme Court Decision Number 7P/Hum/2020 did not last long, in the end the government issued Presidential Regulation Number 64 of 2020 concerning the Second Amendment to Presidential Regulation Number 82 of 2018 concerning Health Insurance, that the increase in contributions will continue to be implemented, although gradually, which which part of the government bears the increase, both for contribution assistance recipient participants (supported by government) and independent participants. This policy is contrary to justice as fairness, which demands the same principle of freedom as the basis for regulating social welfare. The increase in Health Insurance contributions has a positive impact, in 2020 there are financial surplus of BPJS Health of Rp. 17 billion.

The existence of a financial surplus of BPJS Kesehatan does not mean creating a new policy to reduce the amount of health insurance contributions, because this increase occurred during the Covid-19 Pandemic. There was a decrease in the use of health benefits and the use of health facilities during the Covid-19 Pandemic, so that if the pandemic In the end, it is possible that there will be an increase in the use of health benefits and the use of health facilities.

It is necessary to carefully examine the sustainability of the implementation of health insurance carried out by BPJS Kesehatan, as a national program for implementing the constitution of the Republic of Indonesia. The existence of restrictions on the provision of health insurance benefits to participants with certain diseases as stipulated in the Decree of the Minister of Health Number HK.01.07/2018 concerning Amendments to the Decree

of the Minister of Health Number 01.07/2017 concerning National Formularies, needs to be considered so that this provision no longer exists, to meet the equity principle of health insurance. On the other hand, it is necessary to consider the need for government funds in carrying out national development in all fields, so that financial deficits do not occur again, especially health insurance finance.

The study of optimizing the principle of health insurance fairness organized by BPJS Kesehatan, by analyzing membership, contributions and the provision of health insurance benefits, so that it can run in a balanced and proportional manner. The amount of health insurance contributions in Wage Recipient Workers and Non-Workers participants or independent workers needs to be reviewed, given the similarity in the amount of health insurance contributions. It is known from the provisions of health insurance, starting from the stipulation of Presidential Regulation Number 12 of 2013 concerning Health Insurance which has undergone several changes, until the stipulation of Presidential Regulation Number 82 of 2018 concerning Health insurance, has also undergone several changes, the provisions regulate the same about what What is meant by Non-Wage Recipient Workers and Non-Workers participants. From the determination of contributions based on the group of participants, it can be seen that there are similarities between non-wage workers or independent workers and non-employees, including investors and employers.

Investors are investors who invest money or capital, namely people who invest their money, in a business with the aim of making a profit. Meanwhile, people who only have money to fulfill their daily lives cannot be categorized as investors, so the amount of contributions between investors or entrepreneurs cannot be equated with non-investor participants or entrepreneurs, health services can be added with VIP/executive class health services for meet a proportional balance in social justice. Based on the class VIP/executive health services for the group of investors/entrepreneurs, the contribution is increased proportionally.

C. CONCLUSION

The optimization of the principle of social justice for health insurance organized by BPJS Kesehatan in Indonesia is carried out in the following ways:

1. Changes in the laws and regulations governing participation in health insurance, for the non-PBI group, namely Non-Wage Recipient Workers and Non-Workers participants, especially investors and employers (entrepreneurs), with the determination of contributions that are different from the determination of service class additional ie VIP/executive class.

2. Health insurance benefits are provided in accordance with the participant's health needs, so there are no provisions regarding restrictions on certain drugs, which violate the equity principle.

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Author Information

Sri Zanariyah

Faculty of Law, Universitas Sebelas Maret Surakarta
Indonesia.

Adi Sulistiyono

Faculty of Law, Universitas Sebelas Maret Surakarta
Indonesia.

M.Najib Imanullah

Faculty of Law, Universitas Sebelas Maret Surakarta
Indonesia.

Arief Suryono

Faculty of Law, Universitas Sebelas Maret Surakarta
Indonesia.
