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THE PRINCIPLES OF SOCIAL JUSTICE FUNCTION ON THE INDONESIA HEALTH SOCIAL ASSURANCE

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Abstract

Every developing country must realize that development is carried out fairly for the benefit of the entire community by providing social security including guarantees in the health sector through social insurance. This paper examines the juridical review of the need to function the principle of justice in health insurance programs managed by the Health Insurance Agency (BPJS) Health and how to function the principle of social justice in the implementation of social security in the health sector. This research is included in the type of doctrinal research by carrying out a normative juridical approach, collecting data through literature studies sourced from primary legal materials, secondary legal materials and tertiary legal materials, then analyzed qualitatively. The results of the study show that the functioning of the principle of justice in the implementation of social security in the health sector is carried out as the implementation of legislation in the field of health insurance by providing equal protection to all citizens, not only those who are able to pay contributions, but also apply to people who do not able, whose contribution is paid by the government, through the mechanism of social insurance in the health sector.

1 PRELIMINARY

Health is a condition both physically, mentally, spiritually that allows everyone to be socially and economically productive, everyone has the same rights in gaining access to resources in the health sector and obtaining safe, quality and affordable health

services (Nettleton, 2006). According to Amira (2015), everyone also has an obligation to participate in the social health insurance program. As mandated in the 1945 Constitution Article 28 H Paragraph (1) where every person has the right to live physically and spiritually, live and get a good and healthy living environment and has the right to obtain health services, carried out by the Indonesia Social Security Organizing Board, namely BPJS Health services, gradually until 2019 must cover all Indonesian people (Suprianto, 2017).

BPJS Health services are widely questioned by the community, there are reports of complaints about BPJS Health service procedures that are quite high, community complaints include bureaucratic management, registration, and long queues and also related payments (Suprianto, 2017), such as our observations at hospitals or health care centres in Bandar Lampung in Indonesia showed that many people in the community needed health services, resulting in a long queue, this could lead to tensions in the community. This requires better regulation of health care systems, and must be carried out fairly and evenly.

Based on the background of the above problems, this study aims to determine the implementation of social security in the health sector organized by Indonesia Social Security Agency Health (called by BPJS Health services) based on the principle of social justice and analyse the implementation of the function of the principle of social justice in the implementation of social security in the health sector.

2 RESEARCH METHODOLOGY

This research includes doctrinal or normative legal research, using secondary data sourced from primary legal materials in the form of legislation in the field of organizing social health insurance, and secondary legal material in the form of legal literature from justice theory including writings from legal experts, as well as materials tertiary law as a supporting data in this case is a legal dictionary and language dictionary. For that approach is taken by way of normative, by studying literature on legal materials mentioned above, further analysis of the data was done by qualitative analysis compiled inductively.

3 DISCUSSION

The function of the principles of social justice in Indonesian health insurance managed by BPJS is trust legislation. According to Federmeier (2007), the function comes from the basic word function as a noun, which means the benefits of something, use, role, task, functional is an adjective, which means based on position, in terms of function, functionalization of the word as the intended verb by the author to function, followed by the principle of social justice, which means

function as the principle of social justice, in this case health insurance managed by the BPJS Health Agency.

According to Merton (1996), the function of insurance is as an organized social system should be fair to all communities. Whereas Rawls (2009) stated his opinion, that there needs to be a balance between individual interests and common interests, the concept of justice is realized in regulating the application of rights and obligations and regulating the distribution of social and economic income. This attitude is contrary to justice as fairness, which demands the same freedom as the basic principles underlying the social welfare arrangements.

As a developing country, Notonagoro (1975) states that the State is always necessary to realize social justice, namely distributive justice (distribution of State against the people), legal justice (obedience to the laws and regulations) and commutative justice that justice between community members on a reciprocal basis. Associated with social justice in the provision of health insurance, then that is seen is how the relationship between the ruler or the government of the people, if every citizen is treated equally, in the process provide health insurance, starting from the registration of participants, the realization of rights and obligations, and the provision of benefits in health sector to participants.

Social justice can be said to be done when everyone can live in a prosperous and prosperous society, by placing someone in parallel, treated equally with equal opportunities, equal and non-discriminatory freedoms, including the problem of implementing health care as a form of social protection to the community.

The implementation of health insurance in Indonesia must be carried out with the same principle of freedom or opportunity in order to achieve justice, as mandated in the 1945 Constitution, stated in Article 28 H paragraph (1) states, "Every person has the right to live in prosperity and heart, live, and get a good and healthy environment and the right to health care ". In paragraph (3) the right to social security and Article 34 paragraph (2) and (3) that the state develops a social security system for all citizens, the state is responsible for providing health care facilities.

Under the Health Law, Article 20 (1): The government is responsible for implementing public health insurance through the national social security system for individual health. (2) The social security system as referred to in paragraph (1) is carried out in accordance with the laws and regulations. The government in implementing the law, continues to strive to make it happen as the implementation of a national social security system so that the enactment of Law Number 40 of 2004 concerning the National Social Security System (State Gazette of the Republic of Indonesia Number 2004, Supplement to the State Gazette of the Republic of Indonesia Number 4456), which is then briefly written as a National Social Security System, in this specification stipulates that health insurance (Article 19), accident insurance (Article 29), old age (Article 35)), pensions (Article 39) and life insurance (Article 43), which are held nationally with the principle of social insurance. Social insurance is a type of insurance that applies to Indonesia, mandatory for everyone in Indonesia with the aim to provide protection to the public.

Implementation of the National Social Security System (hereinafter written briefly became Navigation) include health insurance as stipulated in Article 19 of Law Social Security System, which is implemented by a body that is Indonesia Social Security Agency (hereinafter written brief to BPJS), established pursuant to Law No. 24 of 2011 About Social Security Agency (Official Gazette of the Republic of Indonesia Year 2011 Number 116, Supplement to the State Gazette of the Republic of Indonesia Number 5256), followed by a brief written into law Indonesia Social Security Agency (BPJS).

Indonesia Social Security Agency (BPJS) is an institution established by the government under the provisions of Act BPJS, one of its functions is to administer social security in the areas of health, remaining provisions stipulated in the Regulation of the President of the Republic of Indonesia Number 12 Year 2013 About Health Insurance, as has been amended several times, the latest amendment to the Presidential Regulation No. 28 Year 2016 About the Third Amendment to the Presidential Decree Number 12 Year 2013 About Health Insurance (Indonesia, 2004; Pisani et al. 2017)

According to Ridha (2014), As social security organizing body in the field of health, BPJS in carrying out the functions should be based on principles: humanity, benefits, social justice for all Indonesian people, it is governed by Article 2 of Law BPJS, so that the principle of social justice is one of the principles that made the basis for implementing the health insurance program, which is the explanation of this provision that the principles of social justice are ideal. This principle must be enabled to achieve the goal of BPJS, namely to realize the implementation of a guarantee fulfilment of the basic needs of living for each participant and/or their family members, as stipulated in Article 3 of Law BPJS.

Implementation Process Implementation Principles of Social Justice in Health Insurance

Based on Article 1 paragraph 1 of the Presidential Regulation on Health Insurance, that health insurance is "a guarantee in the form of health protection for participants to get health care and protection benefits to meet basic health needs given to everyone who has paid contributions or contributions paid by government".

From the definition, there are elements of health insurance, and clearly visible among the participants, contributions and purposes.

1. Participants: someone will get health insurance if it has been signed up as a participant and has paid his dues, who can not afford it will be paid by the government (Recipient Contribution), these participants including foreigners who work at least 6 (six) month in Indonesia.

2. Contribution: the amount of money paid regularly by the Participant, either independent participants, employers, or the government.

3. Interest: This guarantees each participant to receive health care benefits and protection to meet basic health needs.

The three elements are the implementation of the insurance system which is carried out based on the principle of social justice starting from the registration stage, payments to the receipt of health care benefits according to their individual needs. When the participant registration process is done directly or indirectly, which means that if the participant works for a particular institution, whether working as a civil servant or in a private institution, registration as a health insurance participant managed by BPJS Health is done collectively. Continued at the stage of issuing the health insurance participant card, provided payment of contributions has been made.

The national social security system organized by the BPJS is guided by the following principles: mutual cooperation, non-profit, transparency, prudence, accountability, portability, participation is mandatory, trust funds and the results of the management of the Social Security Fund will be used entirely for development programs and for maximum interest of Participants, as stipulated in Article 4 of the BPJS Law.

There are a number of problems in the implementation of health services organized by BPJS in Indonesia such as difficulties in payment mechanisms for bills so that services are not optimal, patients complain because they have to add the cost of differences in drug prices, and health workers' confusion of systematic references and membership have changed since the program JKN was implemented by BPJS from 1 January 2014 (Amira, 2014; Pisani et. 2017).

In addition to the problem of providing health insurance that often occurs in Indonesia, other information can also be noted as happened in one of the private hospitals in Singapore (Aspinall, 2014; Van Minh et al. 2014), that health insurance participants experienced disappointment in getting medical treatment, if it does not follow the referral mechanism for health care for certain reasons (emergency) so that the patient is immediately taken to a particular hospital, the patient does not get health insurance managed by health insurance, so the care and care costs must be borne by the patient and family obligation to pay health insurance contributions (Aspinall, 2014).

Regarding to membership and contribution fees set out in Presidential Decree Number 19 of 2016, the total fees to be paid by National Health Insurance participants are as follows:

1. Participants of Recipient Fees, starting January 1, 2016 amounted to USD 23000.00 per person paid by the Government.
2. Participants Workers Wage Recipients consisting of Civil Servants. Members of the TNI, Police officers, State Officials, leaders and legislators, as well as Government Officials Non servants by five percent of the salary or wages per month, with the provisions of three percent is paid by the Employer, two percent paid by Participants.

3. Participants Workers Wage Recipients other than participants listed in point two above, the date of July 1, 2015 amounted to five percent of the salary or wages per month, provided that: four percent paid by the employer and one percent paid by the Participant
4. Participants not receiver wages and not employed, effective 1 April 2016, contributions are determined on the choice of care service benefits:
 - a. As much as Rp25,500.00 (twenty five thousand five hundred rupiahs) per person per month, with the benefits of Third class care services.
 - b. Amounting IDR 51.000,00 (fifty one thousand rupiah) per person per month, with the benefits of Third class treatment services.
 - c. IDR 80,000 (eighty thousand rupiah) per person per month, with First class care services.

Determination of membership and the amount of fees as outlined in the National Health Insurance regulations mentioned above, there are different classifications for the payment of dues, which are grouped by the Workers' Compensation Recipients group participants. As there are some findings of the provisions stipulated in the implementation of the Social Security Law and the implementation of the BPJS Law that the fees that must be paid by National Health Insurance Participants vary, which are determined by the group. There are three (3) groups of participants who are different from the Group of Recipient Contributions from the Government, groups that receive salaries / wages and groups, not wages and non-workers (not dependent on participants).

Determining the contribution of each group of participants are expected to meet the principles of social justice as one of the principles in the administration of the national social security system organized by BPJS (Shafi'i, 2018). Health insurance is organized nationally by the social security and the principle of equality with the aim of ensuring that participants receive the benefits of health care and protection to meet the basic needs of health (World Health Organization, 2011), so the implementation of health insurance is done through a mechanism for collecting funds is mandatory and must be followed by all Indonesians (Pisani et al. 2017), so that the public is protected if there are social economic risks, without payment of contributions because participants from members do not receive protection, the transfer of risk to the organizers is proven by compulsory payment, but services provided to all participants is the same based on unbound medical needs o the amount to be paid (equity). Health insurance is organized nationally by the social security and the principle of equality with the aim of ensuring that participants receive the benefits of health care and protection to meet the basic needs of health (World Health Organization, 2011), so the implementation of health insurance is done through a mechanism for collecting

funds is mandatory and must be followed by all the people of Indonesia (Pisani et al. 2017), so that the public is protected if there is a risk of social economy, without the payment of dues for the participants of the members do not get the protection, transfer of risk to the organizers evidenced by the payment of mandatory dues, but the service provided to all participants is the same based on medical needs that are not tied to the amount of costs to be paid (equity).

In addition through the mechanism of participant registration, payment of dues, then when participants need medical care for the state of his health, the participants must come to the health facilities in advance, in this case the Public Health Center (referred to by health centers) where participants registered, and if it requires a special service (a particular disease specialist), then by a doctor at the first health facility will provide referrals, up to the participants to get a service in accordance with the disease, along with the required medication (Ekawati et al., 2017).

Health care is provided in accordance with the level of members (Ollenschläger, 2004) (Maseleno et al., 2019), so that justice prevail in accordance with a particular class, it seems there will be differences in the application of the implementation of health care, with the formation of classes for the participants, in which participants will determine the health of each class appropriate it, and grading according to the status and ability to pay dues.

4 CONCLUSION

The proper function of the principle of social justice in the implementation of social security in the health sector managed by the Indonesian Social Security Agency (BPJS) is a standard or reference to the system of implementing social security in the health sector for all communities stipulated in the law governing guarantees social in the health sector.

The implementation of social health insurance is carried out through certain mechanisms, starting from registering participants, providing BPJS Health cards and providing health services that are not bound by the amount of contributions to be paid, participants who cannot pay contributions economically, payments borne by the government.

Based on this conclusion, some recommendations can be given in this study that the functioning of the principles of social justice in health insurance in the health sector should apply to all citizens, to reconsider the determination of the payment of contributions, especially to the people who entered the group of participants who are able to pay economically not the same as participants who only work with uncertain income. In addition, the implementation of health insurance services can be improved by adding medical personnel, particularly in health services continue to get the maximum service in certain disease states (specialist), so that the participants did not wait long to get health care.

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