



Consumer Legal Protection for Patients and the Quality of Health Services in Hospitals

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Abstract

BACKGROUND: Health development is part of Indonesia's national development. It is implemented by creating a social security system run by the Social Security Administrator for Health (Badan Penyelenggara Jaminan Sosial Kesehatan/BPJS Health) based on Law No. 24 of 2011.

AIM: This study analyzes the legal protection for BPJS health participants who are hospital inpatients. It also discusses their rights and obligations that are yet unfulfilled.

METHODS: This research uses the juridical doctrinal or normative method. This is descriptive research with a qualitative approach.

RESULTS: As patients, BPJS health participants' rights are legally protected by Law No. 36 of 2009 on Health and Law No. 44 of 2009 on Hospitals. Unfortunately, some participants often experience problems when they require hospitalization. For instance, there is usually a lack of information on the provision of treatment rooms. Another issue is that the BPJS patients often only obtain a 3-day hospitalization facility as the fee allocation from BPJS health has run out.

CONCLUSION: Thus, it is concluded that there is adequate legal protection for BPJS health patients who are hospitalized both as consumers and as BPJS health participants. However, there are still issues with its application. The participants who feel harmed by the treatment may file a lawsuit on consumer protection concerning the inadequate services or a lawsuit on malpractice if there are violations.

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Introduction

Health development aims to increase people's health rate. It is part of Indonesia's national development [1], as stated in the Article 28 letter (h) of the 1945 Constitution, that everyone has the right to obtain health services. Furthermore, the Amendment of the 1945 Constitution Article 34 clause (2) states that "The state develops a social security system for all Indonesians." The social security system is followed up with Law No. 40 of 2004, which proves that the government has a great commitment to achieving social welfare for all citizens [2].

The social security system is run by the Social Security Administrator for Health (*Badan Penyelenggara Jaminan Sosial Kesehatan*/BPJS Health) based on Law No. 24 of 2011 Article 5. It aims to protect all citizens with affordable premiums and extensive coverage. The aim of health is to increase the awareness, interest, and ability to live healthily as an investment for the sociological and economic development of productive human resources [3].

Patient satisfaction is a crucial element in evaluating service quality. It is required to assess

health services to further develop them [4], [5]. Service quality may be perceived from the harmony between the parameters of the health facility qualities and the legal protection of consumers.

This study analyzes the legal protection for BPJS health participants who are hospital inpatients. BPJS health patients are protected by the law, but there are still weaknesses in its implementation. This causes conflicts between the patients and the hospital [6]. Due to this conflict, there must be a restatement on the rights and obligations of BPJS health participants of the health services in hospitals. This study also discusses their rights and obligations that are yet unfulfilled while becoming inpatients in hospitals. Based on the background above, the writers will analyze the legal protection of BPJS health participants by using their rights to obtain satisfactory services in hospitals.

Methods

Rahayu [7] stated that research is, "A systematic thought on various problems whose resolutions require

the collection and the interpretation of facts.” Then, Arikunto stated that the research method is “A method used by researchers to collect research data [8].”

This research uses the juridical doctrinal or normative method. This is descriptive research with a qualitative approach [9]. According to Locke, Spirduso, and Silverman in Creswell, “Qualitative research is interpretative research. Thus, bias, values, and assessment of the researcher are strictly stated in the research report. Such openness is deemed to be beneficial and positive [10].”

This research mainly sees how far the protection is for BPJS patients who are also hospital or health facility consumers. This study analyzes the available data and findings to assess its level of legal protection.

Results

Patient satisfaction depends on the quality of service. As hospital consumers, patients require quality services that do not only regard physical treatment against diseases but also their satisfaction with the attitudes that they receive and the available facilities [11]. Service is all of the employees’ efforts to fulfill the desires of the consumers. In hospitals, patients are an indicator of service quality, as their satisfaction allows the hospitals to gain more patients [12].

In Indonesia, many cases bring loss to BPJS patients. For instance, many private-owned hospitals refrain from cooperating with BPJS health as the low tariff prevents them from receiving profits [13]. Some BPJS health participants sense that they do not obtain maximum services from the hospitals [14].

Everyone has the right to adequate health services. All individuals, including BPJS Health participants, have the right to obtain good health services according to the stipulations. BPJS health services include promotive, preventive, curative, and rehabilitative services, including medicine. In running the national health security program, BPJS health needs to pay attention to some things. For example, there must be quality and adequate health facilities [15]. The BPJS health participants must also obtain their rights, considering that patient satisfaction is a barometer of the quality of a hospital’s services. They are subjects that have a great influence on the end result of services, instead of mere objects [16].

Article 32 of Law No. 44 of 2009 on Hospitals states that the patients’ rights in hospitals are guaranteed. Thus, as receivers of health services, patients expect the following things:

- a. Good communication and understanding of the patients’ needs

- b. Immediate and satisfactory administration of services
- c. Treating patients without discrimination over ethnicity, religion, race, and groups
- d. Guaranteeing of safety, security, and comfort [17].

As patients, BPJS health participants’ rights are legally protected by Law No. 36 of 2009 on Health and Law No. 44 of 2009 on Hospitals. Unfortunately, some participants often experience problems when they require hospitalization. For instance, there is usually a lack of information on the provision of treatment rooms and the lack of information from the hospital to the participants or the family [18].

Thus, there needs to be a policy that obliges hospitals that cooperate with BPJS health to provide an information media facility that provides information on the availability of inpatient rooms and treatment fees. This is according to Law No. 24 of 2011 Article 13 clause 13 (E) and (F) on BPJS health that provides information on the rights and obligations of participants as well as service procedures [19].

Law No. 36 of 2009 Article 53 on Health states that individual health services are aimed to heal diseases and recover people’s health. Then, Article 54 of this law stipulates that the health services must be implemented with responsibility, safety, quality, and non-discrimination [20]. The central and regional governments, as well as society, have the role to monitor the establishment of the health services.

Consumers are the end-users of goods and/or services. Their rights are protected by the law. As consumers, BPJS participants have rights and responsibilities. Consumer rights according to Law No. 8 of 1999 Article 4 are as follows [21]:

- a. The right for comfort, safety, and security in consuming goods and/or services
- b. The right to choose or to obtain goods and/or services according to the exchange value and the promised condition and guarantee
- c. The right to correct, clear, and honest information on the condition and guarantee of the goods and/or services
- d. The right to have their opinions or complaints heard on the goods and/or services consumed
- e. The right to obtain proper advocacy, protection, and efforts to resolve consumer protection disputes
- f. The right to obtain consumer training and education
- g. The right to be treated honestly without discrimination
- h. The right to obtain compensation if the goods and/or services obtained are not according to the deal.

Meanwhile, BPJS health participants have the rights:

- a. To obtain identification cards as participants to obtain health services
- b. To obtain benefits and information on rights and responsibilities as well as health service procedures according to the applicable stipulations
- c. To obtain health services in health facilities that cooperate with BPJS health
- d. To express written and oral complaints, criticisms, and suggestions to BPJS health.

An important factor to see how far legal protection is applied in hospitals is the fulfillment of patients' rights, including their right to information. Patients have the right to obtain information from doctors concerning their health [22]. This right is often violated by hospitals, for instance regarding the capacity of the treatment rooms. Considering the capitation of the INA CBG's (Indonesia Case Base Groups, that is, the Indonesian health security payment system) of Class III patients, hospitals often state that the rooms are full for the Class III patients, as they prefer to provide it to general patients who pay more than BPJS health patients. This is a violation of rights, as the BPJS participants experience discrimination and they do not obtain their right to information.

Based on the research, many BPJS health patients who are hospitalized do not obtain their rights for proper health treatment in hospitals, though they have fulfilled their obligations as stipulated by BPJS health or the hospitals. Many of them felt harmed in the health service processes. For example, there is lateness in receiving treatments. They do not obtain adequate information on their health. Thus, they felt harm that may be prevented if the hospitals undergo their obligations to the patients [23].

Another issue is that the BPJS patients often only obtain a 3-day hospitalization facility as stipulated in the INA CBGs on the BPJS health capitation. In the stipulation, it is stated that the treatment is allocated for 3 days. After 3–4 days, the hospitals send patients home, even though their conditions are still unwell. This is because the fee allocation from BPJS health has run out. However, the hospitals state that patients are already well and that they may go home. The patients who do not understand the healing process will happily return home as they think they are healthy enough, though this situation highly endangers them [24].

Patients from BPJS health often obtain low-quality medicine, foods, or service facilities. These facilities are still according to the standard but are below the standard of general patients. Thus, they require more time to heal.

In medical treatments, the legal relations that occur are based on the agreement that aims to undergo treatments and medication for the patients' health. The health service efforts in hospitals depart from the basic

relationship in the form of therapeutic transactions. The therapeutic transactions bind the administrator of health services (in this case the hospitals) and the patients as service receivers in that therapeutic transaction agreement [25]. The hospitals in Indonesia comply with the therapeutic agreement procedures as it is a form of legal protection for hospitals and medical workers. Without it, if there are unwanted events, hospitals or medical workers may be legally in trouble. The binding between health service administrators and patients may be divided into two types of agreements as follows:

- a. Treatment agreement, where there is an agreement between hospitals and patients that the hospital provides treatment rooms and treatment personnel to heal the patient
- b. A medical service agreement, where there is an agreement between hospitals and patients that the medical workers in the hospital will make maximum efforts to heal the patient through medical treatment [26].

BPJS health carries out some efforts to support the service of their participants due to issues in the hospitals or the BPJS health. The first effort is to place BPJS health officers in hospitals that are cooperating with BPJS health. BPJS health participants may file a complaint on unsatisfactory health services that they obtain from these officers. BPJS health has made an innovation to resolve issues on the lack of information on the health facilities, by making a dashboard on the transparent information of room availability. This is so that the BPJS patients may directly obtain information concerning that health facility [27].

BPJS participants may undergo some legal efforts to claim the losses, they experienced from the maltreatment of the hospitals. They may undergo mediation (non-litigation method) or file a lawsuit through the court (litigation method). The mediation legal effort (non-litigation) is stipulated in Article 29 of the Law No. 36 of 2009 on Health. The resolution of complaints or disputes through the mediation method must first of all be carried out according to the stipulations of Article 29 of Law No. 36 of 2009 on Health. This law states that in the case where medical workers are suspected to be negligent in undergoing their profession, this negligence must first of all be resolved through mediation. Then, Article 30 B clause (1) of the Law No. 24 of 2011 on BPJS states that health facilities and BPJS health must formulate a complaint management mechanism from participants or society. It must emphasize the principle of quick and complete resolution [28]. This effort is supported by the law, as patients are consumers of hospital services. Patients have the right to file a lawsuit against the hospitals or the BPJS if they find services that are not according to the health standard.

Discussion

In their relationship with BPJS health, hospitals are in a weak position. This is because, in the issue of capitation, the hospitals only receive the INA CBGs. As a result, they undergo “innovations” that are not according to the health service principles, such as rejecting patients with the excuse that the treatment rooms are full. The real reasons are that there is a cross-subsidy of funds with general patients (the profits from the general patients are allocated to the BPJS patients). Or, it is to shorten the treatment period as the capitation of the patients has run out. It is carried out by making the excuse that the patients are healthy enough, or by lowering the standard of their medicine, tools, and food for the BPJS patients [29].

Without such innovations, hospitals and health facilities are threatened with bankruptcy as the capitation allocated by BPJS is not enough. The BPJS participants who are patients (consumers) who are not satisfied with the hospital's health facilities often express their anger through social media or by writing to mass media. Not many of them file lawsuits. This is because filing a lawsuit on consumer protection is expensive and complicated. Moreover, the BPJS participants who experience these problems are Class III BPJS patients, as the Class I and Class II patients may get an upgrade with their extra fees [30].

Conclusion

Based on the research results above, it is concluded that there is adequate legal protection for BPJS health patients who are hospitalized both as consumers and as BPJS health participants. However, there are still issues with its application. For example, there is a lack of information from hospitals and innovations violate the health treatment principles for the BPJS health participants. The participants who feel harmed by the treatment may file a lawsuit on consumer protection concerning the inadequate services or a lawsuit on malpractice if there are violations. Meanwhile, BPJS needs to review the INA CBGs as its capitation fees are lower than the real health service operational fees. Such a condition brings loss to the hospitals. Some of the law-violating innovations happened due to the lower-than-standard capitation fees.

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