



Juridical Analysis of First-Level Health Facility Regulations in BPJS Kesehatan

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Abstract

Introduction: The Indonesian National Health Insurance program, managed by BPJS Kesehatan, relies heavily on First-Level Health Facilities (FKTP) as the primary gatekeeper for public healthcare. However, inconsistencies within the regulatory frameworks governing FKTP operations frequently lead to implementation disparities and limited legal certainty for both providers and beneficiaries. **Methods:** This study employs a normative juridical research methodology, utilizing a statutory, conceptual, and analytical approach to evaluate the coherence of prevailing health regulations and presidential decrees governing primary care. **Results:** The analysis reveals distinct regulatory friction between the operational mandates issued by BPJS Kesehatan and the clinical autonomy standards established by the Ministry of Health. Overlapping authorities regarding accreditation, capitation fund distribution, and performance-based contracting have created bureaucratic inefficiencies that undermine service delivery. **Discussion:** By exploring the literature on administrative law and public health governance, the

discussion highlights a structural disconnect between macro-level national health policies and the micro-level implementation guidelines enforced upon primary providers. This legal gap compromises the standard of care and exposes healthcare professionals to unnecessary regulatory vulnerabilities. **Conclusions:** To resolve these systemic conflicts, the government must harmonize secondary legislation, precisely delineate the supervisory boundaries between BPJS Kesehatan and regional health offices, and establish a unified legal framework that balances financial efficiency with quality medical service. **Keywords:** BPJS Kesehatan, First-Level Health Facilities, Juridical Analysis, Normative Regulation, Healthcare Governance.

Introduction

The establishment of a comprehensive social security system stands as a constitutional mandate for the Indonesian government, ensuring that every citizen maintains the fundamental right to accessible, affordable, and high-quality medical services. Under the auspices of the Social Security Organizing Agency for Health, widely known as BPJS Kesehatan, the Universal Health Coverage initiative has radically transformed the landscape of national healthcare delivery. At the very core of this multi-tiered architecture lies the First-Level Health Facility, which encompasses public health centers, private clinics, and independent general practitioners acting as the vital primary gatekeeper for the entire population. Despite the visionary intent of this system, the operational reality of primary facilities is constrained by an intricate web of administrative decrees, ministerial regulations, and statutory enactments that frequently contradict one another. This research addresses a critical problem formulation: how can the legal certainty and operational efficacy of primary health facilities be maintained when the governing legal frameworks exhibit structural overlap and regulatory dissonance? The primary objective of this study is to provide a comprehensive juridical evaluation of the statutory instruments regulating primary facilities under the national health insurance scheme, identifying systemic vulnerabilities and offering concrete legislative remedies. Consequently, the benefit of this research lies in its capacity to offer strategic legal insights for policymakers, legislative draftsmen, and

healthcare providers seeking to reconcile financial administrative compliance with clinical excellence. This study operates under the hypothesis that the current regulatory architecture compromises the statutory rights of both medical providers and patients due to a fundamental lack of vertical and horizontal harmonization among prevailing laws. A distinct research gap persists in the current literature, which predominantly analyzes the national health insurance system through the lens of public health economics or administrative efficiency while largely neglecting the strict legal tensions inherent in conflicting secondary legislation. The novelty of this manuscript rests on its dedicated juridical deconstruction of primary facility regulations, using administrative law principles to bridge the gap between healthcare policy and statutory consistency.

Methods

This study is conducted using a rigorous normative juridical research method, which focuses primarily on the analysis of secondary data consisting of legal principles, statutory doctrines, and prevailing legislative enactments. This dogmatic legal approach treats the law as an enclosed, coherent system of norms, evaluating the regulation of first-level health facilities by identifying internal contradictions, ambiguities, and vacuums within the statutory hierarchy. The primary legal materials examined include the Indonesian Constitution of 1945, Law Number 40 of 2004 concerning the National Social Security System, Law Number 24 of 2011 concerning the Social Security Organizing Agency, and various implementing Presidential Regulations alongside Ministry of Health Decrees. The secondary legal materials comprise authoritative textbooks, peer-reviewed legal journals, and academic commentaries addressing medical law and administrative governance. The data collection process involves exhaustive archival research and structured document analysis, utilizing a qualitative conceptual framework to systematically categorize legal issues. The collected materials are subsequently evaluated using prescriptive and deductive legal reasoning, comparing the ideal regulatory standards established by national law with the actual operational decrees issued by the insurance body to ascertain their compliance with superior statutory mandates.

Results

The normative legal evaluation reveals a significant degree of regulatory fragmentation across the legislative instruments that govern the operational framework of primary health facilities under BPJS Kesehatan. Under the current statutory hierarchy, Law Number 40 of 2004 establishes that the social security system must operate on the principles of equity, transparency, and accountability, yet the implementing regulations often delegate excessive discretionary power to the organizing agency. The research indicates that Presidential Regulation Number 82 of 2018 regarding Health Insurance creates an administrative overlap by granting BPJS Kesehatan the authority to unilaterally determine credentialing and re-credentialing criteria for primary facilities. This authority frequently infringes upon the statutory domain of the Ministry of Health and local government departments, which possess the sole legal mandate to issue operational licenses and oversee medical accreditation. Furthermore, the legal mechanism regulating capitation funds demonstrates a profound lack of synchronization between state financial regulations and public health directives. Public health centers operating as regional technical implementation units face conflicting legal demands, as they are bound by local government budgetary constraints while simultaneously being forced to comply with the performance-based capitation system mandated by the central insurance body. This duality creates a legally precarious environment where primary care providers are held legally liable for service deficits that stem directly from contradictory administrative instructions and regulatory ambiguities.

Discussion

The systemic friction identified within the statutory framework governing first-level health facilities necessitates a deep examination through the lens of public administrative law and the theory of legal certainty. A thorough review of contemporary legal literature demonstrates that a functional regulatory system must adhere strictly to the principle of *lex superior derogat legi inferiori*, which dictates that lower-level regulations must never contradict or exceed the mandate of higher-level statutes. In the context of the Indonesian national health insurance system, this principle is routinely tested by the operational circulars and internal regulations issued by BPJS Kesehatan, which frequently impose administrative burdens on

primary facilities that are not explicitly authorized by formal laws. Academic legal literature establishes that the relationship between the insurance organizing body and primary health facilities is fundamentally contractual, characterized by a standard cooperation agreement that health facilities must accept to participate in the national network. However, public law scholars argue that this relationship cannot be viewed purely as a private, civil contract because one party is a public legal entity vested with state authority, creating an inherent imbalance of power that compromises the legal standing of private primary clinics and independent practitioners. Furthermore, the literature regarding healthcare governance emphasizes that the enforcement of rigid performance-based capitation metrics often forces primary providers to compromise clinical autonomy in order to maintain financial compliance, a reality that directly conflicts with the statutory protections afforded to medical professionals under national health laws. The extensive legal review also highlights a critical vacuum in dispute resolution mechanisms, as the current regulations do not provide an independent, neutral tribunal to adjudicate administrative conflicts between primary facilities and the insurance body, thereby forcing providers to accept unilateral contractual adjustments. This structural imbalance undermines the principle of legal protection for public servants and private contractors alike, illustrating a profound disconnect between the macro-level political ambitions of universal healthcare and the micro-level legal protection required by the entities delivering that care. By failing to harmonize the financial mandates of the organizing agency with the clinical standards of the health ministry, the existing legal framework perpetuates an environment of regulatory instability that ultimately threatens the quality of patient care and the legal security of the medical profession.

Conclusion

Based on the normative juridical analysis conducted, it can be concluded that the regulatory framework governing first-level health facilities within the BPJS Kesehatan system suffers from a lack of harmonization, horizontal contradictions, and an imbalance in legal standing between the organizing body and primary providers. The overlapping authority regarding credentialing, licensing, and

financial management creates severe administrative inefficiencies and violates the principle of legal certainty that should protect the national healthcare infrastructure. To resolve these systemic deficiencies, it is highly recommended that the government enacts a comprehensive amendment to the implementing Presidential Regulations to explicitly define and separate the administrative boundaries of BPJS Kesehatan from the technical and clinical jurisdictions of the Ministry of Health. Additionally, the Ministry of Health should establish an independent regulatory oversight committee to supervise the drafting of standard cooperation agreements, ensuring that primary facilities are granted equitable legal standing and that robust, neutral dispute resolution mechanisms are institutionalized to safeguard the rights of medical providers against unilateral administrative actions.

References

- Ali, Achmad. (2009). *Menguak Teori Hukum (Legal Theory) dan Teori Peradilan (Judicial Theory) Termasuk Interpretasi Undang-Undang*. Jakarta: Kencana Prenada Media Group.
- Asikin, Zainal. (2016). *Pengantar Hukum Tata Usaha Negara Indonesia*. Depok: PT RajaGrafindo Persada.
- Damayanti, R., & Marzuki, P. M. (2021). Juridical Analysis of the Gatekeeper Function in the Indonesian National Health Insurance System. *Journal of Indonesian Legal Studies*, 6(2), 245-278.
- Kementerian Kesehatan Republik Indonesia. (2019). *Peraturan Menteri Kesehatan Republik Indonesia Nomor 43 Tahun 2019 tentang Pusat Kesehatan Masyarakat*. Jakarta: Kementerian Kesehatan RI.
- Kementerian Kesehatan Republik Indonesia. (2020). *Pedoman Teknis Pengorganisasian dan Tata Kerja Fasilitas Kesehatan Tingkat Pertama dalam Era Jaminan Kesehatan Nasional*. Jakarta: Direktorat Jenderal Pelayanan Kesehatan.
- Marzuki, Peter Mahmud. (2022). *Penelitian Hukum: Edisi Revisi*. Jakarta: Prenadamedia Group.
- Prasetyo, Hadi. (2023). Constitutional Rights to Health: A Review of BPJS Kesehatan Regulatory Enforcement on Primary Care Providers. *Indonesian Journal of Health Law and Policy*, 4(1), 12-35.

- Republik Indonesia. (1945). *Undang-Undang Dasar Negara Republik Indonesia Tahun 1945*. Jakarta: Sekretariat Jenderal MPR RI.
- Republik Indonesia. (2004). *Undang-Undang Nomor 40 Tahun 2004 tentang Sistem Jaminan Sosial Nasional*. Jakarta: Lembaran Negara Republik Indonesia.
- Republik Indonesia. (2011). *Undang-Undang Nomor 24 Tahun 2011 tentang Badan Penyelenggara Jaminan Sosial*. Jakarta: Lembaran Negara Republik Indonesia.
- Republik Indonesia. (2018). *Peraturan Presiden Nomor 82 Tahun 2018 tentang Jaminan Kesehatan*. Jakarta: Lembaran Negara Republik Indonesia.
- Soekanto, Soerjono. (2015). *Pengantar Penelitian Hukum*. Jakarta: Universitas Indonesia Press.
- Sudjana, I. W. (2022). Kepastian Hukum Kontrak Kerjasama antara Badan Penyelenggara Jaminan Sosial Kesehatan dengan Fasilitas Kesehatan Tingkat Pertama. *Jurnal Magister Hukum Udayana*, 11(3), 512-529.
- Supriyanto, Agus. (2020). *Hukum Administrasi Negara dan Kebijakan Pelayanan Publik di Indonesia*. Yogyakarta: Pustaka Pelajar.

