

# **Disharmonization of the Implementation of Specific Organizational Units at Regional General Hospitals with Regional Public Service Agency Hospital Management**

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## **ABSTRACT**

The implementation of the Special Organizational Unit (UOBK) is still not in accordance with the governance of the BLUD system, reinventing government, the principles of simplification of the bureaucracy, and good government. Based on the authority theory, the UOBK RSUD director must be responsible for, and coordinate with the Kadinkes for all implementation, services, finances, or staffing, this is done because the Kadinkes is the direct supervisor or SKP who is responsible to the Regent. In addition, the director is a budget user power (KPA) who is given some authority by the Kadinkes as the budget user (PA). From the point of view of State Administrative Law and BLUD, Article 1 of Law No.1/2004 concerning the State Treasury and Government Regulation (PP) No. 23 of 2005 and the revision of the Hospital Law No. 44 of 2009 has been implemented by the hospital, namely that it must become a BLU so that it can make the hospital professional, transparent, accountable and implement entrepreneurship in public services. In terms of good governance, operational guidelines must be formed so that the implementation of Article 3 of Law Number 25 of 2009 concerning public services is the realization of clear boundaries and relationships regarding the rights, responsibilities, obligations, and authorities of all parties related to the provision of public services at UOBK BLUD RSUD must go according to the General Asan Principles of Good Governance. For this reason, it is necessary to implement a whole government between the Ministry of State Civil Apparatus Empowerment and Bureaucratic Reform, the Ministry of Home Affairs, the Ministry of Health, and the State Civil Service Agency as the leading sector in the Bureaucratic Trimming Policy in PP 72 of 2019.

**Keywords:** UOBK, Hospital, BLUD, Bureaucratic Reform, PermenPANRB

## **1. INTRODUCTION**

The issuance of Government Regulation (PP) Number 72 of 2019 concerning Amendments to Government Regulation Number 18 of 2016 concerning Regional Apparatuses mandates regional general hospital institutions (RSUD) to become special organizational units (UOBK). These changes certainly bring many changes and consequences in the implementation of government, especially in the field of health services in Indonesia. (Gusnally, 2022)

The fundamental difference between the hospital as a UOBK and the current institution lies in the institutional function. Autonomous RSUD institutions start with financial management, goods and services, and staffing. The position of director has full authority in managing it, but in his accountability must report to the Head of the Health Service (Kadinkes). (Peraturan Bupati Sidoarjo Nomor 40 Tahun 2022, 2022) In contrast to the old management, RSUD is a technical



implementation unit (UPT) of the Health Service (Dinkes) where the planning, implementation, and accountability of programs are under the control of the Dinkes.

The director's position in accordance with PP Number 18 of 2016 concerning Regional Apparatuses is as a functional official who is given additional duties as a director, (Anitasari, 2017) while PP Number 72 of 2019, mandates the hospital director as a structural official with echelonization for the Director of type B RSU and type A Special Hospital is echelon II B. By looking at this, the group of directors and Kadinkes can be the same or even above it.

The position of the Regional General Hospital (RSUD) was previously a Regional Work Unit (SKPD) while in Permendagri Number 79 of 2018 concerning Regional Public Service Agencies (BLUD), it is stated that BLUD is a system implemented by UPT regional offices/agencies that provide services to the community and has flexibility in the pattern of financial management as an exception to regional management provisions in general. So from the definition of BLUD as a technical implementation unit of the service/agency that causes a conflict of norms regarding the status of RSUD as SKPD or UOBK. (Nuryanawati, 2019)

The issuance of Government Regulation (PP) Number 72 of 2019 concerning Amendments to Hospital Regulations must have flexibility in carrying out BLUD governance in the form of flexibility in carrying out financial governance and several other aspects such as planning so that public services related to the health of the Indonesian people can be fulfilled properly, (Juliani, 2018) this can be seen in the provisions of Article 1 Number 2 Government Regulation Number 23 of 2005 concerning BLU Financial Management as a Public Service Agency Financial Management Pattern (PPK-BLU), as follows: (Tresna et al., 2023)

"The Public Service Agency Financial Management Pattern, called PPK-BLU, is a financial management pattern that provides flexibility in the form of discretion to apply sound business practices to improve services to the community in order to promote the general welfare and educate the nation's life, as stipulated in Government Regulations this, as an exception and provision for the management of state finances in general."

These provisions can be implemented if the hospital is in the form of an SKPD where the director of the hospital is the PA who has full authority over the running of the hospital, whereas in the form of UOBK this of course cannot be achieved optimally.

The main problem after the publication of PP 72 of 2019 is that, even though the RSUD has the freedom in managing money, goods, equipment, and employees through the authority of the leadership of the RSUD, this authority is limited. The authority of the BLUD Director of the



RSUD is currently only a Budget User Authority (KPA) who must be responsible to the Kadinkes who is a Budget User (PA).

The Director of UOBK RSUD must consolidate in preparing BLUD financial management because in financial management there is only PA that has the full authority or KPA with authority which must be in line with PA or Kadinkes delegation. Therefore, hospital UOBK institutions can be said to be semi-autonomous starting from financial management, goods and services, staffing and in the implementation of services in the field, hospitals cannot make decisions quickly and make budget priorities for services in their own institutions.

Hospital UOBK has limitations, where the director to determine the Budget Implementation Entry List (DIPA) must seek approval from the Head of Health Office, so that the goal of budgeting flexibility in line with Permendagri Number 79 of 2018, will not run optimally. These limitations indicate that there is disharmony between PP 72 of 2019 and the Permendagri regarding BLUDs.

The RSUD UOBK also still has echelonization in its structure starting from the position of director to echelon IV in the position of section head or sub-section head. Echelonization is also not in line with the goals of the government through PermenPAN RB number 7 of 2022 which wants to streamline the bureaucracy, where structural positions want to be trimmed in such a way and converted into functional positions for streamlining and effectiveness of the bureaucracy in government circles. If you look at this, there is a norm conflict between the goals of echelonization and PermenPANRB which wants to streamline and simplify the organization. With this echelonization, allowances will appear such as additional income improvements (TPP), performance allowances (Tukin), and others which cause an additional budget burden on the APBD in terms of payroll. In addition, the BLUD's performance will not be maximized because the bureaucratic process has many levels so services requiring correspondence coordination activities will take longer to process.

In line with the discussion above, in this article we would like to examine how "disharmonization of the Implementation of Special Organizational Units at Regional General Hospitals with Regional Public Service Agency Hospital Management", so it is hoped that with this research a solution can be found so that Hospital health services in the community can run optimally and effectively and in accordance with applicable laws.

## **2. RESEARCH METHOD**



The design used in this paper is normative juridical by discussing principles in law and seeking solutions to disharmony in the implementation of UOBK RSUD with BLUD governance and simplification of bureaucracy. This study examines in writing and systematically the legal standards contained in certain laws and regulations. This study examines systematically the legal standards contained in laws and regulations and judges' decisions on the questions examined to be answered. (Mertokusumo, 2007).

This design research will discuss problems with legal principles, norms, and laws (statute approach), identify subjects, rights and obligations, events, and relationships between subjects and legal objects (conceptual approach) which examines the issue of "disharmonization of the Implementation of Specific Organizational Units Regional General Hospital with Regional Public Service Agency Hospital Management. (Marzuki, 2005)

### **3. RESULTS AND DISCUSSION**

#### **Disharmonization Analysis of The Implementation of Uobk With Governance of The Blud of Hospital Based On The Theory of Authority**

As UOBK, several models of legal responsibility will emerge, where the director will be responsible for all legal issues within the scope of the Hospital.

##### **1. Corporate / Vicarious Liability**

UOBK RSUD is responsible for crimes committed by employees, regardless of the person's position or standing in society because everything that employees do is the policy of the RSUD. The difference is that in this case, the Director of UOBK RSUD is an extension of the Kadinkes so, if there is a criminal case then Kadinkes is also responsible for the crime.

Wetboek van strafrecht recognizes RSUD as a subject of general criminal law (commune strafrecht) and determines who is responsible for crimes committed by RSUD. Hospital Criminal Responsibility for Medical Malpractice in Hospitals states that malpractice in hospitals can be charged with the Pradok Law by positioning hospitals as perpetrators. Here we can see that with a position at UOBK, there will be Kadinke's involvement in criminal matters at UOBK RS.

##### **2. Direct Liability (doctrine of identification)**

Criminal acts are caused because the perpetrator is in a very high position where his thoughts and words are considered according to the company, therefore, those with the highest status are responsible. In this UOBK case, the Kadinkes and the UOBK director must be responsible if a criminal or civil act occurs at the UOBK RSUD. If we look at PP 72 of 2019, the Kadinkes have a bigger responsibility.



### **3. Aggregation Model**

Corporate responsibility is based on the aggregation of the "state of mind" or "culpability" of each individual representing the corporation (representatives). In this responsibility model, we will see the aggregation of culpability carried out by the director of the UOBK RSUD compared to the Kadinkes.

### **4. Organizational/corporate culture model, which is divided into:**

- a) corporate policies, namely policies that allow criminal acts to occur because the hospital company itself commits criminal acts;
- b) Corporate culture, namely responsibility, is determined by the corporate culture of the hospital;
- c) Failure to prevent, ie RSUD does not prevent access or use; and
- d) Reactive corporation, namely the responsibility is in the hands of the hospital company because it is deemed to have failed to violate the actus reus.

In theory, criminal acts and corporate responsibility are divided into two parts, namely:

derivative liabilities and the company's fault or fault. In derivative or secondary responsibility, UOBK RSUD is very responsible for the actions of a person or UOBK RSUD employee so corporate responsibility is a derivative of personal responsibility (Kadinkes and director of UOBK RS). In this case, the RSUD will be responsible for the mistakes or crimes it commits itself due to the mistakes or mistakes of the RSUD.

### **Analysis of Disharmonization of UOBK Implementation with Hospital BLUD Governance Based on Responsibility Theory**

UOBK RSUD is legally responsible for losses caused by the negligence of hospital medical staff (UU No. 44/20 Article 46). According to Section 15 of the economic crime Act, the following can be held liable for white-collar crimes committed by firms or corporations:

- 1. Person or legal entity
- 2. The giver of the order or the leader of the crime
- 3. Legal entities or persons and persons ordering or acting as criminal instigators.

From the description above, all incidents of corporate criminal acts at the RSUD UOBK will bring the director responsible for what happened to the RSUD UOBK corporation. The Kadinkes, in this case as the supervisor of the UOBK RSUD director, can also be held accountable for what the UOBK corporation at the RSUD has done.

### **Analysis of Disharmonization of UOBK Implementation with Hospital BLUD Governance Based on Hospital as Corporation Theory**

The Health Service Section is the structure responsible for supervising the UOBK RSUD in accordance with Government Regulation No. 41 of 2007 concerning Regional Apparatus Organizations Articles 34-35. The Head of Division at the Service serves as echelon IIIb, while the lowest echelon Director of a Hospital is III a, depending on the class of the Hospital. The lower echelons have difficulty supervising the higher echelons. Therefore, the oversight function at the UOBK RSUD will be difficult to carry out, especially the organizational complexity of the UOBK RSUD compared to the Puskesmas and the Health Office itself.

RSUD is reluctant to coordinate with the Health Office because the revenue from the APBD is smaller than the revenue from services. This further magnifies the difficulty in coordination. With the BLUD, APBD support will be reduced so that the UOBK RSUD is independent in carrying out its service activities. If the APBD is further reduced there will be a loophole for the RSUD UOBK to be reluctant to report its activities to the Health Office.

However, if the UOBK RSUD is under the Health Service, coordination between the two parties will always be established. The supervisory task will run well because the hospital director will be responsible to the Head of the Health Service.

By analogy, the Ministry of Health can become the highest regulatory body for type A hospitals, so Provincial and District Health Offices will have more control over hospitals in their areas so that there are no two suns or three suns of health in an area. However, the position of the Ministry of Health as the highest regulator of Type A Hospitals will make the position of the Regional Health Service which owns this type of Hospital lose a little influence in carrying out supervision because UOBK RSUDs feel that the highest regulator is the Ministry of Health.

The Health Office and RSUD have different institutional polar positions where the Health Office is more towards bureaucracy while the UOBK RSUD is towards business entities. Law No. 44 of 2009 concerning Hospitals made the Health Office a regulator in the course of the health service bureaucracy, namely assisting the Regional Government to issue hospital operational permits. Therefore, if an RSUD becomes the parent of UOBK, it will cause jealousy for private hospitals because it is considered that the Health Office has issued a permit for itself (regulator and concurrent implementer).

The Health Office is not the Ministry of Health in the region. The BLU in Vertical Hospitals is determined by the Ministry of Health, while the BLUDs for RSUDs are determined by the district head in the Regency or the Mayor in the City Government, not by the respective Health Office. All packages of Law on regional financial management state that planning through monitoring and evaluation as well as reporting from SKPD (including RSUD) must be provided



and consolidated with planning reporting from the bupati or mayor (regional head) so that there is an out-of-synch when the RSUD is under the Health Office.

The Kadinkes are PA and the Director of the Hospital becomes KPA when it becomes UOBK so that the Health Office in the future will also think about the micro-management of the Hospital, and if fraud occurs in the hospital, the Kadinkes will also be responsible. In addition, the promotive and preventive service missions that must be carried out by the health office will be burdened with curative efforts in hospitals.

### **UOBK RS analysis in terms of bureaucratic simplification and service effectiveness Based on BLUD Theory**

UOBK RSUD in terms of bureaucratic simplification and service effectiveness based on the BLUD theory, will have a new pattern in staffing management because administratively a new echelonization of positions will emerge, in contrast to the UPT Puskesmas which has implemented bureaucratic simplification. The Head of UPT Puskesmas has become a Functional Officer with additional duties. This staffing change will change the salary calculation process and the granting of authority and accountability models. The process of recruiting employees in the UOBK will certainly have procedural changes because several policies have emerged from the KemenPANRB such as the recognition of ASN employees who are only composed by PNS and PPPK.

Government agencies that turn into BLUDs have managerial changes such as governance, professionalism, accountability systems, transparency, and service systems.(Novianti, 2023) The UPT is a unit tasked with carrying out some of the operational technical aspects of the Service in the community led by the UPT leadership who is responsible to the Head of the Service, while the SKPD is a Government Tool in the Regency, City, or Province which acts as executor of executive functions to run the wheels of government and is directly responsible to Regional Head in accordance with article 120 of Law no. 32 of 2004 concerning Regional Government.(Putra, 2013)

BLUDs can be divided into 3 service groups, firstly providers of goods and services such as hospitals, secondly BLUDs managing areas or areas including integrated regional and economic development authorities and third BLUDs managing special funds. Based on article 56 of Permendagri number 61 of 2007 BLUDs have a focus on the type of service, measurable service and clear achievement targets, relevant and reliable, and timely. (Syahril., 2013)

There are differences in implementation and some authorities when BLUDs are run by government units in the form of SKPD with government units in the form of UPT and most recently the form of UOBK which is regulated in PP 72 of 2019. If we look at Law number 1 of 2004 concerning the state treasury articles 68 and 69 state that all government agencies whose

function is to provide services can implement BLUD governance in order to be able to implement financial flexibility whose goal is excellent service to the community. (Sabardiman & Nurmaesah, 2020.)

**BLUDs in the form of SKPD, UPT, or UOBK are required to apply the BLUD principle in accordance with Article 3 PP no. 23 of 2005 as follows:**

1. Providing services with management based on delegation of authority and not legally separated from its parent. Here we can see that UOBK and UPT must still not leave the corridor of the Health Office as the parent, whereby on this principle the UOBK RSUD must coordinate with the head of the health office when carrying out all services in the hospital.
2. BLUD officials must be responsible to the main agency, namely the Kadinkes. From this, we can see that the UOBK RSUD is obliged to coordinate with elements in the Health Office in implementing the BLUD. In contrast to when the RSUD became SKPD and LTD. This technical regulation PP72/2019 needs to be clarified again.
3. BLUD is not for profit

The application of this principle, if we look at the provisions mandated by this PP principle, UOBK must also do what is done by the UPT Puskesmas in calculating rates based on unit cost calculations by proposing it first to the SKPD head according to his authority and then stipulating it with a regional head regulation (Perkada ) taking into account several things such as:

- a) service sustainability and development,
  - b) the financial capacity of the people in the area,
  - c) the principle of fairness and propriety and
  - d) healthy competition.
4. The budget work plan (RKA) and BLUD UOBK reports for RSUD and the Health Office are not separate. Seeing this fourth principle, the UOBK strategic plan and RBA should be merged with the existing reports at the health office so that all activities between the health office and the UPT can run and work in synergy. Apart from that, by merging the UOBK and UPT BLUD reports, it is hoped that there will be ongoing activities between all elements under the Health Office, which have so far been separated because the Hospital and Health Office are separate.

Even so, there are still things that will certainly hinder the development of the RSUD UOBK if implementing this principle because the Health Office will of course have a



heavy workload if the RKA must be one because the RSUD is a more complex organization compared to other UPT Health Offices such as the Puskesmas.

5. Management must be in accordance with sound business practices

By looking at some of the explanations above, it is necessary to evaluate some of the implementations of this UOBK. Placing the Health Office as the parent of UOBK actually has the advantage for the government in controlling the performance of the UOBK BLUD RSUD and creating a link between the UPT Puskesmas which runs the UKM and UKP programs and also implements the BLUD.

### **The UOBK RS analysis is viewed from the simplification of the bureaucracy and the effectiveness of services based on the theory of good governance**

Article 36 Law no. 44 of 2009 concerning Hospitals explains that in order to manage a good Hospital it must be transparent, accountable, responsible, independent, and impartial and apply the principles of fairness and decency in accordance with the principles of Good Governance.

The bureaucracy in Indonesia has always been convoluted so it hinders the process of serving the people in Indonesia, so the President asked for sufficient echeloning at two levels by maximizing increasing the competence of functional positions and rewarding their expertise. (Nalien, 2021) The simplification of the bureaucracy really needs to be done so that it does not hinder the professionalism of employees which is marked by the characteristics of plutocracy and consultocracy (Nurhestitunggal et al., 2020) so that our bureaucracy can be more dynamic and primed. (Fitrianingrum et al., 2022)

For this reason, it is necessary to think about implementing the Whole of Government between the Ministry of Health, BKN, Ministry of Home Affairs, and Ministry of Administrative and Bureaucratic Reform in the Bureaucratic Trimming Policy by conducting a review of PP 72 of 2019. So that it is hoped that technical guidelines or technical guidelines will be formed to simplify the organizational structure, positions, and work systems so that the system services at the hospital can run very quickly and well.

There are differences in the instructions of the Minister of Home Affairs and the Minister of PANRB regarding the equalization of positions, namely all Administrative Positions (echelon III and echelon IV) by the Minister of PANRB and only Supervisory Positions (echelon IV) in charge of Licensing, Investment, and Public Services by the Minister of Home Affairs. However, with the issuance of a letter from the Ministry of Home Affairs No.130/1970/OTDA dated March 26, 2021, local governments were asked to equalize all administrative positions with the exception of certain positions, and not all structural positions can be transferred to functional positions and the

availability of functional positions according to competency is still minimal. In addition, this position allowance will also burden the city district budgets in Indonesia.

#### 4. CONCLUSION

It is necessary to make a derivative legal product from PP 72 of 2019 so that there can be harmonization of the implementation of the RSUD UOBK with the implementation of the governance of the RSUD BLUD. It is necessary to make a legal product that regulates the implementation of the PermenPANRB through simplification of the bureaucracy so that the UOBK BLUD RSUD service becomes effective, Rearrangement of hospital organizations in the form of flats and echelons following PermenPANRB and still having good corporate and good clinical government values and steering and rowing cannot be one and Regulators and operators may not exist in one institution.

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