

The Law Protection of The Hospital In Cooperation With Health BPJS Contract

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ABSTRACT

Characteristic of the contract of cooperation between BPJS health with hospitals is the contract of public, so that the contents of the contract is what I instruct you tie these two sides. As long as the complexity of the hospital care make a rather complex and difficult negotiated by the hospital when the fine print. pre-contract and it is time for the Walk contract always of the nature of a monopoly parties BPJS health are more dominant. And household characteristics sick with another. And yet the reason uniformity contract the hospital across Indonesia the contents of an agreement at the same. It is pretty obvious that a lot of difference basic in the perspective of the project, human resources and different working capital. The principle of proportional meaningful his exchange that provide the basis or form the basis of the rights and obligations of the parties in accordance proportion or its part of the whole process of contractual arrangement. The principle of proportionality presupposes the division of the rights and obligations of manifested in the whole process of contractual arrangement, good at phase pre-contractual, the formation of a contract and the implementation of the contract (pre-contractual, contractual, post contractual. The principle of proportional transcendental the context of its relations and the interests of the parties (maintain the sustainability of the relations that take place conducive and fair). Legal protection for hospitals there are for example through a contract that has been signed with a signature that is be law enforcement for both sides.

Keywords : Law Protection, Hospital, BPJS Contract

1. INTRODUCTION

Pancasila as the basis for countries in the final communique of the fifth acknowledged the right of the fact that people health rights. It is also were written in art 28h and article 34 the 1945 constitution. In the act of number 36 2009 on health hereinafter referred to as health law in article 5 paragraph (1) and (2), affirmed that: 1. every person has the same right to obtain access to resources in health. (2) every individual has the right in obtaining health services that are safe, high-quality and affordable.

Awareness of the importance of social protection insurance continue to grow in accordance with fourth to changes in the constitution article 34 paragraph (2), namely the state develops mentioned that: social security system for all people of and the empowerment of the community that are weak and not capable of according my dignity humanity. With the incorporation of the social security system in the change of the 1945 constitution, then the rising of the act of no. 40 year 2004 concerning national social security system (hereinafter called sistem jaminan sosial nasional sjsn) into a law a clear proof that the government and related stakeholders having a commitment while the fund for the welfare large social for its entire people (Rudianto & Roesli, 2019). Law sistem jaminan sosial nasional sjsn in article 3 says: national social security

system is aimed to ensure the to fulfill their decent basic living needs for every member and or their family.

Similar things are also stated in the regulation of health minister no. 28 year 2014 on guidelines for the implementation of the national health insurance. The implementation of the program national health insurance (jkn to provide of health protection in the form of the healthcare benefit in order to meet basic needs of health given to anyone who has paid the premium or tuition was payable by government.

Social security agency next abbreviated bpjs, their own health care in terms of working with third party which is the health facilities or later abbreviated faskes good primary in urban referral and the advanced level that is the hospital. Health facilities was to a hospital or shortened faskes, in the process of cooperation with bpjs health have to have a written agreement.

So far the draft agreement between bpjs health to the hospital extended every January 1st in every year. A draft agreement of formerly in have discussed through association of health institutes after that this needs to be socialized to health institutes. Health facilities studies draft the contract agreement between new sign them. But the said agreement is not can make the change because it is already raw and found in all Indonesia. While each faskes sure have different characteristics in terms of human resources are, the facilities and infrastructure as as well as the environment who are not necessarily in quality and quantity of their services the same. Therefore, based on the contract of cooperation bpjs researchers in terms of health and hospitals should be being flexible or adjust the contents of the contract between the poor field with such an agreement. In this case by the hospitals were not able to have the flexibility to determine which services alone can be implemented in such an agreement.

Are now operating and more hospitals who cooperate with the health bpjs especially at a government hospital because the law are required by presidential regulation no 12 2013 article 36 indicated that the paragraph (2) and 3. the follows: (2) health facilities belonging to the government and regional governments who fulfill the criteria must cooperate with bpjs health. (3) belonging to private health facilities can be established that fulfills the requirements of cooperation with bpjs health. Private hospitals can work together with bpjs health but are not required to.

Implement this participation is compulsory for all people of Indonesia. So that the nature of a monopoly in health services, be an option nhi social insurance who makes the hospital in flocks to cooperate, if have not worked together for the patient to the possibility of reduced. Supposed to be cooperation between the two sides is fair and open so as to obtain justice. Hence researchers trying to review the contents of an agreement between parties the hospitals and bpjs health. The interaction between the people in daily life can not be separated from of a contract or treaty, be able to function because the contract is to protect the benefit of man for regulating the rights and

obligations of each party. The implementation of the contract came closely related to the good faith of the parties and with good faith this is what sometimes it gets a question when the contract was carried out. Let alone between institution medical services in terms of this is a hospital with the BPJS health as the insurer, of course many the thing it supposed to as set forth in a written agreement between the two sides.

The act of no. 1 24 years 2011 about health security agency the third part authority, Article the 11th letter e. in carrying out tasks, health BPJS are authorized to: e. make or stop a contract with health facilities;

2. RESEARCH METHODOLOGY

a. Type of Research

Type research in the writing of this is normative, juridical namely research that is focused to assess the application of existing norms or positive norms in law

b. Issues Approaching

According to Mahmud Marzuki, *legal research*, *rechtsonderzoek* is a scientific process to seek the breaking up of legal issues that comes up with the purpose of giving prescription about what administrators should give on an issue the legal.¹

An approach to a problem that is worn in this research is the approach and regulations (statute approach). The approach of legislation is the approach by the use of legislation and regulation. The product that is *beschikking* / decree, that is a decision with which published by administration officials that is concrete and specifically, as presidential decrees, a decree of the minister, the decision of the bupati and decisions certain of a weight cannot be used in legislation. approach²

c. Law Material Source

The Law Material Source of this research are:

- a. The Law Material Premier which is the law it selves
- b. The MOU between the hospital with BPJS 2018.

3. DISCUSSION

Presidential regulation no. 1 82-2018 about health insurance article 67:

- (1) Carrier health services for the implementation of the health insurance program included all health facilities that are it established cooperation with BPJS..

¹*Ibid.*, h.37.

²Marzuki, Peter Mahmud, *Penelitian Hukum*, Kencana Prenada Media Grup, Jakarta, 2005.

- (2) Health facilities belonging to the central government and local governments that meet the requirements are obliged to working with bpjs.
- (3) Health facilities private mailing list that fulfills the requirements of cooperation with health bpjs can be established.
- (4) Cooperation as referred to in paragraph (2) and paragraph (3) should be conducted by making a written agreement.
- (5) In order to implement cooperation with health facilities, bpjs coordinated with the department of health the district health.
- (6) Provisions on the requirement as referred to in paragraph (2) and paragraph (3) will be regulated in a ministerial regulation.

The health ministry`s regulation ri no 71 2013 on health services in nhi, and the conversion article 2 paragraph (1) to paragraph (3): carrier health services included all health facilities are engaged with bpjs health in the form of health facilities in the first degree and a higher level. referral health facilities

According to presidential regulation no.12 2013 health minister rule number 71 2013 article 4 health service said the organizers of the government and regional government in accordance with the requirement is obliged to working with bpjs health. Belonging to private health facilities can be established that fulfills the requirements of cooperation with bpjs health. The purchase of the cooperation by making a written agreement. A cooperative agreement health facilities (faskes) with bpjs held as part of the health leaders or proprietor of health facilities that are authorized with bpjs health.

To can work together with health bpjs faskes must meet certain conditions. In addition to meet certain conditions, consideration sufficiency between the number of health facilities to the number of participants that had to be served also becomes a consideration bpjs health in conducting the contract with faskes.

- a. Cooperation referral health facilities a. the requirements for the advanced level or the hospitals and health bpjs are:
 - 1) The decree of the operational a seal of approval.
 - 2) The decree of the determination of a class of the hospital.
 - 3) Tax Principal Number (NPWP);
 - 4) The decree of the permission of a trained health professional practicing; practices
 - 5) Networks, coordination with if necessary.
 - 6) The statement obey the rules related to the national health insurance.
 - 7) Other than the requirements above health facilities should also be accredited.
- b. the rights and obligations of health facilities and bpjs health.

- 1). The right health facilities at least consists of:
 - ii. Get information about membership, procedures, the payment of and the process of cooperation with health bpjs.
 - iii. Iii.Accept payment of claims as the provision of services to the member by 15 (fifteen) days up for work since the complete document the claim is received.
 - iv. Make payments to health bpjs referral health facilities the advanced level based on the way *Indonesian Case Based Groups* (INA-CBG's).
- 2). An obligation health facilities at least consisting upon the request from:
 - a) provided health services to participants according to the applicable regulation.
 - b) Provided a report on this service in accordance time and of type that has been agreed upon.
- 3) The rights and obligations of bpjs health
 - a). The right of bpjs health at least consisting upon the request from:
 1. Make or stop a contract with health facilities
 2. Received reports this service in accordance time and of type that has been agreed upon.i
 - b). An obligation bpjs at least consists of:
 - (1) create information to health facilities pertaining to membership, procedures, the payment of and the process of cooperation with bpjs health; and
 - (2) do claim payments to the given to the member by 15 (fifteen) work days since the claim is received complete. document.



Picture explanation.

Kind of agreement cooperation fkrtl. In the following the rights and obligations of the parties that

are written in the contract of cooperation the hospitals and health bpjs.

Based on a contract between the hospital with health bpjs so his contract by regulating the rights and obligations in chapter 4 i.e. as follow:

1). The rights and obligations of bpjs health

“Notwithstanding the rights and obligations in other articles of the testament, the parties agreed to specifying the rights and obligations of each as described as follows:

1. The right of the first side (BPJS)

- a. get data information of human resources and infrastructure from the second side;
- b. service to get information about participants (that includes seeing resumes medical and if necessary parties one can see record medical patient as in accordance with legislative regulations accompanied by the one) that were considered necessary by the first side;
- c. delivering a rebuke and or a written warning to the one in terms of deviation with the implementation of the obligations of parties second in this agreement;
- d. review of this agreement when the one does not give the democratic response to reprimand and / or written warning which penetrated will go into the district health offices, local; association of health institutes
- e. to conduct an audit against the claim of that has been is payable to the second performed by the party and external aditor;
- f. F. obtain the guarantee of protection against security, health, and safety participants, the officials and visitors in the vicinity of the hospital the one in accordance with the provisions of the legislation.

2. The first side Obligations

- a. providing and provided information about membership, scope, payment, health services, procedure the procedure of submission and mechanism of cooperation on claims to the second side;
- b. pay fee amount for the health services provided by the one to the participant not later than 15 (fifteen) work days since the claim is received documents complete accordance a claim submitted by based on stipulated provisions and the procedures which have been agreed by the parties;
- c. evaluating and an assessment of health services provided the one at regular intervals in the form of both re-credentialing performance or judgment;
- d. Together the one, socialization the provisions and procedures related health coverage for stakeholders who were related to / other interested parties;
- e. keep a secret information participants who applied to the process of the claims.

- f. pay a deficiency payments to the one in terms of the occurrence of lack of pay based on the results of an audit by an auditor who has been agreed upon with the first side;
- g. keep the good name (reputation) of the second side;
- h. to form a team to the prevention of cheating nhi in accordance with the provisions of the legislation.

2) The rights and obligations of the hospital

3. The rights of the second side:

- a. obtaining information about membership, scope, payment, health services, procedure the procedure of submission and mechanism of cooperation; claims;
- b. receive the payment of any claim on health services provided to the member by 15 (fifteen) days up for work since the complete document the claim is received;
- c. obtain information and application software () related to service management information system that apply in the context of administration; governance;
- d. should verify the back together with the one against the claim of paid by the one in terms of alleged that there were indications the inconsistency between the incorrect claim (billing of a claim) or indicated by the cheating;
- e. receive deficiency payments from the one in terms of the occurrence of lack of pay based on the audit by the auditors.

4. The Obligation of the second side:

- a. serving participants well according to the standard of a profession and the standard of service medicine, health procedures regulations for fkrtl and not charges an additional charge beyond determined the to participants health care benefit;
- b. implement and supported the health insurance program in accordance with the law;
- c. providing the transgressors hardware) and data to the specifications of a communication network that had already been fixed;
- d. D. to provide data and information of human resources and infrastructure the one, line and the availability of information system in-patient bed good ordinary care (common) or special care (intensive) that can be accessed by the members and health facilities, and other information that includes seeing resumes (medical and if necessary parties one can see record medical patient as in line with the law) who were accompanied by the one;
- e. return excess payments to parties one if it is proven there was an excess payment on suspicion of incorrect billing (the inconsistency between the claim of a claim)

- or indicated by the cheating being poured onto the event in the news based on the audit by the auditors;
- f. provides units having functions information service and handling of complaints the insured;
 - g. provide a guarantee protection against security, health, and safety participants, the officials and visitors in the vicinity of the hospital the one in line with the regulation of legislation;
 - h. Keep the good name of (of reputation) a party one;
 - i. Form a team to the prevention of cheating nhi in accordance with the provisions of the legislation.

Cooperation with bpjs selection fkrtl health can be described as the following.



There was a director general latest yankes December 12 2018 about the commitment of a hospital for accredited; a house of ill who cooperate with the health and has not been accredited bpjs up to 31 December 2018 to write a letter of accreditation readiness commitment will carry out up to 2019. June 30The recommendation the ministry of health to cooperate with bpjs health.

Stages of the implementation the contract of cooperation fkrtl with bpjs there is the health of those important points:

1. The script of a standard compulsory in give guidelines by all branch offices bpjs health and fkrtl. The contents of cooperation arranged by the reference in the development of current regulations and got the acceptance of persi..

2. The results of credentialing / recredentialing Technics criteria of an evil kind the service /, / examination sarpras (including a bed services), and equipment available in fkrtl cooperation be part of the deal appendix pks would be different for each the hospital.
3. Accomplishing certificate accreditation of the hospital:
 - a. New cooperation hospital and elongation is required to have a certificate of accreditation.
 - b. For health bpjs hospital provider that have not been accredited up to the time limit of 31 December 2018, so in accordance to the letter of the director general of the ministry of health health services ri no ym.02.02 / iii / 6133 / 2018 about the commitment of a hospital for accredited, the persistence of the contract of cooperation in 2019 at waiting recommendations from the ministry of health.
4. Conformity class the hospital, now the ministry of health of the republic of Indonesia are doing a review class the hospital, the results of a review will become the basis the adjustment of the contract by bpjs health with hospitals.
5. Fkrtl has the same understanding for the content of the pks before signing.
 - a. The contents of the pks socialization in advance to all fkrtl that willAre working together
 - b. managements. portraits of their level of understanding.
 - c. commitment shared together in fkrtl management related the contents of the pks and regulations applicable regulations..
6. To see record to guard against the medical, the implementation of see medical record programs are bpjs officers health together with the field officer fkrtl given the authority to.Give priority to the principle of prudence and are forbidden to bring medical record documents out from the area fkrtl and or without the use of a photocopy / photo / documentation.
7. The same understanding related grouping space class class i, class ii, and class iii.His class so that it was agreed the grouping of variations as standard exists and is poured in the in appendix pks..
8. Acceptation and understanding fkrtl on the process the handling of incorrect claim as a standard against process common done in a legal framework a pks between two entities that involves the aspect of financial.And a source of funds for the payment of funds claim as incompatible with the mandate it is necessary to manage legal and financial and regulations..
9. Readiness and fkrtl commitment to ensure the availability of, medicine service the conformity and good medicine fornans non-fornans. reference to the prevailing regulation.

10. Against service units hemodialisa done credentialing recredentialing / separate a clause in the agreement do not have to made separate because it has accommodated by the pks. standard.

11. In the event of one the hospitals have one service units where there was more than one competence between specialization who stand in a wedge, so to attach clinical appointment signed by the director of the hospital.

12. The addition of services to the middle of the pks, then done credentialing, on the fulfillment of the requirements human resources, equipment and infrastructure as of equipment and other. Technics criteria Approval on increases in special service / sophisticated consider the needs and the accessibility of participants. Next the production of addendum pks on increases in services to the middle ages pks. New radiotherapy, service a cooperation agreement chemotherapy, catheterize given by credentialing and also by taking into consideration the results of kc. needs analysis

13. In case there is the chief, change is obliged to notify in writing, which are then is poured in the news the event an agreement that is part cannot be separated from the pks.

14. Pks fkrtl 2018 that ended in the intervening time 2019 based on a collective agreement, as the pks terminations 2018 as of December 31, 2018. Was created on January 1 next 2019 then made the new testament in accordance with template pks fkrtl in 2019 at.

Equality of rights and obligations and a commitment to the contract of cooperation fkrtl.

The contract of cooperation systematic of the hospitals and health bpjs in 2019 at as follows:

Klausul Utama		Lampiran
Pasal 1	Definisi dan Pengertian	Lampiran I Ruang Lingkup dan Prosedur
Pasal 2	Maksud dan Tujuan	Pelayanan Lampiran II
Pasal 3	Ruang Lingkup dan Prosedur	Tata Cara Pengajuan dan Pembayaran Klaim Pelayanan Kesehatan Rujukan Tingkat Lanjutan
Pasal 4	Hak dan Kewajiban Para Pihak	Lampiran III Kesepakatan Regionalisasi Tarif dengan PERSI Provinsi
Pasal 5	Kerahasiaan Informasi	Lampiran IV Lampiran Hasil Kredensialing/Rekredensialing
Pasal 6	Kelas Perawatan	Lampiran V Format Surat Pengajuan Berkas Klaim
Pasal 7	Tarif Pelayanan Kesehatan	Lampiran VI Format Pernyataan Tanggung Jawab Mutlak
Pasal 8	Tata Cara Pengajuan dan Pembayaran Pelayanan Kesehatan	Lampiran VII Format Berita Acara Penyerahan Berkas Klaim
Pasal 9	Jangka Waktu Perjanjian	Lampiran VIII Format Surat Pernyataan Pemeriksaan Klaim oleh Tim Pencegahan Kecurangan FKRTL
Pasal 10	Monitoring dan Evaluasi	Lampiran IX Berita Acara Hasil Verifikasi Klaim
Pasal 11	Kadaluarsa Klaim	Lampiran X Format Berita Acara Pengembalian Berkas Klaim
Pasal 12	Sanksi	Lampiran XI Tarif Pelayanan Ambulan
Pasal 13	Pengakhiran Perjanjian	Lampiran XII Panduan Manual Verifikasi Koding
Pasal 14	Keadaan Memaksa (<i>Force Majeure</i>)	Lampiran XIII SLA dan Alur Penyelesaian Dispute Koding
Pasal 15	Penyelesaian Perselisihan	
Pasal 16	Mekanisme Pemberian Informasi dan Penanganan Pengaduan	
Pasal 17	Pembentahan	
Pasal 18	Lain-lain	

Extra cooperation shall be conducted based on article 10 are:

- (1) extensions of cooperation between health facilities with bpjs health after done recredensialing..
- (2) credentialing as referred to in paragraph (1) are performed by the use of the technical criteria for as referred to in article 9 paragraph (1) and assess performance that is mutually agreed to.
- (3) recredensialing as referred to in paragraph (2) be performed no later than (three) months before their term cooperation over..

If there is an objection in the implementation of the credentialing or result credentialing so the hospital can submit an objection based on article (11) are:

- (1) health facilities can submit an objection of the results of recredensialing credentialing and that is carried out by health bpjs district health offices or city..
- (2) in addressing the objection raised by the by health facilities as referred to in paragraph and one shelter the head of district health offices are city can be to form a team to the completion of mind..
- (3) the team as referred to in paragraph (2) consists of elements from the health agency and association of health institutes..

Article (12) set about the rights and obligations of the parties are:

(1) partnership agreement between health facilities and bpjs health contain rights and obligations both sides.

(2) a right health facilities at least consists of:

- a. provided with information about membership, procedures, the payment of and the process of cooperation with bpjs health; and
- b. receive claim payments as the provision of services to the member by 15 (fifteen) days up for work since the document claims complete accepted.

(3) the obligation health facilities at least consists of:

- a. provided health services to participants according to the applicable regulation; and
- b. provided a report on this service in accordance time and of type that has been agreed upon.

(4) a right bpjs health at least consists of:

- a. establish and maintain or stop a contract with health; and facilities
- b. received reports this service in accordance time and of type that has been agreed upon.

(5) obligation bpjs health at least consist of:

- a. provides information to the health facilities pertaining to membership, procedures, the payment of and the process of cooperation with bpjs health; and
- b. do claim payments to health institutes as the provision of services to the member by 15 (fifteen) days up for work since the complete document the claim is received.

Further provisions regarding the rights and obligations of governed by bpjs health.

In various literature available government contract in general understood as a contract that in it the government engaged as parties and this object is procurement of goods and services. Government the contract thus given you can do to protect the contract procurment. Into Indonesian language, government contract are those who interpret it for a covenant with the government a covenant with the lord of or a contract by which held by the government. His emphasis on the seat of government as the subject in contract (kontraktan)³

A health as bpsj kontraktan with hospitals if it is associated with the ministry of health who making the rules in its implementation often not synchronous between who makes rules and that implemented contract. The role of the ministry of health as regulator and bpjs health as the manager of the different perception is not uncommon so as to rule made capricious all the time and sometimes the rules made applicable backward. Finally the victims are the hospital so that health services to the community is to be disturbed.

³Y. Sogar Simamora, *Hukum Kontrak, Prinsip-Prinsip Kontrak Pengadaan Barang dan Jasa Pemerintah di Indonesia*, Laksbang Pressindo, Surabaya, 2017. h. 42.

The ministry of health and health bpjs equally is lower than the president, it is a rare second this organ differed ideology in the implementation of the duties and authorities of each, should be quite with one the organization in order to synchronous between rule made with the implementation. The effect coordination between the ministry of health and health bpjs not good enough. Weakness coordination between the two institutions and that raises different perceptions in run synchronize. operational rules

4. CONCLUSION

Characteristic of the contract of cooperation between bpjs health with hospitals is the contract of public, so that the contents of the contract is what i instruct you tie these two sides. As long as the complexity of the hospital care make a rather complex and difficult negotiated by the hospital when the fine print. pre-contract and it is time for the Walk contract always of the nature of a monopoly parties bpjs health are more dominant. And household characteristics sick with another. And yet the reason uniformity contract the hospital across Indonesia the contents of an agreement at the same. It is pretty obvious that a lot of difference basic in the perspective of the project, human resources and different working capital. The principle of proportional meaningful his exchange that provide the basis or form the basis of the rights and obligations of the parties in accordance proportion or its part of the whole process of contractual arrangement. The principle of proportionality presupposes the division of the rights and obligations of manifested in the whole process of contractual arrangement, good at phase pre-contractual, the formation of a contract and the implementation of the contract (pre-contractual, contractual, post contractual. The principle of proportional transcendental the context of its relations and the interests of the parties (maintain the sustainability of the relations that take place conducive and fair).

Legal protection for hospitals there are for example through a contract that has been signed with a signature that is be law enforcement for both sides, but because there is no balance in contract. If it can bpjs health of reneging on its promises to be terminated contract. But the termination of the contract will result in a loss for the hospitals itself. It is supposed to have a third party are can assist the completion of these problems or it can balance in the rights and obligations of both sides.

Council

1. In making a contract between bpjs health with hospitals supposed to exist the agreement that flexible synchronize. fit condition Of proportionality in contract important to realize the manifestation of justice contract. Supposed to exist an outside body like the case of the contract employees can be transferred to the company or hospitals there are bipartite who mediates so that the rights and obligations of in equal proportions between the two

sides. Between BPJS health and hospital through association of health institutes which is the association of the hospital association (persi) negotiate directly with health BPJS.

2. Make format / draft a contract governing the rights and duties are balanced between the two sides. Public contract between BPJS health and a hospital was regulations or to the rules that is run is not private contract. So that the role of persi are needed the most. To get the protection of the law for the hospitals.

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