

Legal Responsibility By Social Security Administrator Agency (BPJS) on Delay in Payment of Hospital Claims

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Abstract

Health is a human right and one element of prosperity that must be realized in accordance with the ideals of the Indonesian nation. As intended in the 1945 Constitution of the Republic of Indonesia (UUD 1945) contained in Article 28 H paragraph (1) and Article 34 paragraph (2) and to provide comprehensive social security, the state is developing a National Social Security System for all people Indonesia by establishing Law Number 40 of 2004 concerning the National Social Security System (UU SJSN). As a form of implementation of the SJSN Law, the government issued Law Number 24 of 2011 concerning the Social Security Administering Body (UU BPJS) to accelerate the implementation of the national social security system as a whole, including National Health Insurance (JKN) which will be administered by BPJS Health. This research adopts a normative juridical method, which focuses on analysis of statutory regulations, policy documents, and legal literature relevant to legal protection for hospitals against delays in payment of claims by BPJS. This research discusses Late Fines, Supply Chain Financing (SCF), Dispute Resolution, Termination of Claim Payment Agreements by BPJS. Hospitals have an obligation to provide services to BPJS participating patients and BPJS Health's obligation is to pay hospital claims according to the agreement. The delay in payment of claims by BPJS Health will of course affect the hospital's cash flow. One way to protect hospital interests is to provide legal protection against delays in claim payments by BPJS Health. The first legal protection provided is to use a complaint mechanism. Apart from that, more specific legal protection is also regulated, namely the existence of late fines for BPJS Health which refers to Presidential Regulation Number: 82 of 2018 and cooperation agreements, the SCF program to maintain hospital cash flow, dispute resolution carried out by deliberation and termination of the agreement if it is wrong. one party is proven to have defaulted as specified in the cooperation agreement.

Keyword: Legal Accountability, BPJS, Hospital Claims

1. INTRODUCTION

Health is right basic human and one of element welfare that must be realized in accordance with ideals Indonesian nation. As meant in The 1945 Constitution of the Republic of Indonesia (UUD 1945) is contained in Article 28 H paragraph (1) and Article 34 paragraph (2) and for give guarantee comprehensive social, the country develops System Guarantee National Social for all Indonesian people with to form Constitution Number 40 of 2004 concerning System Guarantee National Social Security (SJSN Law). As form implementation of the SJSN Law, the government emit Constitution Number 24 of 2011 concerning the Organizing Body Guarantee Social (BPJS Law) for speed up the implementation system guarantee social national in a way comprehensive including National Health Insurance (JKN) which will organized by BPJS Health. In principle, BPJS Health in organizing service health must cooperate with Health facilities through a agreement cooperation. Implementation cooperation based on a agreement that regulates the rights and obligations of each party as well as related regulations so that in its implementation no may violate agreement. One of the Contents agreement cooperation is arrangement about payment for replace all over operations that have been given Health facilities to BPJS Health patients. For Primary Health Facilities (FKTP) are paid in a way capitation by BPJS Health, namely paid in advance per person per month. While for Advanced Referral Health Facilities (FKRTL) are paid through listed rates in package through system pattern payment Indonesian *Case Based Group* (INA CBGs) by BPJS Health. BPJS Health is mandatory pay

health facilities on services that have been given no later than 15 (fifteen) days work after file claim accepted complete and correct. Related claim service by hospital to BPJS Health often found problems, such as mismatch proposed rate with listed rates in INA CBGs packages and those paid for by BPJS Kesehatan, or delay payment claims by BPJS Kesehatan. BPJS Kesehatan is often late pay claim for replace cost incurred hospital at the time patient accept Health facilities. The existence of delay payment claims by BPJS Health to hospital what we can be certain of is affect the house's cash flow sick. For ensure fulfillment right House Sick required existence a certainty as form protection law if happen delay payment claims by BPJS Kesehatan. Based on description on so will discussed about legal protection for hospital to delay payment claims by BPJS health.

2. RESEARCH METHODOLOGY

This study adopt method legal normative, which focuses on analysis to regulation legislation, documents policies, as well as literature relevant laws with legal protection for hospital to delay payment claims by BPJS. This approach chosen for delve deeper framework the law that governs legal protection for hospital to delay payment claims by BPJS, evaluating compliance against existing legal norms, and identify challenge the law that emerged in implementation at hospital. Analysis done through secondary data collection from sources from regulation legislation, jurisprudence, documents policy government, articles journal scientific, books and other related sources with subject research. This approach allow researcher for understand and interpret framework law in a way comprehensive, as well as analyze the implications to health financing in hospital. In this study, it is expected can give recommendations based on proof for strengthen protection law and overcome challenge in legal protection for hospital to delay payment claims by BPJS, at the same time support improvement quality service health.

3. RESULT AND DISCUSSION

Hospital hold role important to improvement degrees health society. Obligations hospital as provider health services (PPK) is give service to patient and entitled accept payment claim on services that have been given to BPJS Health participants and BPJS health are obliged for do payment claim to hospital on service health that has been given in accordance agreement. Based on Contents agreement cooperation that has been made by the parties, in Article 4 paragraph (2) BPJS Kesehatan is obliged to pay bill cost on service health that has been given hospital for no later than 15 (fifteen) days work since document claim accepted complete and correct. Regarding the payment process claims by BPJS health recently this often happen delay. One of the reason delay is because of condition BPJS Health finances at the moment this is what is happening experience deficit. BPJS Health has turning 5 (five) years old since switch from PT. Askes (Persero) on January 1 , 2014. However, the problem the deficit experienced by BPJS Health is not can considered trivial. When this is BPJS Health experience deficit amounting to Rp. 16.5 trillion and has receive bailout funds amounting to Rp 4.9 trillion from Ministry Finance. The existence of delay payment claims by BPJS Health have an impact on potential deficit *cash flow* hospital. One of method for protect interest hospital is with give protection law. Protection law is protection use means law or protection provided by law that is intended to protection to interests certain, namely with make necessary interests protected the in a right law. Can it is said that protection law is protection provided with based on laws and regulations. Rights and obligations is something that is not can separated and each party entitled for get fulfillment in accordance what has been become his rights a interest is target rights, not only because protected by law but also because existence a confession to right said.

The right is not only contain element protection and interests but also the will. Rights and obligations hospital in a way special has set up in agreement cooperation guided by the Minister of Health Regulation Number 71 of 2013 concerning Health Services in National Health Insurance (PMK No. 71 of 2013) and the Law Number 17 of 2023 concerning Health. One of obligation hospital is implementing and supporting the Health Insurance program in accordance with provision legislation. Home rights sick is get reward service service and get protection law in carry out service health. When the hospital has do his obligation for give service, then hospital entitled get fulfillment his rights from party other for get payment claim. On protection law according to the SJSN Law and the BPJS Law and regulation its implementation and the Minister of Health Regulation Number 28 of 2014 concerning Guidelines Implementation of the National Health Insurance Program (PMK No. 28 of 2014) was carried out through mechanism complaint. Besides with

mechanism complaints, protection is also regulated other laws as receptacle for interest hospital about certainty right payment claims by BPJS Health in a legal norm regulation or regulation legislation related.

Fine Delay

Arrangement rights and obligations in a agreement cooperation related with a achievements that must be achieved fulfilled by the parties in a agreement. According to provision Article 1365 of the civil code anyone who causes loss can asked for accountability. BPJS Health does not may late in pay bill claims submitted by health facilities. There are threat sanctions in the form of fine scheduled delay in Presidential Decree No. 82 of 2018 concerning Health Insurance Article 76 paragraph (6) which states: " In BPJS Health matters do not do payment beyond the time limit provision payment namely no later than 15 (fifteen) days Work since file accepted complete and correct, then BPJS Health is required for pay fine to FKRTL namely by 1% (one percent) of the amount to be paid for every 1 (one) month delay ". Every agreement always load clause about responsibility answer accompanied by sanctions if violate the rules that have been agreed. Terms fine delay above, to be guidelines arrangement clause about fine delay for BPJS Health as change make a loss to house pain poured out in Article 11 paragraph (8) of the agreement cooperation about Tightened sanctions again in Appendix II of the Agreement cooperation between BPJS Health and hospital. In essence Meaning or objective from agreement cooperation between BPJS Health and hospital from aspect protection law for the parties no only BPJS Health, but also for party hospital for give certainty the rights that should be obtained arising from implementation agreement cooperation. When agreement cooperation that born, then applicable the principle of *pacta sunt servanda* as form certainty law in the form of consequence regulated agreement in Article 1138 paragraph (1) of the civil code where strength tie from a agreement made in a way valid and full binding on the parties in accordance Contents contract as befits law. In matter accountability delay payment claims by BPJS Health where FKRTL is the injured party, then BPJS Health must follow provision applicable sanctions.

Supply Chain Financing (SCF)

Since beginning implemented, BPJS Health collaborates with various partner banking with develop products and features banking as part from service public. Products and features this keep going developing, including one program called *Supply Chain Financing* (SCF). This SCF program is a financing program by a special bank given to health facilities BPJS Health partners for help acceleration reception receivables (bills) claim service BPJS Health health) through taker diversion *invoice* before payment due date. For guard *cash flow* or liquidity finance hospital, BPJS Kesehatan has signed a memorandum of understanding (MoU) with several partner banks Good national and also private for give benefit financing bill service health via SCF. Hospital what we can be certain of is need payment funds claim soon for cost operational. As form protection for FKRTL towards delay payment claims by BPJS health then hospital can utilize the SCF program to ensure the implementation service to participant guarantee health. This SCF program as bridge for help health facilities in supply funds or get payment claim from BPJS Health more fast for liquidity finance hospital still walk good. The SCF program is regulated in a way general in agreement cooperation between hospital with BPJS Health and in general technical done past agreement cooperation between the bank and hospital as definite regulations.

The existence of synergy cooperation between BPJS Health and the Bank, is form from effort protection law for hospital if later BPJS Health will not can pay bill claim in accordance due date so rights hospital protected certainty the law with this SCF program. Which become weakness is existence system flower in borrowing financing through this SCF program. That matter can just burdensome party hospital if amount flower no comparable with fine delay. Hospital of course has protected with existence fine 1% delay (one) percent), but if hospital do SCF lending with amount the interest charged by the bank is higher from fine 1% delay (one) percent) then FKRTL party or hospital will be in a disadvantaged position, unless If magnitude flower more small from fine delay or The same big . If hospital still wait delay payment from BPJS Health while the cash flow from the hospital not balanced, then will happen problem liquidity finance. However if hospital carry out the SCF program will cause problem again about bank interest. From borrowing the only can allocated for operational just no including service service because of loan funds no included in income hospital. The SCF program itself only set up in agreement cooperation and not yet there is regulation legislation that specifically special arrange regarding the program.

Completion Dispute

About settlement dispute has set up in Presidential Decree No. 82 of 2018 Article 91 paragraph (3) which confirms settlement dispute moreover formerly implemented in a way deliberation between the parties. Then verse (4) explains if dispute no can completed in a way deliberation, then will completed through the advisory council clinical, with method mediation, or court. Settlement problem or disputes faced by one of them is delay payment bill claims that can be completed through track court (litigation) and settlement through track outside court (non -litigation). From the provisions said, then settlement problem moreover formerly must done in a way deliberation and if in deliberation no achieved agreement so completed with method mediation or through court. Like as stated in Article 14 of the agreement cooperation made for implementation claim walk with good and bad someone is harmed.

Termination Agreement

A agreement cooperation can disconnected before the deadline usually caused by actions default committed by one of the the party that can harm party other. From the aspect law agreement In fact, BPJS Health has arrears a number of month payment can just it is said has do default. In the agreement cooperation that has been made House Sick with BPJS Health allows the parties for can end / stop agreement before the end term time agreement one of them Because existence default regulated in Article 12 paragraph (1) letter. Cancellation agreement applicable in a way automatic when the party whose rights disadvantaged determine time termination agreement and not need give announcement in a way written to the violating party agreement. However, in matter House Sick mean to end agreement in a way unilateral before the end term time must to inform announcement written to BPJS Kesehatan for a minimum of 3 (three) months previously. Termination agreement not remove obligation the party that does default for restore default. About termination agreement cooperation allowed done by one of party if happen default, meaning there is justice or protection equality between second split parties. Agreement cooperation this also determines where else existence exclusion clause termination agreement based on provision civil code, stated in Article 12 paragraph (3) of the agreement cooperation that: "The parties with this agreed for put aside coming into effect provision in Article 1266 of the civil code as far as required the need for a decision or Judge/ Court decision moreover formerly in cancel / terminate a agreement ." Regarding Article 12 paragraph (3) which overrides Article 1266 of the Civil Code applicable *the principle of lex specialis derogate legi generalist* who stated that second regulation arrange the same thing so regulations that are of a nature special put aside regulations that are of a nature general. Agreement cooperation still legitimate although done with put aside provision law agreement because agreement made based on agreement of the parties applicable as constitution for those who made it. Relationship law agreement between hospital with BPJS Health is different with connection law business, so that implementation based on provision law agreement actually no as easy as that applied to the case arrears delay payment claims by BPJS Health. Substance and politics law the formation of BPJS Health is not solely oriented business, but rather far more wide that is as effort realize welfare public in organization guarantee health.

4. CONCLUSION

Hospital have obligation give service to patient BPJS participants and BPJS Health obligations are do payment claim House Sick in accordance agreement. The existence of delay payment claims by BPJS Health of course will affect *cash* flow hospital. One of the method for protect interest hospital is give protection law to delay payment claims by BPJS Health. Protection the law given the first time is use mechanism complaints. Besides that protection is also regulated more laws specific that is existence fine delay for BPJS Health which refers to the Regulation President Number : 82 of 2018 and the agreement cooperation, SCF program for maintain home cash flow sick, solution disputes that occur in a way deliberation and termination agreement if one of them party proven do default regulated in agreement cooperation.

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