

# Legal Analysis of the Protection of National Health Insurance Participants in Indonesia

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## Abstract

The National Health Insurance (JKN) is a program to provide equitable access to healthcare services for all citizens of Indonesia and also to improve the quality of health services received by the community. However, various challenges and obstacles in the implementation of this program persist. This study aims to analyze the legal protection of health insurance carried out by BPJS Kesehatan. The type of research used by the authors in this study is normative legal research. This legal research examines relevant legislation, regulations, and legal principles governing JKN, alongside case studies that highlight practical issues faced by participants. This study recommends enhancing oversight mechanisms and evaluation processes concerning JKN implementation, as well as improving educational initiatives for participants regarding their rights and obligations.

**Keywords:** *National Health Insurance, Legal Protection, Health Services, Social Insurance.*



## A. INTRODUCTION

The National Health Insurance Program (JKN) managed by BPJS Kesehatan is an important milestone in Indonesia's health system. This program aims to provide equitable and quality health access to all citizens. However, in its implementation, various legal issues and challenges affect the effectiveness of BPJS Kesehatan's strategy in ensuring the fulfillment of public health rights. One of the main problems is that the regulations are not yet fully mature, which often results in different interpretations in the field and creates inconsistencies in policy implementation. In addition, complex administrative and bureaucratic constraints are also a major impediment to the implementation of this program.

The history of JKN's development demonstrates the government's continuous efforts to improve health services. Since its launch in 2014, JKN has become an integral part of the national health system. The program aims to address disparities in access to healthcare and provide health insurance for all Indonesians. However, the success of this program is highly dependent on BPJS Kesehatan's ability to manage and implement effective strategies. As the responsible agency, BPJS Kesehatan must ensure that the services provided meet the set standards and are equitable across Indonesia, including remote and underdeveloped areas.

The right to health is universally recognized as a fundamental human entitlement within various national and international legal frameworks. Article 28H, Paragraph (1) of the 1945 Constitution guarantees every individual the right to access adequate healthcare services. Additionally, Indonesia has ratified the International

Covenant on Economic, Social, and Cultural Rights (ICESCR), further reinforcing health as a fundamental human right. In this context, BPJS Kesehatan bears a significant obligation to guarantee that all citizens receive healthcare services that not only adhere to established medical standards but also align with fundamental human rights principles, including non-discrimination, accessibility, and quality.

The implementation of JKN encounters a multitude of intricate challenges, with one of the most significant being budgetary constraints, which frequently prove inadequate to accommodate the growing demand for healthcare services. In addition, the uneven distribution of health facilities, especially in remote areas, exacerbates disparities in access to health services. Administrative issues such as the participant verification process, claims management, and inter-agency coordination are also significant obstacles affecting JKN's operationalization. This requires an effective strategy from BPJS Kesehatan to overcome these obstacles and ensure that people's health rights are optimally fulfilled.

From a human rights perspective, BPJS Kesehatan's strategy should include a holistic and people-centered approach. The formulation and execution of policies and programs must be grounded in human rights principles, acknowledging health as a fundamental entitlement that the state is obligated to safeguard and ensure. Mainstreaming human rights in BPJS Kesehatan policies also requires transparency, community participation, and accountability in every step and decision taken. These steps are important to build public trust in the JKN system and ensure that every individual, without discrimination, can enjoy the right to adequate health.

To address the various legal issues and challenges faced, BPJS Kesehatan needs to carry out various policy reforms. This includes developing more comprehensive and integrative regulations, improving operational efficiency and effectiveness, and strengthening coordination with various stakeholders, including local governments, health facilities, and communities. Initiatives to improve health literacy and public understanding of their rights and obligations under JKN are also important to optimize public participation and engagement. Thus, BPJS Kesehatan's strategy in ensuring the fulfillment of health rights does not only focus on technical and administrative aspects, but also considers social dynamics and the real needs of the community.

## **B. LITERATURE REVIEW**

### **1. Health Insurance**

According to Article 246 of the Commercial Law Code (KUHD), insurance is defined as an agreement in which the insurer commits to providing compensation to the insured in exchange for a premium. This compensation applies to losses, damages, or the loss of anticipated profits that the insured may experience due to an uncertain event (Sianipar & Cahyono, 2022). Essentially, insurance functions as a risk mitigation mechanism, offering financial protection against unforeseen circumstances that could lead to significant economic losses. By transferring financial risks from individuals or businesses to an insurance provider, this arrangement ensures that potential adverse

impacts are managed more effectively, allowing insured parties to maintain financial stability despite unexpected setbacks.

A different perspective describes health insurance as a form of financial security designed to cover medical treatment and care expenses when an individual falls ill or sustains injuries from an accident. This type of insurance serves as a crucial financial safeguard, ensuring that medical costs—often unpredictable and exorbitant—do not become an overwhelming burden (Tjitrawati & Romadhona, 2024). By alleviating the strain of healthcare expenses, health insurance allows individuals to access quality medical services without facing severe financial hardship. Moreover, it contributes to broader societal well-being by promoting preventive healthcare measures and encouraging timely medical intervention, ultimately improving overall public health outcomes.

Health insurance companies commonly offer various types of health coverage tailored to different needs. Some of the most common types include the following:

- a. Individual Health Insurance: This type of insurance provides health protection for a single person by requiring the payment of a fixed premium. It ensures that individuals can access necessary medical services without facing significant financial burdens.
- b. Family Health Insurance: Designed to cover multiple family members under one policy, this insurance option is a cost-effective solution compared to purchasing separate individual plans. It provides comprehensive medical protection for the entire household.
- c. Pre-existing Condition Health Insurance: This insurance offers coverage for individuals with pre-existing medical conditions, such as diabetes, cancer, or heart disease. It ensures that those with chronic illnesses can still receive necessary medical treatment despite their medical history.
- d. Critical Illness Health Insurance: This plan provides a lump sum financial benefit if the insured person is diagnosed with a severe illness, such as cancer, stroke, or a heart attack. The payout can be used to cover medical expenses, rehabilitation costs, or daily living expenses during recovery.
- e. Global Health Insurance: This insurance offers international health coverage, allowing policyholders to receive medical treatment in different countries. It is ideal for expatriates, business travelers, and individuals who frequently relocate.
- f. Travel Health Insurance: Designed specifically for travelers, this insurance provides temporary health coverage while a person is abroad. It helps cover medical emergencies, accidents, and unexpected illnesses that may arise during trips.
- g. Child Health Insurance: This type of insurance is tailored to meet the healthcare needs of children, providing coverage for essential medical services, vaccinations, and treatments necessary for their growth and well-being (Habib & Zaidi, 2021).

The principles of health insurance serve as fundamental guidelines in

managing health insurance systems to ensure optimal service while complying with applicable regulations. These principles include the following:

- a. **The Principle of Mutual Assistance:** This principle is based on the concept that all insurance members contribute to helping one another in fulfilling their healthcare needs. The pooled funds from members' premiums allow for financial support to those requiring medical treatment, fostering a sense of shared responsibility.
- b. **The Principle of Premium:** This principle underscores the requirement for insurance members to make regular premium payments according to predetermined provisions. Consistent and timely premium payments are essential for sustaining the program and ensuring that policyholders receive the promised health protection benefits.
- c. **The Principle of Confidentiality:** This principle guarantees that personal information provided by insurance members remains private and secure. Any disclosure of a member's medical records or personal details to third parties must only occur with the explicit consent of the individual to uphold trust and data security.
- d. **The Principle of Fairness:** This principle ensures that every insurance member receives equitable treatment in terms of accessing health benefits. No discrimination should occur based on financial status, medical history, or social background, reinforcing a just and inclusive insurance system.
- e. **The Principle of Responsibility:** This principle highlights that every insurance member must take care of their health and adhere to the regulations set within the health insurance scheme. It encourages policyholders to engage in preventive healthcare and comply with necessary medical protocols.
- f. **The Principle of Subsidiarity:** This principle states that health insurance primarily covers medical conditions requiring substantial financial support, particularly those that are difficult for individuals to manage independently. It ensures that insurance resources are allocated efficiently for high-cost treatments.
- g. **The Principle of Sustainability:** This principle emphasizes the importance of maintaining the long-term viability of health insurance programs. Providers must manage resources effectively to ensure continuous health protection for all members while adapting to evolving healthcare demands (Alawode & Adewole, 2021).

### **C. METHOD**

This study employs a normative legal research method, which analyzes law from an internal perspective, focusing on legal norms as the primary object of investigation. Additionally, normative research serves to provide juridical argumentation in cases of legal gaps, ambiguities, or conflicts between norms. The research methodology employed by the author encompasses literature review and documentation techniques. Primary legal materials, which are considered

authoritative due to their legal standing, constitute the core sources in this study. These materials include health insurance regulations and other relevant legislative provisions, namely:

1. The 1945 Constitution of the Republic of Indonesia
2. Law No. 36 of 2009 on Health
3. Law No. 39 of 1999 on Human Rights
4. Law No. 40 of 2004 on the National Social Security System
5. Law No. 24 of 2011 on the Health Insurance Provider Agency
6. The International Covenant on Economic, Social, and Cultural Rights, ratified through Law No. 11 of 2005
7. International Covenant on Civil and Political Rights (1966), which Indonesia ratified and incorporated into national law through Law No. 12 of 2005."

Secondary legal materials in this study comprise legal resources that serve to interpret, analyze, and provide further explanations of primary legal materials, including:

1. Expert opinions relevant to the research topic
2. Books and academic texts related to the research theme
3. Research findings and other pertinent scholarly literature

Tertiary legal materials in this study comprise resources that offer clarification and contextual support for both primary and secondary legal materials. These include magazines, newspapers, online sources, and legal dictionaries. The literature study method involves gathering data from various academic sources to identify relevant concepts, theories, expert opinions, and research findings that closely align with the subject matter of this study.

## **D. RESULT AND DISCUSSION**

### **1. The Right to Health and Government Responsibilities**

The right to the highest attainable standard of health is a fundamental human entitlement embedded in international human rights law. The International Covenant on Economic, Social, and Cultural Rights (ICESCR), recognized as the cornerstone legal framework for protecting this right, explicitly asserts that 'everyone has the right to enjoy the highest attainable standard of physical and mental health. The Covenant accords equal significance to both mental and physical health, ensuring that mental well-being often overlooked receives the same level of protection and recognition as physical health.

To uphold the fundamental right to health for all citizens, the government is responsible for ensuring fair and unrestricted access to adequate and high-quality healthcare services. In fulfilling its duty to respect, protect, and realize this right following human rights principles, the government must adhere to the following core principles:

- a. Availability of healthcare services
- b. Accessibility
- c. Acceptability

d. Quality

In addition, three forms of state obligations bind states in ratifying international human rights treaties. These three obligations are also commonly referred to as generic obligations, consisting of :

- a. **Obligation to Respect:** The state has to abstain from any direct or indirect interference in the realization of the right to health. This entails guaranteeing equal and non-discriminatory access to preventive, curative, and palliative healthcare services. In essence, the state must not hinder or restrict individuals from fully exercising their right to health.
- b. **Obligation to Protect:** The state is responsible for implementing proactive measures to safeguard the right to health from third-party interference as stipulated in Article 12. This duty includes ensuring fair access to healthcare services offered by private entities and overseeing the privatization of the health sector to prevent risks that could compromise the availability, accessibility, acceptability, and quality of healthcare facilities, products, and services.
- c. **Obligation to Fulfill:** The state is responsible for implementing legislative, regulatory, financial, legal, and other essential measures aimed at guaranteeing the comprehensive fulfillment of the right to health. This includes formulating comprehensive national health policies and strategic plans that encompass both the public and private healthcare sectors.

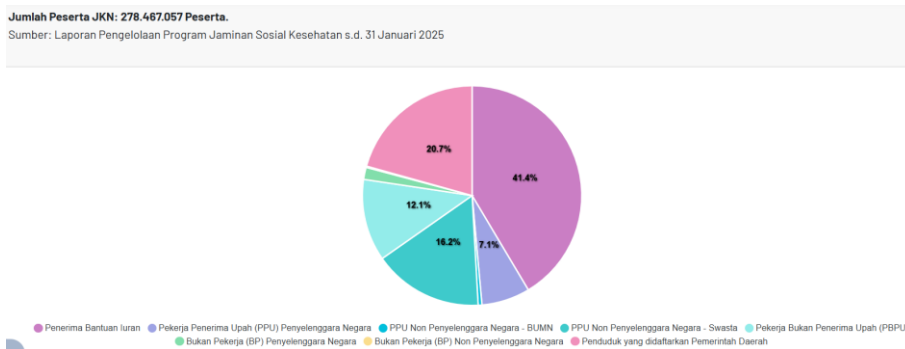
## **2. Implementation of National Health Insurance in Indonesia**

Under Article 17 of Law No. 36 of 2009 on Health, the government is obligated to guarantee access to information, education, and healthcare facilities to support and sustain the highest possible standard of health. The availability of sufficient healthcare services and public facilities is an essential aspect of the right to health.

National health insurance represents the state's commitment to providing social protection by defining and regulating its obligations in fulfilling these guarantees. As a government-led program, national health insurance aims to ensure healthcare security and Enhance societal well-being for all individuals. Under the Welfare State framework, the government is accountable for ensuring the welfare of its citizens by actively engaging in various aspects of life from birth to the end of life. This extensive involvement underscores the principle that no facet of an individual's life remains beyond the state's influence in its pursuit of public welfare. The positive principle emphasizes that the state exists not as an ultimate goal but as an institution created and maintained by society to provide essential public services. As a result, citizens inherently have the right to access these services, while the state is duty-bound to guarantee their provision.

## **3. Statistical Analysis and Program Effectiveness**

Statistical data provide insights into the effectiveness and reach of Indonesia's National Health Insurance program.



**Figure 1. Number of National Health Insurance Participants**

Source: BPJS Kesehatan

According to Figure 1. 1, regarding the performance achievements of the management of the national health insurance program, the list of registered JKN program members as of January 31, 2025, is 278,467,057 people with details of contribution assistance recipients of 115,392,459, wage recipient workers of state administrators 19.852.526, wage recipient workers of business entities 45.027.251, wage recipient workers of state-owned enterprises 1.531.091, non-wage recipient workers 33.643.645, non-workers 4.930.700 and population registered by local government 57.565.195.

Based on data from JKN program membership, the state's effort to ensure health protection is carried out through a mandatory health insurance system, requiring all individuals to participate. Consequently, only registered members can access healthcare services under this program. The JKN scheme operates on the principle of cooperation, emphasizing collective support, where contributions from healthy participants assist those in need of medical treatment. This mechanism ensures that the financial contributions of healthy individuals help cover healthcare costs for participants requiring medical care at health facilities.

Provinsi Province	Penduduk (ribu) Population (thousand)			Laju Pertumbuhan Penduduk per Tahun Annual Population Growth Rate (%)		
	2020 <sup>1</sup>	2024 <sup>2</sup>	2025 <sup>2</sup>	2010-2020 <sup>3</sup>	2020-2024 <sup>4</sup>	2020-2025 <sup>5</sup>
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Aceh	5.274,9	5.554,8	5.626,0	1,56	1,39	1,37
Sumatera Utara	14.799,4	15.588,5	15.785,8	1,28	1,40	1,37
Sumatera Barat	5.534,5	5.836,2	5.914,3	1,29	1,43	1,41
Riau	6.394,1	6.728,1	6.811,2	1,40	1,37	1,34
Jambi	3.548,2	3.724,3	3.768,5	1,34	1,30	1,28
Sumatera Selatan	8.467,4	8.837,3	8.928,5	1,25	1,15	1,12
Bengkulu	2.010,7	2.112,2	2.138,0	1,55	1,32	1,30
Lampung	9.007,8	9.419,6	9.522,9	1,65	1,20	1,18
Kepulauan Bangka Belitung	1.455,7	1.531,5	1.550,8	1,70	1,36	1,34
Kepulauan Riau	2.064,6	2.183,3	2.213,5	2,02	1,50	1,48
DKI Jakarta	10.562,1	10.684,9	10.678,0	0,92	0,31	0,23
Jawa Barat	48.274,2	50.345,2	50.759,0	1,11	1,13	1,06
Jawa Tengah	36.516,0	37.892,3	38.233,9	1,17	0,99	0,97
DI Yogyakarta	3.668,7	3.759,5	3.781,5	0,58	0,65	0,64
Jawa Timur	40.665,7	41.814,5	42.089,3	0,79	0,75	0,73
Banten	11.904,6	12.431,4	12.537,4	1,10	1,16	1,10
Bali	4.317,4	4.433,3	4.461,3	1,01	0,71	0,69
Nusa Tenggara Barat	5.320,1	5.646,0	5.731,1	1,63	1,60	1,58
Nusa Tenggara Timur	5.325,6	5.656,0	5.742,6	1,25	1,62	1,60
Kalimantan Barat	5.414,4	5.695,5	5.766,0	2,04	1,36	1,33
Kalimantan Tengah	2.670,0	2.809,7	2.845,0	1,64	1,37	1,35
Kalimantan Selatan	4.073,6	4.273,4	4.323,3	1,13	1,29	1,26
Kalimantan Timur	3.766,0	4.045,9	4.267,6	2,13	1,93	2,67
Kalimantan Utara	701,8	739,8	749,4	2,86	1,41	1,39
Sulawesi Utara	2.621,9	2.701,8	2.721,4	1,40	0,80	0,79
Sulawesi Tengah	2.985,7	3.121,8	3.156,1	1,22	1,20	1,18
Sulawesi Selatan	9.073,5	9.463,4	9.563,1	1,18	1,13	1,11
Sulawesi Tenggara	2.624,9	2.793,1	2.836,7	1,58	1,67	1,65
Gorontalo	1.171,7	1.227,8	1.242,2	1,16	1,26	1,24
Sulawesi Barat	1.419,2	1.503,2	1.525,3	1,98	1,55	1,53
Maluku	1.848,9	1.945,6	1.970,6	1,83	1,37	1,35
Maluku Utara	1.282,9	1.355,6	1.373,8	2,07	1,48	1,45
Papua Barat	1.134,1 <sup>6</sup>	578,7	587,6	3,94 <sup>6</sup>	1,71 <sup>10</sup>	1,68 <sup>10</sup>
Papua Barat Daya	-	627,1	636,4	-	1,59 <sup>10</sup>	1,57 <sup>10</sup>
Papua	4.303,7 <sup>7</sup>	1.060,6	1.073,6	4,13 <sup>7</sup>	1,36 <sup>10</sup>	1,34 <sup>10</sup>
Papua Selatan	-	542,1	549,7	-	1,45 <sup>10</sup>	1,44 <sup>10</sup>
Papua Tengah	-	1.472,9	1.492,3	-	1,54 <sup>10</sup>	1,49 <sup>10</sup>
Papua Pegunungan	-	1.467,0	1.484,9	-	1,43 <sup>10</sup>	1,39 <sup>10</sup>
<b>Indonesia</b>	<b>270.203,9</b>	<b>281.603,8</b>	<b>284.438,8</b>	<b>1,25</b>	<b>1,11</b>	<b>1,09</b>

**Figure 2. 2025 Population Census**

Source: BPS (Population 2020, 2024, 2025)

According to Figure 1.2, data from the Central Statistics Agency (BPS) on the 2025 Intercensus Population indicate that Indonesia's projected population in 2020 was 270,203,900 people, increasing to 281,603,800 in 2024 and 284,438,800 in 2025. As of January 31, 2025, the total number of registered participants in the JKN program reached 278,467,057. This data suggests that a substantial majority of Indonesia's population has been enrolled in the national health insurance program.

## E. CONCLUSIONS

Every citizen holds a constitutional right to health insurance, which guarantees access to healthcare services for all individuals. This entitlement is explicitly stated in Article 28H, Paragraph (1) of the 1945 Constitution of the Republic of Indonesia (UUD NRI Tahun 1945), which declares that each person has the right to physical and mental well-being, suitable housing, a safe and healthy environment, and access to medical services.

Starting from January 1, 2014, the Indonesian government, through the Ministry of Health, introduced a national health insurance program administered by the Social Security Administering Body (BPJS Kesehatan). Consequently, the government is responsible for guaranteeing the delivery of high-quality healthcare services. The right to access healthcare is a fundamental human entitlement that the state must uphold, as outlined in Law No. 36 of 2009 on Health, specifically in Article 15, which states that: "The government is responsible for the availability of the environment, order, health facilities both physical and social for the community to achieve the highest degree of health".

Following this mandate, the government holds the duty of guaranteeing the availability of healthcare facilities and services through BPJS Kesehatan, adhering to high-quality standards to ensure patient satisfaction. This study highlights the essential role of legal safeguards for participants in Indonesia's National Health Insurance (JKN) program. Although a well-structured legal framework has been established to promote equitable access to healthcare, substantial challenges persist in its implementation and enforcement. The normative approach adopted in this study reveals that while the legislative instruments provide a solid foundation, the practical realities faced by JKN participants often undermine their rights.

Key findings indicate that the lack of effective dissemination of information regarding participants' rights contributes to their vulnerability. Many individuals are unaware of the mechanisms available for accessing healthcare services and asserting their rights within the JKN framework. Additionally, systemic barriers, such as bureaucratic inefficiencies and inadequate communication between stakeholders, hinder the effective resolution of claims and disputes.

To strengthen the protection of JKN participants' rights, it is imperative to enhance the mechanisms for monitoring and evaluating the implementation of JKN policies. Furthermore, increasing public awareness through targeted educational initiatives will empower participants to navigate the healthcare system more effectively. Improving coordination among government agencies, healthcare

providers, and JKN administrators is also essential to create a more responsive and transparent system.

In summary, while Indonesia's legal framework for JKN holds promise for advancing health rights, concerted efforts are needed to address the existing challenges. By reinforcing legal protections and ensuring that participants are informed and empowered, the JKN can better fulfill its mandate of providing accessible and equitable healthcare for all citizens.

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