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Legal Protection For Participants In The Benefit Sharing Scheme Between BPJS Kesehatan And Commercial Insurance

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Abstract: This study examines the legal protection mechanisms for participants in the benefit-sharing scheme between BPJS Kesehatan and commercial insurance providers. The background of this research is driven by the increasing collaboration between national health insurance administrators and private insurance companies, which raises legal challenges, particularly concerning the clarity of participants' rights and obligations. The research adopts a normative approach, involving regulatory document analysis and case studies. The findings indicate the existence of legal gaps that cause uncertainty in participant protection, with regulatory ambiguities and differing interpretations between national legal norms and commercial insurance practices emerging as key issues. These findings highlight the need for regulatory harmonization and policy adjustments to ensure the benefit-sharing mechanism operates transparently and accountably. The research recommendations include improving the regulatory framework, drafting clear operational guidelines, and enhancing supervisory roles to ensure fairness and legal certainty for all participants. Thus, this study is expected to contribute to the development of more adaptive and responsive health law policies in line with the evolving dynamics of Indonesia's health insurance system.

Keyword: BPJS Kesehatan, Commercial Insurance, Benefit Sharing, Legal Protection, Health Regulation.

INTRODUCTION

The Indonesian healthcare guarantee system represents the government's effort to provide fair and equitable access to health services for all segments of society. This program was designed to address the disparities in access caused by economic and geographic inequalities across the archipelago. Since the launch of the National Health Insurance (JKN), Indonesia has been committed to narrowing the gap in health-care delivery between urban and rural areas, as well as among different socioeconomic groups. This approach rests on the principle of solidarity, whereby contributions from the population collectively fund medical care. The policy also emphasizes service-quality improvements to ensure that every citizen receives equal protection (Prasmita et al., 2024).

Through the implementation of JKN via BPJS Kesehatan, many previously underserved communities have gained access to quality health services. This mechanism allows for more effective integration of public contributions with national health-care resources. By mandating regular premiums, the system pools disease-risk collectively, thereby instilling a sense of security among participants. Nevertheless, achieving sustainable funding and equal distribution of health facilities remains a major challenge. Consequently, enhancing service quality and pioneering national health-policy innovations are top priorities for the future refinement of JKN (Purwaningsih et al., 2024).

In the context of evolving global health systems, Indonesia continually adapts to shifting needs and expectations. Policy reform has been a strategic response to emerging challenges and opportunities within the health sector. Advances in information technology have improved access to accurate, transparent data for managing health services. Moreover, fostering synergy among various health-care providers is essential to strengthening the national insurance framework. Regular evaluation and regulatory updates are deemed crucial to ensure that the system remains resilient and aligned with broader social-welfare and equitable-access goals (Muhammad et al., 2023).

BPJS Kesehatan plays a central role in JKN's operation, focusing primarily on delivering affordable, equitable health services to all enrollees. As the backbone of the national health-insurance system, it integrates diverse medical services under a collective-fund model and extends protection to economically vulnerable groups. BPJS's strategic mandate goes beyond financial stewardship, encompassing continuous improvements in service quality. Its integrated approach supports the development of a more responsive and just health-care provision for every participant (Fuady, 2014).

Conversely, commercial health insurers offer supplementary solutions by providing more flexible coverage options. Commercial policies are tailored to individual needs and preferences, granting access to premium facilities and a broader network of physicians benefits that may not be readily available through BPJS. The differing financing models and coverage scopes between commercial insurers and BPJS create a complementary dynamic within the national scheme. However, integrating these two systems poses significant coordination and consistency challenges that must be addressed promptly (Sari, 2018).

The synergy achieved through a benefit-sharing scheme between BPJS Kesehatan and commercial insurers holds promise for optimizing both the reach and quality of health-care services. By combining the strengths of each system, this mechanism aims to deliver more comprehensive care. Yet integration also introduces new complexities, necessitating a more cohesive and comprehensive regulatory framework. Clear coordination protocols are essential to prevent overlapping rules and conflicts of interest between BPJS and private insurers (Apriliyani et al., 2024).

Ensuring legal protection for participants in the benefit-sharing scheme is critical to safeguarding consumer rights throughout claims and service delivery processes. A robust legal framework provides participants with confidence when navigating differing interpretations or implementations of policy between BPJS and commercial insurers. Well-defined, integrated regulations are key to harmonizing both systems' procedures, ensuring that every claim is processed fairly and that participants receive the benefits to which they're entitled. Ultimately, legal certainty builds public trust in the national health-insurance system as a whole (Suharni et al., 2023).

Regulatory gaps and overlaps resulting from the integration of BPJS and commercial insurance can lead to claim denials or uncertainty in dispute resolution. These issues pose risks to participants who may suffer financial losses due to unclear claims procedures. Such legal ambiguities can erode public confidence in the effectiveness of the national health-guarantee system. Conducting a normative review of existing regulations is essential to identify legal

shortcomings and challenges. Through this process, participants can expect consistent, transparent protection as the legal framework is refined (Gobel et al., 2024). Effective legal protection efforts require harmonizing regulations between BPJS Kesehatan and commercial insurers to achieve optimal service-delivery synergy. Implementing efficient dispute-resolution mechanisms is equally important to ensure comprehensive protection of participants' rights. Strengthening the legal framework provides participants with certainty and reduces potential conflicts among involved institutions. Furthermore, it creates a conducive environment for innovation and modernization of the health-insurance system. Ongoing research and policy development in this area are therefore vital for formulating solutions that ensure thorough legal protection and foster public-private sector collaboration (Budiarsih, 2021).

METHOD

This study employs a normative approach centered on the analysis of legal documents as its principal data sources. It emphasizes an in-depth examination of legal texts such as statutes, government regulations, court decisions, and relevant legal literature to uncover the meanings, principles, and interpretations embedded within them, thereby addressing the research questions. The analytic process is carried out systematically and critically, beginning with the collection of pertinent legal documents, followed by descriptive and critical analyses to evaluate the application of legal norms and to identify potential gaps and conflicts within the regulatory framework. The findings are then synthesized to produce a nuanced interpretation of the legal protection mechanisms and to offer recommendations for improvement. This includes comparing existing legal norms with their practical implementation in the field drawn from case studies or pertinent court rulings—to ensure that the proposed reforms are both theoretically sound and empirically grounded.

RESULTS AND DISCUSSION

Legal Protection Mechanisms Applied to Participants in the Benefit-Sharing Scheme

The legal protection mechanisms for participants in the benefit-sharing scheme are grounded in several key statutory instruments. The National Health Insurance Law, together with relevant government regulations and specific provisions governing BPJS Kesehatan's operations, forms the primary legal foundation of the health-care guarantee system. In addition, regulations that oversee commercial insurance activities provide the legal basis for integrating both systems under the benefit-sharing arrangement. These legal provisions are designed to ensure that each participant's rights and obligations are governed fairly and systematically. With a robust legal framework in place, it is expected that the mechanisms applied will deliver optimal protection for all participants (Djamhari et al., 2020).

Applying these legal foundations involves more than merely having regulatory texts on hand; it requires careful interpretation and effective implementation in practice. Each regulation must be capable of addressing the divergent characteristics and operational challenges posed by BPJS Kesehatan and commercial insurers. Government bodies and relevant agencies must harmonize these provisions to prevent overlaps or gaps that could disadvantage participants. Legal clarity is therefore essential for providing certainty and confidence when participants submit claims or confront disputes. Consequently, a comprehensive review of the national health-care system's regulatory architecture is warranted (Mardiansyah, 2018).

At the operational level, the protection mechanism begins with a structured, transparent claims procedure, governed by clear operational guidelines. This process includes participant data verification, claim-document validation, and an assessment of the sufficiency and accuracy of submitted evidence. The procedure is designed to guarantee fair processing of every claim, thereby shielding participants from conflicting interpretations between BPJS

Kesehatan and commercial insurers. Standardizing these procedures also aims to reduce delays and administrative errors that could undermine participants' trust. By introducing systematic steps, claims handling becomes more efficient and equitable for all stakeholders (Mirnawati, 2023).

Beyond the claims process, dispute-resolution mechanisms are another critical component of participant protection. These mechanisms encompass mediation, arbitration, and, when necessary, litigation in the courts. A well-structured dispute-resolution framework enables swift, efficient resolution of conflicts, ensuring participants can assert their rights with confidence. Transparency in dispute handling further bolsters public trust in the integrity of the benefit-sharing scheme. Thus, dispute resolution not only settles individual conflicts but also serves as a feedback mechanism for overall system improvement (Utami et al., 2024).

Regulatory oversight bodies play a vital role in ensuring that legal protection mechanisms are implemented in accordance with established regulations. Agencies such as the Financial Services Authority (OJK), the Audit Board of Indonesia (BPK), and other health-sector watchdogs are tasked with monitoring and auditing the benefit-sharing scheme on a regular basis. They verify that claims procedures and dispute-resolution processes are conducted transparently and consistently. Effective oversight helps identify any deviations or violations that could harm participants. Through rigorous monitoring, the legal protection mechanisms can function optimally, providing legal certainty for all participant (Hafizd et al., 2024).

Law-enforcement authorities such as the police and the judiciary also play an indispensable role in addressing any breaches that cannot be resolved through administrative channels. Their involvement ensures that serious violations invoke appropriate sanctions, creating a deterrent effect. The synergy between oversight agencies and law enforcement bodies establishes a comprehensive control system, minimizing legal loopholes. Ultimately, this collaboration helps preserve the integrity and public confidence in the national health-care guarantee system (Siringoringo, 2023).

Evaluating the implementation of legal protection mechanisms is crucial for gauging the system's effectiveness. Such evaluations identify strengths and weaknesses in real world practice, particularly regarding claim verification and dispute resolution. They involve a thorough review of operational procedures established by BPJS Kesehatan and commercial insurers. The results illuminate the extent to which existing regulations genuinely safeguard participants' rights. Moreover, these evaluations form the basis for recommending improvements to optimize legal protection in the future (Zulfiani, 2020).

Based on evaluation findings, several recommendations should be implemented to strengthen participant protection. First, regulatory harmonization between BPJS Kesehatan and commercial insurers is essential to avoid overlaps and ambiguities. Regulations must be updated to reflect technological advancements and global health-system dynamics. Involving all stakeholders in the regulatory consultation process can help establish more integrated operational standards. A renewed legal framework responsive to frontline challenges will be better positioned to uphold participants' rights (Nugraheni et al., 2023).

Additional recommendations include enhancing transparency through the development of an integrated information system that participants can easily access. Strengthening oversight bodies with greater resource allocations and targeted training for supervisory staff should also be prioritized. Furthermore, forming a consultative forum comprising regulators, service providers, and participant representatives could serve as a direct feedback channel. Such a forum would help mitigate conflicts and improve dispute-resolution effectiveness. Overall, implementing these recommendations will foster a more productive synergy between the public and private sectors, ultimately delivering optimal legal protection for all participants (Rosyid et al., 2016).

Legal Gaps and Implementation Challenges in the Synergy between BPJS Kesehatan and Commercial Insurance

Legal gaps in the synergy between BPJS Kesehatan and commercial insurance arise from divergent interpretations of the regulations governing each system. These differences often lead to regulatory overlap, where provisions applicable to BPJS do not always align with those that govern commercial insurers. Ambiguities in the definitions of benefits, coverage limits, and claims procedures are primary sources of these legal gaps. Such misalignment creates legal uncertainty that undermines participant protection, since no consistent guidelines exist to integrate the two systems. This uncertainty can be exploited by certain parties seeking to minimize their obligations toward participants (Djamhari et al., 2023).

Beyond interpretive discrepancies, gaps also stem from the absence of regulations that specifically address the benefit-sharing mechanism between BPJS Kesehatan and commercial insurers. Critical areas such as payment coordination, institutional responsibilities, and joint claims settlement are often left undefined. The lack of comprehensive rules opens loopholes that may be used for private gain, thereby weakening participant protection. Existing regulations tend to focus narrowly on each institution's internal operations, without offering holistic solutions for integration. This situation calls for a thorough review and harmonization of regulations so that identified gaps can be closed with clear, enforceable mechanisms (Fandhika et al., 2021).

Regulatory integration faces serious challenges due to the differing characteristics and operational objectives of the two systems. BPJS Kesehatan's collective, solidarity-based approach contrasts sharply with the individualistic, profit-driven model of commercial insurance. These foundational differences complicate the drafting of joint regulations that balance both parties' interests. Without adequate harmonization, implemented policies tend to overlap or even conflict, especially as regulations must adapt to market dynamics and advances in healthcare information technology (Heryana, 2021).

Operational standards and oversight mechanisms also vary between public and private entities. As a public institution, BPJS Kesehatan follows government-mandated accountability procedures, while commercial insurers enjoy greater autonomy in setting service standards and claims policies. This misalignment of standards hinders synchronization efforts, particularly when both systems must operate within a unified framework. The challenge is further compounded by unclear jurisdictional boundaries between public-sector regulators and industry supervisors. Collaborative policy-making is therefore essential to bridge these differences with precise, measurable guidelines (Setiyono, 2018).

A key operational challenge lies in the distinct claims processes each system employs. BPJS Kesehatan uses a centralized, collective-fund mechanism, whereas commercial insurers implement more flexible, premium-based claims procedures. These variations extend beyond administrative steps to affect rate-setting, risk management, and benefit-eligibility criteria. Discrepancies in claims protocols can confuse participants, underscoring the need for integrated operational standards that unify disparate processes and ensure consistent protection (Nst & Nurlaila, 2023).

Differences also emerge in how each system assesses risk and adjudicates claims. BPJS Kesehatan relies on a pooled-fund distribution model, while commercial insurers apply individual risk analysis, resulting in variability in claims assessment. Such variability affects both the speed and quality of service, ultimately influencing participant trust. Divergent claims-evaluation processes introduce further uncertainty about each party's responsibilities when disputes arise. Hence, synchronizing operational workflows is critical to preventing these differences from undermining participant protection (Hasdiana, 2018).

Conflicts of interest frequently surface when two systems with contrasting missions must collaborate. BPJS Kesehatan, as a public entity, prioritizes social welfare for all citizens, while

commercial insurers emphasize profitability. This divergence can lead to conflicting priorities in benefit provision and fund management, disrupting the claims process and eroding participant confidence in system integrity. Effective oversight is vital to identify and resolve such conflicts before they escalate (Supriyanto, 2023).

Regulatory authorities' limited capacity further exacerbates oversight challenges. Both public-sector and industry supervisors often struggle to coordinate cross-sector monitoring due to resource constraints and differing regulatory standards. This lack of integrated supervision creates opportunities for practices that compromise participant protection. Addressing this requires a collaborative, cross-sector oversight framework that leverages the strengths of all relevant agencies (Febriyanti et al., 2013).

The identified legal gaps and implementation challenges directly affect participant protection and trust in the benefit-sharing scheme. Regulatory ambiguities and operational discrepancies can delay or even deny valid claims, inflicting financial and emotional hardship on those in urgent need of care. These negative impacts are compounded by unresolved conflicts of interest and suboptimal oversight. As a result, participants may feel insecure and underprotected, which can undermine their willingness to engage with the national health-insurance system (Mikraj & Fauzi, 2024).

To address these issues, strategic solutions are required that encompass regulatory harmonization, operational alignment, and enhanced oversight. Recommended measures include developing joint operational standards that integrate best practices from both systems, and strengthening the legal framework to close loopholes and mitigate conflicts of interest. Establishing a consultative forum—bringing together regulators, service providers, and participant representatives—would offer a platform for direct feedback and participatory decision-making. Additionally, implementing an integrated information system to increase transparency in claims processing and dispute resolution should be prioritized. With these solutions in place, the synergy between BPJS Kesehatan and commercial insurance can function more effectively, ensuring fair and consistent protection for all participants (Rahardjo, 2022).

CONCLUSION

Based on this normative analysis, the study reveals that the benefit-sharing scheme between BPJS Kesehatan and commercial insurers still contains significant legal gaps. Although this collaboration has the potential to broaden access and enhance the value of benefits for participants, existing regulations are often ambiguous, leading to divergent interpretations among stakeholders. An evaluation of the legal protection afforded to participants shows that consumer rights are not yet optimally safeguarded, particularly regarding maladministration and discriminatory practices in service delivery. Limitations in oversight mechanisms and inadequate dissemination of participants' rights and obligations further hinder the fair and transparent implementation of this scheme. To address these issues, it is recommended that the government harmonize regulations between BPJS Kesehatan and commercial insurers by reviewing benefit-sharing provisions and establishing clear standards for participants' rights and duties. Strengthening monitoring and dispute-resolution mechanisms is also essential to address cases of maladministration and ensure consistent legal protection. Efforts to raise awareness and improve legal literacy among participants are crucial for deepening their understanding of their rights within the benefit-sharing framework. The government should establish a communication forum involving BPJS Kesehatan, commercial insurers, and relevant stakeholders to foster more effective policy synergy. Furthermore, comparative studies that benchmark international best practices should be conducted to adapt a more inclusive and responsive benefit-sharing model suited to the evolving Indonesian health-insurance system.

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