



**JLPH:**  
**Journal of Law, Politic  
and Humanities**

E-ISSN: 2962-2816  
P-ISSN: 2747-1985

<https://dinastires.org/JLPH>    [✉ dinasti.info@gmail.com](mailto:dinasti.info@gmail.com)    [☎ +62 811 7404 455](tel:+628117404455)

DOI: <https://doi.org/10.38035/jlph.v6i4>  
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## **Implementation of Free Universal Health Coverage (UHC) by the Social Security Administering Body (BPJS) Reviewed From the Perspective of Health Law**

**Susi Sulastri<sup>1\*</sup>, N. Ike Kusmiati<sup>2</sup>**

<sup>1</sup> Master of Laws Department, Health Law Study Program, Pasundan University, Bandung Indonesia, [susi.drg@gmail.com](mailto:susi.drg@gmail.com)

<sup>2</sup> Master of Laws Department, Health Law Study Program, Pasundan University, Bandung Indonesia, [S2ilmuhukum@unpas.ac.id](mailto:S2ilmuhukum@unpas.ac.id)

\*Corresponding Author: [susi.drg@gmail.com](mailto:susi.drg@gmail.com)

**Abstract:** This study examines the implementation of free health insurance under the Social Security Administering Body (BPJS) within the framework of Universal Health Coverage (UHC) in Indonesia from a health law perspective. The main objective is to analyze the extent to which legal regulations governing BPJS are effectively implemented and aligned with the principles of justice, legal certainty, and legal protection. This research employs a normative juridical design, utilizing statutory and conceptual approaches. The data sources consist of secondary data, including laws and regulations, academic literature, and relevant policy documents, which are analyzed using qualitative descriptive methods. The findings indicate that although the legal framework supporting BPJS and UHC is relatively comprehensive, its implementation faces several challenges. These include inaccuracies in beneficiary data targeting, disparities in healthcare service distribution, administrative inefficiencies, and limited legal protection for both patients and healthcare providers. Such issues demonstrate a gap between normative legal provisions and practical realities, thereby hindering the optimal realization of UHC objectives. The study concludes that while free BPJS has significantly expanded healthcare access and reduced financial barriers, its effectiveness depends on improvements in governance, legal enforcement, and institutional coordination. Strengthening regulatory consistency, enhancing data systems, and improving service delivery mechanisms are essential to achieving equitable and sustainable healthcare. This research contributes to the development of health law and policy by providing recommendations to optimize UHC implementation in Indonesia.

**Keywords:** Universal Health Coverage<sup>1</sup>; BPJS<sup>2</sup>; health law<sup>3</sup>; legal protection<sup>4</sup>; healthcare policy<sup>5</sup>;

### **INTRODUCTION**

Health is a fundamental human right that must be guaranteed by the state as part of its constitutional obligation. In Indonesia, this mandate is explicitly stated in the Constitution and further regulated through various legal instruments, including Law Number 36 of 2009 concerning Health, which emphasizes that every individual has the right to obtain safe, quality, and affordable health services (Republic of Indonesia, 2009). In line with this mandate, the government has developed a national health insurance system through the Social Security

Administering Body (*Badan Penyelenggara Jaminan Sosial* or BPJS) as part of the effort to achieve Universal Health Coverage (UHC).

Universal Health Coverage (UHC) aims to ensure that all individuals and communities receive the health services they need without suffering financial hardship (World Health Organization [WHO], 2010). The implementation of BPJS Health is a strategic policy to realize this goal in Indonesia. One of the significant developments in this context is the provision of free BPJS services for certain groups, particularly the economically disadvantaged, through government-funded contribution assistance (*Penerima Bantuan Iuran* or PBI). This policy reflects the state's commitment to social justice and equitable access to healthcare services (Ministry of Health of Indonesia, 2021).

However, despite the progressive nature of this policy, the implementation of free BPJS within the UHC framework still faces various challenges, particularly from the perspective of health law. These challenges include regulatory inconsistencies, administrative inefficiencies, unequal distribution of healthcare services, and issues related to legal protection for patients and healthcare providers. In practice, disparities in service quality and accessibility remain evident, especially between urban and rural areas, indicating that the realization of UHC is not yet fully optimal (Agustina et al., 2019).

From a legal perspective, the implementation of BPJS must adhere to principles of justice, legal certainty, and benefit, as emphasized in health law frameworks. Legal aspects play a crucial role in ensuring that policies are not only well-formulated but also effectively implemented and enforceable. Furthermore, legal analysis is essential to evaluate whether existing regulations adequately support the sustainability and fairness of the UHC program, particularly in the context of free health insurance schemes (Marzuki, 2017).

In addition, the complexity of health governance in Indonesia, which involves multiple stakeholders such as central and local governments, healthcare providers, and the BPJS institution itself, often leads to coordination issues and overlapping authorities. These conditions may hinder the effective implementation of policies and raise questions about accountability and legal responsibility in healthcare delivery (Thabrany, 2014).

Therefore, this study is important to examine the implementation of free BPJS within the UHC framework from the perspective of health law. It seeks to analyze how legal regulations are applied in practice, identify existing gaps, and evaluate the extent to which the policy fulfills the principles of justice and legal protection. By doing so, this research is expected to contribute to the development of more effective and equitable health policies in Indonesia, as well as provide recommendations for strengthening the legal framework supporting UHC implementation.

## LITERATURE REVIEW

### Social Security Administering Body (BPJS)

The Social Security Administering Body (BPJS) is a public legal institution established under Law Number 24 of 2011, which functions to administer social security programs at the national level. BPJS Kesehatan is specifically responsible for implementing the National Health Insurance (JKN) program as part of the National Social Security System (SJSN) (Republic of Indonesia, 2011).

Conceptually, BPJS Kesehatan serves as a state instrument to guarantee the public's right to adequate and affordable healthcare services. This aligns with the welfare state principle, which places the state as the primary entity responsible for fulfilling social rights, including the right to health (Asshiddiqie, 2005).

In practice, BPJS Kesehatan has several main responsibilities, including managing social security funds, registering participants, paying claims to healthcare facilities, and ensuring the provision of healthcare services for its members (Republic of Indonesia, 2011). However,

various studies indicate that the implementation of BPJS still faces challenges such as financial imbalances, delays in claim payments, and disparities in service quality (Rahmat & Lie, 2024).

## **Social Security System and Universal Health Coverage (UHC)**

### **1. Definition of Social Security and Health Insurance**

Social security is a system of protection provided by the state to the public to address social risks, including health-related risks. According to Hasbullah Thabrany, health insurance is a financial protection mechanism aimed at preventing individuals from falling into poverty due to healthcare costs (Thabrany, 2015). In the Indonesian context, the social security system is implemented based on the principles of social insurance and equity, emphasizing mutual cooperation between those who are able and those who are not (Republic of Indonesia, 2004).

### **2. Universal Health Coverage (UHC)**

Universal Health Coverage (UHC) is a global concept aimed at ensuring that all individuals have access to quality healthcare services without experiencing financial hardship. The World Health Organization (WHO) emphasizes that UHC consists of three main dimensions: population coverage, service coverage, and financial protection (WHO, 2023). In Indonesia, the JKN program administered by BPJS Kesehatan serves as the primary instrument to achieve UHC. Data indicate that coverage has reached more than 90% of the population; however, there remains a gap between administrative enrollment and effective access to healthcare services (Ministry of Health of the Republic of Indonesia, 2023).

### **3. National Health Insurance System (JKN)**

The National Health Insurance System (JKN) is an implementation of the SJSN aimed at providing comprehensive health protection for all Indonesian citizens. This system utilizes a contribution-based financing mechanism with a cross-subsidy principle (Thabrany, 2015). In practice, however, JKN faces several challenges, including financing deficits, non-compliance in contribution payments, and disparities in access to healthcare services across regions (Ministry of Finance of the Republic of Indonesia, 2023).

## **Health Law Aspects**

### **1. Definition of Health Law**

Health law is a branch of law that regulates the relationships between healthcare professionals, patients, healthcare facilities, and the government in the provision of healthcare services. The purpose of health law is to provide legal protection for all parties involved within the healthcare system (Manullang, 2022).

### **2. Objectives and Functions of Health Law**

The objectives of health law cannot be separated from the general purposes of law, namely to achieve justice, legal certainty, and utility (Raharjo, 2021). In the context of health insurance, law functions as a mechanism to protect the rights of the community, ensuring that individuals have access to proper healthcare services; as a means of distributing social justice, particularly by guaranteeing equitable access to healthcare for vulnerable and disadvantaged groups; and as an instrument of public policy in the health sector, guiding the formulation and implementation of health programs at both national and regional levels. Furthermore, law also serves as a tool of social engineering, meaning that it can be consciously utilized to shape social behavior and improve public welfare, especially in strengthening healthcare systems and ensuring fair and sustainable health service delivery (Soekanto, 2020).

### 3. The Right to Health as a Constitutional Right

The right to health is a constitutional right guaranteed under the 1945 Constitution of the Republic of Indonesia, particularly Article 28H paragraph (1) and Article 34 paragraph (3). The state is obligated to provide healthcare facilities and ensure access to healthcare services for all citizens without discrimination (Republic of Indonesia, 1945). From a human rights perspective, the state bears three primary obligations, namely to respect, protect, and fulfill the right to health (Manullang, 2022).

### **Legal Regulation of Health Insurance in Indonesia**

The regulation of health insurance in Indonesia is founded on a strong and comprehensive legal framework, consisting of various laws and regulations ranging from constitutional provisions to implementing regulations. Constitutionally, the right to health is guaranteed under the 1945 Constitution of the Republic of Indonesia, particularly Article 28H paragraph (1) and Article 34 paragraph (3), which affirm that the state is responsible for providing adequate healthcare services for all citizens. These constitutional mandates are further elaborated in Law Number 40 of 2004 concerning the National Social Security System (SJSN), which regulates the principles, objectives, and mechanisms of social security implementation, including health insurance based on social insurance principles and equity.

Furthermore, the establishment of the Social Security Administering Body (BPJS) as the implementing agency is regulated under Law Number 24 of 2011, which grants BPJS Kesehatan the authority to manage the National Health Insurance (JKN) program at the national level. The strengthening of healthcare services and the protection of public rights are also regulated under Law Number 17 of 2023 concerning Health, which emphasizes that every individual has the right to obtain safe, high-quality, and affordable healthcare services. Meanwhile, the technical implementation of health insurance is further detailed in Presidential Regulation Number 82 of 2018 concerning Health Insurance, which covers aspects such as membership, financing, benefit packages, as well as the roles of central and regional governments.

Taken together, these regulations establish an integrated legal system governing the implementation of national health insurance in order to ensure comprehensive health protection for all citizens. This regulatory framework also defines the governance of health insurance administration, financing mechanisms, and the division of responsibilities between central and local governments (Republic of Indonesia, 2018). In practice, local governments are authorized to finance participants through schemes such as BPJS Premium Assistance Beneficiaries (PBI) at the regional level. However, disparities in fiscal capacity among regions have led to inequalities in access to healthcare services (Dwicaksono et al., 2010).

### **Implementation and Enforcement of the Right to Health Insurance**

#### 1. Implementation of Free BPJS within the UHC Framework

The BPJS Free Program represents a form of government intervention aimed at ensuring access to healthcare services for poor and underprivileged communities. This program serves as a crucial instrument in achieving Universal Health Coverage (UHC), particularly in expanding the coverage of healthcare services (WHO, 2023). However, its implementation continues to face several significant challenges, including inaccuracies in participant data, limitations in regional government budgets, and weak coordination among relevant institutions. These issues indicate that, despite its strategic role, the effectiveness of the BPJS Free Program still requires substantial improvement to achieve its intended objectives (Ministry of Health of the Republic of Indonesia, 2023).

## 2. Legal Protection of BPJS Participants

Legal protection for BPJS participants includes the right to obtain proper healthcare services, access to transparent information, and the availability of complaint mechanisms in cases of violations (Rahmat & Lie, 2024). However, in practice, there are still cases of patient rejection, delays in medical services, and discriminatory treatment, indicating a gap between legal norms and their implementation (Ombudsman RI, 2023).

## 3. Effectiveness of Regulation and Law Enforcement

The effectiveness of law in the implementation of BPJS is influenced by several key factors. These include the quality of the regulatory framework, which determines the clarity and consistency of legal norms; the institutional capacity, reflecting the competence and integrity of the implementing bodies; the availability of adequate facilities and infrastructure to support service delivery; and the level of public awareness and legal compliance within society. These factors collectively shape how legal provisions are applied in practice, and any imbalance among them may hinder the optimal functioning of the BPJS system (Soekanto, 2020). The imbalance between the normative aspect (*das sollen*) and actual practice (*das sein*) indicates that the existing regulations have not been fully effective in optimally guaranteeing the right to health.

## METHOD

This study employs a normative juridical approach combined with a conceptual and statutory approach to analyze the implementation of free BPJS within the framework of Universal Health Coverage (UHC) from the perspective of health law. A normative juridical method is used to examine legal norms, principles, and regulations governing the national health insurance system in Indonesia, particularly those related to the administration of BPJS Health and the provision of contribution assistance (PBI). This approach focuses on the analysis of legal texts and their application in addressing real-world issues (Marzuki, 2017).

The statutory approach involves reviewing and analyzing relevant laws and regulations, including the Constitution of the Republic of Indonesia, Law Number 36 of 2009 on Health, Law Number 24 of 2011 on the Social Security Administering Body (BPJS), and other implementing regulations related to the UHC program. These legal instruments serve as the primary framework for assessing the legality and effectiveness of BPJS implementation (Republic of Indonesia, 2011).

In addition, a conceptual approach is applied to explore legal doctrines and theories related to justice, legal certainty, and legal protection in healthcare services. This approach enables the researcher to interpret and evaluate the extent to which the implementation of free BPJS aligns with fundamental legal principles and the broader objectives of health law (Rahardjo, 2009).

The data used in this research consist of secondary data, which include primary legal materials, secondary legal materials, and tertiary legal materials. Primary legal materials comprise binding legal documents such as laws and regulations. Secondary legal materials include scholarly articles, legal journals, books, and previous research related to BPJS, UHC, and health law. Tertiary materials, such as legal dictionaries and encyclopedias, are used to support the understanding of legal terminology (Soekanto & Mamudji, 2001).

Data collection is conducted through library research, involving systematic identification, classification, and analysis of relevant legal documents and literature. The collected data are then analyzed using a qualitative descriptive analysis method, which emphasizes logical interpretation, systematic reasoning, and critical evaluation of legal norms and their implementation in practice.

Furthermore, this study adopts an analytical and evaluative perspective, aiming not only to describe the existing legal framework but also to critically assess its effectiveness in supporting the implementation of free BPJS under the UHC scheme. The analysis focuses on identifying legal gaps, inconsistencies, and challenges that may hinder the realization of equitable and accessible healthcare services.

By applying this methodology, the study is expected to provide a comprehensive legal analysis of BPJS implementation and offer constructive recommendations for improving the legal framework governing Universal Health Coverage in Indonesia.

## DISCUSSION

### Legal Framework of Free BPJS within Universal Health Coverage (UHC)

The implementation of free BPJS as part of the Universal Health Coverage (UHC) program in Indonesia is grounded in a strong legal framework. The Constitution of the Republic of Indonesia mandates the state to provide adequate healthcare services for all citizens, which is further elaborated in Law Number 36 of 2009 concerning Health and Law Number 24 of 2011 concerning the Social Security Administering Body (BPJS). These regulations establish the legal basis for the provision of health insurance, including government-funded contribution assistance for economically disadvantaged populations (Republic of Indonesia, 2009; Republic of Indonesia, 2011).

From a legal perspective, the concept of free BPJS through the Contribution Assistance Recipients (*Penerima Bantuan Iuran* or PBI) reflects the principle of social justice, where the state assumes responsibility for vulnerable groups. This aligns with the broader objective of UHC, which emphasizes equitable access to healthcare services without financial hardship (World Health Organization [WHO], 2010). However, despite the clarity of the legal framework, challenges arise in its implementation, particularly in translating normative provisions into effective practice.

### Implementation of Free BPJS: Practical Challenges

The findings indicate that the implementation of free BPJS under the UHC scheme faces several practical challenges. One of the primary issues is the inaccuracy of beneficiary data, where individuals who are not economically disadvantaged are sometimes included as PBI recipients, while those who are eligible may be excluded. This issue reflects weaknesses in administrative governance and data integration between central and local authorities (Agustina et al., 2019).

Another significant challenge is the unequal distribution of healthcare facilities and services. Although BPJS membership provides formal access to healthcare, disparities in infrastructure and human resources, particularly in rural and remote areas, limit the actual utilization of services. As a result, the principle of equity in UHC has not been fully achieved.

In addition, bureaucratic complexity and administrative procedures often hinder efficient service delivery. Patients frequently encounter delays, complicated referral systems, and limited availability of services covered by BPJS. These issues reduce public trust in the system and indicate gaps between legal guarantees and practical implementation (Thabrany, 2014).

### Legal Analysis: Justice, Legal Certainty, and Legal Protection

From the perspective of health law, the implementation of free BPJS must be evaluated based on three fundamental principles: justice, legal certainty, and legal protection. First, in terms of justice, the policy aims to provide equitable healthcare access, particularly for disadvantaged groups. However, the inaccuracies in beneficiary targeting and service disparities undermine the realization of distributive justice. The principle of justice requires not only equal access but also fairness in the distribution of healthcare resources (Rahardjo, 2009).

Second, regarding legal certainty, although regulations governing BPJS are relatively comprehensive, inconsistencies in their implementation create uncertainty for both patients and healthcare providers. For instance, differences in policy interpretation at the local level may result in unequal treatment of BPJS participants.

Third, in terms of legal protection, patients and healthcare providers often face challenges related to rights and obligations. Patients may experience limitations in accessing certain treatments, while healthcare providers may encounter delays in reimbursement from BPJS. These conditions highlight the need for stronger legal mechanisms to ensure accountability and protect all stakeholders involved.

### **Evaluation of Policy Effectiveness**

The effectiveness of free BPJS implementation within the UHC framework can be assessed through its ability to achieve its primary objectives: expanding healthcare access, reducing financial burden, and improving health outcomes. While the program has significantly increased the number of insured individuals, its effectiveness remains constrained by structural and legal challenges.

From a policy perspective, the integration of legal norms with administrative practices is crucial. Weak coordination between institutions, lack of supervision, and limited enforcement mechanisms contribute to suboptimal implementation. Therefore, strengthening institutional capacity and improving governance systems are essential to enhance policy effectiveness.

Moreover, continuous legal evaluation is necessary to ensure that regulations remain relevant and responsive to emerging challenges. This includes revising policies related to beneficiary criteria, improving data systems, and enhancing transparency and accountability in BPJS management.

The findings of this study demonstrate that the implementation of free BPJS as part of UHC in Indonesia represents a significant step toward achieving social welfare and public health goals. However, the gap between normative legal provisions and empirical realities remains a critical issue. This study supports previous research indicating that achieving UHC requires not only comprehensive legal frameworks but also effective governance and strong institutional support (Agustina et al., 2019). Furthermore, it highlights the importance of integrating legal, administrative, and social perspectives in addressing complex healthcare challenges. From a health law perspective, the success of BPJS implementation depends on the state's ability to uphold legal principles while ensuring practical feasibility. Therefore, reforms should focus on improving legal clarity, strengthening enforcement mechanisms, and enhancing coordination among stakeholders.

### **CONCLUSION**

This study concludes that the implementation of free BPJS within the framework of Universal Health Coverage (UHC) in Indonesia represents a significant legal and policy advancement in ensuring equitable access to healthcare services. The existing legal framework, supported by the Constitution, Law Number 36 of 2009 on Health, and Law Number 24 of 2011 on BPJS, provides a strong normative foundation for the realization of healthcare as a fundamental right.

However, the findings reveal a persistent gap between normative legal provisions and practical implementation. Challenges such as inaccurate beneficiary data, unequal distribution of healthcare services, administrative inefficiencies, and limited legal protection for stakeholders hinder the optimal realization of UHC objectives. From a health law perspective, these issues indicate that the principles of justice, legal certainty, and legal protection have not been fully achieved in practice.

Therefore, while the free BPJS program has contributed significantly to expanding healthcare coverage and reducing financial barriers, its effectiveness remains dependent on improvements in governance, legal enforcement, and institutional coordination. Strengthening these aspects is essential to ensure that UHC implementation in Indonesia is not only legally sound but also socially equitable and operationally effective.

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