



## LEGAL POLICY OF GIVING MEDICINE FOR HEALTHCARE INSURANCE RECIPIENTS IN JUSTICE-BASED HOSPITALS

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**Abstract :**Legal policies that prioritize the values of justice will bring prosperity. In health services, the values of justice should also be applied, especially for those who are the healthcare insurance recipients. There is no longer any neglect service of providing medicines for patients, especially patients who receive healthcare insurance at the hospital, therefore it is necessary to apply more supervision to health workers. So that in the future all problems related to medicine delivery services for healthcare insurance recipients at hospitals can be carried out properly and without discrimination. When talking about legal policies in health services, the regulations that have been made should lead to how the community, especially the poor and the underprivileged, in this case, is the healthcare insurance recipients (PBI) must get services that are fair and without any discrimination. And to avoid losses that will have an impact on both parties, both the hospital as the provider of health services and the patient as the recipient of health services, so that there is no civil lawsuit.

**Keywords:** *Legal Policy, Giving Medicine, Justice-Based PBI.*

### 1. Introduction

Patient safety as a system to provide safer patient care, prevent injury due to errors due to taking actions or not taking actions that should be taken Patient safety incidents include medical errors, unexpected events (adverse events), and near misses. Law Number 44 of 2009 concerning Hospitals aims to provide protection to patients, the community, and human resources, maintain and improve the quality of hospital services, and provide legal certainty to the community and hospitals. Fitriana, Y., & Pratiwi, K. (2018).

Based on the purpose of providing services at the Hospital, as stated in the Law of the Republic of Indonesia Number 44 of 2009 concerning Hospitals, which is contained in Article 3 states a. facilitate public access to health services, b. provide protection for the safety of patients, the community, the hospital environment and human resources in the hospital, c. improve quality and maintain service standards. Therefore, there is a need for handling and synergy between parties.

The meaning of the Act above is that the Hospital is obliged to carry out its main task, namely, to provide maximum health services through protection to all elements involved in the Hospital,



both patients, medical personnel, etc. Every patient in the hospital certainly expects a guarantee of security, especially in terms of handling when getting health services. then there must be a standard service standard, for patients who get services at the hospital. Mistakes in handling patients often cause harm to patients, this must be avoided, both by doctors, nurses and other hospital staff. So patients and their families need a legal guarantee for the handling of hospital staff. so that unwanted things can be avoided to happen to the patient. Wahyati, Y. (2012).

As was the case with the families of the Buton Regional General Hospital (RSUD) patients, who complained that the hospital often ran out of medical supplies. This makes the patient's family spend additional money to redeem prescriptions outside the hospital. They hope that by using BPJS all medical expenses can be covered. As stated by Mr. Ahmad, why does a hospital of this size often run out of medicine? So that makes us even more confused about taking medicine. To get medicine according to the doctor's prescription, the patient's family is forced to buy medicine outside the Regional General Hospital at a higher price.

According to the Director of the Buton Hospital, Ramli Code, he said that some items of medicine could not be avoided. This is because the medicine shopping system does not go through a direct shopping system but uses an e-catalog system. "This is not an intentional factor, we ordered medicine this month, not necessarily the next month it will come. This is not only in Buton but throughout Indonesia because it is supplied from the center," said Ramli. However, to fill the vacancy continued Ramli, his party sometimes had to borrow medicine from other hospitals. Separately, the acting regent of Buton, Effendi Kalimuddin, said that buying medicine using the e-catalog system should make it easier. (Kompas. kenapa-rumah-sakit-besar-kehabisan-obat. 2016).

The procurement of medicines from the Hospital itself has not been running because it is constrained by debts to previous medicine supply vendors that have not been able to be paid until now. The unfavorable situation has again been complained of by patients seeking treatment at the red plated hospital, in recent days. There are even patients who spend because they have to buy medicine outside even though they are registered as BPJS patients. As stated by Nining, a resident of Tembesi who underwent neurotherapy at the neurology polyclinic. Even though he is registered as a BPJS patient, he has to buy one type of medicine for Rp. 140,000 in outside pharmacies. That's because at the hospital pharmacy there is only one type of medicine that he needs according to a doctor's prescription. There are two types of medicine, but there is only one. One bought outside. Some time ago, the stock of medicine that the Provincial Government had aided had been used up. (Jpnn.com/news/stok-obat-menipis. 2018).

Treatment is one of the important elements in efforts to cure disease and restore health. Safe administration of medicine is a major concern when administering medicine to patients. Kuntarti, (2005). Medication error is any preventable event that results in the use of medicine that should not be given or that can cause injury to patients while under the control of health workers, patients and consumers (World Health Organization), (2016).



Medication error cases are not uncommon to be lawsuits and end up in court. Considering the impact, among others, increased treatment costs, prolonged hospitalization days, even the worst is the loss of a patient's life. One of the unique aspects in the incidence of medication errors is the level of occurrence which is quite frequent but is still under-reported due to a poor reporting system. Ramyan, (2014).

Health law is increasingly recognized by the public, while irrational medicine administration is still often carried out by doctors in daily practice, making it prone to errors and even causing harm to patients. Widayat, E. (2019). Permenkes 72 of 2016 concerning Pharmaceutical Service Standards in Hospitals, Article 2 letter C states that the setting of Pharmaceutical Service Standards in Hospitals aims to protect patients and the public from irrational use of medicine in the context of patient safety. Permenkes 72 (2016).

Currently, there are many cases of medical errors in pharmaceutical service standards in hospitals, especially due to irrational medicine administration, especially in clinical pharmacy services. As a result, consumers (patients) are harmed in clinical pharmacy services. Whereas rational medicine administration that is not following treatment standards can be categorized as a violation of the law as stated in Article 105 paragraph (1), Law no. 36 of 2009 concerning Health. UU No. 36 Years (2009).

## **2. Methods**

This research is normative juridical research, which is also commonly referred to as normative law. It is a process to find the rule of law, legal principles, legal doctrines to be able to answer all legal issues. (Muzaki, 2011). The approach used in this research is to use a conceptual approach. What is meant by a conceptual approach is an approach that starts from a paradigm, historical, doctrine that has developed in a legal science where this is interrelated with plea bargaining so that it can be adopted into positive law in Indonesia.

The sources or legal materials used include primary and secondary legal materials. The primary legal materials were obtained from several laws and regulations in accordance with plea bargaining, related to the secondary legal materials obtained from the explanation of primary legal materials including several writings and opinions of legal experts. As for what is meant by data analysis using qualitative normative analysis research. In this study, the researcher conducted a qualitative normative method, namely describing descriptively and prescriptively.

## **3. DISCUSSION**

### **a. Service Law Policy**

The government is essentially a public service provider. A well-managed government must provide good services, including legal services. The ideal legal service basically must be able to provide fast, cheap, easy, fair, legal certainty, open and accountable services. Ina Heliany,



(2019). The policy is a direction or limit for a person or group in taking action or carrying out rules that must be followed either directly or through an existing system. Because it is considered very important, every policy that is made must be carried out properly, and the purpose of the policy is to find a problem-solving point for the situation that occurs. Absori, A., Harun, H., & Ikbal, M. (2021).

According to Frederick, Davis and Post, policies at the public level are actions taken by the government to become the public's attention. (William C. Frederick, Keith Davis and James E, 1998) Then Muhadjir said that policies can be divided into 2 categories, namely substantive policies and implementing policies. The substantive policy is an alternative decision that is considered the most appropriate in overcoming the problem. As for the follow-up to substantive policies, implementation policies include decisions that attempt to carry out substantive policies. Noeng H, Muhadjir, (2003).

Government is essentially a public servant. The government is present not only to provide services to itself but must be able to provide or serve the community so as to create conditions that allow for community members to develop their potential and creative abilities so that all common goals in the community can be achieved. However, the current paradigm of governance has been degraded from the rule of government paradigm to good governance. In realizing the implementation of the government and public services that refer to the perspective of good governance, can not only be played by the government (government) and the state (state), but also needs to involve all components, namely the internal bureaucracy and the community. HM. Nasrudin Anshoriy CH., (2008). Furthermore, Ridwan and Sudrajat define that public services are services provided by the government as state administrators to the community in order to meet the needs of the community itself and have the aim of improving the welfare of the community. Ridwan J, and A. Sodik. (2009).

## **b. Duties and Functions of Pharmacists in Dispensing Medicine in Health Services**

Pharmacists are one of the health workers who have expertise in the field of medicine, however, the lack of introduction to the pharmacist profession to the community causes many people who do not understand what the duties and roles of pharmacists are in improving the quality of public health. Therefore, it is very important to brand pharmacists from an early age, this is in line with the campaigns that have been carried out by WHO in an effort to carry out and confirm the health promotion activities carried out. Adhikary.M, Tiwari. P, (2014). Desai C, Girdhar A. O. (2005).

As mentioned in Permenkes Number 9 of 2017 concerning Pharmacies, Article 17 explains that:  
(1) Pharmacies can only deliver Pharmaceutical Preparations, Medical Devices, and Consumable Medical Materials to: a. Other pharmacies b. Health Center c. Hospital Pharmacy Installation d. Clinical Pharmacy Installation e. Doctor f. Independent practice midwife g. Patient; and h. Public



- (2) Submission of Pharmaceutical Preparations, Medical Devices, and Consumable Medical Materials as referred to in paragraph (1) letter a, up to letter d, can only be made to fulfill the shortage of pharmaceutical preparations, medical devices, and consumable medical materials if:
  - a. There is a scarcity of Pharmaceutical Preparations, Medical Devices, and Medical Consumables in distribution facilities; and
  - b. There is a vacancy for Pharmaceutical Preparations, Medical Devices, and Medical Consumables in health care facilities.
- (3) The delivery of pharmaceutical preparations, medical devices, and consumable medical materials as referred to in paragraph (1) letter e to letter h can only be carried out following the provisions of the legislation.

Still in Permenkes 09/2017 concerning Pharmacies, Article 20, states that the implementation of pharmaceutical services at pharmacies must ensure the availability of safe, quality, useful, and affordable Pharmaceutical Preparations, Medical Devices and Medical Consumables. In line with the considerations in Permenkes 09/2017, it is stated that to improve accessibility, affordability, and quality of pharmaceutical services to the community, it is necessary to organize the administration of pharmaceutical services at pharmacies. (Permenkes 09/2017).

Law is a means to realize human rights in fulfilling their needs. The essence of law is the protection of human interests, including in realizing health. Cecep Triwibowo, (2014). Law No. 36 of 2014 concerning Health Workers in Article 11 paragraph (6) states that the types of health workers included in the group of pharmaceutical workers are Pharmacists and Pharmaceutical Technical Personnel (TTK). The definition of pharmacists and Pharmaceutical Technical Personnel and Regulation of the Minister of Health of the Republic of Indonesia Number 30 of 2014 concerning Pharmaceutical Service Standards at Puskesmas, namely pharmacists are pharmacy graduates who have graduated as pharmacists and have taken the oath of office of pharmacists while TTK is the staff who assist pharmacists in carrying out pharmaceutical work which consists of Bachelor of Pharmacy Associate Pharmacists, Pharmacy Analysts and Pharmacy Intermediate Personnel / Pharmacist Assistants. R. Adi Soeprijanto, (2018).

Patients as health consumers have self-protection from possible irresponsible health care efforts such as neglect, patients are also entitled to safety, security and comfort for the services and health they receive. With these rights, consumers will be protected from health practices that threaten safety or health, in this case pharmaceutical services carried out by pharmacists. Point T., and Febriana, S. (2010).

### **c. The gap on Healthcare insurance recipients in Justice-Based Health Services**

Although currently, the government has issued laws and regulations relating to handling the poor, including Law Number 13 of 2011 concerning Handling the Poor, Presidential Regulation Number 82 of 2018 concerning Health Insurance, Regulation of the Minister of Social Affairs



Number 82 of 2017 concerning General Guidelines Verification and Validation of Integrated Data Handling the Poor and Poor People. And it is also clearly explained that the poor and underprivileged, who are included in the government's financing are called participants, PBI JKN APBN, and PBI JKN APBD. However, not all people in Indonesia are affordable to get health care facilities covered by the government. Absori, A., Harun, H., & Ikbal, M. (2021).

Health and Law in society are interrelated. In practice, an important relationship between public health and law, there is an analysis of the interrelationships between public health and law documenting that public health theory and practice are particularly dependent on law. (Adem Koyuncu & Wilhelm Kirch, 2010).

The presence of PBI participants has the right to obtain Health Insurance benefits that are individual health services, including promotive, preventive, curative and rehabilitative services including medication services and medical consumables following the necessary medical needs. (Perpres No.82/2018 on Health Insurance) Financial access, or affordability, is now considered one of the most important determinants of access and is most directly linked to the poverty dimension. In addition to direct medical costs and informal payments, there are also indirect costs that prevent the poor from seeking care. (Xuk. K. et al. 2006).

Based on research conducted by Munawwar Khalil S. With the title, Health Services for BPJS PBI Participants (healthcare insurance recipients) at the Panglima Sebaya Regional General Hospital, Paser Regency. There are still many obstacles and complaints that are felt by BPJS PBI participants (healthcare insurance recipients) regarding the services they get, among others, many poor and underprivileged people have not received maximum service or incentives, and there is still a lack of information provided by officers to PBI participants. at the Panglima Sebaya Regional General Hospital, Paser Regency. Apart from that, there are still many procedures that must be completed so that it is not uncommon for PBI participants to get health services. Munawwar Khalil S. (2016).

The research was conducted by Bruce Anzward, and Muhmmadi Muslaini, with the title, Principles of Justice in Fulfilling the Rights of Patients healthcare insurance recipients for the Health Social Security Organizing Agency, in 2019. Explains the form of responsibility of Ratu Aji Putri Botung Hospital in the implementation of health services at Ratu Hospital Aji Putri Botung for patients using PBI BPJS. PBI BPJS patients are the poor and underprivileged. Patients participating in PBI BPJS have the right to get good, quality and affordable services without them having to think about cost issues.

Therefore, Ratu Aji Putri Botung Hospital has also tried to provide legal protection for patients participating in PBI BPJS, namely first, by not discriminating between patients in providing health services. Second, the hospital provides compensation to the patient if the service is not satisfactory. Third, the patient can make a complaint to the hospital as a health service provider. Legal efforts taken by patients using PBI BPJS with the Hospital are by solving problems by prioritizing settlement by deliberation and consensus. Bruce Anzward, and Muhammadiyah Muslaini. (2019).



#### **d. Hospitals in Use for Health Service Processes and Medicine Distribution for Healthcare insurance recipients**

In Law No. 44.2009 on the preamble of letter b. that the hospital is a health service institution for the community with its characteristics that are influenced by the development of health science, technological progress, and the socio-economic life of the community which must continue to be able to improve services that are more qualified and affordable by the community to realize the highest degree of health. In article 32 point (e) and (J) of Law number 44 of 2009 concerning Hospitals. point (e) states that “every patient has the right to obtain effective and efficient services to avoid physical and material losses. (UU.No.44/2009).

As research conducted by Handayani, T. W. (2018). The results of his research concluded that. Medicine retrieval at the Undata Hospital in Palu City is carried out using a prescription for outpatients while for inpatients using a prescription and control card for taking medication with a one-day dose prescribing system (for one-day use). The remaining medicine (if the patient goes home) is returned to the pharmacy by the nurse or the patient's family by bringing a letter signed by the head of the treatment room, the medicine is then exchanged for medicine to be taken home by the patient. In the Pharmacy Installation, where the medicine is taken, it is distinguished based on the status of the patient, namely BPJS social, general. This is very helpful for pharmacists and patients/patient families in helping speed up service time. Handayani, T. W. (2018).

BPJS Medication Planning BPJS medicine selection At Panti Wilasa Citarum Hospital uses a combination of hospital formularies and national formularies. The combination is done because not all medicines that enter the national formulary are in the hospital formulary and vice versa. The existence of a hospital formulary is expected to increase the efficiency and effectiveness of medicine supply management starting from planning, procurement, and distribution. Fornas is a list of selected medicines that are needed and available at health service facilities as a reference in implementing JKN. The main objective of medicine regulation in Fornas is to improve the quality of health services, through increasing the effectiveness and efficiency of treatment to achieve rational medicine use. Decree of the Minister of Health of the Republic of Indonesia No. 1197/Menkes/SK/2004.

BPJS Medication Planning Selection or selection of types of medicines at RSPW Citarum based on the Hospital Formulary and the National Formulary. The medication planning method uses the consumption method which is carried out once a week using previous usage data by looking at the ROP (repeat order) that has been made in the Hospital SIM. The number of medicine purchases is determined based on the ROP (re-order point) which is calculated by the computer system but this has not been accompanied by the calculation of VEN (Vital, Essential, Non-Essential) and ABC (parreto). It is known that the VEN-ABC calculation has never been carried



out and the board of directors and the foundation have never proposed a VEN-ABC analysis. Menndrofa, E, Devina., Suryawati, C. (2016). Medicine logistics management is very important for hospitals because medicine supplies that are too large or too little will make the hospital suffer losses. The losses obtained are in the form of an enlarged medicine supply cost and disruption of service operational activities. Verawaty., et al. (2010). The negative impact medically and economically will be felt by the hospital if there is an ineffectiveness in medicine management. Ansari. (2009).

The Hospital Act was made to guarantee and provide more certainty in the administration of health in hospitals. For patients, the Hospital Law provides legal certainty that their rights in health services in hospitals will be fulfilled, as well as for health workers who work in hospitals that with the enactment of the Hospital Law, they will work more calmly because they have protected by law. Article 46 of the Hospital Law is one proof of ensuring the rights of patients, protecting health workers, and ensuring health services in hospitals. In this article, it has been guaranteed for patients that patients can ask for accountability to the hospital if they experience losses due to negligence committed by health workers in providing health services. This is following the provisions contained in Law Number 36 of 2009 concerning Health in Article 58 which clearly states that patients can sue or demand accountability to health workers or to health service bodies if they suffer losses due to intentional or negligence in health services. Arifin, D.A. (2016).

Hospitals and patients who suffer losses due to negligence in health services in hospitals are both legal subjects who can be subject to rights and obligations. The law that regulates the relationship between one legal subject and another is private law (civil law) in which the domain is the protection of rights. So the law governing this legal event is the Civil Code, namely Article 1367 paragraph (3) which reads: "Employers and those who appoint other persons to represent their affairs are liable for damages incurred by their services or subordinates in carrying out the work for which these persons are employed". Bahder Johan Nasution, (2005).

Legal liability addressed to hospitals as providers of health care facilities does not invalidate the legal responsibility of health workers who commit negligence in health services. Health workers who make negligence that result in harm to patients in health services at the Hospital are still subject to legal responsibility, as regulated in Article 1365 of the Civil Code, namely, "Every unlawful act that causes harm to another person obliges the person who because of his mistake to issue a loss. it compensates for the loss." From a juridical point of view, the concept of compensation in law is known in two fields of legal science, namely: Munir Fuady, (2013).

There are two forms of compensation due to unlawful acts that are commonly used in inpatient claims against health workers and hospitals in several cases, namely material compensation and immaterial compensation.

1. Material Indemnity

Material losses are losses that are actually suffered by the victim and the amount can be measured mathematically.





## 2. Immaterial Indemnity

Immaterial losses are losses that cannot be measured by the victim. Immaterial compensation can be in the form of suffering pain or pain, sadness, loss, pleasure, loss of hope, loss of body part or disability, even the death of the patient is not a loss that can be sued based on default. This immaterial compensation can only be charged against losses due to unlawful acts and cannot be applied to losses caused by contract default.

Hospitals are responsible for acts of negligence of health workers in hospitals, which cause harm to a person/patient, based on: (a) normatively this is the application of the provisions of Article 1367 of the Civil Code, and Article 46 of the Hospital Law, and professional standards and international accreditation of health services; (b) doctrinally juridically, the hospital is responsible for the negligence of health workers with the doctrine of a dead superior response, and the hospital is responsible for the quality of care (duty to care); and (c) theoretically, the hospital as a corporation, then the principle of vicarious liability, hospital, liability, corporate liability applies, so that the hospital can be held accountable for mistakes made by health workers who work in a subordinate position (employee). ). Wahyudi, S. (2011).

Medication error is an iceberg phenomenon in the healthcare system. Some of the obstacles to reporting near misses are the lack of awareness of officers, errors that are considered harmless, low discipline, busy work and lack of feedback when errors are reported (Smith, 2004). The Hospital Pharmacy Installation provides pharmaceutical services consisting of complete services in the form of planning, procurement, production, storage of medical supplies or pharmaceutical preparations, medicine distribution, medicine use and quality control. Siregar (2004). Pharmaceutical services are managerial, which is called the management of pharmaceutical preparations which are in the form of cycles. The pharmaceutical supply management cycle consists of planning, procurement, receipt, storage, distribution, destruction and withdrawal, as well as administration, which includes recording and reporting (Minister of Health Regulation No. 58 of 2014).

Hospital Pharmacy Installation (IFRS) is the only unit in a hospital that can carry out medicine management activities. Storage and distribution is a very important stage in medicine management activities. Good storage can ensure the quality and quality of medicines are maintained, to reduce losses from hospitals caused by damaged medicines. The right distribution system can facilitate services to patients who are treated in hospitals. Susanto, A. K. (2017).

Medication errors are incidents of medicine administration that can cause injury to patients that should be prevented while under the control of health workers, and the patients themselves. Of the 10 WHO facts regarding patient safety in developing countries in 2017, it is stated that 1 in 10 patients treated in hospitals are at risk of medical errors and adverse medicine errors. From the patient safety incident data at Hospital X in 2015 – 2016, there were 30 cases of patient safety incidents of which 12 cases were cases of medication errors in inpatients. This is not under the standards set by the Ministry of Health of the Republic of Indonesia in 2008 which states that incidents in hospitals should have zero accidents. Tampubolon, L., & Pujiyanto, P. (2020).



## **4. Conclusion**

Legal policies that prioritize the values of justice will bring prosperity. In health services, the values of justice should also be applied, especially for those who are the healthcare insurance recipients. There is no longer any neglect service of providing medicines for patients, especially patients who receive healthcare insurance at the hospital, therefore it is necessary to apply more supervision to health workers. So that in the future all problems related to medicine delivery services for healthcare insurance recipients at hospitals can be carried out properly and without discrimination. When talking about legal policies in health services, the regulations that have been made should lead to how the community, especially the poor and the underprivileged, in this case, is the healthcare insurance recipients (PBI) must get services that are fair and without any discrimination. And to avoid losses that will have an impact on both parties, both the hospital as the provider of health services and the patient as the recipient of health services, so that there is no civil lawsuit.

## **5. Suggestions**

First, there needs to be a standard legal instrument, relating to the legal policy of health services in terms of administering medication, which should be carried out by health workers so that there is no discrimination/abandonment treatment because the hospital pharmacy runs out of medication.

Second, the hospital, in this case as a health service provider, needs to carry out a control function on all instruments in the hospital so that all matters relating to health services can be resolved properly and there is no more intolerance to the healthcare insurance recipients in the process of health services and create an atmosphere of justice.

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## **Regulations**

KepMenkes RI No. 1197/Menkes/SK/2004. *Standar Pelayanan Rumah Sakit*

Lihat di Permenkes 72 Tahun 2016 tentang Standar Pelayanan Kefarmasian di Rumah Sakit

Lihat Pasal 32 Point E dan J Undang-undang Nomor 44 Tahun 2009 Tentang Rumah Sakit.

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