



## LEGAL CERTAINTY FOR HEALTH FACILITIES IN PROVIDING REFERRAL LETTER ON PATIENT REQUESTS IN THE JKN ERA (JURIDICAL REVIEW OF THE SJSN LAW AND BPJS HEALTH LAW)

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### Abstract

*The main problem in this research is a policy problem, namely the problem of legal policy in regulating the rules of legal certainty for health facilities. Therefore the approach to this problem is a policy-oriented approach. However, considering that the main target of this research is legislative policy in formulating legal certainty for health facilities in carrying out their duties and functions, the approach is mainly taken with a juridical-normative approach. This research was conducted at the Blangkejeren Public Health Center, Lhoksukon City, Central Aceh, with literature studies at the Panca Budi University Library and internet searches. The data sources of a research are primary data and secondary data. Because this research is a normative legal research, the sources studied are secondary data sources. Legal certainty of payment for health services has provided legal certainty to Health Service Providers (PPK) as regulated in Presidential Regulation Number 19 of 2016 concerning the Second Amendment to Presidential Regulation Number 12 of 2013 concerning National Health Insurance (JKN). However, this change still does not provide legal certainty for BPJS patients when problems occur related to the amount of payments that must be paid by BPJS to Health Service Providers, if there are patients who experience/require to be treated with costs that exceed the rates determined by BPJS. Legal consequences if there is no legal certainty for health services,*

*Keywords: Patient, Referral Letter, Patient Request*

### 1. INTRODUCTION

Health is a state of health, both physically, mentally, spiritually and socially that allows everyone to live a productive and healthy life and economically. In the preamble to Law Number 36 of 2009 concerning Health, it is stated that: "Health is a human right, one of the elements of welfare that must be realized in accordance with the ideals of the Indonesian nation as referred to in Pancasila and the 1945 Constitution of the Republic of Indonesia." In the Constitution of the Republic of Indonesia Article 28C paragraph (1) of the Second Amendment, it is explained "...through its basic fulfillment...". Health is a very basic need to carry out the life of a person or family, because with health, a person can meet the needs of his life and his family.

The mandate of the 1945 Constitution of Article 28H paragraph 1 gives the right to the population to obtain health services. It must be understood that the people's rights are not natural rights that can be obtained without any obligations. The people's right to health services is obtained after the people carry out obligations such as paying taxes and social security contributions. Therefore, the right to health services has been further formulated in Article 34 paragraph (2) of the 1945 Constitution which instructs the state to develop a Social Security System for all people. The mandate of the 1945 Constitution has been described in more detail in Law Number 40 of 2004 concerning the National Social Security System (SJSN), which requires people who can afford to pay social security contributions, including health insurance. However,

Certain medical professionals who have competencies that meet certain standards, are authorized by the competent institutions in that field and work in accordance with the standards and professionalism set by their professional organizations and the wider community (including clients or patients). Health workers are the main component of providing services to the community in

**LEGAL CERTAINTY FOR HEALTH FACILITIES IN PROVIDING REFERRAL LETTER ON PATIENT REQUESTS IN THE JKN ERA (JURIDICAL REVIEW OF THE SJSN LAW AND BPJS HEALTH LAW)**

DOI

---

order to achieve health development goals in accordance with national goals as mandated by the constitution. As the main component of health service providers, of course the existence, role,

Structuring the implementation of health services through the regulation of the referral system is an effort to improve health services which is carried out in stages, continuously, effectively and efficiently. With the arrangement of the referral system, the community will receive health services according to the level of needs of each individual. The referral system arrangement is intended to minimize inaccuracies in the level of service in health care facilities which causes high costs in health care. To provide the appropriate level of health services, the referral level needs to be regulated and implemented properly.

The referral system in Indonesia is divided into 2 types, namely medical referrals and health referrals. Medical referrals are health efforts that can be vertical, horizontal or reciprocal, which are mainly related to healing and rehabilitation efforts and efforts aimed at supporting them. Health referrals are referrals for health efforts that are vertical and horizontal, which are mainly related to efforts to improve and prevent and support efforts. The referral system (referral and referral) and referral determination were not implemented properly so that various referral patterns emerged. This is because the existing referral system policy is not equipped with technical procedures and mechanisms. In the end, there will be inefficiency in the health care system which not only has an impact on high costs but also low patient safety levels.

With the adoption of a referral system by BPJS Kesehatan, the compliance of health facilities in implementing the referral system will increase and be steady. In the health insurance mechanism, BPJS Kesehatan can force health care facilities to implement a referral system and provide quality services. BPJS Health can encourage health care facilities to implement a referral system. If health care facilities do not want to implement a referral system, BPJS Kesehatan will not use health service facilities in the advanced level health care system, first level health facilities must refer to the nearest advanced level health facility in accordance with the referral system regulated in the legislation. The referral system is excluded for participants who are outside the area of the first-level health facility or in a medical emergency. Utilization of health services that are not based on a referral system can be included in the category of services that are not in accordance with procedures so that BPJS Kesehatan cannot pay for it.

Many people who do not know the technicalities of getting services in accordance with the rules of the BPJS Health game, when they come to a tertiary hospital, patients will be served if they have received a referral from primary health services (primary health facilities). The referral system has been regulated in the Minister of Health Regulation No. 001/2012 concerning the Individual Health Service Referral System (PMK). The public's understanding of the referral flow is still lacking so that they do not get the service they should. JKN participants must follow the existing referral system. Any illness, except in emergencies, disasters, must go to primary health facilities, not directly to secondary health facilities (hospitals/specialist doctors). If this is violated participants must pay themselves. However, the reality in the field is that the patient referral system is still felt to be ineffective and efficient, there are still many people who have not been able to reach health services, as a result there is an extraordinary accumulation of patients in certain large hospitals which can actually be completed at the first or second level health services. The community considers the referral system to be convoluted / the bureaucracy is quite complicated, this is triggered by the reluctance of the community to queue for a very long time at primary services such as clinics / health centers. So that patients directly refer themselves to get second-level or third-level health services. As a result, there is an extraordinary accumulation of patients in certain large hospitals which can actually be resolved at the first level or second level of health services. The community considers the referral system to be convoluted / the bureaucracy is quite complicated, this is triggered by the reluctance of the community to queue for a very long time at primary services such as clinics / health centers. So that patients directly refer themselves to get



second-level or third-level health services. As a result, there is an extraordinary accumulation of patients in certain large hospitals which can actually be resolved at the first level or second level of health services. The community considers the referral system to be convoluted / the bureaucracy is quite complicated, this is triggered by the reluctance of the community to queue for a very long time at primary services such as clinics / health centers. So that patients directly refer themselves to get second-level or third-level health services.

Another complaint related to the BPJS Health referral system that was felt was the unpreparedness of health workers and the lack of facilities in primary health services, cases that should have been handled in primary/secondary services but were immediately referred to tertiary hospitals. Many infrastructure and drug supplies are incomplete, so patients have to buy them out at their own expense. The level of public trust in first-level health services is still lacking, for example puskesmas or clinics, it cannot be denied that community satisfaction with puskesmas is still very low. It is not uncommon for patients to refuse to be hospitalized on the grounds that the treatment room is full, the patient should be referred to another hospital of the same level. However, there are many hospitals that refuse (private) or are not ready to cooperate with BPJS.

To ensure that the BPJS Health tiered referral system runs, it is necessary to make improvements, including: Increasing the understanding of officers about the tiered referral system. It is necessary to carry out continuous socialization both by the government and by health service officers to increase public understanding regarding the tiered referral system. Make it easier for chronic disease sufferers to access health services by reducing the queue for chronic disease participants. Filling the need for health facilities and increasing the competence of health workers throughout Indonesia, so that they are able to handle cases according to the level of service, one of which is reducing unnecessary referral cases.

The scope of this research includes: patient referrals, material (specimen) referrals, document references, HR referrals and technology references both horizontally and vertically. In this case, what is not included in this research is the service of complementary traditional medicine which is not guaranteed by BPJS Health unless proven and recognized through HTA/Health Technology Assessment (Presidential Decree No. 12 of 2013 Article 43 as last amended by Presidential Decree No. 28 of 2016 in conjunction with Permenkes). No. 51 of 2017 concerning HTA/Health Technology Assessment). Based on the things mentioned above, the author is interested in studying more deeply related to applicable health legislation,

## 2. IMPLEMENTATION METHOD

### 2.1 Specification

The main problem in this research is a policy problem, namely the problem of legal policy in regulating the rules of legal certainty for health facilities. Therefore the approach to this problem is a policy-oriented approach. However, considering that the main target of this research is legislative policy in formulating legal certainty for health facilities in carrying out their duties and functions, the approach is mainly taken with a juridical-normative approach. The juridical-normative approach can also be used together with other approach methods. Thus, this research is supported and equipped with a comparative-judicial approach.

### 2.2 Location, Population, and Sample

This research was conducted at the Blangkejeren Public Health Center, Lhoksukon City, Central Aceh, with literature studies at the Panca Budi University Library and internet searches.

### 2.3 Data Collection Tools

The data sources of a research are primary data and secondary data. Because this research is a normative legal research, the sources studied are secondary data sources. Library materials are basic data which in the study are classified as secondary data. The secondary data has a very broad scope, covering personal letters, diaries, to official documents issued by the government. The secondary data has the following general characteristics:

- a. Secondary data is generally in a ready-made state.

**LEGAL CERTAINTY FOR HEALTH FACILITIES IN PROVIDING REFERRAL LETTER ON PATIENT REQUESTS IN THE JKN ERA (JURIDICAL REVIEW OF THE SJSN LAW AND BPJS HEALTH LAW)**

DOI

---

b. The form and content of secondary data have been formed and filled in by previous researchers.

c. Secondary data can be obtained without being bound or limited by time and place.

The secondary data mentioned above from a binding point of view can be distinguished into primary legal materials, secondary legal materials and tertiary legal materials. Primary legal materials, namely binding legal materials, consist of:

a. The basic norm or rule is the Preamble to the 1945 Constitution.

b. Ground Rules:

c. Body of the 1945 Constitution,

d. Decrees of the People's Consultative Assembly.

e. Legislation :

f. Equivalent laws and regulations,

g. Government regulations and equivalent regulations,

h. Presidential decrees and equivalent regulations,

i. Ministerial Decrees and equivalent regulations,

j. Regional Regulations.

k. Legal materials that are not codified, such as customary law,

l. Jurisprudence.

Secondary legal materials or sources are materials that provide an explanation of primary legal materials, such as draft laws, research results, or legal expert opinions. Tertiary legal materials are materials that provide instructions and explanations of primary legal materials and secondary legal materials such as dictionaries (laws), encyclopedias. The secondary data used in this research are primary legal materials in the form of statutory regulations, as well as jurisprudence, and secondary legal materials in the form of draft law concepts, results of research and other scientific activities as well as the opinions of legal experts, and tertiary legal materials in the form of dictionaries. law.

## **2.4 Data Analysis**

The process of analyzing legal materials is a process of finding answers to the main problems that arise from facts. The method of analysis of legal materials used in this writing is using the deductive method, which is a method that proceeds from general to specific matters, then the legal materials, namely primary legal materials and secondary legal materials, are qualitatively processed, namely a processing of non-static materials. The next steps used in conducting a legal research are:

a. Identifying legal facts and eliminating irrelevant matters to determine the legal issues to be resolved.

b. The collection of legal materials and presumably is considered to have relevance as well as non-legal materials.

c. Reviewing the content of the proposed law based on the materials that have been collected.

d. Draw conclusions in the form of arguments that answer legal issues.

e. Provide a prescription based on the arguments that have been built in the conclusion.

The analysis carried out in this study is through the processing of legal materials that have been collected first, then arranged in a systematic and directed manner using a prescriptive method, that is, each analysis will be returned to legal norms because the test instrument is a legal norm that suggests deductive logic, namely logic that stems from basic principles which are then linked to the facts found.

## **3. RESULTS AND DISCUSSION**

### **3.1 Formulation of Legal Assurance Against Health Facilities in the SJSN Law and BPJS Law**





With regard to the Social Security Administering Body (BPJS), as stated in Article 2 of Law Number 24 of 2011 concerning the Social Security Administering Body, it is clearly stated that BPJS administers a national social security system based on the following principles: humanity; benefit; and social justice for all Indonesian people. Then in Article 3 it is stated that "BPJS aims to realize the provision of guarantees for the fulfillment of the basic needs of a decent life for every participant and/or family member". Furthermore, in Article 4 letter I of Law Number 24 of 2011 concerning the Social Security Administering Body,

Based on the description above, it can be concluded that the existence of BPJS aims to realize the provision of guarantees for the fulfillment of the basic needs of a decent life for every participant and/or family member.

Regarding the legal certainty of payments for Health Service Providers (PPK) and Health Services for BPJS Patients, based on Article 11 letter d of Law Number 24 of 2011 concerning the Social Security Administering Body, it is clearly stated that, in carrying out the duties of BPJS, make agreements with facilities health regarding the amount of payment for health facilities which refers to the standard tariff set by the Government. So normatively when referring to the article mentioned above, there is an arrangement regarding an agreement with health facilities regarding the amount of payment for health facilities.

The legal certainty of payment of health services for Health Service Providers (PPK) from BPJS has been guaranteed through Law Number 24 of 2011 concerning the Social Security Administering Body. Furthermore, based on Article 39 paragraphs (1) and (2) of Presidential Regulation Number 111 of 2013 concerning Amendments to Presidential Regulation Number 12 of 2013 concerning Health Insurance, it contains a provision that Advanced Level Health Service Providers (Hospitals) are paid through INA CBG's rates by BPJS Health.

INA CBG's system adopts a prospective payment system, which is a payment method for health services whose amount is known before the health services are provided. The method of payment is regulated in Article 39 paragraphs (1) to (3) of Presidential Regulation Number 111 of 2013 concerning Amendments to Presidential Regulation Number 12 of 2013 concerning Health Insurance, which states that:

- (1) BPJS Kesehatan makes payments to the first level Health Facilities on a pre-employment basis based on the capitation of the number of Participants registered at the first level Health Facilities.
- (2) In the event that the first level Health Facility in an area does not allow payments based on capitation as referred to in paragraph (1), BPJS Health is given the authority to make payments by other more effective mechanisms; and
- (3) BPJS Kesehatan makes payments to advanced level referral Health Facilities based on the Indonesian Case Based Groups (INA-CBG's) method.

Based on the description of the articles contained in Law Number 24 of 2011 concerning Social Security Administering Bodies and Presidential Regulation Number 111 of 2013 concerning Amendments to Presidential Regulation Number 12 of 2013 concerning Health Insurance, normatively legal certainty of payment of health services from BPJS for Health Service Providers (PPK) have been regulated, but legal certainty problems arise when there are problems related to the amount of payment that must be paid by BPJS to Health Service Providers, if there are patients who experience/require to be treated with costs that exceed the predetermined rate. by BPJS.

This resulted in the absence of legal certainty regarding health services for BPJS patients to undergo maximum treatment/treatment, as was the case in the case of: Nabhan Ihsan, a severe hemophilia A patient who complained of pain and swelling in several parts of his body, which since BPJS Kesehatan In effect, after the doctor gave a prescription, it turned out that the drugs that could normally be given could not be claimed due to the change from PT Askes to BPJS. Inem's case, breast cancer patient, breast cancer patient. His son, who since BPJS came into force, although the operation costs are free but this poor family is burdened with medicine costs of Rp. 2,438,000, and there are many other cases related to the arrangement of payment of tariffs and

**LEGAL CERTAINTY FOR HEALTH FACILITIES IN PROVIDING REFERRAL LETTER ON PATIENT REQUESTS IN THE JKN ERA (JURIDICAL REVIEW OF THE SJSN LAW AND BPJS HEALTH LAW)**

DOI

---

BPJS health services, and of course this is contrary to Article 4 of Law Number 36 of 2009 concerning Health which states that "Everyone has the right to health". In addition, the existence of tariff provisions which result in non-fulfillment of health services for patients is contrary to Article 5 of Law Number 36 of 2009 concerning Health which states that; Everyone has the same rights in obtaining access to resources in the health sector; Everyone has the right to obtain safe, quality, and affordable health services; Everyone has the right to independently and responsibly determine the health services needed for themselves. In addition, the existence of tariff provisions which result in non-fulfillment of health services for patients is contrary to Article 5 of Law Number 36 of 2009 concerning Health which states that; Everyone has the same rights in obtaining access to resources in the health sector; Everyone has the right to obtain safe, quality, and affordable health services; Everyone has the right to independently and responsibly determine the health services needed for themselves. In addition, the existence of tariff provisions which result in non-fulfillment of health services for patients is contrary to Article 5 of Law Number 36 of 2009 concerning Health which states that; Everyone has the same rights in obtaining access to resources in the health sector; Everyone has the right to obtain safe, quality, and affordable health services; Everyone has the right to independently and responsibly determine the health services needed for themselves. quality, and affordable; Everyone has the right to independently and responsibly determine the health services needed for themselves. quality, and affordable; Everyone has the right to independently and responsibly determine the health services needed for themselves.

### **3.2 Formulation of Referral System Rules at Patient Request**

Referring to the preamble to Law Number 36 of 2009 concerning Health, it is emphasized that health is a human right and one of the elements of welfare that must be realized in accordance with the ideals of the Indonesian nation as referred to in Pancasila and the 1945 Constitution of the Republic of Indonesia. Health is a human right and one of the elements of welfare must be realized in accordance with the ideals of the Indonesian nation. Therefore, development in the health sector is directed at enhancing the degree of health, which has great meaning for the development and development of Indonesian human resources and as capital for the implementation of national development which is essentially the development of the whole Indonesian human being and the development of the entire Indonesian people.

Talking about the rights of patients as referred to in Article 5 of Law Number 36 of 2009 concerning Health, these rights serve as a foothold in terms of protection and legal certainty for health services. So in this case the government has the obligation to regulate, foster and supervise the implementation of health efforts that are evenly distributed and affordable by the community. Including in this case the government is obliged to provide legal certainty in the form of guarantees of health services for the community as mandated by Article 20 of Law Number 36 of 2009 concerning Health, which states that "The government is responsible for the implementation of public health insurance through the national social security system for health efforts. individual;

Talking about the efforts that BPJS patients can take related to the lack of legal certainty for BPJS health services, the Health Law doctrine determines that there are 2 (two) forms of engagement, namely *ikhtiar* engagement (*inspanning verbintenis*), and result engagement (*resultaat verbintenis*). In an effort engagement, the achievement that must be given is endeavor, namely the maximum possible effort, while in a result engagement, the achievement that must be given is in the form of a certain result. The relationship between health service providers and patients can occur due to 2 (two) things, namely based on an agreement (*ius contractu*). Here a voluntary therapeutic contract is formed between the hospital and the patient based on free will. A claim can be made if it is suspected that there has been a "default", namely the denial of what was agreed upon. The



basis of the claim is not to do or wrong to do what has been agreed. Then, based on the law (ius delicto). This is where the principle applies, whoever causes harm to another person, must provide compensation for the loss. Furthermore, the agreement itself can be formulated as a legal action or act carried out voluntarily by two or more people who agree to give "achievements" to one another.

If analyzing the legal relationship of BPJS card holder patients not only with health service providers, but involving the BPJS as the Social Security Administering Body, where consumers are not served properly, then the efforts that can be made by BPJS Card Holder patients are in the following stages:

- a. Complaints at the Service Quality Control Unit and Complaint Handling BPJS Participants on the basis of Article 48 paragraph (2) of Law Number 24 of 2011 concerning the Social Security Administering Body, which states that "BPJS is obliged to handle complaints no later than 5 (five) working days after receipt of the complaint".
- b. Regarding the complaint step, if the complaint cannot be resolved, the BPJS Patient can make mediation efforts on the basis of Article 49 paragraph (1) Law Number 24 of 2011 concerning the Social Security Administering Body, which states that "Parties who feel aggrieved whose complaints have not can be resolved by the unit as referred to in Article 48 paragraph (1), the dispute resolution can be done through a mediation mechanism".
- c. If both the complaint and mediation efforts are not resolved, then the consumer can take legal remedies for Dispute Resolution through the Court, on the basis of Article 50 of Law Number 24 of 2011 concerning the Social Security Administering Body, which states that "In the event that the complaint cannot be resolved by the service quality control unit and the handling of participant complaints through the mediation mechanism cannot be carried out, the settlement can be submitted to the District Court in the area where the applicant lives".

In addition to efforts that can be made based on the Civil Code, Law Number 36 of 2009 concerning Health and Law Number 24 of 2011 concerning the Social Security Administering Body, in this case BPJS patients as consumers of health services can use consumer protection legal instruments, on the basis of Article 45 of Law Number 8 of 1999 concerning Consumer Protection, namely:

- a. That every consumer who is harmed can sue business actors through institutions tasked with resolving disputes between consumers and business actors or through courts within the general judiciary;
- b. Settlement of consumer disputes can be reached through court or out of court based on the voluntary choice of the disputing parties.
- c. Settlement of disputes outside the court as referred to in paragraph (2) does not eliminate criminal responsibility as regulated in the Act;
- d. If an out-of-court consumer dispute resolution effort has been chosen, a lawsuit through the court can only be taken if the effort is declared unsuccessful by one of the parties or by the disputing party.

With regard to anyone who has the right to file a lawsuit, referring to Article 46 paragraph (1) of Law Number 8 of 1999 concerning Consumer Protection, a lawsuit can be filed by: A consumer (patient) who is harmed or the heir concerned; A group of consumers (patients) who have the same interests; A non-governmental consumer protection agency that meets the requirements; and the Government and/or related agencies.

### 3.3 Sanctions of Accountability Against Health Facilities

Talking about the legal consequences if there is no legal certainty for health services, it cannot be separated from the concept of the existence of the Republic of Indonesia which exists as a State of Law, that in a state of law there are three main elements, namely: Human rights guaranteed by law; Equality before the law; and the supremacy of the rule of law and there is no arbitrariness without a clear rule of law.

**LEGAL CERTAINTY FOR HEALTH FACILITIES IN PROVIDING REFERRAL LETTER ON PATIENT REQUESTS IN THE JKN ERA (JURIDICAL REVIEW OF THE SJSN LAW AND BPJS HEALTH LAW)**

DOI

---

The concept of the rule of law (rechstaat) was born from a struggle against absolutism, so that it is revolutionary and relies on a continental legal system called "civil law" or "Modern Roman Law" with administrative characteristics. The rule of law with the concept of "rechstaat" has four elements, namely: The existence of recognition of human rights; There is a separation of powers to guarantee these rights; Government based on regulations (wetmatigheid van bestuur) and; The existence of a State Administrative Court. Based on these two concepts and elements of the rule of law, in practice the law requires means of enforcement, namely legal instruments, law enforcement or law enforcement officials, supporting facilities or facilities including the status and role of law enforcement agencies, and the community.

### **3.4 Barriers to Implementing Referrals for Health Facilities**

In relation to legal certainty, especially readiness to face the globalization of health services in Indonesia, what first needs to be known is the nature and function of law in a developing society. A developing society is a society that is undergoing a modernization process (a process of growing and developing). This is closely related to the legal use/benefits in the process. According to Hermien Hadiati Koeswadji, the use/benefits of law basically have a dual function, namely:

- a. To form new laws (the develop new laws);
- b. Strengthening existing laws (to strengthen the existing laws);
- c. Clarify the scope and function of the existing laws.

This will depend on the nature and function of the law in the society concerned.

It can be concluded that with the legal uncertainty regarding health services for BPJS patients, in order to undergo maximum treatment/treatment, it is certain that the existence of BPJS is specifically related to the regulation of health service tariffs as stipulated in Presidential Regulation Number 111 of 2013 concerning Amendments to Presidential Regulation Number 12 of 2013 regarding Health Insurance must be reviewed, this is because it is contrary to:

- a. The opening paragraph of the 1945 Constitution in the 4th (fourth) paragraph which states that: "...and to promote the general welfare....";
- b. National development goals in the health sector that outline the direction of health development as one of the elements of the general welfare of the national goals;
- c. The purpose of health as stated in Article 28H of the 1945 Constitution, namely "Everyone has the right to live in physical and spiritual prosperity, to have a place to live, and to have a good and healthy living environment and the right to health services";
- d. Article 34 paragraph (2) of the 1945 Constitution, which states that "The state shall develop a social security system for all the people and empower the weak and incapable in accordance with human dignity";
- e. Article 34 paragraph (3) of the 1945 Constitution, which states that "the State is responsible for the provision of proper health care facilities and public service facilities".
- f. Article 1 number 11 of Law Number 36 of 2009 concerning Health, which states that "Health efforts are every activity and/or a series of activities carried out in an integrated, integrated and sustainable manner to maintain and improve the degree of public health in the form of disease prevention, health improvement , treatment of disease, and restoration of health by the government and/or the community".
- g. Article 2 of Law Number 36 of 2009 concerning Health, which states that "Health development is carried out on the basis of humanity, balance, benefits, protection, respect for rights and obligations, justice, gender and non-discrimination and religious norms";
- h. Article 3 of Law Number 36 Year 2009 concerning Health which states that "Health development aims to increase awareness, willingness, and ability to live healthy for everyone in order to realize the highest degree of public health, as an investment for the development of productive human resources. socially and economically";
- i. Article 20 of Law Number 36 Year 2009 concerning Health, which states that "The





government is responsible for the implementation of public health insurance through the national social security system for individual health efforts; The implementation of the social security system as referred to in paragraph (1) is carried out in accordance with the provisions of the legislation”.

- j. Article 2 of Law Number 24 of 2011 concerning the Social Security Administering Body, which states that “BPJS administers a national social security system based on the principles of: humanity; benefit; and social justice for all Indonesian people”.
- k. Article 3 of Law Number 24 of 2011 concerning Social Security Administering Bodies, which states that "BPJS aims to realize the provision of guarantees for the fulfillment of the basic needs of a decent life for every Participant and/or his family members".
- l. Article 4 letter I of Law Number 24 of 2011 concerning the Social Security Administering Body, which clearly states that BPJS operates a national social security system based on the principle "the results of the management of the Social Security Fund are used entirely for program development and for the greatest benefit of the Participants".

So, the existence of Presidential Regulation Number 111 of 2013 concerning Amendments to Presidential Regulation Number 12 of 2013 concerning Health Insurance, is a form of legal uncertainty where there has been inconsistency of the state/government in terms of responsibility in proper health services for the community. If it refers to the basic regulations (the 1945 Constitution), as well as the regulations under it, the existence of BPJS is the state's implementation in developing a social security system for all people and empowering the weak and incapable in accordance with human dignity.

#### 4. CONCLUSION

1. Legal certainty for payment of health services has provided legal certainty for Health Service Providers (PPK) as regulated in Presidential Regulation Number 19 of 2016 concerning the Second Amendment to Presidential Regulation Number 12 of 2013 concerning National Health Insurance (JKN). However, this change still does not provide legal certainty for BPJS patients when problems occur related to the amount of payments that must be paid by BPJS to Health Service Providers, if there are patients who experience/require to be treated with costs that exceed the rates determined by BPJS.
2. The legal consequences if there is no legal certainty for health services, namely inconsistencies between existing regulations and health services that occur in health facilities, there has been an inconsistency of the state/government in terms of responsibility in proper health services for the community.
3. What efforts can be made by BPJS patients related to the absence of legal certainty for BPJS health services based on applicable legal provisions, namely:
  - a. Patients can claim for compensation in a civil manner according to Article 1365 of the Civil Code;
  - b. File a lawsuit based on Article 58 paragraph (1) of Law Number 36 Year 2009 concerning Health;
  - c. Complaints to the Service Quality Control Unit and Complaint Handling of BPJS Participants on the basis of Article 48 paragraph (2) of Law Number 24 of 2011 concerning BPJS;
  - d. Carry out mediation efforts on the basis of Article 49 paragraph (1) of Law Number 24 of 2011 concerning the Social Security Administering Body;
  - e. Carry out legal remedies for Dispute Resolution through the Court, on the basis of Article 50 of Law Number 24 of 2011 concerning the Social Security Administering Body; and
  - f. Can use Consumer Protection Law instruments, on the basis of Article 45 of Law Number 8 of 1999 concerning Consumer Protection.

**LEGAL CERTAINTY FOR HEALTH FACILITIES IN PROVIDING REFERRAL LETTER ON PATIENT REQUESTS IN THE JKN ERA (JURIDICAL REVIEW OF THE SJSN LAW AND BPJS HEALTH LAW)**

DOI

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**LEGAL CERTAINTY FOR HEALTH FACILITIES IN PROVIDING REFERRAL LETTER ON  
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