

## DISCRIMINATORY TREATMENT OF FULFILLMENT OF PATIENT RIGHTS IN SERVICES AT FACILITIES BY THE HEALTHCARE SOCIAL SECURITY AGENCY IN INDONESIA

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### ABSTRACT

**Objective:** The research aims to explore the fulfillment and protection of BPJS Health Patient rights from discriminatory actions in health services. This research uses a normative juridical approach with descriptive analysis.

**Theoretical framework:** This study revolves around the discriminatory treatment in the fulfillment of patient rights within healthcare services provided by the Healthcare Social Security Agency in Indonesia. This framework is constructed upon three pivotal pillars: the concept of patient rights, the role of the Healthcare Social Security Agency, and the overarching principles of social justice.

**Method:** This research is descriptive and of the normative legal research category. Normative legal research is a form of legal research methodology that bases its analysis on relevant laws and regulations applicable to the legal issues that are the primary focus of the research. Meanwhile, the approaches used in this research are conceptual approach, statute approach and case approach. This study utilizes secondary data derived from both primary and secondary sources.

**Result and conclusion:** The results illustrate that health is the main thing that is the basic need of every human being. BPJS guarantees health services for all users by helping to handle the costs of health services. BPJS Health patients have the right to be protected and fulfilled in health services, although in practice sometimes the fulfilment and protection of these rights are ignored by medical personnel and health facilities. The forms of discriminatory treatment experienced by BPJS Health Patients are the treatment of unprofessional health or medical personnel, queuing for service units with a long time, providing unqualified drugs, and limiting the room quota for BPJS patients.

**Originality/Value:** As a recommendation in the study, Health Facilities and Medical Personnel should act professionally without any discrimination in providing health services to BPJS Health participants.

**Keywords:** discrimination, rights fulfillment, health facilities

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## TRATAMENTO DISCRIMINATÓRIO DO CUMPRIMENTO DOS DIREITOS DOS PACIENTES EM SERVIÇOS NAS INSTALAÇÕES PELA AGÊNCIA DE SEGURANÇA SOCIAL DA SAÚDE NA INDONÉSIA

### RESUMO

**Objetivo:** A pesquisa tem como objetivo explorar o cumprimento e a proteção dos direitos do paciente de saúde do BPJS contra ações discriminatórias nos serviços de saúde. Esta pesquisa utiliza uma abordagem jurídica normativa com análise descritiva.

**Estrutura teórica:** Este estudo gira em torno do tratamento discriminatório no cumprimento dos direitos do paciente nos serviços de saúde prestados pela Healthcare Social Security Agency na Indonésia. Essa estrutura é construída com base em três pilares fundamentais: o conceito de direitos do paciente, o papel da Agência de Seguridade Social da Saúde e os princípios abrangentes da justiça social.

**Método:** Esta pesquisa é descritiva e da categoria de pesquisa jurídica normativa. A pesquisa jurídica normativa é uma forma de metodologia de pesquisa jurídica que baseia sua análise em leis e regulamentos relevantes aplicáveis às questões jurídicas que são o foco principal da pesquisa. Enquanto isso, as abordagens usadas nesta pesquisa são a abordagem conceitual, a abordagem de estatuto e a abordagem de caso. Este estudo utiliza dados secundários derivados de fontes primárias e secundárias.

**Resultado e conclusão:** Os resultados ilustram que a saúde é a principal necessidade básica de todo ser humano. A BPJS garante serviços de saúde para todos os usuários, ajudando a arcar com os custos dos serviços de saúde. Os pacientes do BPJS Health têm o direito de serem protegidos e atendidos nos serviços de saúde, embora, na prática, às vezes o cumprimento e a proteção desses direitos sejam ignorados pela equipe médica e pelas instalações de saúde. As formas de tratamento discriminatório sofridas pelos pacientes de saúde da BPJS são o tratamento de pessoal médico ou de saúde não profissional, filas longas para unidades de serviço, fornecimento de medicamentos não qualificados e limitação da cota de quartos para pacientes da BPJS.

**Originalidade/valor:** Como recomendação do estudo, os estabelecimentos de saúde e a equipe médica devem agir profissionalmente, sem qualquer discriminação, na prestação de serviços de saúde aos participantes do BPJS Health.

**Palavras-chave:** discriminação, cumprimento de direitos, estabelecimentos de saúde.

### 1 INTRODUCTION

Health is one of the basic human needs, without a healthy life humans will experience pain, so they cannot carry out their daily activities properly. People who are sick will ask for help from health workers and health workers will provide health services<sup>4</sup>

<sup>4</sup> Yulius Don Pratama, Sangking, and Thea Farina, "Perlindungan Hukum Terhadap Pasien BPJS Kesehatan Dalam Mendapatkan Pelayanan Kesehatan Di RSUD Dr. Doris Sylvanus Palangka Raya," *Journal of Environment and Management* 2, no. 2 (2021): 191–99, <https://doi.org/10.37304/jem.v2i2.2948>.



*Healthcare Social Security Agency (BPJS)* is a legal entity that is directly responsible to the President and organizes national health insurance for all Indonesian people, especially for civil servants, pensioners, other business entities and ordinary people. The legal basis for the implementation of BPJS is therefore Law of the Republic of Indonesia Number 24 Year 2011 regarding BPJS, which was enacted on November 25, 2011.<sup>5</sup>

*Healthcare Social Security Agency (BPJS)* as one of the organizers of the national health coverage, serves to reduce the risk of the community bearing health costs from their own money, in an amount that is difficult to predict and sometimes requires large costs. The community requires security in the form of monthly premiums for BPJS Health. Thus, all BPJS health members share the cost of health care, preventing it from becoming an individual burden. The existence of BPJS Health program is very helpful for the community in reducing medical expenses, so at this time many people use BPJS for health services.<sup>6</sup>

The role of the government and the duty of institutions in protecting the rights of individuals who have registered as BPJS Health participants, namely: Provide convenience for BPJS Kesehatan patients with the cooperation of BPJS Kesehatan and Health Facilities in educating patients / customers of BPJS Kesehatan participants by improving the quality of health services in hospitals; pay attention to the facilities and infrastructure of patient rights and follow up quickly on complaints / complaints of patients / customers of BPJS Kesehatan participants that there is no distinction between BPJS Kesehatan patients and / or patients who are unable to with general patients.<sup>7</sup>

Acts of discrimination such as in the form of refusal, making it difficult, or differentiating services provided to BPJS Health patients. Based on a report by the BPJS Watch Advocacy Institute, throughout 2022 there were 109 cases of discrimination experienced by BPJS patients related to drug administration, re-admissions, and deactivated membership. At the health center, discrimination that is usually reported to the institution includes the provision of drugs that are not in accordance with the ration so that patients have to buy the lack of drugs with their own pockets. Meanwhile, in

<sup>5</sup> Yusriadi, "Public Health Services: BPJS Case Study in Indonesia," *Administrasi Publik: Public Administration Journal* 9, no. 2 (2019): 85–91, <https://doi.org/10.31289/jap.v9i2.2279>.

<sup>6</sup> Pandi Rais et al., "The Islamic Law Review on Management of the Social Security Organizing Agency (BPJS)," *Qawānīn Journal of Economic Syariah Law* 4, no. 2 (2020): 177–92, <https://doi.org/10.30762/q.v4i2.2469>.

<sup>7</sup> Sofyatin Atiana, "Legal Protection of BPJS Participants in Ngudi Waluyo Wlingi Hospital-Blitar District," *Activa Yuris: Jurnal Hukum* 3, no. 1 (2023): 1–11, <https://doi.org/10.23887/jpp.v53i1.24127>.



hospitals, the most complained cases are re-admissions where patients who are under treatment and have not fully recovered are told to go home. After that, the patient will be re-admitted to the hospital for treatment. Another discriminatory treatment is the queue of BPJS patients to the general clinic for hours.<sup>8</sup>

The aforementioned instances demonstrate that Health Facilities and BPJS Health have not completely enhanced the performance of the best community service. To make matters worse, there are a number of instances in which hospitals have refused BPJS Health patients on the premise that all available beds are occupied, until there are casualties. Discriminatory behavior like this damages the health care system in Indonesia, and indirectly this behavior does not support reform in the health sector. Therefore, the discriminatory treatment between BPJS patients and general patients is not in accordance with the BPJS principles enumerated in Article 2 of Law of the Republic of Indonesia Number 24 of 2011 regarding the *Healthcare Social Security Agency (BPJS)*, namely humanity, benefits, and social justice for all Indonesians.

## 2 RESEARCH METHODS

This research is descriptive and of the normative legal research category. Normative legal research is a form of legal research methodology that bases its analysis on relevant laws and regulations applicable to the legal issues that are the primary focus of the research. Meanwhile, the approaches used in this research are conceptual approach, statute approach and case approach. This study utilizes secondary data derived from both primary and secondary sources.

## 3 RESULTS AND DISCUSSION

### 3.1 PROTECTION AND FULFILLMENT OF BPJS HEALTH PATIENT RIGHTS FROM DISCRIMINATORY ACTIONS

Everyone has the right and responsibility to achieve optimal health. In order to achieve a healthy existence, as stipulated in Article 28H of the Constitution of the Republic of Indonesia, there must be a continuous effort to improve the health status. The government has the authority to plan, regulate, organize, nurture, and supervise the implementation of community-wide health initiatives that are equitable and affordable.

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<sup>8</sup> Anonim, "Tindakan Nakes 'bedakan Pasien BPJS' Dikecam Publik, 'Sangat Tidak Pantas' - Pegiat: 'Itu Bentuk Kecurangan Dan Paling Banyak Terjadi Di Rumah Sakit,'" BBC News Indonesia, 2023, <https://www.bbc.com/indonesia/articles/cn06g268n6vo>.



On this basis, the government is obligated to provide legal protection through a variety of regulations, such as the 1945 Constitution of the Republic of Indonesia, Law Number 40 of 2004 regarding the National Social Security System, Law Number 24 of 2011 regarding the Social Security Organising Agency, and Law Number 36 of 2009 regarding Health.

The government is responsible for upholding the health right as a basic human right. The state as an obligation holder must make an assertion. First, the state must fulfil its domestic and foreign obligations, while individuals and communities are the ones who hold the rights. Second, the state does not have the authority, but the state is responsible for fulfilling the rights of its people, both personal and community, which is a guarantee of international human rights. Third, if a state does not carry out its responsibilities and obligations, then the state has violated human rights or international law. If the violating act as intended is not carried out by the government of a country, then the burden of bearing the act will be taken over by the international community.<sup>9</sup>

The International Covenant on Economic Social and Cultural Rights (IESCRESB) requires state parties to commit to fulfilling the health right. State parties are required to allocate an adequate budget for health. The Ministry of Health's budget for 2023 is IDR 85.5 trillion, or 47.8 percent of the total health budget of IDR 178.7 trillion. This comprises the budget for the payment of JKN contributions for 96.8 million PBI participants, totalling IDR 46.5 trillion.<sup>10</sup>

For example, if the largest budget is for military financing, then state parties must do the opposite. This commitment actually requires the obligation to adopt national instruments or laws and the implementation of the World Health Organization's Primary Health Care (PHC) strategy.<sup>11</sup>

As an obligation holder, the state has an obligation of conduct and an obligation of result. The obligation of conduct obliges the state to take steps in the realization of ESCR, while the obligation of result obliges the state to achieve certain results. Thus, it can be noted that the results achieved from the implementation of state obligations are

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<sup>9</sup> Ardiansah Ardiansah and Silm Oktapani, "Politics of Law The Fulfillment of The Right to Health for The Indonesian People Based on The SJSN Law and BPJS Law," *Jurnal IUS Kajian Hukum Dan Keadilan* 8, no. 1 (2020): 164–79, <http://dx.doi.org/10.29303/iius.v8i1.707>.

<sup>10</sup> Rokom, "Anggaran Kesehatan 2023 Fokus Tingkatkan Kualitas Layanan Kesehatan," *Sehat Negeriku*, 2022, <https://sehatnegeriku.kemkes.go.id/baca/rilis-media/20221201/2041903/anggaran-kesehatan-2023-fokus-tingkatkan-kualitas-layanan-kesehatan/>.

<sup>11</sup> Ronny Josua Limbong et al., *Kajian Pemenuhan Hak Atas Kesehatan Bagi Kelompok Rentan Di Indonesia*, *Komisi Nasional Hak Asasi Manusia* (Jakarta: Komisi Nasional Hak Asasi Manusia Republik Indonesia (Komnas HAM RI), 2020).





relevant to progressive realization. Due to the nature of the gradual realization, the fulfilment of state obligations is not only seen from the results alone but must also be examined from the steps taken.<sup>12</sup>

Particularly in health services, doctors, patients and hospitals are three legal subjects involved in the field of health services. These three elements form a medical and legal relationship. The relationship formed is generally an object of health maintenance in general and health services in particular. Doctors and hospitals act as providers of health services to patients, while patients act as recipients of health services. The implementation of the relationship between doctors, patients and hospitals is always regulated by certain regulations so that there is harmony in carrying out the relationship between the parties.<sup>13</sup>

The rights of patients have actually been protected and regulated by several laws, namely the Medical Practice Act, the Health Act and the Hospital Act. Article 52 of the Medical Act states that patients in receiving services in medical practice have the right to obtain a complete explanation of medical actions, request a doctor's opinion, obtain services in accordance with medical needs, refuse medical action and obtain the contents of medical records.<sup>14</sup>

Basically, there are 5 (five) guarantees of patient rights that must be fulfilled by the hospital so that legal protection of patients as consumers of services in health services can be fulfilled, namely: (1) a guarantee to obtain information when provided with health services; (2) a guarantee of security, comfort and safety of health services; (3) a guarantee of equal rights in health services; (4) a guarantee of freedom of choice over nursing services; (5) a guarantee of freedom to claim rights that are harmed.<sup>15</sup>

BPJS health participants who have registered and paid contributions are entitled to health insurance benefits in accordance with Presidential Regulation No. 82 of 2018 concerning Health Insurance. BPJS Health is an individual health service, covering

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<sup>12</sup> Limbong et al.

<sup>13</sup> Risfa Anesa, Jambi Luna Maisyarah, and Esprida Hotma Dame, "Perlindungan Hukum Terhadap Pasien Peserta BPJS Dalam Penanganan Medis Di Rumah Sakit Prima Pekanbaru," *Humantech: Jurnal Ilmiah Multi Disiplin Indonesia* 1, no. 2 (2021): 195–205, <https://doi.org/https://doi.org/10.32670/ht.v1i2.1023>.

<sup>14</sup> Abdun Nadhif, "Perlindungan Hukum Pasien BPJS Kesehatan Atas Pelayanan Kesehatan Rumah Sakit Berdasarkan Undang-Undang Nomor 24 Tahun 2011 Tentang Badan Penyelenggara Jaminan Sosial," *Doktrin: Jurnal Dunia Ilmu Hukum Dan Politik* 1, no. 1 (2023): 8–15, <https://doi.org/https://doi.org/10.59581/doktrin.v1i1.344>.

<sup>15</sup> I Nyoman Dharma Wiasa and I Nyoman Budiana, "Implementasi Perlindungan Konsumen Peserta BPJS Dalam Pelayanan Kesehatan Di RSUP Sanglah Denpasar," *Jurnal Analisis Hukum* 2, no. 2 (2019): 181–93, <https://doi.org/https://doi.org/10.38043/jah.v2i2.2206>.



promotive, preventive, curative, and rehabilitative services, including drug services and consumable medical materials as needed.

BPJS health patients in relation to health facilities as patients are sick people who need the help of medical personnel such as doctors to cure the disease suffered by the patient. Patients are subjects who have great influence over the final outcome of services, not just objects. As a patient in the hospital, patient rights must be fulfilled, considering that patient satisfaction is a barometer of service quality in the hospital.

Based on the results of research on BPJS Health patients who were hospitalized in the hospital, there were quite a lot of BPJS Health Patients who did not get their rights when they were hospitalized or health services at the hospital. Even though these patients have carried out their obligations as determined by the BPJS Kesehatan and the hospital some of these patients feel disadvantaged in the health service process. Late handling or lack of information about the patient's condition is often experienced by BPJS Health Patients so it is not uncommon for BPJS Health Patients to experience losses that should not be if the hospital carries out its obligations to patients.<sup>16</sup>

Regarding the discrimination experienced by BPJS patients in basic health services, it can be seen from the results of research based on the results of a survey conducted by the National Commission of Human Rights in 2020, which was 20.7% who had seen/experienced discrimination in basic Health Centres services. In accordance with this data, the realization and fulfilment of the right to health must basically be based on the principle of non-discrimination.<sup>17</sup>

The non-fulfilment of the right to health, which is a state obligation, can be categorized as a form of human rights violation at both the level of commission and omission. For example, the problems that arise are related to the availability of medicines, medical treatment and health services provided to patients that are not optimal.

The role of BPJS Kesehatan is to realize the right to health services for Indonesian citizens. BPJS Kesehatan covers the costs of health services both at first-level health facilities and advanced referral health facilities. Cost coverage is carried out with the principle of mutual cooperation, where participants who have more income pay

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<sup>16</sup> Shoraya Yudithia, M. Fakhri, and Kasmawati, "Perlindungan Hukum Terhadap Peserta BPJS Kesehatan Dalam Pelayanan Kesehatan Di Rumah Sakit," *Pactum Law Journal* 1, no. 2 (2018): 164–69.

<sup>17</sup> Anonim, "Survei Pandangan Masyarakat Terhadap Hak Atas Kesehatan Dalam Sistem Jaminan Kesehatan Nasional Di Indonesia," Komisi Nasional Hak Asasi Manusia, 2020, <http://https://www.komnasham.go.id/files/20211007-survei-pandangan-masyarakat-terhadap-SIO0X4.pdf>.



contributions, while participants who cannot afford it are borne by BPJS,<sup>18</sup> and implemented the INA-CBGs payment system, which is a health service bundle tariff covering all hospital cost components, from non-medical to medical services. In the INA-CBGs system, patients are categorized into episodes with associated service costs.

BPJS guarantees health services for all users with the promised facilities, which help users in handling costs for health services. The facilities guaranteed by BPJS include first-level health services, namely non-specialistic health services which include service administration, promotive and preventive services, examination, treatment and medical consultation, non-specialistic medical actions, drug services and consumable medical materials, blood transfusions in accordance with medical needs, first-level laboratory diagnostic support examinations, and first-level hospitalization according to indications.

BPJS Health also guarantees advanced referral health services, which include outpatient treatment including service administration, examination, treatment, and specialized consultation by specialist and subspecialist doctors; specialized medical actions according to medical indications; drug services and consumable medical materials; implantable medical device services; advanced diagnostic support services according to medical indications; medical rehabilitation; blood services; forensic medicine services; and corpse services. Furthermore, there are also inpatient services, which include non-intensive inpatient care in intensive care, as well as other health services that have been determined by the Indonesian Ministry of Health.

Legal protection efforts that can be carried out by BPJS patients are such as Patients can make complaints directly or indirectly. Direct complaints can be in the form of direct face-to-face with related parties by coming to the hospital complaints section or the nearest BPJS Health Office, or through the media telephone service centre or hotline service. And indirect complaints through correspondence, SMS gateway, email, website and social media on behalf of BPJS Health.<sup>19</sup>

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<sup>18</sup> Endang Kusuma Astuti, "Peran BPJS Kesehatan Dalam Mewujudkan Hak Atas Pelayanan Kesehatan Bagi Warga Negara Indonesia," *J-PeHI: Jurnal Penelitian Hukum Indonesia* 01, no. 01 (2020): 55–65.

<sup>19</sup> Finensia Aulia Kusumastuti and Mukti Fajar ND, "Upaya Perlindungan Hukum Bagi Pasien BPJS Terkait Sistem Rujukan Rumah Sakit Di Kota Yogyakarta," *Media of Law and Sharia* 1, no. 3 (2020): 162–75, <https://doi.org/10.18196/mls.v1i3.9495>.





## 3.2 DISCRIMINATORY TREATMENT OF BPJS HEALTH PATIENTS IN HEALTH SERVICES

### 3.2.1 Unprofessional treatment of health or medical personnel

Medical personnel in charge of serving the community do not carry out their duties properly, patients complain about the poor service provided by medical personnel to patients who use BPJS cards for treatment. Medical personnel consider the service guarantees provided by the government to the community as a barrier or difference between high-economic communities and low-economic communities. In health care efforts carried out by medical personnel, one of which is that patients who suffer from illness are hospitalized in the hospital, in handling and health services there is discrimination in the services of Non BPJS inpatients with BPJS patients.

BPJS patients complain about the attitude of sympathy that is not good, the existence of services that are not good and unfriendly when handling, not in accordance with providing services that have been agreed upon in scheduling, not fast in the process of hospitalisation to choose a room, the words delivered are not right to the patients and even less swift medical personnel in handling and ignoring patients who should get emergency help, while the attitude of medical personnel towards Non-BPJS patients is very swift and friendly in serving them, this attitude is carried out by medical personnel blatantly showing differences between patients using the BPJS program and Non-BPJS patients.

Furthermore, the examination is carried out by doctors who are still in the process of education (Doctor Koas), the procedures are difficult, and there is no hospitality for user patients. Examinations carried out by koas doctors are usually done because the doctor who conducts the examination is late in arriving or the doctor cannot come to examine the patient. Difficult procedures make patients less aware of the flow that patients have to do in the administrative process.<sup>20</sup>

Unprofessionalism in health services basically stems from the capitation tariff system that is applied, which pays claims in advance every month to health facilities based on the number of patients who register at the facility without calculating the type and number of health services provided. The INACBG's tariff system is a payment system

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<sup>20</sup> M. Yusuf Sidang Amin Amin, Baharuddin Badaru, and Djanggih Hardianto, "Perlindungan Hukum Terhadap Pasien Pengguna BPJS Terhadap Pelayanan Kesehatan Di Rumah Sakit Wisata UIT Makassar," *Journal of Lex Generalis (JLS)* 3, no. 3 (2022): 404–17, <http://pasca-umi.ac.id/index.php/jlg/article/view/1116/1267>.



with claims in packages with groupings of disease diagnoses and procedures. This tariff system favours BPJS Health to control claim costs. This system is effective but pressures health facilities to serve with claims below the basic cost of health services, so that health facilities are resistant and provide services that are sober and tend to be poor.<sup>21</sup>

### 3.2.2 Service unit queue with long time

Based on the North Sumatra Ombudsman Report, dissatisfaction is quite high from patient complaints, namely the long waiting time for services which is more than 60 minutes and sometimes there are patients who wait up to two hours to get services. Some queues for examination, hospitalization, and surgery at Health Facilities are still frequent, sometimes BPJS patients are numbered in hospitals because they are served with separate counters and different services from other general patients.

The difference between patients who use BPJS and other patients in general Patients who utilize BPJS are typically required to wait longer than other patients. The hospital rejects patients enrolled in BPJS Health due to the lengthy duration of claims processing. Because hospitals also require financial flow. Numerous administrative and other requirements must be fulfilled by BPJS Patients. After completing the administrative procedure, they must also conduct a lengthy verification.<sup>22</sup>

### 3.2.3 Unqualified drug administration

One form of discrimination that is often encountered is discrimination in terms of health services. Discrimination in terms of health can lead to limited access to health and low-quality of services such as in the services of doctors, nurses, and also in terms of providing unqualified drugs which cause a slow healing process in patients. If traced, this drug stock error will have an impact on the patient's healing because the patient does not get the medicine as it should be, whereas if you do not use BPJS, the patient is free to get medicine and it is undeniable that the supply of non-BPJS drugs is always there and never empty for a long time.<sup>23</sup>

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<sup>21</sup> Arief Budiono and Wafda Vivid Izziyana, "Kebijakan Penyelenggaraan Sistem Jaminan Sosial Nasional Melalui BPJS Dengan Sistem Asuransi," *Law Pro Justitia* II, no. 1 (2016): 52–70, <https://ejournal-medan.uph.edu/lpj/article/view/242>.

<sup>22</sup> Adelini Siagian, "Konten Nakes Rendahkan Pasien BPJS, Bagaimana Realita Sesungguhnya?," LPM Dinamika UIN SU, 2023, <https://lpmdinamika.co/serba-serbi/konten-nakes-rendahkan-pasien-bpjs-bagaimana-realita-sesungguhnya/>.

<sup>23</sup> Komir Bastaman and Tony Pathony, "Kualitas Pelayanan Obat BPJS Di Apotek Rawat Jalan RSUD Kelas B Kabupaten Subang," *The World of Business Administration Journal* 2, no. 2 (2020): 154–69, <https://doi.org/10.37950/wbaj.v2i2.940>.



There is a stratified system for serving National Health Insurance participants in Indonesia, ranging from basic to advanced facilities. If these health facilities meet BPJS requirements and cooperate with BPJS, they may be owned by the government, local governments, or private entities. Community health centers, physician and dentist offices, primary care clinics, and hospitals of type D are examples of first-tier health facilities. While primary clinics, general hospitals, and specialized hospitals are advanced-level facilities.<sup>24</sup>

The government subsidizes the implementation of healthcare services for the impoverished in hospitals. On the basis of numerous studies examining the break-even cost of government hospitals, only 14.7% of hospitals were able to achieve cost recovery, while 85.3% were unable to achieve cost break-even. Government subsidies reportedly cover only 5% of the deficit, so it is natural that the majority of hospitals cannot break even. The most expensive elements of claim expenses were drug costs (11-31%), accommodation costs (7-26%), room procedures (8-32%) and laboratory tests (6-19%).<sup>25</sup>

### 3.3 RESTRICTION OF ROOM QUOTA FOR BPJS PATIENTS

Quality of service through facilities and infrastructure includes fulfilling the complete needs of patients, patient families and service providers to support the achievement of comfort and excellent service which includes: (1) rooms and beds according to medical indications (patient illness); (2) rooms and beds are clean, comfortable and safe; (3) a comfortable patient waiting room is available; (4) medical devices needed by patients are available and complete; (5) complete patient examination tools.<sup>26</sup>

BPJS, in several health service places there are still rooms for BPJS patients that are inappropriate and uncomfortable and there is still a dirty environment. Not only is the room quota different, even the time of stay is also different, for BPJS patients it is more rushed regarding discharge, this is also evident from the attitude shown by medical personnel to BPJS patients who are hospitalized, even though at the first time of hospitalization the response issued by medical personnel is very long in handling the

<sup>24</sup> Sandra Aulia et al., "Cost Recovery Rate Program Jaminan Kesehatan Nasional Bpjs Kesehatan," *Akuntabilitas* 8, no. 2 (2016): 111–20, <https://doi.org/10.15408/akt.v8i2.2767>.

<sup>25</sup> Aulia et al.

<sup>26</sup> Afghan Nanda, Aminah, and Sonhaji, "Perlindungan Hukum Terhadap Paise BPJS Kesehatan Di RSUD Dr. Soeradji Titronegoro Klaten," *Diponegoro Law Journal* 6, no. 4 (2016): 1–13, <https://doi.org/https://doi.org/10.14710/dlj.2016.13739>.



administrative process or room selection for patients while patients who are not BPJS the process does not take long and does not even need to use a queue to move the patient's room. Problems in health services are a problem that is troubling people who use Social Security.

There are often complaints from BPJS participants who feel there is discrimination when they have to be hospitalised, but the health service provider says "The place is full", even though when checked it turns out that the place in question is available, not filled or has not been filled with other patients. Sometimes BPJS users have to move from one hospital to another just to get an inpatient place.

Disproportionate health services for BPJS Kesehatan Class 3 participants are triggered by a mismatch between the allocation of beds in hospitals and the proportion of BPJS Kesehatan Class 3 participants. BPJS Kesehatan Class 3 participants have the highest number of visits, but the availability of beds in hospitals is limited, so they are forced to move to Class 2 services. As a result, the cost of health services increases for patients and BPJS Kesehatan. Patients have to pay to move and get services in a higher-class of hospital.<sup>27</sup> Health services provided by the hospital will be good if supported by supporting infrastructure in providing health services to BPJS Health participants. With these facilities and infrastructure, it is hoped that it can facilitate the service process and be very helpful in serving BPJS participants.

#### 4 CONCLUSION

Health is the main thing that is the basic need of every human being. BPJS guarantees health services for all users with the promised facilities, which help users in handling costs for health services. BPJS Kesehatan patients have the right to be protected and fulfilled in health services, although in practice sometimes the fulfilment and protection of these rights are ignored by medical personnel and health facilities. The forms of discriminatory treatment experienced by BPJS Kesehatan patients are the treatment of unprofessional health or medical personnel, queuing for service units with a long time, providing unqualified drugs, and limiting the room quota for BPJS patients. The study recommends that BPJS managers enhance BPJS management and a fair and

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<sup>27</sup> Galih Endradita, Ahmad Yudianto, and Muhammad Afiful Jauhani, "Unproportional Health Services in Hospitals for Third Class BPJS Kesehatan Participant," in *4th International Symposium on Health Research (ISHR 2019)*, vol. 22 (Atlantis Press, 2020), 549–52, <https://doi.org/10.2991/ahsr.k.200215.106>.



timely payment system for health facility claims to BPJS so that health facilities do not engage in discriminatory practices.



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