

PATIENT RIGHTS OF SOCIAL BADAN PENYELENGGARA JAMINAN SOSIAL (BPJS) PARTICIPANTS REGARDING THE FULFILLMENT OF MEDICATION NEEDS BY HOSPITALS

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ABSTRACT

The government provides health services through the BPJS social security program. However, complaints often arise regarding the lack of availability of medicines for BPJS patients in hospitals so that they require out-of-pocket costs. This research aims to determine the rights to provide health services and treatment for BPJS patients, as well as legal protection against fraud in hospitals. Using normative juridical methodology, this research uses descriptive analysis to describe secondary and primary facts. Data sourced from regulations, publications and websites, through literature studies. The research results show that drug services to BPJS patients are influenced by state budget limitations in administering health insurance. Based on this, it is important to confirm the availability of drugs between pharmacists and prescribing doctors and establish protocols for providing drugs, and offer profitable alternatives for patients in an effort to improve health services.

Keywords: Bpjs Patienr Rights, Medicine, Hospital

INTRODUCTION

One of the fundamental rights for every citizen is Health.(Afifah & Paruntu, 2015) Health rights are defined as the right to live in a healthy manner, both physically and spiritually. One aspect of health rights is adequate healthcare services. However, the lower and middle-class communities often face problems where they cannot enjoy healthcare services and treatment when they are sick due to the high cost of treatment and medication redemption.(Mendrofa & Suryawati, 2016) The high cost of medical treatment often results in loss of life among the community due to the inability to access medical assistance. Based on these considerations, the government then issued regulations in Article 28 paragraph 3 and Article 34 paragraph 2 of the 1945 Constitution, which explains that social security is the right of every citizen and the state to develop a social security system for the entire population and empower the less fortunate members of society. Based on these regulations, the Indonesian government strives to improve the quality of healthcare services by implementing a social security program primarily to ensure the health rights of the poor or less fortunate by issuing Law Number 40 of 2004 (Law No. 40/2004) concerning the

National Social Security System (SJSN) and Law Number 24 of 2011 (Law No. 24/2011) concerning the Social Security Administrators Agency (BPJS).

The Social Security Organizing Body, abbreviated as BPJS Health, is a legal entity formed to implement a health insurance program, where the insurance provides health protection so that participants receive benefits for health maintenance and protection in meeting basic health needs provided to anyone who has paid premiums and/or those paid by the government. (Aulia & Suryamizon, 2023)

The fulfillment of healthcare needs by BPJS encompasses the provision of pharmacy services, especially in terms of the affordability of drugs, both in the form of essential drugs, protecting the public from misuse of drugs, rational drug use, and independence in the field of pharmacy. Drugs themselves are substances or guidance materials that are included in biological products used to influence or investigate physiological systems or pathological conditions in order to establish diagnosis, prevention, treatment, recovery, health improvement, and contraception for humans. (Fitriah, 2021)

Several changes have occurred in the healthcare system in Indonesia since the implementation of Social Health Insurance, especially regarding treatment costs and the significant increase in demand for drugs, which is estimated to triple the drug market. Therefore, the Ministry of Health established the National Formulary (Fornas), which was ratified through Minister of Health Decree No. 328/SK/VIII in 2013, used in the National Insurance Program, consisting of at least 923 forms of drugs, both generic and branded, that have been designated. The National Formulary itself is a drug catalog formed by a national committee regulated by the Minister of Health. This catalog is based on the latest scientific research indicating effectiveness, safety, and affordability. The Formulary is used as a guide in the National Health Insurance (JKN) to ensure optimal and efficient drug use.

After the government's implementation of the BPJS program, hospitals can collaborate with BPJS in providing healthcare services to patients. Hospitals are institutions that provide comprehensive personal healthcare services, including inpatient, outpatient, and emergency care. (Ali, 2015) However, there are often complaints about hospital services to BPJS patients and losses that occur in the healthcare sector, especially hospitals that collaborate with BPJS. Based on the findings obtained, there are still issues related to informing patients about their consent to using medications that do not comply with the recommendations of BPJS Health. Additionally, patients often do not receive relevant information regarding cost increases and the content of the drugs provided, causing many patients to struggle when faced with high medication costs.

Like one community member who prefers to remain anonymous shared his experience of seeking treatment at RSUD Sanana. Every time he sought treatment, the specialist doctor provided a prescription to collect medication from the RSUD Sanana pharmacy. However, pharmacy staff stated that some medications had to be purchased from external pharmacies because they were out of stock. This happened repeatedly during several visits, but the patient did not receive the prescribed medication and had to purchase it externally at his own expense. (Zahir Rusyad, 2018) This contradicts Article 15 of Law No. 40 of 2009 concerning hospitals, which asserts that hospitals must meet pharmaceutical requirements by ensuring the availability of quality, beneficial, and affordable pharmaceuticals. Additionally, Minister of Health Regulation No. 28 of 2014 states that BPJS patients are entitled to medications listed in the national formulary (Fornas) under the inasibijis financing package model. If there are medications outside the Fornas, they can still be provided and are the responsibility of the hospital. Therefore, based on these regulations, hospitals are not allowed to ask BPJS Health participant patients to redeem medication outside the hospital pharmacy for any reason. If a doctor has prescribed medication, the hospital must provide it. If the hospital does not have the medication available, they must procure it, not ask the patient to purchase it at their own expense.

When viewed over time, the issue has become increasingly prevalent. Therefore, the problem identification in this research is how the rights to healthcare, provision, and use of medication for BPJS participant patients based on Minister of Health Regulation No. 28 of 2014 concerning the Guidelines for Implementing the Health Insurance Program, and how legal protection applies if there is fraud by hospitals in the pharmaceutical sector resulting in BPJS patients having to redeem medication outside the hospital at their own expense and its relation to hospital accountability.

With regulations that clearly state the rights to medication fulfillment for BPJS participant patients by hospitals, this research aims to understand, explain, and analyze the rights to medication services, provision, and usage for BPJS participant patients, and how legal protection applies in case of fraud by hospitals in the pharmaceutical sector resulting in BPJS patients having to redeem medication outside the hospital at their own expense and its relation to hospital accountability. Therefore, it is hoped that this research can serve as an informational tool to provide insight and understanding of medication services, provision, and usage for BPJS participant patients, and how legal protection applies in case of fraud by hospitals in the pharmaceutical sector resulting in BPJS patients having to redeem medication outside the hospital at their own expense and its relation to hospital accountability.

LITERATURE REVIEW

Healthcare services are all efforts, whether individually or collectively within an organization, to maintain and improve health, prevent and cure diseases. The primary indicator of successful healthcare delivery is patient satisfaction, which is a patient's feeling resulting from healthcare services exceeding expectations. There are five aspects representing patients' feelings regarding service quality, namely reliability, responsiveness, assurance, empathy, and tangibles. (Handayani, 2016)

The right to health is defined as the right to live a healthy life, both physically and spiritually. One aspect of the right to health is adequate healthcare services. (EFFENDI, 2020) The Social Security Organizing Agency, hereinafter abbreviated as BPJS Kesehatan, is a legal entity established to implement health insurance programs, wherein the insurance provides health protection so that participants receive benefits for health maintenance and protection in meeting basic health needs provided to every person who has paid premiums and/or those paid by the government. (Mendrofa & Suryawati, 2016)

Medicine is a substance or biological product used to influence or investigate physiological systems or pathological conditions in order to establish diagnoses, prevent, cure, recover, improve health, and provide contraception for humans. (Fitriah, 2021) Hospitals are institutions that provide comprehensive personal health services, including inpatient, outpatient, and emergency care. (Hartati, 2017)

The National Formulary itself is a catalog of drugs formed by a national committee regulated by the Minister of Health. (Wijaya, 2019) Fraud in the healthcare field is any form of deceit or impropriety committed by various parties within the healthcare service chain to gain personal benefits that far exceed those obtained through normal practice. (AGUNG, 2018a)

METHODOLOGY

The method used in this research is normative juridical because it is based on provisions governing the rights of BPJS participant patients regarding medication fulfillment by hospitals. The type of research used is descriptive analysis, which describes and depicts both secondary and primary facts related to the matter. The data collection technique employed is literature study, which is obtained from secondary and tertiary data such as regulations, books, publications, articles, journals, and websites. The data collection procedure involves searching for data such as primary legal material, secondary legal material, and tertiary legal material. The analysis method used in this research is qualitative juridical method.

DISCUSSION

The Right to Medication Services, Provision of Medication, and Medication Usage for BPJS Participant Patients based on Minister of Health Regulation Number 28 of 2014 concerning Guidelines for Implementing the Health Insurance Program

Law Number 36 of 2009 concerning Health asserts that every individual has the same right to access healthcare resources and receive safe, quality, and affordable healthcare services. Citizens' rights in the field of health encompass several important aspects. Firstly, there is the aspect of uncertainty, which differs from the need for other commodities such as clothing or shoes; an individual cannot determine when they will need healthcare services. (Rukmana, 2019)

Fundamentally, no one wants to be sick and hospitalized; what is desired is health. Secondly, there is information asymmetry, where the decision to purchase healthcare services depends on the doctor or healthcare facility. This is often referred to as patient ignorance. Thirdly, there are impacts on others. Solutions to health problems often have broader implications, not only affecting the individual involved but also society as a whole. (Ningtiyas, 2021)

The Indonesian government, in the implementation of the healthcare insurance program, has regulated the rights to healthcare services, provision, and usage of medication for BPJS participant patients, as stipulated in Minister of Health Regulation Number 2014 concerning Guidelines for Implementing the Health Insurance Program, with the content and explanation as follows,

a. Medication Service

Medication services are the responsibility of pharmacists in providing accurate, comprehensive, and up-to-date information to patients, the public, other healthcare professionals, and those in need. Minister of Health Regulation Number 28 of 2014 regulates that medication services for participants of the National Health Insurance (JKN) at primary healthcare facilities are carried out by pharmacists in primary clinic pharmacy installations, primary health center pharmacy rooms, or pharmacies in accordance with regulations. If the health center does not yet have a pharmacist, medication services can be provided by pharmaceutical technical personnel under the supervision of a pharmacist from the district or city Health Department. Meanwhile, medication services at advanced referral healthcare facilities are conducted by pharmacists from hospital pharmacy installations or main clinics, or pharmacies in accordance with regulations. Pharmacists are responsible for all pharmaceutical activities carried out in pharmacies. Pharmacists have broad responsibilities and obligations in interacting with patients. Pharmacists are trusted by patients, and they must ensure that the medication provided meets the patient's needs and always exercise caution in medication administration. If the medication provided is not in accordance with recommendations, medication errors can occur.

Medication services for participants of the National Health Insurance (JKN) at healthcare facilities refer to the list of drugs listed in the National Formulary (FORNAS). FORNAS is a drug catalog formed by a national committee regulated by the Minister of Health, based on the latest scientific research indicating effectiveness, safety, and affordability. FORNAS is used as a guide in the use of drugs within the JKN. Additionally, the prices of drugs in FORNAS are listed in the e-drug catalog, which is a mechanism for purchasing drugs through an e-purchasing application designed to control the prices of these FORNAS drugs. (FATHURRACHMAN, 2018)

The procurement of drugs available in the e-Catalog system is carried out through the e-Purchasing procedure, which is the procurement process for goods/services through the drug e-Catalog system. FORNAS can be accessed directly by the public through the online catalog or e-Catalog. The JKN drug e-Catalog system is an electronic information system containing information about the list of drug names, types, technical specifications, smallest unit prices, and supplying manufacturers. (Fadliana et al., 2023) Issues related to the procurement of BPJS drugs by hospitals often encounter obstacles in the e-Catalog. Not all types of drugs available in the e-Catalog can be purchased by hospitals at e-Catalog prices due to limited availability of BPJS drugs. This means that not all types of drugs listed in the National Formulary (FORNAS) are available in

the e-Catalog. Difficulties in procuring BPJS drugs affect the drugs that hospitals can provide to BPJS patients. The shortage of BPJS drugs results in pharmacies delaying drug purchases, which in turn delays drug administration to BPJS patients. As for inpatient care, if drugs at e-Catalog prices are unavailable, pharmacies may purchase drugs at regular prices, which are significantly more expensive, or even instruct the patient's family to purchase drugs outside the hospital pharmacy.

b. Provision of Medication

The provision of drugs in healthcare facilities is regulated by referring to the National Formulary (FORNAS) and drug prices listed in the e-drug catalog. The drug procurement process through the e-catalog utilizes the e-purchasing system, which is the purchase of drugs through an electronic catalog. If there are operational constraints, drug procurement can be done manually. However, if the drug is not listed in FORNAS and its price is not listed in the e-catalog, then drug procurement can be carried out through other procurement mechanisms in accordance with applicable regulations. The relevant regulation is Presidential Regulation Number 70 of 2012 concerning the Second Amendment to Presidential Regulation Number 54 of 2010 Regarding the Procurement of Government Goods/Services. This regulation explains that if healthcare facilities face drug availability constraints as listed in the e-catalog, they can contact the Directorate of Public Medicine Development via email: e_katalog@kemkes.go.id or telephone numbers 081281753081 and (021)5214872. Reports of drug availability constraints must be accompanied by information such as:

- 1) Name, formulation, and strength of the drug.
- 2) Manufacturer and distributor of the drug.
- 3) Location of occurrence (name and address of the city/district and province, pharmacy depot/pharmacy/hospital pharmacy ordering the drug).
- 4) Date of drug ordering.
- 5) Confirmation results with the local distributor.
- 6) Other related matters.

c. Use of Medication Outside the Nation Formulary

In the implementation of healthcare services, the use of drugs is regulated according to treatment standards and applicable provisions. If a patient requires a drug not listed in the National Formulary (FORNAS), it can be provided under certain conditions:

- 1) The use of drugs not listed in FORNAS at Primary Healthcare Facilities (FKTP) can be done if it is in accordance with medical indications and standards of medical care. The cost must be included in the capitation and cannot be charged to participants.
- 2) The use of drugs not listed in FORNAS at Advanced Healthcare Facilities (FKRTL) can only be done after obtaining a recommendation from the Chairperson of the Pharmacy and Therapeutics Committee with the approval of the Medical Committee or the Hospital Director. The cost must also be included in the INA CBGs tariff and cannot be charged to participants.

The INA-CBG's tariff itself is a package-based tariff paid per healthcare episode, which is a series of patient care until completion, (EFFENDI, 2020) and the tariff amount is not affected by the number of days of treatment. The medical elements calculated in the CBG's tariff include:

- 1) Doctor consultations,
- 2) Supporting examinations, including laboratory, radiology (x-ray), and others,
- 3) Drugs according to the National Formulary (FORNAS) or non-FORNAS drugs,
- 4) Disposable medical supplies and equipment,
- 5) Accommodation or inpatient room,
- 6) Additional expenses related to patient healthcare services.

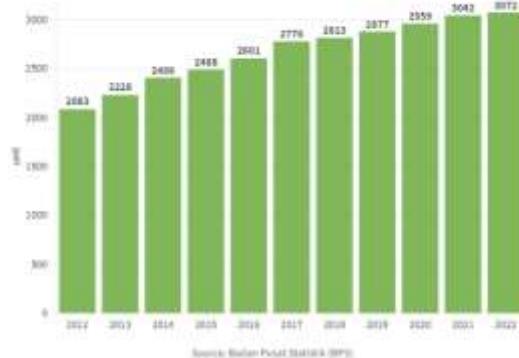
The hospital can claim BPJS packages based on INA CBG's packages and fee for service. (Risfa Anesa, Jambi Luna Maisyarah, 2021) For inpatients and hemodialysis patients, claims are made based on INA CBG's packages. However, for outpatient services, there are two billing categories. For doctor consultations, laboratory, radiology,

and non-chronic drugs, billing is done according to INA CBG's packages. Chronic drugs are billed separately according to the guidelines of the national formulary book. BPJS is billed based on fee for service.

Judging from the number of hospitals in Indonesia, the Central Statistics Agency (BPS) noted that there will be 3,072 hospitals in Indonesia in 2022. This number has increased by 0.99% compared to the previous year which was 3,042 units as in table 1.

Table 1

Jumlah Rumah Sakit Indonesia
(2012-2022)



If you look at the number of hospitals, if the drug is not available it should be able to be obtained from another hospital without having to buy the drug at an external pharmacy and at a cost that is not covered by BPJS.

Based on this, drug services are part of health services that are the right of every person. The availability of medicines in each hospital requires strict monitoring, starting from tenders for cooperation with pharmacies, lists of medicine requirements, stock or availability of medicines, checking expired medicines, to distribution to patients. This requires not only a rule but its implementation and enforcement must be based on law. Therefore, legal functionalization must run well in an effort to prevent fraudulent acts as a form of criminal acts of corruption in hospitals.

Legal Protection in the Event of Fraud by Hospitals in the Pharmaceutical Sector Resulting in BPJS Participant Patients Having to Redeem Medication Outside the Hospital at Their Own Expense and Its Relation to Hospital Accountability

Legal protection is an effort to safeguard and ensure the rights and security of witnesses and/or victims.(WAHYUDI, 2019) This can be achieved through restitution, compensation, medical services, and legal assistance. In Indonesia, legal protection is based on general principles that serve as the foundation and primary objectives of the country's legal policies. This is in line with the principles stated in the Preamble of the 1945 Constitution, which aims to "protect the entire nation and advance the public welfare based on Pancasila."

Fundamentally, legal protection must be provided to every consumer or healthcare service user, including patients, in the event of fraud by the hospital. This protection aims to safeguard the rights held by consumers as users of goods and/or services from a product produced by businesses. However, in the context of healthcare services where outcomes cannot be precisely predicted, such as uncertainty in the provision of medication by hospitals, patients as users of healthcare services have rights that must be protected by the law.(AGUNG, 2018b) For instance, patients using BPJS healthcare, in cases of delayed medication provision by hospitals, have legal protection in accordance with the Explanation of Article 3 point (b) of Law Number 44 of 2009 concerning Hospitals, which emphasizes the protection of patient safety, the community, hospital environment, and human resources in hospitals.

Fraud in the implementation of the National Health Insurance can be carried out by various parties, including participants, BPJS personnel, healthcare providers, and suppliers of drugs and medical equipment. (Aulia & Suryamizon, 2023) Fraud or irregularities in the healthcare sector refer to any form of dishonesty and impropriety committed by various parties in the healthcare service chain to obtain personal gains that far exceed the benefits obtained from normal practices.

There is collusion between hospitals and drug distributors regarding the availability of drugs in hospitals, especially generic drugs recommended by BPJS Kesehatan. Hospitals intentionally use drugs that do not comply with BPJS Kesehatan recommendations, resulting in patients having to bear the cost of these drugs. (Rukmana, 2019) This is inconsistent with UUPK Article 8 letter g, which asserts the right of patients or consumers to be served and treated fairly and honestly. as an example of the health corruption mode based on ICW data for the 2010-2015 period, as follows:

No	Modus	Jml Kasus	Kerugian Negara (Rp. Miliar)	Suap/Gratifikasi (Rp. Miliar)
1	Mark Up	93	512.9	-
2	Penyalahgunaan Anggaran	36	173.7	-
3	Penggelapan	33	70.0	-
4	Penyalahgunaan Wewenang	27	65.8	-
5	Kegiatan/Proyek Fiktif	11	26.9	-
6	Laporan Fiktif	7	24.2	-
7	Pemotongan / Penyuntan	7	16.2	-
8	Suap/Gratifikasi	4	-	1.6
9	Pemerasan	1	0.4	-
	Total	219	890.1	1.6

Based on this case, under UUPK Article 8 letter h, patients or consumers are entitled to compensation or appropriate compensation for losses incurred from the use of goods and/or services. In the Patient Law No. 8 of 1999, patient rights are regulated as follows:

- 1) The right to comfort, security, and safety when using goods and/or services.
- 2) The right to choose goods and/or services, and to receive them according to the exchange value, conditions, and guarantees promised.
- 3) The right to receive services that are correct and honest, without discrimination.
- 4) The right to receive compensation, reimbursement, or replacement if the goods and/or services received do not comply with the agreement or as they should be.

Rules governing patient rights and protection in the event of fraud in hospital services are found in several articles, including:

- a) Article 32 letter q of Law No. 44/2009 concerning Hospitals states that patients have the right to sue or demand the hospital if it is suspected of providing services that do not comply with standards, both in civil and criminal contexts.
- b) Article 77 of Law No. 36/2014 concerning Health Workers asserts that every individual who receives health services and feels aggrieved due to errors or negligence of health workers has the right to request compensation according to the provisions applicable in the legislation.

Furthermore, based on Article 45 paragraph 1 of the BPJS Law, there is a provision stating that if participants are not satisfied with the Health Insurance services provided by health facilities collaborating with BPJS Kesehatan, then participants have the right to file complaints to the health facility and/or directly to BPJS Kesehatan. To address arising complaints, there are several procedures that can be followed, namely:

- a) If there is a conflict between participants and healthcare facilities regarding unsatisfactory services, participants have the opportunity to express their dissatisfaction. This process is expected to be resolved safely by all parties involved. However, if the dissatisfaction cannot be resolved, follow-up steps that can be taken include complaints to local BPJS Kesehatan, district/city monitoring teams, provincial monitoring teams, central monitoring teams, and the Minister of Health as a mediator.
- b) When there is a dispute between participants and BPJS Kesehatan due to unsatisfactory services, participants have the right to express their dissatisfaction. This process is expected to be resolved safely by all parties involved. If the dissatisfaction cannot be resolved, follow-up steps that can be taken include complaints to local BPJS Kesehatan, district/city monitoring teams, provincial monitoring teams, central monitoring teams, and the Minister of Health as a mediator.
- c) If there is a conflict between BPJS Kesehatan and healthcare facilities regarding unsatisfactory services, participants have the opportunity to express their dissatisfaction. This process is expected to be resolved safely by all parties involved. However, if the dissatisfaction cannot be resolved, follow-up steps that can be taken include complaints to local BPJS Kesehatan, district/city monitoring teams, provincial monitoring teams, central monitoring teams, and the Minister of Health as a mediator.
- d) When there is a dispute between BPJS Kesehatan and healthcare facility associations due to unsatisfactory services, participants have the right to express their dissatisfaction. This process is expected to be resolved safely by all parties involved. If the dissatisfaction cannot be resolved, follow-up steps that can be taken include complaints to local BPJS Kesehatan, district/city monitoring teams, provincial monitoring teams, central monitoring teams, and the Minister of Health as a mediator.

If efforts to resolve issues within the hospital do not result in a satisfactory agreement, patients have the option to take the case outside of court. There are two main avenues that can be pursued: (Fathurrachman, 2018)

1. Trough Litigation

Litigation pathway is a way to resolve disputes through the court system. There are two main methods in resolving these disputes, namely through civil proceedings and criminal proceedings. Medical disputes resolved through civil proceedings aim to obtain compensation from healthcare professionals or hospitals for errors or negligence committed. Meanwhile, criminal proceedings can only be pursued if the patient suffers disability or death as a result of treatment caused by negligence or mistakes from healthcare personnel or hospitals.

According to Article 45 paragraph (1) of the Patient Protection Law, patients have the right to sue businesses through general courts. Article 46 of the same law grants the right to patients or their heirs to file lawsuits, including:

- a) Patients who have suffered damages or their heirs.
- b) A group of patients with the same interests.
- c) Community self-help patient protection institutions that qualify.
- d) The government and/or relevant institutions if the goods and/or services consumed or utilized result in significant material losses and/or substantial victims.

Meanwhile, the efforts that hospitals must make to fulfill the rights of BPJS participants are as follows:

- 1) Providing services in accordance with applicable standards.
- 2) Providing information, education, and patient education as needed.
- 3) Preparing facilities and infrastructure according to the availability of funds.
- 4) Providing patient complaint units.
- 5) Providing drugs and disposable medical supplies according to available funds.
- 6) Providing human resources according to the hospital's needs.

BPJS Health should also make efforts to fulfill the rights of BPJS Health participants, including:

- a) Improving service quality to participants by instilling in all BPJS employees that BPJS officers are servants of BPJS participants both in the office and in health facilities or hospitals.
- b) Placing BPJS officers in hospitals to provide administrative services and information to BPJS participants, as well as assisting BPJS participants who encounter obstacles.
- c) Preparing leaflets, brochures, and media information about the rights and obligations that BPJS participants must know.
- d) Providing hotline service ready to serve participants who need information about BPJS Health.

2. Trough Non-Litigation Channels

In the context of Minister of Health Regulation No. 28 of 2014 concerning Guidelines for the Implementation of the National Health Insurance Program, there are alternative non-litigation pathways to resolve issues between participants and healthcare facilities that are unsatisfactory. If there are complaints or issues related to the services provided by healthcare facilities that collaborate with BPJS, participants have the opportunity to file complaints with those healthcare facilities. This process is expected to be resolved through deliberative discussions among all involved parties. However, if the complaint cannot be resolved through discussion, then the case can be escalated to the next level, namely to the local BPJS Health, District/City Monitoring Team, Provincial Monitoring Team, Central Monitoring Team, and the Ministry of Health as a mediator.

In the context of legal protection for patients as BPJS Health participants, there are several important provisions regulated in the Civil Code, including Article 1365. This article asserts that any action that violates the law and causes harm to another individual requires responsibility from the party responsible for the mistake to compensate for the suffered loss. This means that if someone experiences material or immaterial losses due to unlawful actions, it is fair for them to receive compensation from the responsible party. In this context, compensation aims to prevent errors or negligence, which can be considered as a preventive measure in protecting patients. In determining responsibility for a harmful action (to the patient), the victim can obtain compensation commensurate with covering the incurred losses.

The Civil Code also contains several articles that focus on protecting patients as consumers of medical services, including Articles 1320, 1338, 1365, 1366, and 1367. When an event occurs that causes harm to someone, the party responsible for the mistake has an obligation to compensate for the loss. Victims of such actions may experience both material and immaterial losses, so it is fair for those affected to receive compensation from the party at fault. (Simamora et al., 2020) In the context of patient protection, compensation for mistakes or negligence aims to prevent errors or negligence. This can be considered a preventive measure in protecting patients. In determining accountability for a harmful action (to the patient), the victim can obtain compensation commensurate with covering the incurred losses.

CONCLUSION AND RECOMMENDATION

Fulfilling rights related to the provision and fulfillment of medicines to patients covered by BPJS is often still a challenge driven by various factors, one of which is the limited availability of medicines in hospital pharmacies, causing BPJS participants to still have to buy medicines outside pharmacies. hospital at your own expense. This of course contradicts Article 15 of Law Number 40 of 2009 which regulates that hospitals must guarantee the availability of quality, useful, safe and affordable medicines. Furthermore, Regulation of the Minister of Health of the Republic of Indonesia Number 28 of 2014 also explains that BPJS participating patients have the right to receive medicines listed in the national formulation, and if there are medicines outside the national formulation, they must still receive the medicine. listed in the national formulation. provided and is the responsibility of the hospital. The government also provides legal protection to patients participating in BPJS if there is fraud related to the provision

of medicines, where patients participating in BPJS can submit their complaints to the hospital or BPJS and have the right to sue and demand compensation from the hospital.

Hospitals should provide direction regarding the determination and steps for providing drugs, taking into account the urgency of the patient's need for drugs, and providing alternative places to obtain drugs without charging the patient if the drugs are not available at the health facility.

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