

Juridical Aspects of Heart Heart Operation Medical Rehabilitation from the Health Care Agency

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Abstract: *The new regulation policy Director of Health Services Insurance 2018 BPJS Health Number 2.3, and 5 of 2018 has the potential to increase conflicts between doctors and patients as well as doctors with health care facilities. Likewise BPJS Regulations Limiting Medical Rehabilitation Number 5 Year 2018 Concerning Medical Rehabilitation Services that limit the provision of medical rehab services twice a week, or a maximum of 8 times a month. There are patient rights that are violated by the regulations of the Director of Health Insurance for Health HSSOA..This study is using normative legal research which examines the law as norms, the rules that are in the Us Act, and various statutory regulations. The problem approach used in this study is the normative juridical approach. It reveals that regarding medical rehabilitation, this limitation will certainly have the potential to make it difficult for medical rehabilitation patients. When the intensity of service is reduced, it will certainly slow down the healing process of heart surgery patients.*

Keywords: Medical Rehabilitation, Health Social Security Organizing Agency, Cardiac Medical Rehabilitation

1. Introduction

Law No. 24 of 2011 stipulates that National Social Security will be held by HSSOA, which consists of BPJS Health and HSSOA Employment. Specifically for the National Health Insurance (NHI) will be held by the Health HSSOA whose implementation begins January 1, 2014. Operationally, the implementation of NHI is explained in Government Regulations and Presidential Regulations, including: Government Regulation No.101 of 2012 concerning Recipients of Contribution Assistance; Presidential Regulation No. 12 of 2013 concerning Health Insurance; and the National Health Insurance Roadmap.

Cardiac rehabilitation or cardiac rehabilitation is made with the aim of improving the health of the cardiovascular system. This rehabilitation is primarily aimed at subjects who have had a heart attack, heart failure, underwent angioplasty, or a history of heart surgery. Before starting the special medical rehabilitation program, the rehabilitation team will first evaluate the condition of each individual. The evaluations included related to medical history, including conducting a physical examination, as well as carrying out several further examinations to assess heart function, such as heart record (ECG) examination, echocardiography, to stress tests carried out with the help of a bicycle or treadmill. In addition, laboratory tests can also be carried out to measure cholesterol and blood sugar levels.

In 2018, the HSSOA set new regulations around childbirth, cataracts and medical rehabilitation. Medical rehabilitation is then determined to only be done 2 (two) times a week. Meanwhile, diseases that require more than two times medical rehabilitation in a week are considered quite a lot, including medical rehabilitation of heart surgery that can be performed daily medical rehabilitation. In the end, patients will incur their own costs to pay for the treatment because HSSOA only covers rehabilitation costs 2 (two) times a week.

The last point of the three guarantees that are inefficient HSSOA Health is Regulation of the Directorate General of Health Services No. 5 of 2018 whose contents are limiting medical rehabilitation a maximum of 2 times per week or 8 times a month. If it requires more, the patient must bear the excess costs of rehabilitation. In fact, the standards of medical rehabilitation between patients and between types of disease clearly differ from one another.

As a result, the new regulation policy of the Director of Health Service Guarantee 2018 HSSOA Health Number 2.3, and 5 of 2018 has the potential to increase conflicts between doctors and patients as well as doctors with health care facilities. Moreover, medical rehabilitation of heart surgery can be done several times. As a result, medical rehabilitation does not provide optimal results due to this new HSSOA policy.

Prior to the policy, HSSOA did not limit medical rehabilitation services. No matter how much medical rehabilitation is carried out, it will still be covered by HSSOA as long as it meets the specified procedures. However, the existence of a new policy that limits medical rehabilitation services to be limited twice a week has resulted in new problems in the use of HSSOA.

Understanding Medical Rehabilitation

Rehabilitation comes from two words, namely re which means back and habilitation which means ability. According to the meaning of the word, rehabilitation means returning ability. Rehabilitation is a process of improvement aimed at people with disabilities so they are capable of doing to have the maximum possible physical, spiritual, social, work and economic use.

The Big Indonesian Dictionary defines rehabilitation as restoration to the former (state, good name) position; Repairing disabled limbs and so on individuals (for example hospital patients, disaster victims) to become useful human beings and have a place in society.

Health / medical rehabilitation is a field of specialization in new medical science, which deals with the overall management of patients with impaired function (impairment), loss of function / disability (disability) originating from the composition of the bone muscles (musculoskeletal), the composition of nerve muscles (neuromuscular), the composition of the heart and lungs (cardiovascular and respiratory system), as well as social and physical mental disorders that accompany the disability.

Rehabilitation according to the Law is the restoration of a person's rights in the original capacity or position given by the court. According to Article 1 paragraph 22 of the Criminal Procedure Code, rehabilitation is the right of a person to obtain restoration of his rights in the ability, position, dignity and dignity given at the level of investigation, prosecution or trial for being arrested, detained, prosecuted or tried without reason based on the Law or due to errors regarding the person or law applied in the manner provided for in this Law.

According to Muslims, medical rehabilitation has two objectives, namely as follows:¹

- a) The short-term goal is that the patient can get out of bed immediately without or with the least capable of caring for himself.
- b) Long-term goal so that the patient can live again in the midst of society, at least able to take care of themselves, ideally can return to the original life activities at least approach it.

Cardiac Medical Rehabilitation

Heart rehabilitation is an attempt to influence the causes of heart disease and achieve the best physical, mental and social conditions so that patients can maintain or achieve optimal life in the community. The purpose of cardiac rehabilitation is to optimize the physical capacity of the body, provide counseling to patients and families to prevent complications and help patients to be physically active again as before experiencing interference.²

To prevent repeat attacks, cardiovascular disease patients need a comprehensive rehabilitation program in addition to being able to restore their physical abilities after the attack. Physical exercise and psycho-education programs can help reduce long-term heart disease mortality in patients with coronary heart disease. In addition, this program can reduce myocardial infarction, and improve the main risk factors for heart disease.³In addition, cardiac rehabilitation can also

increase exercise capacity, reduce lipid serum, improve psychosocial well-being, and reduce stress.⁴

According to Tedjasukmana, the goals of cardiac rehabilitation are:⁵

- a) Medical goals are to improve heart function, reduce the risk of sudden death, recurring infarction, increase work capacity, prevent progression that underlies the atherosclerosis process, and decreases mortality and morbidity.
- b) Psychological goals are to restore confidence, reduce anxiety and depression, improve stress management and restore good sexual function.
- c) Social goals are to be able to work again and carry out daily activities independently.
- d) Health service goals are reducing medical costs, mobilizing early and patients can go home immediately, reducing medication use, and reducing the possibility of being treated again.

A comprehensive cardiac rehabilitation program must include the following components, namely:⁶

- a) Assessment of the patient's condition and medical history
- b) Education and counseling in order to increase patient knowledge and awareness in order to be able to avoid risk factors on their own, be able to overcome anxiety, and overcome risk factors so that the disease process or atherosclerosis process can be stopped or inhibited
- c) Efforts to control risk factors; concerning education, lifestyle modification towards healthy living and the treatment needed
- d) Exercise programs and physical activity counseling, especially in efforts to improve healthy lifestyles, fitness levels, quality of life, and control of risk factors.

Social Security Administration Agency (HSSOA)

The Health Social Insurance Agency (HSSOA) is a public legal entity that is responsible to the president and has the function of organizing a health insurance program for all Indonesian citizens, including foreigners who work for the shortest 6 (six) months in Indonesia.

The Social Security Organizing Agency (HSSOA) for Health is a legal entity formed to organize a health insurance program. Social Security Organizing Body is a merging of 4 (four) state-owned enterprises into one legal entity, 4 (four) business entities in question are PT TASPEN, PT JAMSOSTEK, PT ASABRI, and PT ASKES. The Social Security Organizing Agency is shaped like insurance, eventually all Indonesian citizens are required to join this program.

The HSSOA Law stipulates that the Health HSSOA functions to organize a health insurance program. Health insurance according to the National Social Security System Law is organized nationally based on the principle of social

¹ Muslim, A.T, *Peranan Rehabilitasi Medis dalam Pelayanan Kesehatan*. Role of Medical Rehabilitation in Health Services. (Bandung: FK UNPAD, 1996)

² Arovah. (2010). Program latihan fisik rehabilitatif pada penderita penyakit jantung. Rehabilitative physical exercise program for people with heart disease. <http://staff.uny.ac.id/sites/default/files/pdf/Arovah%202010%29+pr+ogram+latihan+fisik+rehabilitatif+bagi+penderita+gangguan+jantung&cd=1&hl=id&ct=clnk&gl=id>.

³ P. Tedjasukmana, *Tata Laksana Hipertensi*. Departemen Kardiologi, RS Premier Jatinegara dan RS Grha Kedoya. Management of Hypertension. Department of Cardiology, Premier Jatinegara Hospital and Grha Kedoya Hospital (Jakarta: Indonesia, 2010)

⁴ N.E. Goeders, *Stress, motivation, and drug addiction*, Current Directions in Psychological Science, 2004, hlm. 34-35.

⁵ Tedjasukmana, *Prinsip Rehabilitasi Jantung*, Principles of Cardiac Rehabilitation (Jakarta, PT>Raja Grafindo Persada, 2010)

⁶ *Ibid*

insurance and the principle of equity, with the aim of ensuring that participants benefit from health care and protection in meeting basic health needs.

Every person or family who does not work at the company is required to register themselves and their family members with HSSOA. Each HSSOA participant will be drawn in the amount determined later. As for the poor, HSSOA contributions are borne by the government through the Contributions Assistance Program.

In the HSSOA social security program is divided into 5 types of social security programs and the implementation is made in 2 implementation programs, namely:

- 1) Programs organized by HSSOA Health, with the program being Health Insurance, which takes effect on January 1, 2014.
- 2) The program organized by HSSOA Employment, with the program being Work Accident Insurance, Old Age Insurance, Pension Insurance, and Death Insurance planned to start on July 1, 2015.

2. Research Methods

This type of research is normative legal research which examines the law as norms, the rules that are in the Us Act, and various statutory regulations. The problem approach used in this study is the normative juridical approach. The data source used in the study was only one, namely secondary data sources in the form of Primary Legal Materials, secondary legal materials and tertiary legal materials. Departing from this literature study, the source of this research data is based on library research. Likewise, to produce conclusions that are truly valid, the collected data is analyzed using descriptive analytical methods.

3. Results and Discussion

The services provided by HSSOA as the organizing body for harul social security are comprehensive. The services provided must not be limited to curative and rehabilitative, but rather ranging from promotive to preventive. One of the rehabilitation services guaranteed by HSSOA Health is medical rehabilitation in cardiac surgery.

Participants can get medical rehabilitation in accordance with the underlying indications. Participants who need medical rehabilitation services for cardiac surgery are usually those who have undergone treatment or surgery. Medical rehabilitation is needed to help the recovery of patients after cardiac surgery.

During this time there is almost no clear reference how many times medical rehabilitation needs to be done for each participant to diagnose certain diseases such as heart surgery. Therefore, participants can receive a number of different medical rehabilitation services. There are participants who receive medical rehabilitation 2 times, 5 times, 10 times, and even up to 29 times per month.

After the issuance of Regulation of the Director of Health Service Guarantee Number 5 of 2018 concerning Medical Rehabilitation Service Guarantee in the Health Insurance

Program, in essence the regulation confirms HSSOA Health guarantees medical rehabilitation services in accordance with medical indications and service standards, and is carried out in accordance with applicable laws and regulations.

Based on the above regulations, medical rehabilitation services for cardiac surgery are performed at most 2 (two) visits per week or 8 (eight) visits per month for each participant. The service is provided according to medical indications, based on the assessment of Physicians in Physical Medicine and Medical Rehabilitation which refers to the standardization of integrated medical rehabilitation team services issued by the Association of Indonesian Physicians of Physical Medicine and Rehabilitation (Perdosri).

The issuance of DRHSG Number 5 of 2018 needs to be done because of the potential moral hazard which is marked by the high frequency of medical rehabilitation visits up to 29 times a month. The purpose and objectives of DRHSG Number 5 Year 2018 are effective payment, in accordance with standardization of actions and certification and in accordance with the resources issued by Health Facilities and the existence of regulations that regulate the provision of high-cost health services such as hemophilia, cancer, thalassemia, elective heart surgery and others.

Article 3 paragraph (1) DRHSG Number 5 of 2018, regulates as follows: "Medical rehabilitation services as referred to in Article 3 shall be carried out at most 2 (two) visits per participant per week or at most 8 (eight) visits per participant per month in accordance with medical indications based on the assessment of physical and rehabilitation medical specialists referring to the standardization of integrated medical rehabilitation team services issued by the Indonesian Association of Physicians for Physical Medicine and Rehabilitation.

The material in Article 3 paragraph (1) DRHSG Number 5 of 2018 is contrary to Article 2 jo. Article 24 paragraph (3) of Law Number 40 Year 2004 concerning the National Social Security System (SJSN) which mandates and determines how then the Health Service system should be implemented by the Health HSSOA, including a quality control system that must be implemented effectively and efficiently and the Health HSSOA should provide health services in accordance with the principles and objectives of the organization

In terms of its formation, DRHSG Number 5 of 2018 is also seen as contradictory to Article 5 of Law Number 12 of 2011 concerning Formation of Legislation, which reads: "In establishing the Statutory Regulations must be carried out based on the principle of the Establishment of Legislation Regulations which good, which includes:

- a) clarity of purpose;
- b) the appropriate institutional or forming authority;
- c) conformity between type, hierarchy, and material content;
- d) can be implemented;
- e) usability and usability;
- f) clarity of formulation; and

g) openness."

The issuance of DRHSG Number 5 Year 2018 cannot be justified due to budget issues, moreover it contradicts higher-level provisions and laws, because the issue of budgeting for both facilities and health service delivery has been guaranteed fulfillment by the President of the Republic of Indonesia through Regulations issued by the President Republic of Indonesia itself, so Article 3 paragraph (1) DRHSG Number 5 of 2018 has clearly been proven to be in conflict with the higher laws and regulations, so it must be canceled and declared as having no legal force as a statutory regulation '

Impact of HSSOA Arrangements that Limit Medical Rehabilitation

Regulation of the Director of Health Service Guarantee (DRHSG) Number 5 of 2018 concerning Medical Rehabilitation Service Assurance is considered to be contrary to a number of regulations. Among other things, Law No. 40 of 2004 concerning the National Social Security System, Law no. 24 of 2011 concerning the Social Security Organizing Agency, Law No. 36 of 2009 concerning Health; and Law No. 12 of 2011 concerning Formation of Regulations and Regulations.

There are rights of patients operating Jantung violated by the regulations of the Director of Health Insurance Health Service HSSOA. Related to medical rehabilitation and physiotherapy. HSSOA Health claims that it will continue to guarantee medical rehabilitation and physiotherapy services, but with a maximum frequency criteria twice a week or 8 times a month. This limitation will certainly have the potential to complicate medical rehabilitation patients. When the intensity of service is reduced, it will certainly slow down the healing process of heart surgery patients.

DRHSG Number 5 of 2018 is alleged to have reduced and intervened in doctor's actions in the form of health services carried out by Doctors, which should not have been done by him, because they were seen to be in conflict with the Oath and the Code of Ethics of Indonesian Medicine.

The regulation also has a detrimental effect on patients, because doctors have the potential to violate oaths and codes of ethics by not doing medical practices according to standards. "The authority of doctors in carrying out medical actions is intervened and reduced by HSSOA Health,"

The DRHSG also does not refer to Perpres Number 19 of 2016 concerning JKN Article 43a Paragraph (1) where HSSOA Health develops the technical operation of the health service system, the service quality control system, and the health service payment system to improve efficiency and effectiveness.

As stipulated in Article 2 of Law Number 29 Year 2004 concerning Medical Practices, which determines: "Medical practice is based on Pancasila and is based on scientific value, benefits, justice, humanity, balance, and patient protection and safety. The aforementioned provisions which later underlie the Association of Indonesian Doctors United test the DRHSG Number 5 of 2018.

The provisions of Article 2 of Law Number 40 of 2004 concerning the National Social Security System (SJSN), the Health HSSOA should provide health services in accordance with the principles, objectives and principles of organizing the Health Insurance, namely: "The National Social Security System is implemented based on the principle of humanity, the principle of, and the principle of social justice for all Indonesian people ".

Likewise the provisions in Law Number 24 of 2011 concerning the Social Security Organizing Agency (HSSOA) as Article 2 states: "HSSOA operates a national social security system based on the principle of:

- a) humanity;
- b) benefits; and
- c) social justice for all the people of Indonesia."

Article 2 and 3 of Republic of Indonesia's Presidential Regulation Number 12 of 2013 as amended the latest by Presidential Regulation Number 28 of 2016 stipulates: Article 2 Participants for Health Insurance include:

- a) Participants in the Health Insurance Contribution Aid; and
- b) not a Participant in the Health Insurance Contribution Aid.

Article 3 (1) Participants participating in the Health Insurance Contribution Assistance as referred to in Article 2 letter a include those classified as poor and disadvantaged. (2) The determination of the PBI Participants in Health Insurance as referred to in paragraph (1) shall be carried out in accordance with the provisions of the legislation.

Thus the meaning of Article 2 and Article 3 of Presidential Regulation Number 12 of 2013 as amended the latest by Presidential Regulation No. 28 of 2016 concerning Health Insurance, actually gives rights to Participants in the Health Insurance Contribution (PBI), namely participants who are very helpful to the poor and poor people ", or in simple sentences there are two types of Health Insurance participants, namely Participants who are able and unable pay Health Insurance contributions.

Patients who are HSSOA Health participants who either pay contributions independently or are paid by the State, receive the exact same service guarantees so that it is seen to be burdensome to the Health Insurance Contribution Assistance Participants who are included in the category of the poor and economically disadvantaged.

As referred to DRHSG Number 5 of 2018 which requires medical rehabilitation in excess of 2 (two) times a week and 8 (eight) times per month classified as "poor and unable" will not receive health insurance services, but those who will be prosecuted later are doctors, because previously the patient with the category referred to "served", and then with the issuance of the Regulation can no longer be served by doctors with the National Health Insurance program.

If a patient classified as needing medical rehabilitation exceeds the provisions as Article 3 paragraph (1) DRHSG Number 5 of 2018 due to the patient's inability to pay for his

health services because he is no longer covered by Health HSSOA, it appears that the State through HSSOA Health does not guarantee health services for such Patients.

Further review as stated in the provisions of Article 20 of Presidential Regulation No. 12 of 2013 concerning Health Insurance, specifies: Paragraph (1) Each Participant is entitled to receive Health Insurance Benefits in the form of individual health services, including promotive, preventive, curative, and rehabilitative services including drug services and consumable medical materials in accordance with the medical needs required. Paragraph (2) Health Insurance Benefits as referred to in paragraph (1) consist of medical benefits and non-medical benefits.

The meaning of the word "Covering rehabilitative services" itself is not limited to the guarantee of health services, so DRHSG Number 5 of 2018 has clearly contradicted the provisions of the legislation above.

4. Conclusion

Legal Regulations Against Medical Rehabilitation from the Health Social Security Organizing Agency set out in the Decree of the Minister of Health of the Republic of Indonesia Number: 378 / Menkes / SK / IV / 2008 Regarding Guidelines for Rehabilitation Services in Hospitals and for HSSOA participants refer to the regulation of health service director number 5 years 2018 concerning Medical Rehabilitation Article 3 paragraph (1). However, the implementation of Article 3 paragraph (1) of the Perdjampelkes has been canceled by the Supreme Court with Decision Number: 60 P / HUM / 2018. Article 3 paragraph 1 DRHSG Number 5 of 2018 is contrary to the higher laws, namely Article 2 and Article 24 Paragraph (3) of Law Number 40 of 2004 concerning the National Social Security System (SJSN), contrary to Article 5 of the Law Law Number 12 of 2011 concerning Formation of Regulations and Regulations, contrary to Articles 2, 3, 20, 25, 35 of Presidential Regulation Number 12 of 2013 concerning Health Insurance.

Impact of HSSOA Regulations Limiting Medical Rehabilitation Director Regulation of Health Service Guarantee (DRHSG) Number 5 Year 2018 Regarding Medical Rehabilitation Service Guarantee that limits the provision of medical rehab rehabilitation services 2 times a week, or a maximum of 8 times a month. There are patient rights that are violated by the regulations of the Director of Health Insurance for Health HSSOA. Regarding medical rehabilitation, this limitation will certainly have the potential to make it difficult for medical rehabilitation patients. When the intensity of service is reduced, it will certainly slow down the healing process of heart surgery patients

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