

Company Responsibility for Workers' National Health Insurance Rights Due to Termination of Employment

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Abstract

Labor law requires companies to provide health insurance to their workers as part of workers' rights protected by law. The company's responsibility for health insurance for workers affected by layoffs is an important issue in terms of workforce protection. In practice, there are still many companies that do not fully understand and implement these obligations, resulting in uncertainty regarding health protection for workers. In the event of job termination, many workers lose access to health insurance, leaving them vulnerable to health risks without protection because health insurance often stops at the same time the employment relationship ends. This research aims to analyze the legal obligations for companies to register their workers as health insurance participants, and identify the legal consequences for companies that do not fulfill their obligations regarding workers' health insurance rights after termination of employment.

I. Introduction

National Health Insurance (JKN) for workers in Indonesia is part of the social security system managed by the Health Social Security Administering Agency (BPJS) which aims to provide comprehensive health protection for all Indonesian people, including workers. In this regard, workers as health service subjects are one of the groups directly affected by the establishment of BPJS Health. Before the existence of BPJS Health, health care insurance was the company's responsibility which was paid through the Labor Social Security premium, whereas with the existence of BPJS Health there were contributions for participants. Wage Recipient Workers who work in BUMN, BUMD and Private are 5% (five percent) of their salary or wages per month provided that 4% (four percent) is paid by the Employer and 1% (one percent) is paid by the Participant.(Sudrajat 2020) The implementation of JKN, which began on January 1 2014, brought reforms, both in terms of regulations and laws, membership, benefit packages and contributions, health services, finance, as well as institutions and organizations.(Siswoyo, Prabandari, and Hendartini 2015) The presence of BPJS is based on Article 28 H of the 1945 Constitution concerning health services. However, it cannot be denied that not all people can access BPJS, within BPJS itself there are still contributions that must be paid by the community and if people do not pay the contributions then the community will be given a fine.(Annisa 2023) Based on existing regulations, companies have an obligation to register their workers with BPJS Health and pay contributions in accordance with the provisions as a form of fulfilling the right to health for workers. This has been regulated in Article 15 paragraph (1) of Law Number 24 of 2011 concerning Social Security Administering Bodies (UU BPJS) which states "Employers are gradually obliged to register themselves and their workers as participants in BPJS in accordance with the social security program they are participating in." " and Article 15 paragraph (2) of the BPJS Law states that "Employers who violate the provisions as referred to in paragraph (1) are subject to administrative sanctions in the form of warnings, fines, and/or not receiving certain public services" so it is clear that the company has a responsibility to register their workers with BPJS Health and sanctions have been established for companies that do not carry out their obligations.

The Indonesian government created a program known as the National Health Insurance System (JKN) to ensure that every citizen receives the same health services, the Health Social Security Administration (BPJS) manages this program and is responsible for the administration and delivery of Health services.(Hartantri and Suryani 2024) Workers who have registered as JKN participants have the right to receive various health services, ranging from basic health services at first level health facilities to referral health services at

hospitals, this includes treatment for general illnesses, critical illnesses, hospitalization and medical procedures. others covered by the BPJS Health program. Utilization of JKN depends on the use of health services by JKN participants which is influenced by environmental factors, population characteristics, health behavior factors, and outcome factors.(Sukeni, Najmah, and Idris 2021) However, in practice, fulfilling JKN for workers in Indonesia still faces several challenges, because there are still several companies that have not fulfilled the obligation to register their workers with BPJS Health and do not make full payment of contributions, resulting in workers not getting access to health services or having to bear his own health costs. By fulfilling JKN rights for workers, it is hoped that all workers in Indonesia, both those who are still active and those affected by Termination of Employment (PHK), can obtain adequate and quality health protection. There are still many workers and employers who do not register for BPJS, this happens because the contributions borne by employers are still quite burdensome for employers, even though the rules regarding contributions have been clearly regulated in several regulations which are based on the level of risk and the amount of monthly income, then the workers The company claims to have taken part in general insurance, so it would be quite difficult if they had to make payments twice.(Indah 2023)

Layoffs of workers in Indonesia are the termination of the employment relationship between an employer or company and its workers based on certain reasons that have been regulated by regulations. Labor law has regulated layoffs of workers in Law Number 13 of 2003 concerning Employment (Employment Law) and has been refined by Law Number 11 of 2020 concerning Job Creation (Omnibus Law) and other rules or regulations. Workers who experience layoffs have several rights that must be fulfilled by the employer or company, these are regulated in Article 156 Paragraph (1) of the Manpower Law which reads "In the event of termination of employment, employers are obliged to pay severance pay and/or gratuity for long service and "compensation money for rights that should be received" the article emphasizes that when a layoff occurs, the company has an obligation to provide compensation to its workers, while Article 156 Paragraphs (2), (3), and (4) regulates the details of calculating severance pay, reward money. length of service, and compensation for entitlements based on length of service and reason for layoff. Employers must comply with the requirements stipulated by the Law, such as providing notice before terminating, providing appropriate compensation payments, and complying with applicable legal procedures.(S. H. Wibowo and Gunadi 2024) In addition, after being laid off, workers still have the right to receive social protection that has been registered, such as health insurance that has been registered with BPJS Health and Job Loss Insurance (JKP) which is regulated in Article 31 of the BPJS Law "Participants who experience Termination of Employment (laid off) can continue participation in the social security program in accordance with applicable provisions." This article emphasizes that participants who have been

laid off have the right to continue participation in the social security program, including health insurance in accordance with the provisions that have been determined. This provides protection for workers who have been laid off to continue to have access to health services, even though they have lost their jobs. In article 171 of Law Number 13 of 2003 concerning employment, it is stated that workers/laborers who experience termination of employment or layoffs without the appointment of an authorized industrial relations dispute resolution institution and the worker/laborer concerned cannot accept the termination of their employment relationship, then the worker/laborer can file a lawsuit with the industrial relations settlement institution within a maximum period of one year from the date of termination of employment relations.(Maulinda and Rasyid 2016) This provides legal protection for workers who experience unilateral layoffs.

The condition of people who receive education unequally causes workers who enter the workforce to experience problems that lead to Termination of Employment (PHK), where workers who have low education will usually be exploited by employers to get cheap workers but with the exploitation of human resources, employers often be a reason that causes layoffs of workers.(Fahrudin, Sunaika, and Mawaddah 2023) Many companies in Indonesia, especially small and medium businesses, do not fully understand and carry out their obligations to register their workers with BPJS Health and ensure continued access to health insurance for workers who have been laid off, so workers often lose access to the health services they need. required after termination of employment. After employment termination occurs, there are times when companies no longer pay BPJS contributions for their laid-off workers, this results in workers not being able to use the health facilities provided by BPJS, even though they have previously paid contributions. If layoffs do not comply with applicable regulations, it can cause disputes, for example, layoffs are carried out unilaterally by employers on their workers without a clear reason.(Anggraini 2023) For workers who experience layoffs unilaterally, this could create the possibility that the JKN that was registered in their name after being laid off will experience problems.

Even though there is a Job Loss Guarantee (JKP) program which provides assistance for workers who have been laid off, its implementation is still not optimal. Job Loss Guarantee, hereinafter abbreviated as JKP, is a program created by the state as a provision for Indonesian residents who are affected by Termination of Employment (PHK) while their contract period is still in force so that their welfare is maintained.(Nisa, Aldianto, and Saputra 2023) There are still many workers who do not receive adequate information regarding their rights after being laid off, including the right to access health insurance and job training programs. laid-off workers may face stigma or discrimination when

trying to access health services, especially when their status as unemployed is known to health workers. So good collaboration is needed between the government, companies and labor organizations to improve the social protection system and ensure that workers' rights related to JKN are properly fulfilled, even though they have been laid off. Therefore, in this research, researchers will discuss the legal obligations for companies to register their workers as National Health Insurance participants, and identify the legal consequences for companies that do not fulfill their obligations regarding workers' health insurance rights after termination of employment.

2. Research Method

The research carried out by the author is legal research, the type of research that will be used is juridical-normative research, namely research that is focused on examining the application of positive legal rules or norms.(Joenadi and Prasetyo 2016) As well as analyzing and understanding the legal provisions and statutory regulations governing national health insurance, termination of employment, and fulfillment of the right to national health insurance for workers who have experienced termination of employment in Indonesia, with a focus on the applicable legal norms and their implications on social protection for workers.

3. Results and Discussion

Legal Obligation for Companies to Register Their Workers as National Health Insurance Participants

The existence of workers or employees in a company is very important, because workers are the main assets that carry out operations and determine the success of the company. Employees are one of the human resources in the Company. Employee performance in the Company has an important role in achieving company goals, employees must be truly competent in their fields and employees must also be able to serve optimally, a person's good performance can be influenced by work motivation and work discipline.(Ishak and Setiawan 2023) Workers are those who carry out daily tasks or routine tasks, from production, customer service, to financial management which makes the business cycle run smoothly. Workers are also parties who can provide new ideas and innovations which are important for the development and sustainability of the company, because workers are likely to provide new, different perspectives and help the company to adapt to changing trends and market needs, workers, especially workers who interact directly with customers, becomes a form of company implementation and helps good relationships with customers, so that it is able to create high trust and loyalty from customers which is very important for the company's business growth. By having workers who have high dedication, the company is able to carry out operations well and maintain a good company reputation in the eyes of the

public, this can improve the company's image and improve the quality of workers. Corporate reputation has an important role in business success and is one of the intangible assets owned by an organization or company. To build and maintain a good reputation, organizations need to carefully consider how the company's performance and behavior is assessed by all stakeholders.(Agustina, Nurmallasari, and Astuty 2023) Overall, workers are an important element that can ensure a company can function, run, develop and compete in the global market. Therefore, workers must maintain their health and well-being to maintain their productivity at work. Workers have the right to access National Health Insurance (JKN) from the company where they work or from their employer.

The National Health Insurance Policy (JKN), which is a government health service program managed by the Social Security Administering Body (BPJS), started on January 1 2014, the BPJS Health program serves all levels of society and aims to ensure that everyone has access and health services the same one.(Sari 2024) BPJS Kesehatan (Badan Penyelenggara Jaminan Sosial Kesehatan) is a State-Owned Enterprise which is specifically assigned by the government to provide health care guarantees for all Indonesian people, in its implementation BPJS aims to realize the implementation of providing guarantees for the fulfillment of the basic needs of a decent life for each Participant and/or their family members in its implementation.(Abidin and Yacob 2022) As the organizing body for the JKN program, BPJS Health has an obligation to provide information to each JKN participant regarding their rights and obligations as a JKN participant so that participants clearly know their rights and obligations, with the ultimate goal being a higher level of understanding for participants so they know how to access health services. in accordance with the applicable provisions in the JKN program.(Kusumawati and Irawati 2021)

JKN is health insurance whose existence is very important for workers, because it provides access that provides affordable and comprehensive health protection. JKN guarantees that all workers, both formal and informal, have access to quality and fair health services without being based on economic status. With health insurance, workers can focus on doing their work without worrying about the possibility of getting sick and having to pay for treatment. Maintained health conditions can help maintain and increase productivity and welfare for workers in the workplace, so that companies can benefit as much as possible from the results of their workers' work. When workers have an accident or illness, JKN can cover the costs of their treatment. Having JKN can help workers prevent sudden expenses that can burden the financial condition of workers and their families. The JKN program is part of the National Social Security System (SJSN) which is implemented using the principles of mandatory social health insurance based on the mandate of Law of the

Republic of Indonesia Number 40 of 2004. The implementation of the National Social Security System aims to provide guarantees for the fulfillment of the basic needs of a decent life. for each participant and their family, based on the principle of mutual cooperation and with the implementation of National Health Insurance (JKN), it is hoped that it will be able to reduce the risk of the community having to cover health costs from private money (out of pocket) which is difficult to predict.(Guntari 2024) The philosophy of SJSN is that everyone has the right to social security to be able to fulfill the basic needs of a decent life and increase their dignity towards the realization of a prosperous, just and prosperous Indonesian society.(Yuditia, Hidayat, and Achmad 2021)

The uncertainty of the risk of illness can be accepted by everyone, which in turn also means there is a risk of costs for paying for health services as an effort to recover from illness. Risk is uncertain, insurance is actually a way of managing risk and can be stated as a preventive measure (before illness occurs) in order to prevent the population's inability to afford expensive medical services.(Simatupang 2021) Without the help of health insurance, the cost of caring for health services can be very expensive. Therefore, with JKN, workers only need to pay monthly contributions which are more affordable than the medical costs that must be paid directly and immediately, especially for chronic diseases or diseases that require long-term treatment. JKN also provides coverage for preventive services, such as immunizations, health checks and counseling which can help workers stay healthy and detect health problems early. With JKN, workers not only get health protection when they are sick, but also have guarantees that make workers more confident and productive at work. JKN participant services in accessing health facilities is one indicator of participant satisfaction. This satisfaction can be measured through tangible dimensions (physical evidence), such as completeness of infrastructure, working capital and development, health facility infrastructure such as waiting rooms and waiting chairs, completeness of medical equipment, large parking spaces, availability of medical personnel, and availability of in-patient rooms.(Siregar and Daulay 2024)

Workers' obligations to their workers are to ensure that their basic workers' rights are fulfilled and to create a safe and healthy work environment. Companies must provide decent wages in accordance with government regulations, such as the Regional Minimum Wage (UMR), and pay wages on time or in accordance with predetermined agreements. Apart from that, companies are also required to provide Personal Protective Equipment (PPE) if necessary and conduct safety training. Setting working hours in accordance with regulations and providing leave rights are also obligations for the company. Companies are also obliged to register their workers in the social security program in the form of JKN by BPJS Health, the aim of which is to provide long-term protection from the risk of work accidents, disease and old

age for workers. This is not only a form of complying with regulations but also ensuring that workers' welfare is maintained. By fulfilling its obligations as a company, the company also plays a role in creating a work environment that is productive, fair, and provides protection for the welfare of its workers, which ultimately can encourage employee performance and loyalty to the company.

The urgency of JKN for workers is very important, because this program provides affordable and equitable access to health services for workers and their families. With JKN, workers can get medical care ranging from basic services to specialist services or those that require further action, which often becomes obstacle for most people. JKN from BPJS Health also acts as financial protection for workers in the event of a work accident or illness befalls them. The JKN program can help workers stay healthy and productive, so that workers can continue working without worrying about health costs that could burden them. One of the objectives of implementing the social health insurance program is to reduce the financial burden on the community when accessing health services. The aim of the BPJS Health program is to reduce medical and hospitalization costs for the entire community, by working together with fellow community members in the form of mass health insurance.(Zebua et al. 2024) The appropriate JKN inpatient class is the membership class to which they are currently entitled. From the perspective of JKN participants, the urgency required by participants is actually the accessibility of health services wherever they are needed, not the existence of a standard class.(Mundzir, Nasrudin, and Alwi 2024) In addition, JKN is a basic right for workers that companies must fulfill to ensure workers' welfare. Health protection through JKN can help to create peace of mind at work and worker loyalty towards the company's progress, so that companies can benefit from increasing the stability and work productivity of their workers. In this case, health is one of the basic needs for society. Factors relating to people's welfare and health are important aspects that need to be considered. The JKN program certainly aims to improve people's welfare and ensure life based on the principles of social insurance.(Manita and Afrita 2024)

The legal obligation for companies to register their workers as JKN participants has been regulated in Law Number 24 of 2011 concerning Social Security Administering Bodies (UU BPJS) which is specifically regulated in Article 15 Paragraph (1) which states that employers are gradually obliged to register themselves and workers as participants in BPJS in accordance with the Social Security program they participate in" and Article 15 Paragraph (2) which reads "Employers, other than state administrators, are obliged to collect contributions that are borne by workers, pay and deposit them with BPJS" so that the company or employer are required to register all workers in the BPJS Health and BPJS Employment programs which include JKN as protection for worker health. This is also reinforced by Article 4 Paragraph (1) of

Presidential Regulation Number 82 of 2018 concerning Health Insurance which states "Employers are obliged to register themselves and their workers, as well as their family members as Health Insurance participants with BPJS Health in accordance with the provisions of statutory regulations" This article states that every employer is obliged to register workers and their family members with BPJS Health and pay contributions in accordance with applicable regulations. Article 3 of the Minister of Manpower Regulation Number 1 of 2022 concerning Procedures for Implementing the National Health Insurance Program states that "Employers are obliged to register all their workers as Health Insurance participants with BPJS Health and bear and pay contributions in accordance with the provisions of statutory regulations", a combination of all This regulation requires every company to register its workers with BPJS Health as JKN participants, cover part of the contributions, and make deposits in accordance with the provisions.

Legal Consequences for Companies That Do Not Fulfill Obligations for Workers' Health Insurance Rights Post Termination of Employment

Starting in 2004 the Indonesian government began implementing the SJSN (National Social Security System) which has improved access for poor or almost poor people to health services, in 2005 the government began implementing the Askeskin program which has been able to reach almost 40 million poor people in Indonesia, this program continues to grow and starting in 2014 the Indonesian government implemented the National Health Insurance (JKN) program organized by BPJS Health and this program is expected to continue to reach the wider community and is targeted to be able to provide health insurance for all Indonesian people by early 2019.(Arso 2020) This shows the government's commitment to fulfilling health insurance for all Indonesian people, including workers. Therefore, there will be consequences for companies or employers who do not carry out their obligations in fulfilling the health insurance rights of workers. Legal consequences refer to the results or effects resulting from an action that violates applicable laws or regulations. Article 15 paragraph (3) of the BPJS Law states that "Employers who do not implement the provisions in paragraph (1) and paragraph (2) are subject to administrative sanctions, in the form of written warnings, fines, and/or not receiving certain public services." Employers who do not fulfill their obligations to register their workers as JKN participants with BPJS Health can be subject to administrative sanctions, such as written warnings, fines, and restrictions on certain public services. Administrative sanctions can be followed by additional sanctions in the form of fines given to the aggrieved party and can also be followed by revocation of permits in accordance with statutory provisions.(Fajarwati, Efrila, and Makbul 2024) This provision is also supported by a Minister of Manpower Regulation, which ensures that every worker has the right to health

insurance. Thus, registering workers as JKN participants is not only a legal obligation that companies must comply with, but also a moral responsibility of the company towards its workers, to ensure adequate access to health for all workers in Indonesia.

Termination of Employment Relations (PHK) is one of the actions taken by a company or employer to end the employment relationship with workers. Article 151 Paragraph (1) of the Manpower Law states that "Employers are prohibited from terminating employment relations with workers/laborers without a valid reason" and in Paragraph (1) states "The valid reasons as intended in paragraph (1) are as follows: the worker/laborer does serious violations of company regulations, workers/laborers commit criminal acts, workers/laborers are unable to carry out their obligations as workers, workers/laborers are absent without valid information within the specified time, workers/laborers commit actions that are detrimental to the company, as well as other reasons regulated in statutory regulations" Layoffs can occur for various reasons, both individual and collective reasons, and are regulated by law to ensure that the process is carried out fairly and in accordance with legal provisions. In Indonesia, layoffs are one of the most stressful events for workers, especially when they occur unilaterally by the company. This incident not only has an impact on workers' economic stability, but also affects their psychological and social aspects.(Subagyo and Nadapdap 2022) Layoffs will indeed be a very scary thing for workers/laborers, because it involves the loss of their livelihoods, termination of employment relations between workers and employers should not be carried out arbitrarily, but there are certain things that must be fulfilled by both parties so that layoffs can occur. does not harm the sense of justice between both parties.(R. F. Wibowo and Herawati 2021) Overall, layoffs are a complex process involving rights and obligations for both workers and employers, clear regulations and transparency are needed to protect workers' rights and ensure that layoffs are carried out fairly and correctly.

Companies that do not fulfill their obligations regarding the right to health insurance for workers after layoffs can receive various legal consequences. This obligation is regulated in several regulations, especially those related to BPJS Health and Employment. Restrictions on public services for companies that do not fulfill JKN rights for laid-off workers are regulated in Article 17 Paragraph (1) of the BPJS Law which reads "Every employer other than state administrators who does not implement the provisions as intended in Article 15 paragraph (1) and paragraph (2) is subject to administrative sanctions" Article 17 Paragraph (2) states "Administrative sanctions as referred to in paragraph (1) in the form of: written warning, fines, and/or not receiving certain public services" this article shows that companies that violate the provisions Regarding social security, access to public services, such as services

related to licensing, business establishment and other administrative services, can also be limited until these obligations are fulfilled again by the company. Companies that do not fulfill their obligations to pay health insurance contributions for post-layoff workers may be subject to fines or arrears of BPJS Health contributions as regulated in Article 39 paragraph (1) of Presidential Decree Number 82 of 2018 concerning Health Insurance "Participants who are late in paying health insurance contributions are subject to sanctions in the form of a fine of 2% (two percent) of the total contribution that must be paid for each month of delay" that this article regulates fines that can be imposed on participants, including employers, who do not pay health insurance contributions on time, so as to provide pressure to ensure compliance. companies regarding the obligation to pay JKN contributions for their workers. Workers who do not have access to health insurance after being laid off can file a lawsuit or lawsuit with the Industrial Relations Court (PHI), this is regulated in Law Number 13 of 2003 concerning Employment (Employment Law) and Law Number 11 of 2020 concerning Job Creation , this provision shows that workers have the right to submit compensation claims if the company violates their basic rights as employers. The impact of layoffs on employees who have just been laid off is of course very real, and widespread incidents of layoffs are becoming increasingly commonplace to hear. Previously, layoffs were an action to end a person's employment relationship, and this had an impact on various aspects of the lives of employees who experienced layoffs.(Sinlae et al. 2024)

A bad reputation can also be a possible sanction that can be received by companies that do not fulfill their obligation to provide JKN to workers after being laid off, even though this is not a formal sanction. A bad reputation for a company refers to the negative views of the public, customers, workers or other stakeholders towards the company. A bad reputation is something that can harm a company's name as an impact on the company's attractiveness to the market or customers and business partners. Therefore, it is important for companies to actively manage and maintain their reputation through ethical, quality and transparent business practices, including through fulfilling JKN for workers who have been laid off. The company's obligation to provide health insurance for workers, including workers who have been laid off, aims to provide ongoing protection to workers and their families. Non-compliance with these provisions can lead to legal consequences and even long-term losses for the company.

4. Conclusion

Companies that lay off workers must follow clear and fair procedures in their implementation, and companies must provide workers' rights such as severance pay and health insurance after layoffs. Companies have a legal

obligation to register as JKN participants with BPJS Health and pay the contributions they are responsible for, this obligation remains in effect even if workers have been laid off. Companies must ensure that workers who have been laid off continue to have access to health services, at least for a certain period of time after the layoff occurs. Company failure to fulfill health insurance obligations can result in administrative witnesses, lawsuits from workers, and substantial reputational damage. Compliance with these obligations is very important to build trust and a good reputation in the eyes of workers, customers or markets, and the wider community. Thus, companies not only have legal responsibilities, but also ethical responsibilities in ensuring that workers' health insurance rights are still fulfilled even though the employment relationship has ended.

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