

LIFE INSURANCE CLAIMS DISPUTE RESOLUTION THROUGH THE CONSUMER DISPUTE RESOLUTION AGENCY (BPSK)

Padian Adi Salamat Siregar¹

Faculty of Law, Universitas Muhammadiyah Sumatera Utara, Email: padianadi@umsu.ac.id

Adi Mansar⁽²⁾

Faculty of Law, Universitas Muhammadiyah Sumatera Utara, Email: adimansar@umsu.ac.id

Muhammad Arifin⁽³⁾

Faculty of Law, Universitas Muhammadiyah Sumatera Utara, Email: muhammadarifin@umsu.ac.id

Article Info	Abstract
Received: 2022-10-20 Revised: 2023-03-21 Accepted: 2023-09-10 Keywords: <i>life insurance, consumer disputes, insurance claims, Consumer Dispute Resolution Agency</i>	<i>Life insurance claim dispute resolution is a crucial aspect of consumer legal protection in Indonesia, particularly when claims are rejected by insurance companies. The Consumer Dispute Resolution Agency (BPSK) was established as an alternative out-of-court dispute resolution body, aiming to provide fast, simple, and low-cost resolution. However, in practice, the effectiveness of the BPSK in resolving life insurance claim disputes still faces various obstacles. This study aims to determine the procedures for resolving life insurance claim disputes through the BPSK, identify the obstacles encountered, and analyze efforts to optimize the resolution of these disputes. This study uses a normative legal research method with a statutory and conceptual approach, supported by primary, secondary, and tertiary legal materials. Data collection was conducted through literature review and qualitative analysis. The results indicate that life insurance claim dispute resolution through the BPSK is carried out through mediation, conciliation, and arbitration mechanisms, with final and binding decisions. However, its effectiveness still faces obstacles, including overlapping authority with the Financial Services Authority (OJK), weak enforcement powers of decisions, the technical complexity of insurance disputes, an imbalance in the bargaining position between consumers and businesses, and limited institutional capacity of the BPSK. Optimization efforts that can be implemented include strengthening regulations, harmonizing authority between institutions, increasing human resource capacity, increasing business compliance, and improving public legal and financial literacy. Therefore, strengthening the role of the BPSK is essential to realizing effective legal protection for consumers in life insurance claim disputes in Indonesia.</i> Keywords: <i>life insurance, consumer disputes, insurance claims, Consumer Dispute Resolution Agency</i>

I. Introduction

Indonesia has various insurance companies that provide risk transfer services to the public for potential future losses. This risk transfer is carried out through an insurance agreement that binds the parties: the insurer, the party accepting the risk, and the insured, the party transferring the risk. In this legal relationship, the insurer is obligated to provide compensation in the event of an insured event, while the insured is obliged to pay a premium in exchange for the guaranteed protection. However, in practice, insurance agreements do not always operate as agreed, often giving rise to disputes, particularly those related to default or claim rejection (Oscar, G.V., Setiawan, P.A.H., & Iryani, D., 2023).

Normatively, the definition of insurance is regulated in Article 246 of the Commercial Code, which states that insurance is an agreement whereby the insurer binds itself to the insured, by accepting a premium, to provide compensation for losses resulting from an uncertain event. This regulation is emphasized in Article 1, number 1 of Law Number 40 of 2014 concerning Insurance, which states that insurance is an agreement between an insurance company and a policyholder that provides compensation for losses or payments based on the life or death of the insured.

One rapidly growing form of insurance is life insurance, which provides financial protection against the risk of death. Beneficiaries will receive a sum assured if the insured dies during the policy term. In addition to death benefits, various life insurance products also provide additional protection, such as for critical illness, accident, and total permanent disability. Thus, life insurance serves as a social and economic protection instrument for the insured's family (Yushendri, M.H., Karsona, A.M., & Rahmawati, E., 2023).

Insurance contracts are governed by the principle of utmost good faith, which requires the insured to provide honest and complete information regarding the

conditions related to the insured entity. This principle significantly determines risk assessment and premium amounts. Violations of this principle, such as concealing a health condition, often serve as grounds for insurance companies to reject claims. This situation often triggers disputes between policyholders and insurance companies, primarily due to differing interpretations of policy clauses (Hidayah, D., 2024).

In practice, policyholders are often in a weaker position than insurance companies due to limited legal understanding and access to resources. Therefore, an effective legal protection mechanism is needed to ensure certainty and fairness for policyholders. Insurance claim disputes can generally be resolved through several channels, including the courts, arbitration, and alternative dispute resolution institutions (Kumala, W., Yaswirman, Y., & Ulfanora, U., 2019). One institution authorized to resolve consumer disputes outside of court is the Consumer Dispute Resolution Agency (Soleh, R., 2022).

Conventional life insurance claim dispute resolution through the courts is often considered ineffective due to the lengthy process, high costs, and a lack of public understanding of legal procedures. The government's establishment of the BPSK aims to provide an alternative dispute resolution system outside the courts (non-litigation), which is expected to provide faster, cheaper, and fairer solutions for disputing parties. However, the BPSK's effectiveness in resolving insurance disputes still faces various challenges, such as limited authority, enforcement of decisions, and a lack of public understanding. This situation demonstrates the importance of strengthening dispute resolution mechanisms to improve legal protection for life insurance policyholders in Indonesia (Tarmum, H., & Marlyna, H. (2023).

2. Research Method 12pt Bold

This research employs a normative legal or juridical-normative approach, which involves reviewing library materials or secondary data related to consumer protection and agreements. This research is descriptive and analytical in nature, describing and analyzing laws and regulations and legal theories related to the

research problem. The approach employed is a statute approach, examining various applicable legal provisions, particularly the Civil Code and Law Number 8 of 1999 concerning Consumer Protection.

The data sources in this study consist of primary legal materials in the form of laws and regulations; secondary legal materials in the form of books, journals, and the opinions of legal experts; and tertiary legal materials in the form of legal dictionaries and other supporting sources. Data collection was conducted through library research, which involves collecting and studying legal materials relevant to the research topic. The data obtained is then analyzed qualitatively, systematically interpreting and reviewing the legal materials to draw conclusions that can answer the research questions.

3. Results and Discussion

Procedures for Resolving Life Insurance Claim Disputes Through the Consumer Dispute Resolution Agency (BPSK) in Indonesia

Insurance dispute resolution between the insurer and the insured can be pursued through litigation or non-litigation channels. Litigation channels are carried out through the courts with reference to the provisions of default in Article 1266 of the Civil Code (Subekti, 2014), while non-litigation channels can be carried out through the Alternative Dispute Resolution (ADR) mechanism, which aims to resolve disputes quickly, efficiently, and profitably for both parties (Usman, 2012).

The out-of-court resolution of insurance disputes between consumers and insurance companies is legally based in Law Number 8 of 1999 concerning Consumer Protection, which provides legal certainty and protection for consumers (Ahmadi & Yodo, 2015). This law serves as the basis for the establishment of the Consumer Dispute Resolution Agency (BPSK), a non-litigation institution that handles disputes between consumers and businesses. The existence of the Consumer Dispute Resolution Agency (BPSK) enables quick, simple, and low-cost dispute resolution without the need for lengthy court proceedings (Widjaja & Yani, 2003).

The Consumer Dispute Resolution Agency (BPSK) is an independent institution established at the district/city level and has the authority to resolve consumer disputes through mediation, conciliation, and arbitration. The position and authority of the Consumer Dispute Resolution Agency (BPSK) are regulated in Article 23 of the

Consumer Protection Law. The Consumer Dispute Resolution Agency (BPSK) has quasi-judicial authority because it can examine, adjudicate, and decide consumer disputes with a final and binding decision (Shidarta, 2006). Technical dispute resolution procedures are further regulated in Decree of the Minister of Industry and Trade Number 350/MPP/Kep/12/2001, which stipulates that dispute resolution can be conducted based on the parties' choice of method, including mediation, conciliation, or arbitration.

The practice of resolving life insurance claim disputes between consumers and insurance companies through mediation is the most frequently used method because it allows the parties to reach a mutual agreement through dialogue, maintain good relations, and avoid prolonged conflict (Nugroho, 2011). If consumers and businesses do not choose or have no opportunity for mediation, then arbitration is used as a dispute resolution method. The arbitration method authorizes the Consumer Dispute Resolution Agency (BPSK) panel to issue a final and binding decision.

Article 55 of the Consumer Protection Law requires the Consumer Dispute Resolution Agency (BPSK) to issue a decision no later than 21 days after receiving the lawsuit, and the decision must be implemented by the business actor within 7 days of notification. Furthermore, Article 56 paragraph (2) of the Consumer Protection Law still provides the right for consumers or business actors to file an objection with the District Court within 14 working days of receiving notification of the decision. If there are no objections, the BPSK decision becomes legally binding and must be implemented.

Insurance claim dispute cases in Medan City have shown a significant upward trend in recent years. Based on data from the Medan District Court Case Tracking Information System (SIPP), the number of insurance cases increased from 9 cases in 2022 to 11 cases in 2023 (Medan District Court, 2023). Furthermore, there were 23 insurance claims filed with the Medan City Consumer Dispute Resolution Agency (BPSK) between 2021 and 2023, most of which concerned rejected claims or unclear contract provisions (BPSK Medan City, 2023). This trend demonstrates the urgency of strengthening policyholder protection and ensuring more efficient dispute resolution procedures. Disputes between policyholders and insurance companies generally involve rejected claims or unclear contract provisions, which often trigger legal action and hinder legal certainty for consumers (Ningtyas, W. J. A., & Mardianingrum, S. M., 2023).

Dispute resolution through the Consumer Dispute Resolution Agency (BPSK) has several advantages over litigation, including a fast process, low costs, and simple procedures, thus providing easier access to justice for consumers (Miru, 2013). However, practice has shown several obstacles, such as the limited number of

Consumer Dispute Resolution Agencies (BPSK) in the regions, a lack of public understanding of the functions and authorities of the BPSK, and limited human resources (HR) familiar with insurance technicalities (Nugroho, 2011). Furthermore, although decisions are final and binding, business actors can file objections with the District Court, which in some cases lengthens dispute resolution and reduces effectiveness (Ahmadi & Yodo, 2015).

Resolving life insurance claim disputes through the Consumer Dispute Resolution Agency (BPSK) is an effective mechanism for consumer legal protection. The existence of the Consumer Dispute Resolution Agency (BPSK) allows for a fast, simple, and low-cost process, but its level of effectiveness still requires institutional strengthening, improving the quality of human resources (HR), and outreach to the community so that the dispute resolution mechanism can run optimally and provide legal certainty (Ahmadi & Yodo, 2015).

Obstacles to Resolving Life Insurance Claim Disputes Through the Consumer Dispute Resolution Agency

Settlement of life insurance claim disputes through the Consumer Dispute Resolution Agency (BPSK) is an important aspect of consumer protection in Indonesia. However, in practice, the settlement of life insurance claim disputes through the Consumer Dispute Resolution Agency (BPSK) faces various legal, structural, and substantial obstacles, which directly affect the effectiveness of the implementation of its authority. One of the main obstacles is the overlapping jurisdiction of the authority between the Consumer Dispute Resolution Agency (BPSK) and the Financial Services Authority (OJK) in handling disputes in the financial services sector. Normatively, the Consumer Dispute Resolution Agency (BPSK) has the authority to resolve consumer disputes based on Law Number 8 of 1999 concerning Consumer Protection, but in practice, insurance companies often argue that insurance disputes are part of the supervision of the financial services sector which falls under the jurisdiction of the Financial Services Authority (OJK). This condition causes business actors to often reject the authority of the Consumer Dispute Resolution Agency (BPSK) and choose to file objections through the District Court, thereby creating legal uncertainty and weakening the effectiveness of dispute resolution through the Consumer Dispute Resolution Agency (BPSK) (Kumala, W., Yaswirman, & Ulfanora, 2019).

Structural constraints are also reflected in the weak enforcement power of the Consumer Dispute Resolution Agency (BPSK) decisions within the national legal system. Normatively, Article 54 paragraph (3) of the Consumer Protection Law states that the decisions of the Consumer Dispute Resolution Agency (BPSK) are final and binding. However, in practice, this does not fully provide effective enforcement power, as the legal system still allows businesses to file objections

through the district court, as stipulated in Article 56 of the Consumer Protection Law. This objection mechanism essentially opens up opportunities for businesses to delay the implementation of the Consumer Dispute Resolution Agency (BPSK) decisions, and in many cases, disputes even proceed to the cassation level at the Supreme Court.

Objections by businesses result in the Consumer Dispute Resolution Agency (BPSK) decisions, which should provide quick, simple, and low-cost dispute resolution, instead experiencing lengthy and protracted processes. This situation substantially reduces the effectiveness of the Consumer Dispute Resolution Agency (BPSK) as an alternative dispute resolution institution and demonstrates that the BPSK remains institutionally dependent on general courts for the implementation of its decisions. Legally, the BPSK lacks fully independent executive powers, thus preventing its legal protection function for consumers from being optimally realized (Putri, R.A., 2022).

In addition to legal and structural constraints, another substantial obstacle relates to the technical complexity of life insurance disputes. Life insurance claim disputes generally involve the interpretation of technical and specific policy clauses, including exclusion clauses and conditional clauses, as well as the application of fundamental principles of insurance law, such as the principle of utmost good faith, the principle of insurable interest, and the principle of indemnity. The complexity of this substance often becomes an obstacle in the evidentiary process, especially for consumers who generally do not have an adequate understanding of the technical and legal aspects of insurance agreements. In many cases, insurance companies use the interpretation of policy clauses as a legal basis to reject claims submitted by consumers, while consumers have difficulty proving that the rejection has no valid basis. This situation indicates an imbalance in capacity between consumers and business actors in understanding and interpreting insurance agreements, which ultimately complicates the dispute resolution process through the Consumer Dispute Resolution Agency (BPSK) (Hidayat, T., 2020).

Furthermore, the imbalance in bargaining power between consumers and insurance companies is also a factor that significantly impacts the effectiveness of dispute resolution. In the context of insurance legal relations, insurance companies are in a more dominant position due to their superiority in information control, technical capabilities, and legal and professional resources. Conversely, consumers are generally in a weaker position due to limited access to information, low levels of legal literacy, and limited ability to obtain adequate legal representation. This makes it difficult for consumers to assert their rights, especially when faced with business actors who have stronger legal and technical resources. This imbalance in bargaining power not only affects the process of forming insurance contracts but

also impacts the dispute resolution process, often making it difficult for consumers to effectively defend their rights. From a consumer protection perspective, this condition reflects a structural imbalance that requires strong institutional intervention to ensure fair and proportional legal protection for consumers (Wasita, A., 2020). Therefore, this imbalance increases the likelihood of disputes and simultaneously hinders the achievement of fair resolutions through the Consumer Dispute Resolution Agency (BPSK).

Another equally significant obstacle is the low level of business compliance with the processes and decisions of the Consumer Dispute Resolution Agency (BPSK). In practice, not all insurance companies demonstrate good faith in cooperatively following the dispute resolution process through the Consumer Dispute Resolution Agency (BPSK). Some business actors even fail to attend court hearings or refuse to implement decisions issued by the Consumer Dispute Resolution Agency (BPSK). The weak enforcement mechanism prevents the Consumer Dispute Resolution Agency (BPSK) from having sufficiently effective instruments to ensure business actors' compliance. As a result, consumers who have obtained favorable decisions must still pursue further legal proceedings through the district courts to obtain enforcement of those decisions. This situation practically reduces the efficiency and effectiveness of dispute resolution through the Consumer Dispute Resolution Agency (BPSK) and has the potential to create public distrust in the institution's effectiveness as a means of legal protection for consumers (Lestari, D., 2021).

Furthermore, institutional constraints also impact the optimal role of the Consumer Dispute Resolution Agency (BPSK) in resolving life insurance claim disputes. Limited human resources with specialized insurance expertise can impact the quality of legal analysis and reasoning in the dispute examination process. Life insurance disputes are complex and require a multidisciplinary understanding of civil law, consumer protection law, and technical insurance principles. Without the support of adequately competent human resources, the examination and decision-making process has the potential to be suboptimal. Furthermore, limited institutional facilities and infrastructure can also impact the effectiveness of the Consumer Dispute Resolution Agency (BPSK) as a consumer dispute resolution body.

Overall, these various constraints indicate that the effectiveness of life insurance claim dispute resolution through the Consumer Dispute Resolution Agency (BPSK) still faces multidimensional obstacles, encompassing regulatory, institutional, and practical aspects. Overlapping authority between the Consumer Dispute Resolution Agency (BPSK) and the Financial Services Authority (OJK), the weak executive power of the Consumer Dispute Resolution Agency (BPSK) decisions, the technical complexity of

insurance disputes, the imbalance in bargaining power between consumers and business actors, the low level of business actor compliance, and limited institutional capacity are the main factors that hinder the optimization of the role of the Consumer Dispute Resolution Agency (BPSK) in providing legal protection to consumers. Therefore, efforts are needed to reformulate legal policies that include strengthening the executive authority of the Consumer Dispute Resolution Agency (BPSK), harmonizing authority between institutions, and increasing the institutional capacity of the Consumer Dispute Resolution Agency (BPSK), so that this institution can function effectively as an instrument of legal protection for consumers, especially in resolving life insurance claim disputes.

Efforts to Optimize the Settlement of Life Insurance Claim Disputes Through the Consumer Dispute Resolution Agency

Optimizing the effectiveness of life insurance claim dispute resolution through the Consumer Dispute Resolution Agency (BPSK) is a strategic step to strengthen legal protection for consumers and ensure a fast, simple, and low-cost dispute resolution mechanism. However, in practice, resolving life insurance claim disputes still faces various legal, structural, and substantive obstacles, necessitating systematic and comprehensive efforts to improve their effectiveness. Life insurance claim disputes generally arise from claim rejections, delays in benefit payments, or differences in interpretation of complex and technical policy clauses. Therefore, consumers need a dispute resolution institution that can provide effective legal protection (Putri, N.A., & Santoso, B., 2021).

The effectiveness of resolving life insurance claim disputes through the Consumer Dispute Resolution Agency (BPSK) is still influenced by various factors, including normative, institutional, and structural factors. Therefore, systematic efforts are needed to improve the effectiveness of the Consumer Dispute Resolution Agency (BPSK) as a consumer dispute resolution agency in the life insurance sector. One important effort is strengthening regulations and harmonizing laws and regulations governing the authority of the Consumer Dispute Resolution Agency (BPSK), particularly in relation to other institutions such as the Financial Services Authority (OJK). The lack of synchronization between the Consumer Protection Law and Law Number 21 of 2011 concerning the Financial Services Authority has created a dualism of authority in resolving disputes in the financial services sector, which in practice is often exploited by business actors to avoid the jurisdiction of the Consumer Dispute Resolution Agency (BPSK) (Pratama, R., 2022). This condition creates legal uncertainty and weakens the effectiveness of the Consumer Dispute Resolution Agency (BPSK) in carrying out its function as an alternative dispute resolution institution. Therefore, normative clarity and regulatory synchronization

are needed to ensure the certainty of the Consumer Dispute Resolution Agency (BPSK)'s authority in handling life insurance claim disputes.

In addition to strengthening regulations, improving the institutional capacity of the Consumer Dispute Resolution Agency (BPSK) is also a crucial factor in increasing the effectiveness of dispute resolution. Life insurance disputes generally involve complex technical aspects, such as the interpretation of policy clauses, the principle of utmost good faith, and the analysis of insurance and claim documents. Therefore, it is necessary to improve the competency of the Consumer Dispute Resolution Agency's human resources, particularly mediators, arbitrators, and panel members, to ensure they have an adequate understanding of the legal and technical aspects of the insurance sector. This capacity building is crucial to ensure that the examination and decision-making processes are conducted objectively, professionally, and fairly (Sari, D.P., 2020). According to Tanti Juliana, Chairperson of the Medan City Consumer Dispute Resolution Agency, efforts to improve institutional capacity will enable the Consumer Dispute Resolution Agency (BPSK) to carry out its functions more effectively and issue decisions with strong legal legitimacy.

Another equally important effort is improving insurance business actors' compliance with BPSK decisions. In practice, one of the main obstacles faced by BPSK is the weak implementation of decisions, as business actors often file objections with the District Court or fail to implement decisions voluntarily. This situation indicates that although BPSK decisions are normatively final and binding, their implementation still faces obstacles in terms of enforcement (Hidayat, T., 2020). Therefore, strengthening the mechanism for implementing BPSK decisions through regulatory support and coordination with judicial institutions is necessary so that decisions can be implemented effectively and provide legal certainty for consumers.

In addition to regulatory and institutional aspects, increasing transparency and accountability in insurance companies is also a crucial factor in increasing the effectiveness of dispute resolution. Insurance companies are obligated to provide consumers with clear, complete, and easily understandable information regarding insurance benefits, risks, exclusions, and claim procedures. Lack of transparency in the delivery of information is often a major cause of disputes between insurance companies and consumers. Therefore, improving transparency and the quality of insurance company services can play a significant role in preventing disputes and reducing the number of cases filed with the BPSK (Wasita, A., 2020). Information transparency is also part of the consumer protection principle, which aims to create a fair and balanced legal relationship between business actors and consumers.

Increasing public legal literacy and awareness is also a crucial factor in

supporting the effectiveness of dispute resolution through the Consumer Dispute Resolution Agency (BPSK). Low levels of financial literacy and public understanding of insurance products mean that many consumers lack a clear understanding of their rights and obligations under insurance contracts, leaving them vulnerable to losses and facing difficulties in pursuing their rights (Lestari, D., 2021). Therefore, ongoing education and outreach efforts are needed regarding consumer rights and obligations, insurance claim mechanisms, and dispute resolution procedures through the Consumer Dispute Resolution Agency (BPSK). Improving public legal and financial literacy will strengthen consumers' positions and increase the effectiveness of the overall consumer protection system.

Furthermore, increased coordination and synergy between relevant institutions are also crucial factors in enhancing the effectiveness of dispute resolution. Collaboration between the Consumer Dispute Resolution Agency, the Financial Services Authority (OJK), local governments, and judicial institutions is essential to creating an integrated and effective dispute resolution system. Coordination between institutions can help reduce conflicts of authority, increase legal certainty, and ensure that consumer disputes are resolved quickly and fairly. With good coordination, the Consumer Dispute Resolution Agency (BPSK) can optimally perform its functions as part of the national consumer protection system.

Overall, increasing the effectiveness of life insurance claim dispute resolution through the Consumer Dispute Resolution Agency (BPSK) requires a comprehensive and integrated approach, including strengthening regulations, enhancing institutional capacity, increasing business compliance, increasing insurance company transparency, enhancing consumer literacy, and enhancing coordination between relevant institutions. These efforts are strategic steps to strengthen the role of the Consumer Dispute Resolution Agency (BPSK) as an effective alternative dispute resolution institution and to ensure optimal legal protection for life insurance consumers. Implementing an effective dispute resolution system is expected to create legal certainty, justice, and public trust in the insurance industry and consumer protection system in Indonesia.

4. Conclusion 12pt Bold

The Consumer Dispute Resolution Agency (BPSK) plays a strategic role as an alternative out-of-court dispute resolution institution in handling life insurance claim disputes based on the mandate of the Consumer Protection Law, with mediation, conciliation, and arbitration mechanisms that prioritize the principles of speed, simplicity, and low cost. Although normatively the Consumer Dispute Resolution Agency (BPSK) has a clear basis of authority, its effective implementation

still faces various obstacles, particularly related to overlapping authority with financial services sector institutions, limited executive power of decisions due to objections through general courts, and an imbalance in the bargaining position between consumers and insurance companies that is exacerbated by the complexity of policy clauses. These conditions indicate that optimizing the role of the Consumer Dispute Resolution Agency (BPSK) in resolving life insurance claim disputes requires strengthening regulatory and institutional aspects, as well as harmonization between agencies in order to realize effective legal protection and guarantee legal certainty for consumers.

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