

LEGAL ANALYSIS OF LEGAL RESPONSIBILITY FOR THE IMPLEMENTATION OF KRIS POLICY IN THE NTT REGION

Anggi Yudistia Wulandari
Universitas Pendidikan Nasional
anggiyudistiaa@gmail.com

A.A.A Ngr. Sri Rahayu Gorda
Universitas Pendidikan Nasional
srigorda@undiknas.ac.id

ABSTRACT

Data on the availability of beds, particularly for Class III in healthcare facilities in NTT, highlights the unpreparedness of hospitals to implement KRIS by June 30, 2025. Various controversies may arise from the implementation of KRIS, especially if healthcare facilities fail to meet KRIS standards by this deadline. This research aims to analyze the implementation of KRIS provisions and the legal consequences for hospitals collaborating with BPJS Kesehatan. Normative in nature, this study examines the enactment of Presidential Regulation No. 59 of 2024 regarding KRIS. It finds that the policy lacks provisions for protection and legal certainty for involved parties, including payment systems. Therefore, the Ministry of Health must review the rules and sanctions applicable if healthcare providers fail to meet the criteria outlined in the Presidential Regulation. The absence of clear sanctions and legal consequences by June 30, 2025, exacerbates this issue. It is imperative for the government to clarify the legal ramifications for non-compliance and for BPJS Kesehatan to prepare derivative regulations and review cooperation agreements with hospitals to mitigate risks associated with KRIS implementation.

Keywords: KRIS, Hospital, JKN, BPJS Health, Ministry of Health

INTRODUCTION

Health is a fundamental human right inherent to every individual from birth and cannot be revoked. This right is guaranteed in Article 28H, paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which states that every citizen has the right to live prosperously, both physically and mentally, to have a place to live, and to enjoy a good and healthy living environment. Ensuring access to healthcare services is a state obligation.¹

Health is one of the fundamental human needs and is, therefore, a right protected by law for every member of society. Every nation recognizes health as a critical asset for achieving overall well-being.² The recognition of health as both a fundamental human right and a prerequisite for the fulfillment of other rights has been affirmed internationally, including in relation to workers.

Additionally, health guarantees as a fundamental right are enshrined in Article 4 of Law Number 36 of 2009 concerning Health (hereinafter referred to as the Health Law).³ which states that 'Everyone has the right to health.' The social welfare program is a structured initiative

¹The contextual definition of Article 28 Letter H of 1945 constitutional law of Republic of Indonesia (UUD NRI)

²Mikho Ardinata, "Tanggung Jawab Negara terhadap Jaminan Kesehatan dalam Perspektif Hak Asasi Manusia (HAM)", *Jurnal HAM*, Vol. 11 No. 2 (2020), hlm. 319.

³Contextual definition of Article 4 of The Law Number 36 year of 2006 on Health

aimed at achieving societal welfare through a systemic approach, where the state and society collaborate in joint administration. The government is obligated to provide healthcare services to all citizens by offering both medical services and health monitoring. The ultimate objective is to ensure that every citizen has their right to health protected and fulfilled. To achieve universal health rights effectively, the government must formulate more comprehensive policies regarding health insurance. Efforts to this end have already been initiated, such as the enactment of Law Number 40 of 2004 concerning the National Social Security System.⁴

- a. That every person is entitled to social security to meet their basic living needs and enhance their dignity, contributing to the realization of a prosperous, just, and equitable Indonesian society.
- b. That, to provide comprehensive social security, the State is mandated to establish and develop a National Social Security System for the benefit of all Indonesian citizens.

The State's effort to provide health services is demonstrated through the launch of the National Health Insurance Program (JKN). This program is administered by BPJS Kesehatan, which was established under Law Number 24 of 2011 concerning BPJS, as mandated by Law Number 40 of 2004 concerning the National Social Security System (SJSN). BPJS Kesehatan, as the institution responsible for managing the health insurance program for all Indonesian citizens, operates using a mandatory social health insurance scheme. This scheme involves the collection of contributions from BPJS Kesehatan participants, which are then consolidated into the Social Security Fund. The Social Security Fund is authorized to collect, manage, and develop these contributions with the goal of providing social protection, thereby ensuring that all citizens can appropriately meet their basic living needs, particularly in the field of health.⁵

The State's commitment to providing health services is reflected in the launch of the National Health Insurance Program (JKN). This program is administered by BPJS Kesehatan, which was established under Law Number 24 of 2011 concerning BPJS, as mandated by Law Number 40 of 2004 on the National Social Security System (SJSN). BPJS Kesehatan oversees the health insurance program for all Indonesian citizens through a mandatory social health insurance scheme. Under this scheme, contributions collected from participants are consolidated into the Social Security Fund. This fund is authorized to collect, manage, and develop the contributions to provide social protection, ensuring that all citizens can adequately meet their basic needs, particularly in healthcare.⁶

“ The treatment room facilities in inpatient services, as stipulated in paragraph (6), encompass the infrastructure, bed capacity, and equipment, all of which must comply with the standards prescribed under the Standard Inpatient Class provisions. ”

Article 46A

The criteria for the treatment room facilities in inpatient services based on the Standard Inpatient Class as referred to in Article 46 paragraph (7) consist of: 3

“The building components utilized must adhere to standards ensuring minimal porosity, adequate air ventilation, proper room lighting, complete bed equipment, bedside tables, regulated room temperature, and patient rooms segregated by gender and age (children or adults) as well as by infectious or non-infectious diseases. Additionally, requirements include appropriate room density, high-quality beds, curtains or partitions between beds, indoor bathrooms for inpatients meeting accessibility standards, and the provision of oxygen outlets.”

⁴Contextual Definition of Law Number 40 year of 2004 on the System National Social Security.

⁵Aqris Syaid, “Pemberlakuan Inpres No. 1 Tahun 2022 Tentang Optimalisasi Pelaksanaan Program Jaminan Kesehatan Nasional Dalam Rangka Menyejahterakan Bpjs Kesehatan”, *Jurnal Hukum to-ra : Hukum Untuk Mengatur dan Melindungi Masyarakat*, Vol. 9 No. 1 (2023), hlm. 38–57. the potential for a deficit to occur again in 2023. In order to overcome the potential threat of a deficit in the Social Security Fund for Health BPJS or in order to make the Social Security Fund always healthy (surplus

⁶Contextual definition of Article 46 of Presidential regulation Number 59 Year of 2024

Article 103 B

“The implementation of patient care room facilities in inpatient services based on the Standard Inpatient Class as referred to in Article 46A shall be carried out comprehensively for hospitals collaborating with BPJS Kesehatan no later than June 30, 2025.”

The implementation of KRIS within the JKN program will affect the uniform tariff rates applied to all hospitals adhering to the KRIS JKN policy. The core philosophy behind KRIS JKN is to replace the existing policy of differentiated inpatient classes, which has sparked controversy due to the variation in inpatient costs. Moreover, the uneven distribution of service burdens across different segments poses a significant challenge to the financial sustainability of the Social Security Agency for Health (BPJS Kesehatan).⁷

Conversely, Article 19, paragraph 1 of the SJSN Law mandates that the implementation of JKN must adhere to the principle of equity. Under this principle, every JKN participant is entitled to equal access to healthcare services based on their medical needs, regardless of the amount of contributions they have paid.⁸ The implementation of KRIS has generated significant debate among stakeholders due to the lack of explicit provisions in Presidential Regulation No. 59 of 2024 regarding the responsibilities of hospitals, as partners of BPJS Kesehatan, in delivering services to JKN participants and managing related financing under the JKN Program. Furthermore, disparities in healthcare infrastructure and the availability of beds, particularly in remote and isolated areas, pose substantial challenges to the successful implementation of KRIS. For instance, as of September 2024, the NTT region faces critical shortages in bed availability. This research is crucial because the existing framework for KRIS contains ambiguous norms that must be addressed to ensure legal certainty for all parties involved.

METHOD

This study employs a normative legal research methodology, designed to gather information from various perspectives on the issue under investigation. The approach incorporates multiple methods, including the Legislative Approach, which involves a thorough review of all laws and regulations pertinent to the legal issues being addressed, and the Conceptual Approach, which examines legal principles derived from scholarly opinions and legal doctrines that are directly relevant to the subject matter.⁹

The data types and sources for this research comprise primary and secondary legal materials. Primary legal materials include laws, regulations, official records, and legislative minutes used in the drafting of legislation. Secondary legal materials provide supplementary information relevant to the content and application of primary legal materials. These sources assist in the analysis and interpretation of primary legal materials and may include books, legal journals, legal magazines, research papers, seminar proceedings, general magazines, newspapers, as well as theses, scientific articles, and dissertations.

The data collection method employed in this research is a library study, which involves analyzing both primary and secondary legal materials through reading, comprehension, and online searches for relevant legal documents. Additionally, interviews and further library research are conducted to enrich the findings. The analysis of legal materials utilizes a

⁷Faozi Kurniawan. (2019). “Penetapan Kelas Standar Pelayanan JKN sebagai Amanah UU SJSN”. Policy Brief, 03, 1.

⁸Deny Sulistyorini dan Mokhamad Khoirul Huda, “Perlindungan Hukum Rumah Sakit Yang Belum Memenuhi Kelas Rawat Inap Standar JKN”, *YUSTISIA MERDEKA : Jurnal Ilmiah Hukum*, Vol. 8 No. 2 (2022), hlm. 48–56

⁹Irwansyah & Ahsan Yunus, (2020), *Penelitian Hukum Pilihan Metode & Praktik Penulisan Artikel*, Mirra Buana Media, Yogyakarta, h.5

qualitative juridical descriptive method, aimed at delivering a clear and accurate understanding of the legal issues under examination.

ANALYSIS AND DISCUSSION

Prior to the introduction of KRIS, the class-based system within BPJS Kesehatan comprising Classes 1, 2, and 3 established a hierarchy based on the financial capacity of participants, allowing JKN participants to select their class according to their economic means. This system disproportionately favored higher-income groups, enabling them to access superior services, while marginalizing lower-income participants who had limited access to quality healthcare services (Pramana & Priastuty, 2023). The laws and policies underpinning this class system perpetuated systemic inequality by restricting access for economically disadvantaged groups.

The KRIS policy seeks to dismantle this hierarchy by instituting uniform service standards for all BPJS Kesehatan participants. This reform is aimed at rebalancing the power dynamics within the healthcare system to ensure that all participants, regardless of their economic standing, have equal access to quality healthcare facilities. By integrating uniform standards, KRIS represents a significant step toward eliminating structural discrimination within the healthcare system. Furthermore, it mitigates the influence of economic disparities on healthcare access and ensures a fair and equitable opportunity for all participants to receive uniform services.¹⁰

Certainty refers to a state of being definite, a resolution, or a decision. At its core, law must embody both certainty and justice—certainty as a guideline for conduct and justice to ensure that such guidelines uphold an order perceived as fair. According to Hans Kelsen, law constitutes a system of norms. A norm represents a prescriptive statement, emphasizing what ‘ought’ to be done (*das Sollen*), and consists of rules that prescribe behavior. Norms are the product of human deliberation and action. Laws containing general rules serve as behavioral guidelines for individuals, governing both interpersonal relationships and interactions within the community. These rules act as constraints, preventing society from arbitrarily imposing burdens or taking unjust actions against individuals. The presence and enforcement of such rules establish and sustain legal certainty.¹¹ From the perspective of the Theory of Legal Certainty, it is recognized as one of the primary objectives of law and a fundamental element in the pursuit of justice. Legal certainty manifests in a tangible form through the consistent implementation and enforcement of laws, irrespective of an individual’s identity. By ensuring legal certainty, individuals can predict the legal consequences of their actions with confidence. Furthermore, legal certainty is indispensable in upholding the principle of equality before the law, ensuring that no discrimination occurs. Gustav Radbruch also emphasized that legal certainty is not only an essential component but also one of the overarching goals of the legal system.

Gustav Radbruch identified four fundamental aspects that define the concept of legal certainty:

1. Law as Positive Law: Legal certainty requires that law be expressed as positive law, which means it must take the form of legislation.
2. Law Based on Facts: Laws must be grounded in factual reality, ensuring their relevance and applicability.
3. Clarity in Formulation: Legal provisions must be clearly articulated to prevent misinterpretation and to facilitate ease of implementation.

¹⁰Hajar Imtihani, Muhammad Nasser, Keadilan dalam Reformasi BPJS: Teori Rawls dan Kajian Kritis Terhadap Kebijakan Kelas Rawat Inap Standar, Vol. 15 No. 1 (2024), hlm. 37–48.

¹¹Peter Mahmud Marzuki, Pengantar Ilmu Hukum, Kencana, Jakarta, 2008, hlm.158

4. Stability of Positive Law: Positive law should not be subject to frequent changes, as stability is essential for maintaining public trust and predictability in legal systems.

This form of legal certainty is often referred to as realistic legal certainty, which emphasizes the need for alignment and mutual understanding between the state and its citizens regarding the legal system. In the context of Presidential Regulation No. 59 of 2024 concerning the Standard Inpatient Class (KRIS), which mandates implementation by June 30, 2025, the regulation currently lacks provisions that ensure legal certainty for both parties involved in the social security administration—namely, BPJS Kesehatan and its partner healthcare facilities. Specifically, there is no clarity regarding the terms of the cooperation agreements that will apply if healthcare facilities fail to meet the prescribed criteria by the deadline. The limited timeframe for implementation raises significant concerns, particularly for healthcare facilities in regions with restricted access and inadequate infrastructure. For instance, the NTT region still faces critical shortages in bed availability, as evidenced by data from September 2024. This uneven distribution of healthcare resources, especially in NTT Province, underscores the challenges in meeting the KRIS provisions stipulated in Presidential Regulation No. 59 of 2024.

Table 1: Number of JKN Participants and Number of Available Beds

No	Work Unit	Number of Participants (1,2,3)	Total Room Availability 1,2,3
1	Kupang Branch Office	1.325.899	1.514
2	Atambua Branch Office	1.098.041	580
3	Maumere Branch Office	716.896	552
4	Ende Branch Office	1.413.083	632
5	Waingapu Branch Office	928.006	635

Source: BPJS Kesehatan (September, 2024)

An analysis of the data reveals significant concerns for both BPJS Kesehatan and healthcare facilities, as the implementation of KRIS is expected to reduce the number of available beds. This reduction could prevent patients from receiving necessary care, particularly in areas where infrastructure is already suboptimal. Additionally, there are unresolved issues regarding the status of cooperation agreements between BPJS Kesehatan and hospitals, as well as the mechanism for settling JKN participants' claims if healthcare facilities fail to meet the KRIS criteria by the June 30, 2025 deadline. Presidential Regulation No. 59 of 2024 lacks explicit provisions addressing the legal status of the parties and the payment framework following KRIS implementation, further complicating the situation.

Article 46A stipulates that further provisions regarding the criteria and implementation of the Standard Inpatient Class shall be governed by a Ministerial Regulation. However, this Ministerial Regulation has not yet been issued, despite the June 30, 2025, deadline for meeting these criteria. This delay creates significant legal uncertainty for both parties involved. Referring to Sudikno Mertokusumo's theory of legal certainty, such certainty is essential to ensure that laws function effectively. Legal certainty guarantees that individuals who possess rights are those who have received decisions through a clear and enforceable legal framework.¹² According to the official translation provided by the National Law Development Agency

(BPHN), ¹³ legal certainty is defined as a guarantee that laws are applied correctly and fairly to uphold justice and ensure predictability within the legal framework.

Presidential Regulation No. 59 of 2024 does not yet specify the legal consequences for both parties if, by June 30, 2025, healthcare facilities fail to meet the KRIS standards. This lack of clarity is particularly concerning in relation to the financing of JKN Program participants and the legal status of the parties within the cooperation agreements if these standards are not met. Additionally, significant debate persists regarding the interpretation and implementation of KRIS, as ambiguous language has created uncertainty in its application.

The Ministry of Health must conduct a comprehensive review and provide clear guidelines and standards for KRIS implementation to all stakeholders. This includes reassessing the standards and availability of hospital beds and inpatient classes, as these fall within the financing scope guaranteed by JKN. Such actions are essential to ensure legal certainty and protection for both parties, thereby preventing legal disputes or compensation claims arising from the enforcement of KRIS standards.

Furthermore, the regulations must explicitly outline the sanctions and legal consequences healthcare providers will face if they fail to comply with the provisions of Presidential Regulation No. 59 of 2024. Clear regulatory frameworks are necessary to uphold legal certainty and ensure justice for service providers, BPJS Kesehatan, and participants alike

CONCLUSION

- a. The government must reconsider the implementation of KRIS, which is set to take effect no later than June 30, 2025, because in addition to the readiness of hospital infrastructure, the readiness of medical personnel in each hospital is also required, which certainly entails significant costs.
- b. The government, especially the Ministry of Health, must provide understanding and a unified perception regarding these KRIS indicators. The government must also provide understanding and socialization regarding the legal consequences if KRIS is not implemented by June 30, 2025. The government, in this case the Ministry of Health, must review the availability of Health Facilities and the availability of beds, especially for remote and isolated areas.
- c. In addition, BPJS Kesehatan must also prepare regulations related to the derivatives of Presidential Regulation 59 of 2024 post-implementation of KRIS to minimize the risk of lawsuits or complaints from participants due to the implementation of this KRIS policy. Furthermore, BPJS Kesehatan and related parties must formulate or review the cooperation agreement between BPJS Kesehatan and healthcare facilities regarding the implementation and indicators of KRIS, including the payment mechanism if KRIS is implemented.

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¹³BPHN, Penyusunan Kamus Hukum Umum Bahasa Belanda-Bahasa Indonesia, (Jakarta: BPHN-Departemen Kehakiman dan HAM RI, 1997/1998). hlm. 122.

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