

## Legal Reconstruction of the Inequality between Medical Service Procedures by Doctors and Cost Control Policies by Hospitals from the Perspective of Justice for Patients Participating in National Health Insurance

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**Abstract:** This study discusses the challenges and solutions related to the imbalance between hospital cost control and doctor's medical decisions in the National Health Insurance (JKN) system. The main focus of this study is on the protection of patient rights, strengthening the autonomy of the medical profession, and enforcing more transparent regulations in cost management. The analysis highlights the importance of formulating explicit regulations regarding the division of responsibilities between doctors, hospitals, and BPJS, as well as the need for an active role of the government and society in overseeing the implementation of health policies. The study suggests a more equitable and sustainable system update, by paying more attention to patient medical needs and ensuring optimal service quality without being burdened by inappropriate cost policies.

**Keywords:** National Health Insurance, cost control, medical autonomy.

### INTRODUCTION

The National Health Insurance System (JKN) was established as part of the state's commitment to realizing the principle of a welfare state that places the right to health as a basic right of every citizen. JKN is a social protection instrument that functions to ensure that all Indonesian people, without exception, have access to decent, equitable, and quality health services (Fitria, 2024). The background to its establishment cannot be separated from the urgent need for a sustainable, fair, and inclusive health financing system in responding to the challenges of the inequality of medical services that have occurred between strong and weak economic groups. With the implementation of JKN through the Social Security Administering Body (BPJS) Health, the government is trying to unite various previously fragmented health insurance schemes into one integrated national system. This system is based on the principle of cooperation, where participants pay contributions routinely according to their economic ability, and the results of the collection of these contributions are used to finance health services for all participants when needed, regardless of their social or economic status (Hidayat, 2024).

Philosophically, JKN is built on the principles of social justice and solidarity as reflected in the constitutional mandate, especially Article 28H paragraph (1) of the 1945 Constitution, which states that everyone has the right to obtain health services. The principle of social justice demands that the health system is not only available but also fairly accessible to all levels of society. Meanwhile, solidarity is the basis of collective financing, where the healthy help the sick, and the able help the less able (Nuraeni, 2023). It is then stated in regulations, such as Presidential Regulation No. 82 of 2018 concerning Health Insurance, which expressly prohibits

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the imposition of additional costs on JKN participants outside the provisions that have been set. The ideal goal of this system is to realize equal access to professional, non-discriminatory medical services, free from extortion or hidden fees so that all citizens can truly feel the benefits of the health protection promised by the state (Sudrajat, 2020).

In its implementation in the field, the National Health Insurance (JKN) system faces serious challenges that stem from the imbalance between the ideality of regulation and the operational reality in healthcare facilities. One aspect that stands out is a cost control policy through the Indonesia Case-Based Groups (INA-CBGs) payment system, where hospitals receive payments based on predetermined diagnosis groups, not based on the actual cost of the services provided. (Abu Huraerah, 2022) Although this system is designed to create efficiency in national health financing, in practice, many medical services require higher costs compared to the established rates. It causes a mismatch between the patient's clinical needs and the hospital's ability to provide services according to optimal standards. When the required medical procedure is not included in the INA-CBGs tariff or the cost exceeds the ceiling, the hospital must find ways to reduce expenses so as not to experience operational losses (Adiyanta, 2020).

As a service institution and a business entity, hospitals have a dual responsibility: to provide quality medical services to patients and to maintain the financial stability of the organization. In the context of JKN, the pressure to cut costs often leads hospitals to implement internal policies that limit the use of expensive drugs, certain procedures, or the use of advanced medical technology is considered not cost-effective in the INA-CBGs system (Agustina, 2019). This efficiency policy then has a direct impact on medical practice, because doctors, who should be free to make clinical decisions based on pure medical considerations, must adjust their choices to the availability of budget and hospital management policies. As a result, doctors' professional room for maneuver is limited, and medical decisions are no longer entirely determined by the patient's clinical needs, but are also influenced by economic and administrative considerations (Ardiansah, 2020).

This systemic pressure places doctors in a difficult and complex position. On the one hand, they are required to maintain professionalism and integrity in carrying out medical duties according to ethical standards and scientific competence. However, on the other hand, they must comply with hospital efficiency policies that can limit patient access to certain services. In this condition, doctors may be forced to recommend therapies or procedures that are suboptimal from a medical perspective, solely due to the limited funding imposed by the system. Even in some cases, informal communication practices have emerged that ask patients to bear part of the costs in order to obtain better services, which is legally prohibited by the JKN system. This situation not only creates inequality in the quality of services, but also creates a heavy moral and legal burden for doctors, and reduces public trust in the national health system which should be inclusive and fair. (Basuki, 2016)

In the context of National Health Insurance (JKN)-based health services, doctors are in a complex dilemma between the demands of medical professionalism and hospital institutional policies. The ethics of the medical profession require doctors to prioritize the interests and safety of patients, provide the best service according to scientific standards, and maintain integrity and independence in clinical decision-making. However, in practice, the cost-efficiency policies implemented by hospitals often limit this room for maneuver. Doctors are faced with conditions where ideal medical decisions cannot be implemented clinically due to budget constraints, availability of drugs, medical devices, or certain procedures that are not covered by the INA-CBG tariff (Karim, Moenta, & Riza, 2018) This situation forces doctors to adjust their medical recommendations to align with the hospital's internal policies, even though it could mean providing less than optimal services to patients.

The consequences of this condition are not only ethical but also legal. Doctors remain legally responsible for every medical action given to patients, including when the decision taken is the result of a compromise between medical considerations and hospital efficiency policies. If there is a complaint or lawsuit from a patient due to services that are considered inadequate or detrimental, then the doctor can be sued, either civilly or criminally, and be subject to ethical sanctions by professional organizations. In fact, in many cases, limitations in services are not caused by the negligence or ignorance of doctors, but by systemic pressures that limit their capacity to act following professional standards. It initiates injustice for doctors who work in a system that restricts their independence and creates a heavy moral burden because they cannot comprehensively conduct their role as protectors of patients' health rights.

Furthermore, this condition shows a shift in the role of doctors from being independent clinical decision-makers to merely implementing hospital managerial policies. In the JKN system, doctors are often positioned as part of an administrative chain that must comply with internal protocols drawn up based on budget efficiency and not medical considerations. This transformation weakens the autonomy of the medical profession, obscures clinical responsibility, and threatens the quality of health services. When doctors no longer have full authority in determining the most appropriate therapy for patients, the essence of medical services as a relationship of trust between doctors and patients is tarnished.

Inequality in the implementation of the JKN system directly impacts patients as recipients of health services. One of the most obvious impacts is the reduction of patient rights due to limitations in the availability of medical services. Patients often do not receive ideal therapy or medical treatment because hospitals and doctors are bound by financing policies that do not reflect real clinical needs. In some cases, patients are even faced with the choice of paying for additional services or procedures that should be covered by JKN, which is done informally and without transparency. The practice of extortion or additional costs that are not informed violates the principle of justice and places patients in a vulnerable position, especially those from low-income groups. It becomes a gap between the health services promised by the JKN system—which should be universal and free of additional costs—and the reality faced in the field.

This condition is exacerbated by the gap and weakness in legal regulations that specifically regulate the division of responsibilities and authorities between doctors, hospitals, and BPJS. The absence of clear rules causes role ambiguity when problems occur in the field, especially in inconsistency between medical actions and budget availability. As a result, when complaints or disputes occur, it is unclear who should be held accountable: the doctor as the service provider, the hospital as the institution manager, or BPJS as the funder. This legal vacuum not only harms doctors and hospitals but robs legal certainty for patients whose constitutional rights to proper health services are not protected. From a substantive justice perspective, this regulatory weakness is a major loophole that risks harming the integrity of the JKN system and reducing public trust in the role of the state in guaranteeing the basic rights of its citizens.

Given this complexity, the urgency to perform legal reconstruction is increasingly critical. A new legal framework is needed can balance proportionally between the rights of patients to quality and fair health services, the professional autonomy of doctors in carrying out their duties independently, and the needs of hospitals to maintain the continuity of their operations through budget efficiency. This reconstruction must touch on normative, structural, and philosophical aspects of the health service system, with an emphasis on the principles of transparency, accountability, and substantive fairness. The ultimate goal is to create a JKN system that truly sides with the people, not only in terms of policy rhetoric but also in its

implementation in the field. Thus, the state can truly carry out its role as a protector of the constitutional rights of citizens in the health sector, by the mandate of the 1945 Constitution and the spirit of social solidarity that underlies the formation of the national health insurance system.

## **RESEARCH METHODS**

This study uses a normative legal method, namely a legal research method that focuses on the study of applicable positive legal norms, both in the form of laws and regulations, legal doctrines, and general legal principles. In this approach, the study will examine the legal provisions governing the National Health Insurance (JKN) system, including Presidential Regulation No. 82 of 2018 concerning Health Insurance, implementing regulations such as the Regulation of the Minister of Health, BPJS Regulations, and relevant laws such as Law No. 36 of 2009 concerning Health and Law No. 24 of 2011 concerning BPJS. In addition to the statute approach, this study also uses an analytical approach, namely analyzing how these norms are applied in practice to what extent these norms provide legal certainty, justice, and protection of patient rights, and how these norms interact with hospital managerial practices and the ethics of the medical profession in the context of JKN.

The data sources in this study consist of secondary data, namely primary, secondary, and tertiary legal materials. Primary legal materials include applicable laws and regulations, relevant court decisions, and official documents of state policies related to the JKN system. Secondary legal materials include legal literature, scientific journals, previous research results, and opinions of legal experts discussing medical professional ethics, health insurance, and health cost regulations. Tertiary legal materials are used to provide explanations or understanding of the legal terms and concepts used, such as legal dictionaries and legal encyclopedias. Data collection techniques are carried out through library research, namely tracing and reviewing relevant legal sources. Meanwhile, data analysis techniques use descriptive-analytical methods, namely describing, classifying, and analyzing existing legal provisions, to then be synthesized to identify weaknesses in existing laws and formulate legal reconstruction proposals that can guarantee a balance between patient rights, medical professionalism, and cost efficiency policies in the JKN system.

## **RESULT AND DISCUSSION**

### **Current Legal Regulations Regarding the Division of Authority and Responsibility Between Doctors, Hospitals, and BPJS Kesehatan in the Provision of Health Services for JKN Participants**

The National Health Insurance System (JKN) is an integral part of the national social security system organized by the state based on the mandate of the constitution. Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia states that "Everyone has the right to live in physical and spiritual prosperity, to have a place to live, and to have a good and healthy living environment and has the right to obtain health services." The provision is the constitutional basis for the state to guarantee the right to health as a fundamental human right. Furthermore, Article 34 paragraph (3) of the 1945 Constitution emphasizes that the state is responsible for providing adequate health care facilities and public services. This constitution is then further elaborated through Law No. 40 of 2004 concerning the National Social Security System (SJSN), which emphasizes that everyone has the right to social security to meet their basic needs for a decent life, including health services (Laksono, 2022).

Law No. 40 of 2004 concerning SJSN states in Article 5 paragraph (1) that "Everyone, including foreigners who work for at least 6 (six) months in Indonesia, is required to become a participant in the social security program." This article emphasizes the universal and

mandatory nature of participation in the JKN system. In its implementation, JKN is entrusted to the Social Security Administering Agency (BPJS) Health which was established through Law No. 24 of 2011 concerning BPJS. Article 6 paragraph (1) of the BPJS Law states that "BPJS is a public legal entity that is directly responsible to the President." Article 11 of the BPJS Law regulates the main tasks of BPJS Health, namely organizing national health insurance based on nonprofit, openness, prudence, accountability, efficiency, and effectiveness (Mardiansyah, 2018).

As a technical regulation for implementing JKN, Presidential Regulation No. 82 of 2018 concerning Health Insurance is here to regulate the implementation of this program in more detail. Article 2 of the Presidential Regulation states that "The Health Insurance Program aims to ensure that participants receive health care and protection benefits in meeting basic health needs." Meanwhile, Article 4 of Presidential Regulation No. 82/2018 emphasizes that participants have the right to receive health insurance benefits that include promotive, preventive, curative, and rehabilitative services for medical needs and are prohibited from being charged additional fees. It emphasizes that participants may not be subject to additional levies outside the provisions, which are the basic principles of services in the JKN system.

Within this legal framework, the relationship between participants, BPJS, and healthcare facilities (hospitals and doctors) forms an interdependent contractual and administrative system. BPJS Kesehatan enters a cooperation contract with primary health care facilities (FKTP) and advanced referral health care facilities (FKRTL) to provide services to participants. In this case, the hospital FKRTL receives payment under the INA-CBGs scheme from BPJS Kesehatan, which is a diagnosis-based payment system that has been established. Doctors working in hospitals generally act as professional medical personnel within the hospital's organizational structure, but their clinical responsibilities remain attached to the code of ethics and professional standards. The imbalance in legal relations between these three parties becomes a source of problems when conflicts arise between medical choices, efficiency policies, and participant rights (Nugraheni, 2017).

Doctors in the National Health Insurance (JKN) system act as medical service providers who are required to maintain the integrity of the profession and the quality of health services by applicable medical standards. This responsibility is regulated in Law No. 29 of 2004 concerning Medical Practice, which emphasizes that doctors have the authority to carry out medical actions based on their competence and expertise. Article 5 of the Medical Practice Law states that "Every doctor has the right to carry out medical actions by the standards of the profession and the competence they have." In addition, Article 6 paragraph (1) stipulates that "Doctors are required to provide health services with a full sense of responsibility by the rules of the medical profession." The obligation shows that the moral and professional responsibility of a doctor is to supply the best service based on objective medical assessments, without considering economic or cost factors (Putri, 2019).

However, in practice, the INA-CBGs (Indonesia Case-Based Groups) system used in JKN to control healthcare costs often limits the authority of doctors in choosing the right medical action for patients. Based on BPJS Kesehatan Regulation No. 1 of 2014 concerning INA-CBGs, payments made by BPJS Kesehatan to Hospitals based on this system are highly structured and refer to the classification of certain medical diagnoses and procedures with predetermined costs. This creates tension between the doctor's obligation to provide optimal medical services and the limited funds provided by BPJS. Article 12 of Presidential Regulation No. 82 of 2018 concerning Health Insurance emphasizes that BPJS must regulate rates based on the principle of efficiency, but in practice, this system can force doctors to choose cheaper

procedures or be limited to certain cost allocations, even though they may not fully match the patient's medical needs (Salim, 2020).

This situation puts doctors in a dilemma, where they have to carry out dual duties as medical practitioners and hospital administrative practitioners. As regulated in Article 5 paragraph (2) of Law No. 44 of 2009 on Hospitals, hospitals are required to provide health services that meet established standards, but must also maintain operational efficiency. In this context, doctors are often trapped under pressure to comply with cost-efficiency policies set by the hospital to maintain the continuity of hospital operations, which are often not in line with the ideal medical choices for patients. It leads to a conflict between the principles of medical professionalism and the administrative demands of hospital management, which can affect the quality of care provided to patients. As administrative executors, doctors must comply with hospital policies regarding cost restrictions, which can limit their freedom to make independent medical decisions (Setiawan, 2022).

Hospitals, as health facilities that collaborate with BPJS Kesehatan, have great authority and responsibility in organizing health services for JKN participants. Based on Law No. 44 of 2009 concerning Hospitals, hospitals are obliged to provide health services that meet quality and safety standards. Article 3 of the Hospital Law states that "Hospitals are responsible for providing quality, efficient health services that are by the needs of the community." In addition, Article 5 states that "Hospitals are required to organize health services by prioritizing patient safety." In the context of JKN, this obligation becomes even more complex, because hospitals must comply with the cost control provisions set by BPJS, although sometimes this is contrary to the patient's actual medical needs (Sobeang, 2021).

The managerial and administrative responsibilities of hospitals in implementing cost policies are very significant in the sustainability of the JKN system. Hospitals must manage the budget provided by BPJS by the INA-CBGs (Indonesia Case-Based Groups) payment scheme, which determines the amount of costs received by the hospital based on the diagnosis and medical procedures performed. BPJS Kesehatan Regulation No. 1 of 2014 regulates the procedures for managing costs using the system, which requires hospitals to comply with the established cost standards. In this case, hospitals are responsible for carrying out cost efficiency without sacrificing the quality of health services. Article 12 of Presidential Regulation No. 82 of 2018 concerning Health Insurance also emphasizes that hospitals are required to provide services by the standards set by BPJS, but still prioritize efficiency and accountability in cost management. This places hospitals in a position that often requires them to limit certain medical services to remain within the budget limits provided (Yuditia, 2023).

The contractual relationship between hospitals and BPJS is the basis for the hospital's obligation to comply with the cost provisions set out in the JKN system. Based on Presidential Regulation No. 82 of 2018 concerning Health Insurance, BPJS Kesehatan regulates cooperation contracts with hospitals as providers of health services for JKN participants. Article 28 of this Presidential Regulation states that "BPJS Kesehatan enters into cooperation contracts with health facility providers to ensure quality health services for participants." In this contractual relationship, the hospital is obliged to provide health services according to the agreed standards but is still limited to the rates set in the INA-CBGs system. This provision adds to the challenges for hospitals because although they are responsible for providing quality services, they must also ensure that these services remain within the budget limits received from BPJS. This contract creates a complex relationship between the hospital, BPJS, and medical personnel (doctors), which often causes tension in medical decision-making and cost policies (Yustina, 2015).

BPJS Kesehatan has a crucial role as an organizer and regulator in the JKN system, with the main function of funding, supervising, and controlling health service costs for JKN

participants. As an agency that manages national health insurance, BPJS Kesehatan is responsible for allocating funds according to the medical needs of participants and ensuring the quality of services according to applicable standards. In BPJS Kesehatan Regulation No. 1 of 2014 concerning INA-CBGs, BPJS Kesehatan regulates a payment scheme based on certain diagnosis and medical procedure groups, which limits the costs received by hospitals for each medical service provided, according to the predetermined categories (Article 2). In addition, BPJS Kesehatan also must supervise health service providers and ensure hospital and doctor compliance with applicable service standards and rates, as stipulated in Article 12 of Presidential Regulation No. 82 of 2018 which states that BPJS is responsible for supervising the implementation of health services to comply with applicable provisions. In this case, BPJS Kesehatan must ensure that all implementation of policies and procedures in hospitals and other health facilities continue to comply with the principle of cost efficiency, without reducing the quality of medical services provided to patients.

One of the main weaknesses in the National Health Insurance (JKN) system is the lack of clarity in the boundaries of roles and authorities between the three main actors involved: doctors, hospitals, and BPJS Kesehatan. Although each actor has a significant role in the system of health services, there are no regulations that regulate the division of authority and responsibility between them, especially in the context of medical decision-making influenced by cost policies. Doctors are expected to provide the best service based on the patient's medical needs, while hospitals focus on cost control and efficiency, and BPJS Kesehatan acts as a regulator that oversees the financing system. However, the lack of clarity regarding the role of each party often confuses determining who is responsible when a problem or complaint occurs from a patient. This leads to uncertainty of patient rights, both from a medical and administrative perspective.

Overlapping responsibilities also arise when there are disputes or complaints from patients regarding the quality or cost of health services. Article 13 of Presidential Regulation No. 82 of 2018 states that BPJS Kesehatan is required to provide health services to participants by established standards, but does not mention in detail how the mechanism for resolving disputes or patient complaints related to discrepancies between medical decisions and cost policies. In practice, patients who feel disadvantaged due to additional costs or limited services often face confusion about who to blame. When patients file complaints, hospitals may refer them to BPJS Kesehatan, while BPJS Kesehatan may consider the issue related to the hospital's internal policies. This overlap creates legal uncertainty for patients and can undermine public trust in the national health system.

Potential conflicts also arise between the rules of ethics of the medical profession and the administrative regulations implemented by hospitals and BPJS Kesehatan. The Indonesian Code of Medical Ethics requires doctors to always prioritize the interests of patients and provide the best services without considering cost factors, as stated in Article 3 which states that "doctors are required to provide professional and responsible medical services by professional rules." However, the cost policies implemented by BPJS Kesehatan and hospitals often conflict with this principle, as doctors are pressured to choose cheaper medical procedures or are limited by a predetermined budget. It builds tension between the doctor's ethical obligation to serve patients optimally and the administrative obligation to comply with cost control policies. This conflict becomes more pronounced when the best medical decisions for patients are limited by the cost management system set by BPJS or the hospital, which in turn can harm the quality of medical services received by patients.

### **Legal Implications of the Inequality Between Cost Control Policies by Hospitals and Medical Decisions by Doctors on the Rights Protection of JKN Participant Patients**

The protection of patient rights in the Indonesian health system is guaranteed by the constitution and various applicable regulations, which reflect the state's commitment to the health of its citizens. Article 28H paragraph (1) of the 1945 Constitution emphasizes that every citizen has the right to receive adequate health services as part of the right to a prosperous life, which is the constitutional basis for health services provision. Presidential Regulation No. 82 of 2018 concerning Health Insurance specifically stipulates that National Health Insurance (JKN) participants have the right to receive medical services for their medical needs without discrimination or additional non-transparent cost burdens, which should guarantee fair and equal access. In addition, Law No. 40 of 2004 concerning the National Social Security System (SJSN) emphasizes the principle of universal access to health services, which ensures that every citizen, regardless of social or economic status, can obtain quality and affordable health services, through principles of social justice and solidarity.

The cost control policy implemented by hospitals in the National Health Insurance (JKN) system has a significant impact on the clinical autonomy of doctors in making medical decisions. Doctors, as trained medical professionals, are required to choose the best therapy and medical procedures for patients based on clinical considerations. However, in practice, cost control policies often limit their room for maneuver, because hospitals are faced with the obligation to manage budgets efficiently, especially within the framework of the INA-CBGs financing system that regulates medical treatment rates based on diagnosis groups. This can force doctors to reduce therapy options or choose cheaper procedures, even though these options are not always the best for patients. In this context, there is tension between the doctor's obligation to provide optimal medical services and the pressure from the hospital to comply with a limited budget. It creates an ethical and professional dilemma for doctors, which can affect the patient's care quality.

The legal responsibility of doctors related to medical decisions made under conditions limited by hospital cost policies is essential to examine. If medical decisions are limited by cost control policies and cause patients to not receive services that are by medical standards, doctors are at risk of being caught up in potential legal violations, especially in the event of malpractice claims or violations of patient rights. Although doctors have a professional obligation to provide medical services following the principles of professional ethics, they are also in a difficult position if their decisions are influenced by cost restrictions. If a doctor decides to reduce or replace medical procedures due to cost factors, this can be considered a violation of the patient's right to receive adequate and optimal health services. In this case, the doctor can not have fulfilled his professional obligations, even though he was forced to do so in response to the hospital's cost-cutting policy. Therefore, the legal system needs to provide clear protection for doctors in this context, including clarity regarding the limits of their responsibilities and authorities.

The practice of non-transparent additional fees often appears in the JKN system when the hospital's cost control policy affects the quality of services provided to patients. In many cases, hospitals, as parties working with BPJS, can try to overcome the lack of funds by charging additional fees to patients without providing a clear explanation or without adequate transparency. It is contrary to the basic principle of JKN which prohibits the imposition of additional fees that are not by applicable provisions. This fee collection, which is often done non-transparently or against BPJS regulation, is detrimental to patients and violates their right to adequate and non-discriminatory health services. From a legal perspective, this practice creates uncertainty and potential violations of patient rights, which can lead to lawsuits against hospitals or BPJS for harming JKN participants.



Additional fees or unclear fees applied by several hospitals in the JKN system can damage public trust in the national health insurance system. When patients feel that they have to pay more than promised by JKN, or that the cost of services received does not meet the established standards, this can create dissatisfaction and doubt about the integrity of the JKN system. Public trust towards BPJS Kesehatan and the health facilities that work with it will decline if transparency in cost management is not maintained properly. The health system that is supposed to protect patient rights and provide fair and equitable services will lose its credibility in the eyes of the public if the issue of additional fees cannot be addressed clearly and firmly. From a legal perspective, this can demand updates in the regulation and supervision of the JKN system to ensure fairness for all participants, avoid abuse, and restore public trust.

In the event of a complaint or dispute regarding the quality of services controlled by the cost policy, the hospital, and BPJS Kesehatan can be held legally accountable. The hospital as an institution that provides health services must give assistance that is following medical standards, even though it is bound by the budget that has been set in the cost control policy. If the hospital fails to provide proper services due to limited costs or non-transparent policies, patients can file a claim against the hospital to question the quality of services received. In addition, BPJS Kesehatan also has a responsibility to ensure that the hospital complies with the provisions applicable in the JKN system, including those related to cost transparency and appropriate medical service standards. BPJS can be held accountable if violations of regulations are found that cause injustice or loss to JKN participants, especially if BPJS policies or supervision are not effective in maintaining the quality of health services.

Hospitals have a legal obligation to ensure that the medical services provided are by the standards set out in the laws and regulations. Despite the cost limitations set by BPJS or hospital cost control policies, hospitals cannot ignore their obligation to provide health services under medical standards and patient needs. In this case, hospitals must be responsible for ensuring that cost control policies do not lead to a decrease in the quality of services or reduce the patient's right to receive adequate care. When hospital cost policies conflict with medical service standards, hospitals can be considered to have failed in carrying out their duties, which has the potential to lead to lawsuits from patients who feel disadvantaged. This requires stricter supervision from BPJS Kesehatan and clearer regulations to ensure that medical standards are not neglected for the sake of cost efficiency.

In the implementation of the National Health Insurance System (JKN), there is a significant legal gap related to the lack of regulations regarding the limits of responsibility between hospitals, doctors, and BPJS Kesehatan, especially in the context of conflicts that arise related to costs and medical services. Although each party has a clear role in theory—doctors are responsible for medical decisions, hospitals manage operations and costs, and BPJS regulates funding and supervision—ambiguity often arises in practice. For example, when a patient receives medical services that are limited or not by expected standards, there are no clear legal provisions that can direct who should be held responsible, whether it is the hospital that sets the cost policy or the doctor who is limited in making medical decisions. This creates legal uncertainty that impacts the protection of patient rights and adds to the burden of unclear responsibilities for medical professionals and hospitals. This regulatory gap can lead to injustice for patients, where they are often the ones who are harmed without any party who can be held accountable. Therefore, policymakers need to formulate the boundaries of authority and responsibility between the parties involved in JKN in more detail.

The tension between medical ethics and cost control policies is a serious problem in the JKN system, especially for doctors who are involved in medical decision-making. As part of a

profession governed by a code of ethics, doctors are obliged to provide the best medical services for their patients, based on the principles of beneficence and non-maleficence. However, cost control policies implemented by hospitals or BPJS Kesehatan often limit the medical choices that doctors can make. In some cases, doctors are forced to choose cheaper procedures or treatments even though they may not be ideal for the patient's condition, simply to meet the budget constraints. The conflict arises as an ethical dilemma, where doctors must choose between following applicable policies for the hospital's operational continuity or providing the best care for patients. In situations like this, there is a potential violation of the medical code of ethics that can lead to a decrease in the quality of care and harm to patients. Therefore, the legal system and policies need to accommodate and provide space for doctors to continue to practice their profession with integrity while ensuring that cost control policies do not sacrifice the quality of medical services.

Medical ethics requires doctors to prioritize the interests and safety of patients, which is the core of the medical profession. However, in the JKN system, there is great pressure faced by doctors in the context of costs and hospital policies that can affect medical decision-making. The right of patients to receive medical care that suits their needs—without any unclear additional costs—is a basic principle in health law guaranteed by the constitution and JKN regulations. When the ethics of the medical profession clash with cost control policies, where doctors are limited in providing the best services that suit the patient's medical needs, then patient rights can be threatened. In this case, although hospitals and BPJS Kesehatan strive to maintain the continuity of health system financing, patient rights must remain a priority. Stricter regulations regarding medical service standards and supervision of cost policies are essential to ensure that even though there is cost control, patient rights to adequate health services are protected. The formulation of clearer regulations, which provide space for doctors to make medical decisions based on patient needs without cost pressure, will greatly help to maintain the integrity of the health system and ensure patient welfare.

### **The Ideal Form of Legal Reconstruction to Create a Balance Between Patient Rights, Autonomy of the Medical Profession, and Efficiency of Hospital Policies in the JKN System**

The ideal legal reconstruction in the National Health Insurance (JKN) system must be based on a philosophy that prioritizes the fulfillment of the constitutional rights of the community, especially the right to decent health services. In the 1945 Constitution, Article 28H paragraph (1) mandates that every citizen has the right to good health services as part of the right to obtain a prosperous life. As a form of realization of this right, the state through the JKN policy is obliged to provide fair and equitable health services for the entire community without discrimination. In this context, the principles of social justice and solidarity are the basis for the JKN system, where every participant has the same right to receive health services without being constrained by social or economic status. Legal reconstruction in the JKN system needs to integrate these two principles to ensure that even though there is a cost control policy, patient rights are still guaranteed without any sacrifice to the quality of services provided.

Integrating the principles of social justice and solidarity in health policy arrangements is very important to avoid inequality between cost control policies implemented by hospitals and patient rights to receive quality services. Overly strict cost control policies that focus on financial efficiency often restrict doctors' freedom of movement in providing the best care for patients, which has the potential to reduce the quality of health services. Therefore, legal reconstruction in the JKN system must be able to bridge the interests between cost efficiency and patient rights, by ensuring that medical decisions remain based on the patient's clinical needs. In addition, regulations must also guarantee transparency in every cost policy

implemented by the hospital so that patients are not burdened with additional costs that are not by applicable provisions.

One of the weaknesses that emerged in the implementation of the JKN system was the legal vacuum regarding the division of responsibilities between doctors, hospitals, and BPJS Kesehatan. The absence of a clear division of authority may cause confusion and conflict between the parties, especially in the context of cost control that limits doctors' medical decisions. This ambiguity can lead to a mismatch between hospital policies that prioritize cost efficiency and doctors' obligations to provide the best medical services according to patient needs. For this reason, legal reconstruction needs to draft regulations that regulate the roles and authorities of each party in the JKN system, so that there is no more overlap or doubt in medical decision-making that impacts the quality of patient services.

The solution proposed in this legal reconstruction is the drafting of more detailed and comprehensive regulations regarding the limits of authority between doctors, hospitals, and BPJS Kesehatan, with a focus on regulating the roles of each party in implementing JKN policies. Clearer regulations will reduce the potential for role conflicts between doctors who are professional in providing medical services and hospitals that are required to maintain operational efficiency. In addition, more detailed regulations will give a clear explanation regarding the BPJS Kesehatan's responsibilities in ensuring that cost policies do not hinder the achievement of service standards set by the state. With a clear division of responsibilities, it is hoped that each party can carry out their functions optimally and support each other to create a better health service system for JKN participants.

Strengthening the professional autonomy of doctors in medical decision-making is very important to ensure optimal quality of health services under the JKN system. While hospital cost control policies can help with budget management, physicians should be given the freedom to choose the best therapy according to the patient's medical needs, without being constrained by financial considerations. Medical decisions should be based on medical principles that prioritize patient safety and well-being, not on cost constraints. Therefore, existing regulations should support physicians in carrying out their professional duties with full freedom, ensuring that provide the best service without fear of the impact of cost policies that could limit their medical choices. This freedom is key to creating a professional and fair health system, where the interests of patients are always the top priority. It is also important to develop regulations that affirm the rights and obligations of physicians in carrying out their medical duties, as well as provide protection from the pressure of hospital policies that could limit their autonomy in making decisions clinical decisions. By prioritizing patient interests, clearer regulations will help prevent potential conflicts between medical needs and cost limits imposed by hospitals. In this case, legal reconstruction needs to create more space for doctors to practice their profession independently, without worrying about the consequences of hospital cost policies that are not in line with patients' medical needs. Therefore, it is important to ensure that there are policies that support the professional autonomy of doctors in the JKN system, by providing strong legal protection for their clinical freedom.

In addition, transparency and accountability in hospital cost policies are vital aspects of creating a fair and trusted health system. Hospitals must have an obligation to clearly explain the applicable cost policies, including costs covered by BPJS and additional costs that may arise. It can reduce the potential for illegal levies or additional costs not under JKN provisions, which can harm patients and reduce public trust in the system. Updates in cost management based on transparency require stricter supervision, with a more structured audit mechanism from BPJS Kesehatan to ensure that hospitals comply with applicable provisions. With a more

open and controlled system, patients' rights to receive health services that meet medical standards can be more guaranteed, while harmful practices can be minimized.

Law enforcement against violations of patient rights in the JKN system is crucial to ensure that JKN participants receive health services according to their rights. One violation that often occurs is the collection of unauthorized additional fees, which are often non-transparent and burdensome for patients. Therefore, there needs to be clear and firm legal sanctions against hospitals or doctors who violate the provisions regarding unauthorized additional fees. These sanctions can be fines, operational restrictions, or even revocation of practice permits for more serious violations. This firm law enforcement is expected to provide a deterrent effect and encourage hospitals and medical personnel to be more careful in providing services to patients, and to respect patient rights by regulations in the JKN system. In addition, a dispute resolution mechanism is needed that is easily accessible to patients, such as through mediation or formal legal channels, to ensure that patients can obtain justice in an efficient and guaranteed manner.

The cost regulation model in the JKN system must be reformed to be fairer and by the patient's medical needs. One of the main problems is the excessive focus on hospital cost efficiency, which sometimes ignores the patient's medical needs. Therefore, cost control in the JKN system needs to be more flexible and consider the specific conditions of patients in determining the treatment needed. Regulations must allow doctors to provide treatment under medical needs without being hampered by cost restrictions that are not commensurate with the quality of service required. A more outcome-based and patient welfare approach can be adopted, such as assessing hospital and doctor performance based on treatment outcomes, not just cost efficiency. It will create a balance between cost control and service quality so that hospitals can manage operations efficiently without sacrificing the quality of medical care provided to patients.

Increasing supervision and enforcement of regulations is essential to ensure that cost control policies in hospitals continue to run by applicable provisions without reducing the quality of service. BPJS Kesehatan, as the responsible party, must strengthen the supervision mechanism for hospitals, conduct more structured audits, and ensure that cost policies do not lead to a reduction in the quality of care. In addition, a more transparent and accountable cost data management system also needs to be implemented, so that patients can easily understand the details of the costs incurred during treatment. Increasing supervision and enforcement of regulations will strengthen the integrity of the JKN system and ensure that cost control is balanced with the provision of quality health services, without harming patients or reducing the standard of service provided.

The government has a vital role in ensuring that the implementation of the National Health Insurance (JKN) policy runs fairly and efficiently. Therefore, strengthening the monitoring mechanism by supervisory institutions such as BPJS Kesehatan and the Ministry of Health is very important to ensure the quality and reasonable health services for the entire community. The government should introduce transparent policies regarding cost reporting and set clear service quality standards so that hospitals and medical personnel can provide care according to medical needs without being hampered by cost policies that can harm patients. In addition, there needs to be strict enforcement of regulations against the practice of collecting unauthorized additional fees, with strong sanctions for violators. Tighter arrangements in the monitoring system are also important, including community involvement in monitoring this policy to ensure sustainability and fairness in health services.

The community also plays an important role in overseeing the implementation of health policies, especially those related to JKN. Active community participation in complaints and policy-making processes is essential to keep the health system transparent and fair. The government must empower the community by providing education about their rights as JKN

participants, as well as providing an easily accessible complaint platform so that they can report problems related to unauthorized additional fees or substandard service quality. With a good understanding of their rights, the community can act as an effective watchdog, which in turn can encourage BPJS and hospitals to improve the quality of health services. This community participation not only increases transparency but also helps the government to make policy updates that focus on the welfare of the people.

## **CONCLUSION**

In conclusion, to realize a more equitable and sustainable National Health Insurance (JKN) system, it is necessary to establish clear and firm regulations regarding the division of responsibilities between doctors, hospitals, and BPJS, as well as strengthen the professional autonomy of doctors in making medical decisions. Hospital cost control must be carried out while still paying attention to the quality of services provided to patients, without sacrificing their medical needs. The government and supervisory institutions need to strengthen the oversight mechanism and ensure that cost control policies and service quality are by the principles of social justice, and involve the community in the monitoring and evaluation process to increase transparency and accountability.

The suggestions that can be given are the need to update the cost management system to be more transparent and based on the patient's medical needs, as well as the preparation of regulations that provide stronger protection for patient rights, including easily accessible dispute resolution mechanisms. In addition, it is important to encourage active community participation in monitoring health policies through education about their rights as JKN participants and an easily accessible complaint platform. Thus, it is hoped that the JKN system can provide better, fairer, and more equitable health services for all Indonesian people.

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