

National Health Insurance (JKN) Rights After Termination of Employment (PHK): Case Study of PT. FI

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Abstract. This study aims to analyze the fulfillment of National Health Insurance Rights (JKN) for workers who experience Termination of Employment (PHK) at PT. FI and evaluate the regulation of JKN rights after layoffs that provide justice for workers. The method used is normative legal research with a qualitative approach, which includes the selection and classification of legal materials as well as normative analysis of relevant regulations. Based on field findings, this study shows that there are administrative errors in reporting the status of layoffs that cause delays in fulfilling health insurance rights for laid-off workers. In addition, this study also found that even though the post-layoff JKN regulation has been regulated in the law, improper implementation can hinder the granting of rights fairly. This study recommends simplifying reporting procedures, increasing supervision by BPJS Kesehatan, and further education for companies to avoid administrative errors. Thus, this study contributes to the understanding of the importance of social justice in regulating health insurance for laid-off workers.

Keywords: Rights, National Health Insurance, workers, termination, justice

1. INTRODUCTION

Legal protection of health insurance rights is an important issue in the context of employment, especially after termination of employment (PHK). As stated by Gultom and Sakti (2023), greenwashing practices in corporations often obscure legal responsibility, so that the protection of workers is often neglected. In the perspective of consumer protection, Sakti (2023) highlights the importance of applying legal expediency that not only protects individual rights but also provides legal certainty. Furthermore, Sarifuddin and Joesoef (2023) emphasized the importance of social justice in realizing a welfare state, including through strengthening the national social security system in the context of the COVID-19 pandemic. Suherman, Setiadi, and Joesoef (2022) also underline the increasing social problems that require government responsibility, including in ensuring the accessibility of the National Health Insurance (JKN). Therefore, the study of JKN rights after layoffs is relevant to assess the extent to which legal protection can ensure continued access to health for affected workers.

The National Health Insurance System (JKN) is one of the Indonesian government programs that aims to provide health protection for the entire community, including workers. In the context of industrial relations, this program is expected to provide certainty and protection for employees who experience termination of employment (PHK). Based on the principles of labor law, every company is obliged to guarantee the rights of employees,

including health insurance, both while they are still working and after termination. This is in accordance with the principle of justice in labor law which requires that workers' rights be protected even though the employment relationship has ended (*das Sollen*).

The National Health Insurance (hereinafter JKN) in Indonesia has a long history that stems from the government's efforts to realize a comprehensive social security system for all people. The origins of JKN can be traced back to 1968 with the introduction of a health insurance scheme for civil servants. In 1992, the government established PT Askes (Persero) to manage the program. Correspondingly, the Workers Social Security (Jamsostek) was established in 1992 to protect private sector workers. However, these two programs are still limited in scope and have not reached all levels of society. A significant turning point occurred in 2004 with the passing of Law No. 40 on the National Social Security System (SJSN), which laid the legal foundation for a more comprehensive and universal social security system. The real implementation of the SJSN Law was realized in 2011 with the passing of Law No. 24 on the Social Security Organizing Agency (BPJS). Finally, on January 1, 2014, JKN was officially launched as a national health insurance program managed by BPJS Kesehatan, marking a new era in Indonesia's social security system that aims to achieve universal health coverage.

However, the reality is that there are often violations of workers' rights related to JKN after layoff. Empirically, there are still many companies that ignore their obligation to continue JKN payments for employees who have been laid off, such as what happened at PTFI. In these cases, many employees do not have access to JKN after layoffs, even though they are still legally entitled to health protection during the transition period. This phenomenon shows a gap between ideal legal theory and practice in the field (*das Sein*).

This research also relies on up-to-date references on JKN regulations and labor law. With the development of the employment situation in Indonesia, especially after the Job Creation Law that affects labor regulations, up-to-date references are essential to understand the legal dynamics related to layoffs and health insurance for employees. This will strengthen the novelty of the research and enrich the discussion with new findings.

The focus of this research is a case that occurred at PT FI, where there were violations related to the fulfillment of JKN rights for employees who were laid off. In this case, the employee's status was not accurately reported to BPJS Kesehatan, which caused delays in accessing the health services they should have received. This problem shows a gap in the implementation of regulations governing the obligations of companies after layoffs, so it becomes the basis for examining the effectiveness of the law in providing justice and certainty

of rights for affected employees. Therefore, this study is entitled “National Health Insurance (JKN) Rights After Termination of Employment (PHK): A Case Study of PT FI's Layoff”.

2. RESEARCH METHODS

The type of research used in writing this article is normative juridical which refers to an applicable norm. The approach in this research uses a statutory approach and a case approach. The statutory approach is used to analyze related regulations in Indonesia, and the case approach in this study refers to factual cases that occur at PT FI.

3. DISCUSSION

Analysis of Fulfillment of National Health Insurance (JKN) Rights after Termination of Employment (PHK) at PT. FI

a. Theoretical Study on Fulfillment of JKN Rights After Termination of Employment

National Health Insurance (JKN) is part of the basic rights of workers regulated in legislation, especially in Law Number 24 of 2011 concerning BPJS and Presidential Regulation Number 82 of 2018 concerning Health Insurance. Article 27 Paragraph (1) of Presidential Regulation No. 82/2018 stipulates that, “Workers who experience layoffs continue to obtain the right to Health Insurance Benefits for a maximum of 6 (six) months from the time of layoff, without paying contributions.” This can be fulfilled on the condition that the employer is obliged to report the layoff status to BPJS Kesehatan. This is in line with the main objective of JKN, which is to ensure that all citizens, including workers who experience layoffs, continue to have access to the necessary health care.

The theory of workers' rights in the social contract also shows that the state has an obligation to ensure the welfare of its citizens, including through health insurance. This is reflected in the provisions on social security in the 1945 Constitution and various implementing regulations, which emphasize the state's obligation to provide social protection for workers, including post-layoff health insurance.

b. Discrepancies between Regulations and Practices at PT. FI

Based on the theoretical review and the results of the research that has been conducted, there is a discrepancy between the existing legal regulations and the implementation in the field in the case of PT FI. Although there is a clear provision in Article 27 Paragraph (1) of Presidential Regulation No. 82/2018 stipulating that workers who experience layoffs continue to obtain the right to Health Insurance Benefits for a maximum of 6 (six) months from the time

of layoff, without paying contributions, improper reporting by the company causes not to get the right to these benefits.

In theory, the reporting of layoffs in accordance with the procedure should ensure that workers' rights remain protected, but in practice, errors in reporting the status of employment relationships, namely reporting “contract termination” where workers should have been laid off due to efficiency, resulted in BPJS Kesehatan not providing health insurance to these workers.

This phenomenon can be seen as an example of failure in the implementation of the law, which is reflected in the theory of public policy implementation, which states that the effectiveness of the law is highly dependent on how the regulations are implemented by the policy implementers (in this case, the company and BPJS Kesehatan). In this case, although the regulations were clear, administrative errors made by the company prevented workers from obtaining their rights in a timely manner.

c. Effect of Misreporting on Workers' Rights

In the theoretical study of workers' rights, it can be said that the right to health insurance is part of the basic rights of workers that cannot be reduced, even after termination of employment. Therefore, this right must be fulfilled without any administrative loopholes that could prevent it.

The misreporting by PTFI that has caused delays in the fulfillment of workers' health insurance rights shows that the existing arrangements do not fully guarantee justice for workers. This also illustrates the legal uncertainty for workers in terms of the fulfillment of their rights after layoffs. This uncertainty not only harms workers directly (because they cannot access the necessary health services), but also has the potential to add to the psychological burden for workers who are facing a difficult time after losing their jobs.

Regulation of National Health Insurance Rights after Termination of Employment (PHK) that Provides Justice for Workers

National Health Insurance (JKN) after layoffs can be seen from the perspective of social justice, which is an important principle in social contract theory. According to Sarifuddin and Joesoef (2023), creating equality and social justice for all Indonesians is determined by government intervention in the form of legislation and sustainable programs. This has been done by the government in forming Presidential Regulation No. 82/2018 on Health Insurance, especially regarding layoffs.

However, it is questionable whether this arrangement provides substantive justice for laid-off workers. Procedural justice requires that existing processes (reporting of layoffs, verification by BPJS, etc.) should take place transparently and without unnecessary obstacles. According to distributive justice theory, health insurance is a right that should be received equally by every individual, especially the most vulnerable. Laid-off workers are a particularly vulnerable group, because in addition to losing their income, they also potentially lose access to health facilities that they previously received while working.

a. Justice Issues in the Implementation of JKN Post-Layoff Arrangements at PT. FI

From the results of research and analysis that has been carried out at PT FI, there is a mismatch between regulations and applicable practices. In this case, although the regulation clearly stipulates that laid-off workers are entitled to health insurance for 6 months, errors in reporting from the company caused delays in granting these rights.

This phenomenon illustrates procedural injustice because workers who have lost their jobs have to wait a long time to get their health insurance rights. The delay not only burdens workers financially but also threatens their health, as they cannot access the medical services they need.

According to social justice and distributive justice theories, laid-off workers should receive immediate protection, without unreasonable delays. Slow or inappropriate reporting procedures by companies or BPJS Kesehatan can be seen as a barrier to the fair fulfillment of workers' rights.

b. Fairness in the Provision of Post-Layoff Health Insurance

Substantive justice should require that every worker who loses their job gets adequate health insurance during their transition period, especially in the difficult post-layoff period. In this case, post-layoff health insurance is not only an administrative right, but also part of social protection for workers.

Social justice theory emphasizes the importance of redistribution mechanisms to help individuals who are in vulnerable positions. Therefore, the JKN system should ensure that laid-off workers can immediately enjoy their health insurance rights, without being distracted by administrative errors or complicated procedures.

In this context, JKN arrangements that do not immediately restore workers' rights after layoffs can be seen as a violation of social justice principles, as workers become more vulnerable and uninsured at a very critical time.

c. Recommendations for Fairer Arrangements for Post-Layoff Workers

To create a fairer system for post-layoff workers, several recommendations can be made:

- 1) The process of reporting layoffs from companies to BPJS Kesehatan needs to be simplified and made more transparent. BPJS Kesehatan also needs to have a clear mechanism to ensure that the status of laid-off workers is immediately linked to their health insurance without any delays. This includes creating a more effective monitoring mechanism for reports received from companies.
- 2) Given the importance of continued access to health services, BPJS Kesehatan needs to develop a feature that allows reactivation of health insurance immediately after layoffs, even if there are minor administrative errors or reporting delays. This policy will ensure workers do not lose their rights simply due to administrative issues.
- 3) BPJS Kesehatan and other related parties need to conduct stricter supervision of companies in carrying out their obligations related to layoff reporting. Companies that fail to report properly should be given strict sanctions, to prevent neglect of workers' rights.
- 4) For this regulation to work, it is important to educate workers and companies on their health insurance rights, as well as how to properly report layoffs. This will help reduce reporting errors and ensure workers get their rights in a timely manner.

In the Perspective of Justice Theory (John Rawls):

The regulation of post-layoff JKN rights must ensure that every worker has equal access to health services without discrimination. In this context, the government and companies must ensure that there are no administrative or procedural obstacles that hinder the fulfillment of JKN rights.

Existing regulations, such as Presidential Regulation No. 82/2018 on Health Insurance, provide a legal framework for continuing JKN entitlements after layoffs. However, implementation barriers indicate that these arrangements do not yet fully reflect equal freedom for every worker.

Inequality in termination of employment (PHK) often puts workers in a weak position. Therefore, JKN entitlement arrangements should be designed to prioritize the interests of those most vulnerable, namely laid-off workers. For example, companies are required to continue paying JKN contributions during the post-layoff transition period for up to six months or until the worker finds a new job. If there are violations, clear and firm sanction mechanisms against negligent companies need to be strengthened to provide a deterrent effect as well as protection for workers.

Arrangements that provide JKN entitlements to post-layoff employees not only benefit individual workers but also create social stability and reduce pressure on the public health

system. By providing access to healthcare during the transition period, laid-off workers remain productive, healthy, and do not become an additional burden on the government or society. Companies that comply with this obligation can also maintain their good image, which ultimately benefits future employment relationships.

Simple and transparent administrative procedures for continuing JKN entitlements during the transition period can minimize conflict and uncertainty. For example, companies should report the status of layoffs in real-time to BPJS Kesehatan to avoid a break in health services. This process should be supported by an integrated technology system between BPJS Kesehatan and the company.

Although there is already a Presidential Regulation No. 82/2018 on health insurance, the regulation still needs more operational details, such as: A simpler and faster standard procedure for reporting layoffs. Automation mechanism in the extension of JKN services for laid-off employees.

In Law No. 24/2011 on BPJS, administrative sanctions have been regulated, but their application in the field is often weak. The government needs to improve supervision and take firm action against companies that violate the obligation to pay JKN contributions during the transition period.

To reduce violations, the government should strengthen socialization on companies' obligations related to JKN entitlements after termination. This program should include technical guidance for companies on how to report the status of laid-off workers.

Based on the findings at PT FI, administrative violations occurred due to a lack of internal controls and ignorance of the obligation to continue JKN payments after termination. This suggests the need for: Regular audits by BPJS Health of company compliance, Establishment of standard procedures that must be met by companies before layoffs are carried out.

Thus, the regulation of post-layoff JKN rights that provides justice for workers must be:

- 1) Ensure continued access to JKN during the transition period, in accordance with Rawls' principle of distributive justice.
- 2) Simplify administrative procedures so as not to hamper JKN benefits for workers, in accordance with the principle of expediency.
- 3) Impose strict sanctions on negligent companies to encourage regulatory compliance.
- 4) Strengthen the monitoring and education system for all parties involved.

With these measures, fairer and more effective arrangements can be realized to protect the rights of laid-off workers.

Cover

Based on the results of the analysis of the problems that have been formulated as well as the data and theories used in this study, the author concludes several important things related to the fulfillment of the right to National Health Insurance (JKN) for employees after termination of employment (PHK), especially in cases that occur at PT FI. This conclusion is formulated as an answer to the formulation of the problem posed and as an effort to provide a deeper understanding of the regulation and implementation of JKN rights in the context of employment in Indonesia.

- a. Fulfillment of National Health Insurance (JKN) Rights after Termination of Employment (PHK) at PT FI that there are discrepancies between regulations governing the fulfillment of National Health Insurance (JKN) rights and the implementation that occurs at PT FI. This mismatch is primarily due to administrative errors in reporting employees' termination status, resulting in delays in access to JKN services for terminated employees. This indicates that the company is not fully carrying out its obligations as stipulated in the applicable laws and regulations.
- b. The regulation of post-termination guarantee rights that provide justice for workers is that there are still implementation gaps that have an impact on employees who are laid off. To provide justice for workers, it is necessary to simplify the administrative procedures for reporting layoffs, strengthen supervision by BPJS Health of company obligations, and provide education to companies regarding the importance of complying with legal obligations related to JKN rights. This solution is expected to create justice and better legal certainty for workers.

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