

# The Effectiveness of Law Enforcement Against Fraud in the Implementation of the National Health Insurance Program (JKN)

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## ABSTRACT

This study aims to analyze the effectiveness of law enforcement against fraud in the implementation of the National Health Insurance (JKN) program and formulate recommendations to strengthen the legal system and supervision. The method used is normative legal research with a normative juridical approach, including documentation studies of laws and regulations, legal doctrines, and other secondary legal sources. The data analysis technique follows the model of Miles & Huberman (2018) through data reduction, data presentation, and conclusion drawn. The results of the study show that the effectiveness of law enforcement against fraud in the JKN program is still low because the sanctions regulated in regulations, such as the Regulation of the Minister of Health Number 16 of 2019 and Government Regulation Number 28 of 2024 as the implementing regulations of the Health Law number 17 of 2023, are only administrative in nature and do not include strict criminal sanctions, so they do not have a deterrent effect on fraudsters. Weak inter-agency coordination, a lack of optimal supervision and reporting systems, and low public participation in reporting fraud also exacerbate this condition. The analysis also found that the main obstacles came from the lack of legal literacy of participants, weak regulatory supervision, and the lack of optimal implementation of sanctions against violating service providers. To increase the effectiveness of law enforcement, stronger regulatory reforms, strengthening the supervision system, and intensive socialization are needed so that the rights of JKN participants can be optimally protected and public trust in the National Health Insurance program can increase.

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## 1. INTRODUCTION

Health is one of the fundamental rights of every citizen which is constitutionally guaranteed in the 1945 Constitution of the Republic of Indonesia. This right affirms that every individual has the right to access decent, equitable, and non-discriminatory health services, as a form of social protection from the state for its citizens. In order to realize comprehensive and sustainable health insurance, the Indonesian government has established the National Social Security System (SJSN) as the main legal framework that regulates the implementation of social security programs in the country. This system is regulated in Law Number 40 of 2004, which is the basis for the establishment of the Social Security Administration Agency (BPJS), including BPJS Kesehatan as the implementer of the National Health Insurance (JKN) program (Redyanto, 2024).

The JKN program is one of the major breakthroughs in the field of national health in Indonesia. This program aims to provide affordable and equitable access to health services for all Indonesian people, regardless of their social, economic, or residential background. With the existence of JKN, it is hoped that all levels of society can obtain quality health services, ranging from basic services to referral health services, so that they can improve the overall health of the community. This program is also a tangible manifestation of the government's commitment to realizing the ideals of the constitution, namely the welfare of the people through ensuring equitable health protection (Makbul, 2024).

However, the implementation of the JKN program in practice does not always run smoothly and faces various challenges, one of which is the rampant cases of fraud committed by various parties involved in the health service process. This fraud can be in the form of false claims, falsification of documents, data manipulation, and collusion between participants, health facilities, and health workers to obtain financial benefits illegally. These fraudulent acts not only harm the state and other JKN participants, but also have the potential to reduce public trust in the national health insurance system, so that it can threaten the sustainability of the JKN program in the future.

To overcome these problems, the government has issued various laws and regulations that regulate law enforcement against fraud in the implementation of JKN, one of which is the Regulation of the Minister of Health Number 16 of 2019 concerning the Prevention and Handling of Fraud and the Imposition of Administrative Sanctions for Fraud in the Implementation of the Health Insurance Program. Government Regulation Number 28 of 2024 has also been issued as an implementing regulation of the Health Law, which strengthens aspects of law enforcement and supervision of irregularities in the JKN program. However, the sanctions regulated in this regulation are still administrative, such as verbal reprimands, written reprimands, compensation, and revocation of permits, and have not regulated criminal sanctions strictly and consistently. This causes law enforcement to be less effective and does not have a deterrent effect for fraudsters (Sitanggang, 2011).

This condition is exacerbated by the lack of coordination between BPJS Kesehatan, the Ministry of Health at the Central Level and the Provincial and District Health Offices at the Regional Level, and other law enforcement agencies, as well as the lack of optimal supervision and fraud reporting systems in the JKN program. The lack of transparency and adequate supervision causes many violations to not get the proper follow-up, so the chances of fraud are even greater. Thus, this study aims to analyze the effectiveness of law enforcement against fraud in the implementation of the JKN program, as well as formulate recommendations to strengthen the legal system and supervision to improve the protection of participants' rights and public trust in the national health insurance program.

## 2. METHOD

The research method used in this study is a doctrinal law research method. Doctrinal law research is a theoretical approach oriented to literature review, which aims to find, explain, and analyze legal concepts, legal principles, and applicable legal norms (Widodo, 2020). In this study, a doctrinal approach is used to analyze laws and regulations, legal principles, doctrines of legal experts, and court decisions relevant to fraud in the implementation of the National Health Insurance (JKN) program.

This method emphasizes analysis of legal content to provide a deep understanding of the effectiveness of law enforcement against fraudulent acts in the JKN program.

The approach used in this study is a normative juridical approach. This approach, according to Ali and Lai, is legal research conducted by examining literature materials or secondary data as a basis for research (Zainuddin, 2021). Searches were carried out on regulations and literature related to the problem being studied. Thus, this research focuses on internal aspects of law, such as applicable legal norms, principles, and rules, as well as the synchronization of relevant laws and regulations.

The data collection technique used is documentation studies or literature studies. This technique is carried out by collecting primary data in the form of laws and regulations related to law enforcement and fraud in the JKN program, as well as secondary data in the form of books, journals, and other official documents. Suyanto said that data collection techniques in normative research are mainly sourced from the analysis of the text of laws and regulations, court decisions, legal doctrines, and other legal sources. The collected data is then classified and analyzed systematically.

The data analysis technique used in this study follows Sugiyono's qualitative data analysis model which consists of three stages, namely data reduction, data presentation, and conclusion drawing (Sugiyono, 2018). Data reduction is carried out by selecting, focusing, and simplifying the data that has been collected to make it easier to interpret. The presentation of data is carried out in the form of a narrative or table to facilitate understanding of the research findings. Conclusions are drawn after going through an in-depth analysis process of the data that has been reduced and presented, so that answers to the problems studied are obtained.

### 3. RESULTS AND DISCUSSION

#### **Legal Arrangements Related to Law Enforcement against Fraud in the Implementation of the JKN Program**

Legal arrangements related to law enforcement against fraud in the implementation of the National Health Insurance (JKN) program in Indonesia are rooted in the foundation of the constitution, namely Article 28H and Article 34 of the 1945 Constitution of the Republic of Indonesia, which guarantees the right of every citizen to health services and requires the government to build a health service system that is integrated with the social security program. This legal basis was then strengthened through Law Number 40 of 2004 concerning the National Social Security System (SJSN) and Law Number 24 of 2011 concerning the Social Security Administration Agency (BPJS), which became the main foothold for the implementation of JKN and law enforcement against all parties involved, including in terms of handling fraud.

At the implementation level, technical arrangements and administrative sanctions for fraud in the JKN program are regulated through a number of derivative regulations, such as Government Regulation Number 86 of 2013 concerning Procedures for the Imposition of Administrative Sanctions in the Implementation of the Social Security Program. This regulation specifically regulates the scope, procedures, and types of administrative sanctions that can be imposed on participants, employers, and health facilities who are proven to have committed violations or fraud, such as written reprimands, fines, and not receiving certain public services. In addition, the Presidential Regulation and the Regulation of the Minister of Health also participate in regulating technical aspects and supervision in the implementation of JKN, including the Regulation of the Minister of Health Number 16 of 2019 concerning the Prevention and Handling of Fraud and the Imposition of Administrative Sanctions for Fraud in the Implementation of the Health Insurance Program. This provision is now strengthened through Government Regulation Number 28 of 2024 as the implementation of the latest Health Law which regulates more comprehensively the prevention, handling, and sanctioning of fraud in health services, including the integration of fraud reporting and investigation systems under cross-sector coordination.

Administrative sanctions regulated in these regulations include various forms, ranging from verbal reprimands, written reprimands, compensation, termination of cooperation with the guarantor

body, to revocation of operational permits for health facilities that are proven to have committed violations. However, in practice, criminal sanctions have not been explicitly regulated in implementing regulations, so most of the handling of fraud is still administrative and has not caused a significant deterrent effect for fraudsters. This poses its own challenges in law enforcement efforts, because fraudsters tend to repeat their actions if the sanctions given are not severe enough and are not accompanied by strict supervision.

In addition to administrative sanctions, legal arrangements also regulate dispute resolution mechanisms that may arise between participants, health facilities, and BPJS Kesehatan. The dispute can be resolved in stages through deliberation, mediation, or settlement through the court, in accordance with applicable laws and regulations, such as Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution. BPJS also formed a PK JKN Team at the Central Level to the Regions. This team is tasked with socializing fraud prevention regulations and culture, detecting and resolving fraud, and monitoring, evaluating, and reporting related to fraud in the JKN program.

The fraud supervision and reporting system is also regulated systematically, where each party involved in the implementation of JKN is required to provide complete and correct data to BPJS, and is obliged to report every indication of fraud found in the health service process. The provisions in Government Regulation Number 28 of 2024 affirm the obligation of data transparency and collaboration between institutions as a strategic effort to increase the accountability of the health insurance system. Legal arrangements related to law enforcement against fraud in the implementation of the JKN program in Indonesia have been regulated in layers, ranging from the constitution, laws, government regulations, presidential regulations, to ministerial regulations and BPJS Kesehatan regulations. However, the effectiveness of law enforcement still faces major challenges, especially related to the weak implementation of criminal sanctions, lack of coordination between institutions, and the lack of optimal supervision and fraud reporting systems in the JKN program. The government and all stakeholders need to continue to strengthen the legal system and supervision so that the rights of JKN participants are truly protected and the implementation of the JKN program can run optimally.

### **The Effectiveness of Law Enforcement in Handling Fraud Cases in the JKN Program**

The effectiveness of law enforcement in handling fraud cases in the National Health Insurance (JKN) program in general still faces various serious challenges. Law enforcement for fraud is specifically regulated in the Regulation of the Minister of Health Number 16 of 2019 concerning the Prevention and Handling of Fraud and the Imposition of Administrative Sanctions for Fraud in the Implementation of the Health Insurance Program. The sanctions imposed on the perpetrators of fraud are still dominated by administrative sanctions, such as verbal reprimands, written reprimands, compensation, and revocation of permits. However, criminal sanctions have not been comprehensively regulated in the regulation, so existing law enforcement has not been able to cause a significant deterrent effect for fraudsters.

Fajarwati et al. show that the weak sanctions given have an impact on the high rate of recurrence of fraud cases in the implementation of the JKN program. Fraudsters, both from participants, health facilities, and health workers, often repeat their actions because they feel that the risks faced are not proportional to the benefits obtained. In addition, existing administrative sanctions are also not always applied consistently and firmly throughout Indonesia, resulting in disparities in handling fraud cases at the regional level. This causes many cheaters to feel unafraid to repeat similar acts, even after receiving administrative sanctions.

The fraud supervision and reporting system in the JKN program has also not run optimally. Although fraud prevention teams have been established at the central and regional levels, as well as reporting mechanisms that are accessible to the public, public participation in reporting fraud is still low. Many JKN participants do not know the reporting procedure, or are afraid of being discriminated against by the health facility where they are treated. In addition, the process of handling fraud reports is often protracted and takes a long time, thus reducing public motivation to actively participate in supervising the implementation of the JKN program (Putri, 2024).

The effectiveness of law enforcement against fraud in the National Health Insurance (JKN) program is still relatively low. This is due to several main factors, including that the current sanctions are not strong enough to provide a significant deterrent effect to fraudsters. In addition, the monitoring and reporting system implemented has not run optimally, so there are still many potential irregularities that are difficult to detect early. Coordination between agencies involved in law enforcement is also still weak, so the handling of fraud cases is often hampered and not comprehensive. Therefore, to increase the effectiveness of law enforcement, it is necessary to update regulations that expressly regulate criminal sanctions with heavier threats. In addition, it is necessary to strengthen the supervision and reporting system with the use of adequate technology and increase synergy and coordination between related institutions so that fraud handling can be carried out more quickly, precisely, and comprehensively. Only with these steps, law enforcement against fraud in the JKN program can run optimally and provide adequate protection for all JKN participants.

In addition, in the implementation of law enforcement, disputes often arise that are sometimes difficult to distinguish from fraudulent acts. This dispute can arise from a difference in interpretation of the rules, administrative errors, or procedural inconsistencies that are not intended to commit fraud. Therefore, there needs to be a clearer and more structured dispute resolution mechanism to distinguish between actual disputes and actual fraud.

### **Obstacles and Factors Affecting the Effectiveness of Law Enforcement against Fraud in the Implementation of the JKN Program**

The obstacles and factors that affect the effectiveness of law enforcement against fraud in the implementation of the National Health Insurance (JKN) program are very diverse, ranging from regulatory and institutional aspects to socialization and community participation. One of the main obstacles is the weak regulation that strictly regulates criminal sanctions. Although there are already rules regarding administrative sanctions, as stipulated in Government Regulation Number 86 of 2013, in practice these sanctions have not been applied consistently and have not been able to cause a deterrent effect for fraudsters. Administrative sanctions that tend to be light, such as verbal reprimands, written reprimands, or damages, are not strong enough to prevent the recurrence of fraud cases, so that the perpetrator feels that the risks faced are not proportional to the benefits obtained (Thea, 2019).

Inter-agency coordination that is still not optimal is also a serious obstacle in law enforcement against fraud in the JKN program. The handling of fraud cases involves many parties, such as BPJS Kesehatan, the Ministry of Health, regional health offices, and law enforcement officials. However, there is not always good synergy between these institutions, so that case handling becomes ineffective and often does not lead to adequate resolution. The lack of transparency in the case handling process also causes many cases of fraud to go unnoticed by the public or not get the proper follow-up. As a result, the perpetrator of fraud feels safe to repeat the same act, because the risk of getting heavy legal sanctions is very small (Retnaningsih, 2018).

Internal factors from human resources and hospital facilities are also obstacles in law enforcement against fraud. Many health facilities do not have adequate internal monitoring systems, so the chances of fraud are even greater. In addition, the quality of human resources that is still lacking, both in terms of knowledge and integrity, makes efforts to prevent and handle fraud not optimal. Private health facilities are also often reluctant to cooperate with JKN due to complex tariff and administrative problems, thus opening up opportunities for fraud in the claims process and health services (Laela, 2023).

Administrative problems and data collection of JKN participants are also a factor inhibiting the effectiveness of law enforcement. Many cases found that participant data is inappropriate or invalid, such as duplicate data, unreported changes in employment status, or unupdated population data. This causes participants to have difficulty getting health services, even though they have fulfilled their obligations as JKN members. In addition, the lack of education and socialization to the public regarding

service procedures and necessary conditions also causes low public understanding of their rights and obligations as JKN participants, so that the chances of fraud are even greater.

These problems show that the effectiveness of law enforcement against fraudulent practices in the implementation of the JKN program cannot be separated from various existing structural and systemic challenges. Law enforcement against fraudulent practices in the implementation of the National Health Insurance (JKN) program still faces various challenges that are quite complex. Its effectiveness is considered not optimal due to a number of inhibiting factors, such as the weak regulatory framework that has not explicitly regulated criminal sanctions against fraudsters, limited synergy and coordination between authorized agencies, and the lack of optimal supervision and reporting systems. In addition, internal obstacles such as limited numbers and competencies of human resources, as well as facilities and infrastructure in health facilities, have also worsened these conditions. Inaccuracies in the recording and collection of data on JKN participants are also a significant obstacle that makes it difficult to accurately identify and prosecute violations.

Therefore, a stronger and more decisive regulatory reform is needed, which not only explains in detail the definition of fraud but also contains clear and firm provisions for criminal sanctions in order to have a deterrent effect. In addition, the surveillance and reporting system needs to be strengthened by utilizing digital-based information technology to improve early detection of indications of fraud. This effort must be supported by increasing the capacity of human resources through continuous training and the development of relevant competencies. No less important, education and socialization to the wider community about the values of integrity and compliance in the implementation of the JKN program also need to be intensified in order to create a culture of compliance from all stakeholders.

On the other hand, the reality on the ground shows that not all problems that arise in the implementation of the JKN program can be immediately categorized as a form of fraud. Many of them are administrative disputes, technical errors, or differences in interpretation of applicable regulations. For example, disputes related to claims, differences in interpretations of service benefits, and procedures for implementing health services. These kinds of disputes are often misinterpreted as fraud, even though they do not have an element of intentionality or bad intention. Therefore, emphasizing a dispute resolution mechanism that is able to clearly distinguish between disputes that occur and actual fraud is necessary. This is because structured and transparent dispute resolution not only protects the rights of innocent participants and organizers, but also helps law enforcement focus on the actual perpetrators of fraud.

#### 4. CONCLUSION

The effectiveness of law enforcement against fraud in the implementation of the National Health Insurance (JKN) program is still not optimal because the sanctions regulated in regulations, such as the Regulation of the Minister of Health Number 16 of 2019, and Government Regulation Number 28 of 2024 as the implementing regulations of the Health Law, are only administrative in nature and do not include strict criminal sanctions. So that it does not have a deterrent effect for fraud perpetrators and similar cases continue to recur. Weak inter-agency coordination, suboptimal supervision and reporting systems, and low public participation in reporting fraud also exacerbate this condition, so that stronger regulatory reforms, strengthening of the supervision system, and intensive socialization are needed to increase the protection of participants' rights and public trust in the JKN program.

It is necessary to prepare regulations that allow the provision of criminal sanctions for fraud perpetrators in the implementation of the JKN program, both individual and institutional actors, but in provisions that do not create and harm the perpetrators in the JKN program so as to cause "confusion" in participating in the program, both as service providers, service provider human resources, and people who want to become participants in the JKN program through the Institution appointed BPJS Kesehatan. The criminal punishment applied must also still pay attention to the interests of BPJS, so as not to harm BPJS as a Guarantee Institution materially, to ensure the liquidity of this institution, so as not to harm the community and service providers who collaborate with BPJS Kesehatan.

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