

Presidential Instruction Policy Number 1 Of 2022 Regarding Optimization of The Implementation of The National Health Insurance Program in The Perspective of Public Policy Principles

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Abstract. The application of JKN as a requirement for public service administration has created a polemic. This study aims to describe the principles in public policy law in view of Presidential Instruction No. 1 of 2022 concerning Optimization of the Implementation of the National Health Insurance Program. The research uses a statutory approach (*statute approach*) by using legal materials as research data obtained using library research. The data was then analyzed qualitatively. The result of the research is that the conditions for being an active participant in the BPJS Health program in managing SIM and STNK have the potential to conflict with public policy principles, especially in the public interest and legal certainty, because the obligations to become active BPJS participants and the management of SIM and STNK have different domains. This creates a conflict on the principle of legal certainty and the benefits of the Presidential Instruction and public policies.

Keywords : Presidential Instruction policy, optimization of JKN implementation, legal policy principles

1. Introduction

The Republic of Indonesia's 1945 Constitution has been amended, and Article 1 paragraph (1) now states that the country is a unitary republic that conforms to the presidential system of administration. Regarding the model of government system, the constitution does not explicitly state that Indonesia adheres to a presidential system of government. The presidential government system model is one of the basic agreements in the constitutional amendments that we wish to emphasize. This is because the management of the country before the amendment was not, the constitution was implemented strictly based on the presidential system. In other words, Indonesia's constitutional system is a unitary state in the form of a republic, with a presidential system of government[1].

President Joko Widodo signed Presidential Instruction (Inpres) Number 1 of 2022 for Optimum Implementation of the National Health Insurance Program on January 6, 2022, to be exact. In order to maximize the National Health Insurance program, the Presidential Instruction directs Ministries/Institutions, Regional Heads, Directors of the Health Social Security Organizing Agency, and the National Social Security Board to take the appropriate actions in accordance with their respective duties, functions, and authorities. As part of the government's efforts to meet the Universal Health Coverage (UHC) goal, the Presidential Instruction was issued. The response from this Inpres included the National Police making the BPJS Health card one of the requirements for making a Driving License, Vehicle Registration

Certificate (VRC or Surat Tanda Nomor Kendaraan/STNK) and Police Record Certificate (PRC or Surat Keterangan Catatan Kepolisian/SKCK)[2].

The community considers that implementing JKN as a requirement for public service administration actually invites negative impacts, especially in the economic field and national political stability. Member of Commission IX DPR RI Yahya Zaini responded to this Presidential Instruction as an irrelevant policy, and was even considered to be contrary to the human rights of citizens[3].

How are the directives of Presidential Instruction Number 1 of 2022 regarding maximizing the execution of the National Health Insurance Program to be interpreted under public policy law? The main issue with the research is this. The purpose of this study is to define the public policy legal principles in light of Presidential Instruction No. 1 of 2022 concerning Optimization of the Implementation of the National Health Insurance Program..[4].

2. Method

This type of research is known as library research since the information employed is taken from writings or library materials. A number of research tasks are involved in studying library data, collectively known as library research. This study's methodology is descriptive, and the findings are presented in a qualitative manner. Research that aims to predict future outcomes is known as descriptive research. Because the findings will be presented as a story, this research is descriptive in nature.[5].

The statutory method is the one that is employed. When using the statutory approach, all laws and regulations that are relevant to the legal issues being handled are examined. This legal strategy will provide possibilities to investigate the consistency and conformance of a legislation with other laws, with the Constitution, or with regulations. The outcome of this research is a defense of the principles of public policy as they relate to the problem at hand, as stated in Presidential Instruction Number 1 of 2022 regarding the optimization of the implementation of the National Health Insurance Program.

The information used in this study is secondary information. Secondary data is information that researchers have acquired indirectly or that they have not directly collected from research participants. In this study, secondary data were gathered through a literature review, which involved reviewing numerous books, articles, notes, and reports pertaining to the issue at hand. The primary, secondary, and tertiary legal documents are included in the study's literature review.

Primary Legal Materials are documents that are legally binding in general, particularly those that deal with the legal status of unmarried children for the purpose of creating birth certificates. The Republic of Indonesia's 1945 Constitution, Law No. 2 of 2002 Concerning the Police, Law No. 22 of 2009 Concerning Road Traffic and Transportation, Law No. 25 of 2009 Concerning Services Public, Law No. 12 of 2011 Concerning Formation of Statutory Regulations, Law No. 24 of 2011 Concerning Social Security Administering Bodies, and Presidential Instruction No. 1 of 2022 Concerning O

The secondary legal materials that will be used are books, journals, papers, articles, bulletins, and others related to research studies. Secondary legal materials are legal materials used during research that provide additional information and supporting legal materials from primary legal materials. The Big Indonesian Dictionary and the Legal Dictionary are examples of tertiary legal materials, which are books that give guidance and explanations for primary and secondary legal texts.

The method of qualitative juridical analysis is an in-depth interpretation of legal materials, which is then linked to problems in research to produce an objective assessment to answer problems in research. This study uses qualitative juridical analysis because it interprets in depth the legal material from this research, then it is analyzed based on the theory or opinion of experts and applicable laws and regulations, and conclusions are drawn inductively, becoming a conclusion to find out the principles in the law public policy sees the policy of Presidential Instruction Number 1 of 2022 concerning Optimization of the Implementation of the National Health Insurance Program.

3. Discussion

Policy is an action that has a goal that is carried out by an actor or a number of actors to solve a problem. Policies are grouped into two, namely substantive and procedural. Substantive policies are what the government should do, while procedural policies are who and how policies are implemented. This means, public policies are policies developed by government agencies or officials.

There are five things related to public policy, namely :

1. Goal-oriented goals or activities should be concerned with random behavior or sudden events.
2. Government officials' policies are examples for how they will typically operate when making discretionary judgments.
3. Policies must take into account what the government is really doing or what it has promised to do.
4. Positive public policy is founded on statutory authority and legal requirements.
5. By promoting public welfare, policy goods help to realize the objectives of public policy. In order to provide a suggestion that takes into account several programs that can be outlined and implemented in accordance with the policy's objectives, every policy product must therefore pay attention to the substance of the target state.
- 6.

Public policies are divided into three categories:

1. macropolicies, general policies, and fundamental policies. These categories include the 1945 Constitution, UU/Perpu, government regulations, presidential regulations, and regional regulations.
2. Support for implementation of public policies that are (meso) or intermediate in character. The Ministerial Regulations, Ministerial Circulars, Governor Regulations, Regent Regulations, and Mayor Regulations are all examples of this policy. A Joint Decree or SKB involving Ministers, Governors, Regents, and Mayors is another option for the policy.
3. Micro A public policy is one that controls how the aforementioned policies are carried out. The rule that implements the policy is made by public servants working for the Minister, Governor, Regents, and Mayors.

"Legislation is a written regulation that comprises generally binding legal norms and is produced or determined by state institutions or authorized authorities through methods defined in the Legislation," states Article 1 Point 2 of Law Number 12 of 2011 Concerning Formation of Legislation. Additionally, Article 7 Paragraph 1 describes the different categories and levels of laws and regulations as follows:

1. Republic of Indonesia Constitution of 1945 Decree of the People's Consultative

Assembly Laws/Government Regulations in the Place of Laws

2. Government policies
3. Province-wide Rules
4. Regional District/City Rules

The laws and regulations stated above are recognized and have legal force according to Article 8 paragraph (2) of Law Number 12 of 2011 as long as they are commissioned by higher legislation or created based on authority.

The Presidential Instruction is an example of a "policy rule" or "beleidsregel" that is not normally categorized as a statutory regulation. It is referred to as a "policy" or "beleid" or policy since it cannot be proclaimed formally or does not take the shape of an official regulation. For example, a general circular letter from a minister or director general to all levels of civil servants under their authority can be sent in the form of an ordinary letter as opposed to an official rule such as a ministerial decree. However, the material is of a regulated nature and provides guidance for fulfilling workforce requirements. These letters are commonly known as "beleidsregels" or "policy rules."

According to Michael Allen and Brian Thompson, there are eight different types of "policy rules," also known as "quasi legislation": consultative tools, administrative pronouncements, prescriptive/evidential rules, commendatory rules, voluntary codes, rules of practice, rules of management, or rules of operations. Numerous written papers that offer guidance, direction, policy directives, and control how tasks are carried out can be used to define these policy norms. These policy norms may appear in Indonesia as circulars, like those released by Bank Indonesia, orders or instructions, like those issued by the president, work guidelines or manuals, technical instructions, manuals or guides, terms of reference (TOR), and work design or project design.

On the basis of the preceding explanation, it can be stated that Presidential Instructions are confined to directing and leading the execution of duties and labor. The purpose of Presidential Instruction Number 1 of 2022, Optimizing the Implementation of the National Health Insurance Program, is to optimize the implementation of the JKN program, enhance access to quality health services, and assure the program's sustainability. The Minister, Attorney General, National Police Chief, Head of Migrant Worker Protection Agency, Board of Directors of BPJS Kesehatan, Regional Heads (Governors and Regents/Mayors), and Chair of the JKN Board take steps to optimize the JKN program in accordance with their respective responsibilities and authorities..

The National Social Insurance System (NSIS or Sistem Jaminan Sosial Nasional/SJSN), which is run by an obligatory Social Health Insurance mechanism based on law, includes the National Health Insurance (NHI or Jaminan Kesehatan Nasional/JKN). To ensure that every Indonesian has access to complete health insurance coverage and can lead healthy, fruitful lives, the JKN program is a government initiative. The advantages of this program are provided in the form of all-inclusive personal health services, including services for drugs and medical supplies, as well as services for health promotion (to encourage good health), disease prevention (to prevent disease), treatment (to cure disease), and recovery (to rehabilitate).

The National Health Insurance program is structured in accordance with social insurance and equity principles, i.e., equitable access to services based on medical requirements independent of the amount of contributions made. This idea is put into practice by having the wealthy pay a set percentage of their salary in contributions, while the poor are supported by the government (the poor).

Participants in the National Health Insurance Program are everyone who has paid

contributions or whose contributions have been paid by the Government (the poor and those who can't afford it). Participation is sustainable according to the principle of portability by enforcing the program in all regions of Indonesia and guaranteeing continuity of benefits for participants and their families up to six months after termination of employment. Furthermore, workers who are unemployed after six months of layoffs or experience total permanent disability and do not have economic capacity remain participants and their contributions are paid by the government. In addition, participation also refers to the concept of residents by allowing foreign nationals who work for a minimum of six months in Indonesia to participate as participants in this health insurance program.

Participants in the National Health Insurance Program benefit from the following: (1) health services are provided at government-owned or private medical facilities that work with social security administering bodies; (2) in an emergency, health services can be provided at medical facilities that do not work with social security administering bodies; and (3) the social security administering body is required to provide compensation (which may be in the form of benefits).

Every rule of law must be rooted in the principle of law, namely a value that is believed to be related to the management of society in order to achieve a just order. This is due to the fact that the material truth of a legal system which forms the formal basis of a legal system refers to the principles which form the foundation of the building of all legal rules that apply as positive law that must be obeyed in which country it is enforced. Paul Scholten, defines legal principles as "tendencies required by law by our understanding of decency". Legal principles are understood as the basic thoughts contained within and behind the legal system, each of which is formulated in statutory regulations and judges' decisions, with respect to which individual provisions and decisions can be viewed as a description.

Karl Larenz stated that legal principles are "legal ethical measures that give direction to the formation of law". Legal principles are conditions related to ethical- moral values in rules or legal norms/rules both in the formation of statutory regulations and judges' decisions as the formation of *inconcito law*. P. Belefroid put forward the principles of general law as basic rules which are translated from positive law and which the science of law does not derive from more general rules. The legal principles are the values that settle in positive law.

HJ Homes stated that legal principles should be viewed as general principles or guidance for relevant law rather than as specific legal standards. Legal principles are thus the fundamental guidelines for conduct. All sources of state law are derived from Pancasila. The root of Indonesian legal principles is Pancasila, and in a hierarchical legal system, legal principles take precedence above legal norms and rules. Pancasila must be gradually converted from principles to virtuous legal norms/rules, human legal behavior, and legal themes in order to influence daily human legal behavior.

Article 5 and Article Explanation of Law Number 12 of 2011 explain that the formation of good laws and regulations needs to be based on several principles, namely :

1. Protection: In order to support public order, every component of a law or regulation's substance must be created to provide protection.
2. Humanity: Every legislation and regulation must accurately reflect the protection and respect for the human rights and the dignity of every Indonesian citizen and resident.
3. All laws and regulations must preserve the ideals of the unitary state of the Republic of Indonesia while reflecting the nature and character of the country's diverse population.
4. To gain agreement on every decision, the substance of kinship-related laws and regulations must always show consideration.

5. Archipelago: Every law and regulation's content material always takes into account the interests of the entire region. Laws and regulations made in the regions are a component of the country's overall legal framework, which is founded on Pancasila and the Republic of Indonesia's 1945 Constitution.
6. The content of laws and regulations must take into account the diversity of the population in terms of religion, ethnicity, and class, as well as the unique circumstances of the region and culture in the life of the society, the country, and the state. This is in accordance with *Bhinneka Tunggal Ika*.
7. Every component of the substance of laws and regulations must be equitable for every citizen in a proportionate manner.
8. Equality in law and governance: Laws and regulations may not contain discrimination based on background, including race, class, gender, religion, or any of the aforementioned categories.
9. Legal certainty and order: Each law's or rule's content must be able to create order in society by guaranteeing legal certainty.
10. The interests of the individual, society, and the nation-state must all be balanced, harmoniously intertwined, and represented in every area of the substance of laws and regulations.

Furthermore, Article 6 and Article Explanation of Law Number 12 of 2011 also explain that the contents of the formation of laws and regulations must also reflect the principles :

1. Every legislation and regulation's content must be intended to provide protection and advance public order.
2. Humanity: Every law and regulation's content material must fairly reflect the defense of human rights and the dignity of every Indonesian citizen and resident.
3. Nationality: All laws and regulations must preserve the ideals of the Unitary State of the Republic of Indonesia while reflecting the nature and character of the diverse Indonesian nation.
4. To reach agreement during the decision-making process, every element of laws and regulations must reflect deliberation.
5. Each law's and regulation's content takes into account the interests of the entire island nation of Indonesia.
6. According to *Bhinneka Tunggal Ika*, laws and regulations must take into account the diversity of the population in terms of religion, ethnicity, and class as well as the particular geographical and cultural circumstances that affect how society, the country, and the state function.
7. Every element of a legislation or regulation's substance must be proportionately fair to every citizen.
8. Equality in law and government: No law or rule may contain any discrimination on the basis of background, including race, class, gender, religion, or social standing.
9. Every law's and regulation's content must be able to provide legal certainty, which creates order in society.
10. All rules and regulations must reflect balance, harmony, and concord among the interests of the individual, society, country, and state in their content.

The legal system consists of three elements that have a certain independence, a relatively clear identity that are interrelated, namely the ideal element, the operational element and the actual element. In the position of principles as meta-rules, the function of principles in the legal system is the foundation or foundation of a positive legal system, an order of principles that lies at the foundation (base) of a particular field of law. Critical touchstone of the positive

legal system, with regard to judges' decisions, legal principles are used as a yardstick for selecting rules/legal principles for facts formulated in juridical language and also in the case of judges interpreting legal principles.

The function of the principle in relation to the operation of law for legislators is the foundation or basis for forming laws. Legislators need to examine the rationale of legal principles while being able to formulate them in the formation of laws. In the science of law, it is known as the principles of forming good laws and regulations. For judges are (a) when applying the law, legal principles function as a foundation in interpreting unclear articles or articles; (b) provide legal considerations to justify the verdict; (c) in legal discovery (*rechtsvinding*), judges can function legal principles to carry out analogous legal constructions.

The Social Insurance Administering Body is governed by Law Number 24 of 2011, which states in Article 2 and its Explanatory Article that the implementation of JKN is founded on the ideals of humanity, benefits, and social justice. Respect for human dignity is a principle of humanity. The operational tenets of benefits describe efficient and effective management. An ideal principle is to ensure social fairness for all Indonesians.

Public services-related policy products represent one of the public policies. The Public Service Act, also known as Law Number 25 of 2009 concerning Public Services, defines public service as an activity or series of activities in the context of satisfying service needs for each citizen and resident for goods, services, and/or administrative services provided by public service providers, in accordance with statutory regulations.

Furthermore, Article 1 point 2 explains:

Every state administration institution, corporation, independent institution created by law for public service activities, and other legal entities formed specifically for public service activities are public service providers, also referred to as Administrators.

In order to give legal clarity in the connection between the community and the administration of legal services, public services are governed by laws. According to the Public Service Law, the following goals are pursued by the law:

1. the creation of clear lines of demarcation between all parties involved in the delivery of public services and their respective rights, obligations, and powers.
2. the creation of an effective system for delivering public services in accordance with the broad ideals of good governance and businesses adhering to regulatory constraints on the provision of public services
3. Public protection and assurance under the law in the provision of public services

Article 4 and its Explanatory Article of the Public Service Law explain that the implementation of public services is based on:

1. Personal and/or group interests cannot take precedence over the provision of public services.
2. Legal certainty, specifically the assurance of the fulfillment of rights and obligations in the provision of services
3. Equal rights, including the provision of services without regard to ethnicity, color, religion, class, gender, or socioeconomic standing
4. The balance of rights and obligations, i.e. the fulfillment of rights must be proportional to the obligations that must be met by both the service provider and recipient.
5. Professionalism, i.e., service executors must be competent in accordance with their area of responsibility
6. Participatory, that is, enhancing community participation in the delivery of services

by considering the aspirations, needs, and expectations of the community Equality of treatment/nondiscrimination, that is, every citizen has the right to get fair service

7. Transparency, in the sense that each service recipient can simply obtain information about the intended service
8. Accountability, i.e., the process of providing services, must be accountable in accordance with statutory provisions, i.e., particular facilities and treatment for vulnerable groups, i.e., offering convenience to vulnerable groups in order to establish justice in services.
9. In compliance with service standards, each service type is completed on time.
10. Every type of service is executed with speed, convenience, and affordability.
11. JKN implementation as a prerequisite is mandated by law.

Legally, the implementation of JKN as a prerequisite for managing public services actually infringes upon the tenets of other laws, including Law Number 2 of 2002 concerning the Republic of Indonesia Police (UU Polri), Law Number 22 of 2009 regarding Traffic Cross and Road Transportation (UU LLAJ), Law Number 25 of 2009 regarding Public Services (UU Kebijakan Publik), and Law Number 24 of 2011 concerning the Social Insurance Administering Body (UU BPJS). According to the table below, this is:

Table 1

Comparison of the Purpose and Principles of the Public Policy Law, the Police Law, the LLAJ Law and the BPJS Law regarding Presidential Instruction Number 1 of 2022

	Public Policy Law	Police Act	LAJ Law	BPJS law
Meaning	Legal certainty	A state tool that plays a role in maintaining security and order, enforcing the law, and providing protection, protection and service to the community in the framework of maintaining domestic security	Realization of Road Traffic and Transportation services that are safe, secure, orderly, smooth, and integrated with other modes of transportation to boost the national economy, promote public welfare, strengthen national unity and integrity, and be able to uphold national dignity Realization of traffic ethics and national culture Realization of law enforcement and legal certainty for the community	The legal entity administering the Social Security program

Principle	Public interest; Legal certainty; Equal rights; Balance of rights and obligations; Professionalism; Participatory; Equal treatment/non-discriminatory; Openness; Accountability; Special facilities and treatment for vulnerable groups; Punctuality Speed, convenience, and affordability	Transparent; Accountable; Participatory sustainability; Beneficial; Efficient and effective; Balanced; Integrated; Independent	Humanity; Benefit; Social justice for all the people of Indonesia
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The table above shows that the management of SIM and STNK requires the public as active participants in the BPJS Health program to have the potential to conflict with public policy principles, especially in the public interest and legal certainty, because the obligation to become active BPJS participants and the management of SIM and STNK have different domains. different. SIM and STNK management policies apart from providing protection, also aim to provide benefits. Thus the Presidential Instruction will hinder the implementation of other laws and create legal uncertainty and benefits for the community.

7. Conclusion

The requirement to be an active participant in the BPJS Health program in managing SIM and STNK has the potential to conflict with public policy principles, particularly in the public interest and legal certainty, because the obligations to be an active BPJS participant and the management of SIM and STNK have different domains. This creates a conflict on the principle of legal certainty and the benefits of the Presidential Instruction and public policies.

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