

Juridical Review of the Rights of Indigent Patients in Health Services in Indonesia

Alpat Noor, Adi Herisasono, Rommy Hardyansah, Didit Darmawan, Pratolo Saktiawan

Universitas Sunan Giri Surabaya, Indonesia

ARTICLE INFO

Article history:

Received 4 July 2023

Revised 10 September 2023

Accepted 14 September 2023

Key words:

Legal protection,
Indigent patients,
Health services,
Law number 17 of 2023,
National health insurance,
Patient rights,
Health supervision.

ABSTRACT

This study analyzes the legal protection of the rights of indigent patients in health services in Indonesia based on Law Number 17 of 2023 concerning Health. The study found that although the regulation has provided a strong legal foundation, its implementation still faces various obstacles, such as limited infrastructure, unequal distribution of health workers, and administrative barriers. The rights of indigent patients, guaranteed in several articles of this law, have not been fully implemented due to weak supervision and lack of public health literacy. This study provides suggestions to strengthen health infrastructure, optimize the National Health Insurance system, and improve public health literacy. In addition, more transparent and accountable supervision is needed to ensure health facilities' compliance with the set standards. A more inclusive and equitable health system reform is expected to realize better legal protection for poor patients in Indonesia.

INTRODUCTION

Legal protection of the rights of indigent patients is one of the main issues in the provision of health services in Indonesia. In Law No. 17 of 2023 concerning Health, the rights of indigent patients are guaranteed through the principles of non-discrimination, benefits, and justice. This provision aims to ensure that every individual, including vulnerable groups, has equal access to safe, quality, and affordable health services. The existing legal framework is quite comprehensive, but its implementation still faces significant obstacles, including infrastructure limitations, uneven distribution of health resources, and a lack of public education about their rights in the field of health.

Legal challenges in implementing the protection of the rights of indigent patients remain a serious concern. Operational and structural obstacles such as disparities in health facilities between urban and remote areas, budget constraints, and overlapping regulations between the central and regional governments often hinder optimal implementation. The low level of public oversight and participation further exacerbates the situation, making it difficult to fully fulfill the rights of indigent patients.

This issue highlights the gap between the legal norms set out in Law No. 17 of 2023 and the reality on the ground. Although the legal protection provided for in the legal framework covers accessibility, quality, and fairness in health services, the implementation of responsibilities by the government and relevant institutions is still far from optimal. An in-depth analysis is therefore needed to evaluate the effectiveness of the regulations and strategic steps to overcome existing legal challenges.

One of the main obstacles is the lack of understanding among the poor about their right to adequate health care (Taufan et al., 2023). This obstacle is exacerbated by discriminatory practices that still occur in some hospitals, even though regulations guarantee that poor patients have the same right to receive services. Patients often face difficulties in determining the type of medical care that suits their needs, mainly due to procedural limitations in health services for BPJS Kesehatan users. This contradicts the basic principle that emphasizes the importance of equality in service. There is weak supervision of hospitals that do not provide optimal services to BPJS Kesehatan patients. Many cases show that hospitals tend to prioritize non-BPJS patients in order to obtain higher

* Corresponding author, email address: dr.rommyhardyansah@gmail.com

financial profits. This indicates a gap in the implementation of regulations that are supposed to protect the rights of underprivileged patients. According to Danandhika et al. (2022), one of the main causes of this problem is the mismatch between existing regulations and the ability of hospitals to implement them fairly and effectively. Many regional hospitals lack the resources to meet the health service standards required by the government.

Tengker (2007) asserts that patients' rights, including those of indigent patients, are part of human rights that must be guaranteed by the state. In practice, however, the fulfillment of these rights is often neglected due to conflicts of interest between hospitals and inconsistent government policies. On the legal side, Barkatullah (2010) notes that although Law No. 24 of 2011 on BPJS provides universal health coverage, its implementation is often hampered by weak law enforcement against hospitals that violate these regulations. This shows the need for stronger legal instruments.

The neglect of the rights of patients who are unable to do so also often occurs due to a lack of education for the public about the procedures for reporting violations they experience. The public tends to be passive because they feel they lack the ability or access to legally demand their rights. Toar (1995) and Subiakso et al. (2023) state that the legal responsibility of hospitals to provide health services to underprivileged patients must be supported by regular supervision from relevant institutions. This supervisory mechanism, however, often does not function optimally due to a lack of coordination between agencies.

Barkatullah (2010) also emphasizes that legal protection for poor patients requires support from all stakeholders, including the government, the public, and health institutions. The lack of synergy between these parties is a major obstacle to creating an inclusive health care system. At the same time, BPJS Kesehatan, as the administrator of national health insurance, faces significant challenges in managing health care funds for poor patients. Budget deficits are often the reason why some health facilities are reluctant to provide maximum services.

These various issues indicate a significant gap between regulations and implementation in providing legal protection for the rights of indigent patients. Research on legal protection for indigent patients has been conducted, but most of it only discusses the administrative aspects of health services. There has not been much research focusing on legal analysis of the implementation of the rights of indigent patients in health services, particularly from the perspective of legal protection.

This research offers something new by providing an in-depth legal analysis of legal protection for patients who are unable to pay, including an evaluation of the effectiveness of existing regulations, such as Law Number 17 of 2023 concerning Health. This research aims to analyze the legal protection provided to patients who are unable to pay for health services as stipulated in Law Number 17 of 2023 concerning Health. This research seeks to identify the extent to which these regulations are able to guarantee the rights of underprivileged patients in terms of accessibility, quality, and fairness of health services. This research also aims to explore the role of the government and related institutions in ensuring the implementation of inclusive and non-discriminatory legal protection. This research also aims to examine the legal challenges faced in protecting the rights of underprivileged patients, including obstacles in infrastructure, distribution of health workers, and funding mechanisms. By evaluating regulatory and implementation constraints, this research is expected to provide strategic recommendations to improve the effectiveness of health policy implementation for underprivileged patients through collaboration between the central government, local governments, and the public.

RESEARCH METHOD

This research uses a normative legal approach, which focuses on analyzing legislation and legal doctrines related to the protection of the rights of patients who are unable to pay for health services. This approach was chosen because it is appropriate for assessing the effectiveness of the regulations stipulated in Law Number 17 of 2023 concerning Health, which is the latest legal basis for the management of health services in Indonesia.

The data sources used are secondary data, which include primary, secondary, and tertiary legal materials. Primary legal materials consist of legal regulations, particularly Law Number 17 of 2023 concerning Health, as well as its implementing regulations. Secondary legal materials include books, journals, and relevant research results on the rights of indigent patients. Tertiary legal materials in the form of legal dictionaries and encyclopedias are used to support conceptual and terminological analysis.

Data collection was conducted through an in-depth literature review. Legal documents such as laws, implementing regulations, and court decisions were the main focus of data collection. Previous research discussing legal protection in the health sector was also integrated to enrich the data.

The data analysis technique used in this study was descriptive-qualitative analysis. The analysis was carried out by describing the substance of the provisions in Law Number 17 of 2023 concerning Health and assessing its implementation in cases of protecting the rights of patients who are unable to pay. The comparison between normative provisions and practices in the field was one of the main focuses to identify the strengths and weaknesses of these regulations

RESULT AND DISCUSSION

Legal Protection of the Rights of Indigent Patients in Health Services Based on Law Number 17 of 2023 concerning Health

Law Number 17 of 2023 concerning Health provides a comprehensive legal framework regarding the rights of patients, including those who are unable to pay, to obtain health services. These rights are based on the principles of non-discrimination, benefit, and justice as stated in Article 2 letter i, which emphasizes respect for rights and obligations in the provision of health services. Implementation of these principles still faces various obstacles.

1. **Basic Rights of Indigent Patients** Article 4(1) of Law No. 17 of 2023 states that everyone has the right to safe, high-quality, and affordable health services in order to achieve the highest possible level of health. This right also applies to indigent patients, as stipulated in Article 28 paragraph (4), which states that the provision of access to primary and secondary health services must be inclusive and non-discriminatory, including for vulnerable communities. In practice, however, there are still challenges in ensuring that this right is fully realized throughout Indonesia.
2. **Government Responsibility** Article 6 of Law No. 17 of 2023 stipulates the responsibility of the central and regional governments to plan, regulate, and implement quality and affordable health care. Article 28 paragraph (5) emphasizes the government's obligation to build health care facilities and meet the needs for human resources and medical equipment. The challenge of distributing health facilities to remote, border, and island areas remains a major obstacle to implementing this responsibility.
3. **Funding for Indigent Patients** Article 10 paragraph (1) states that the government is responsible for the equitable and even distribution of health resources. Article 10 paragraph (2) provides the option of fiscal incentives to support this. There are still funding disparities between urban and rural areas, which impact the ability of underprivileged patients to access health services.

4. **Special Services for Vulnerable Communities** Article 28 paragraph (4) emphasizes the importance of inclusive health services for vulnerable communities. The article also states that the individual health service referral system should be supported by information and communication technology. The implementation of health technology is often limited to areas with adequate infrastructure, so vulnerable communities, including patients who cannot afford healthcare, often face barriers to accessing these services.

5. **The Role of the Public** Article 14 states that the central and regional governments are responsible for empowering the public to participate in health efforts. For underprivileged patients, this empowerment can take the form of health education, involvement in the development of health care facilities, and the organization of public-based health efforts such as Integrated Service Posts (Posyandu) as stated in Article 35. The level of public participation is still low due to a lack of socialization and technical support.

Law Number 17 of 2023 concerning Health provides a clear and comprehensive legal basis for protecting the rights of indigent patients in health services. This provision emphasizes the importance of the principles of non-discrimination, benefit, and fairness in the provision of health services. The basic rights of underprivileged patients are reflected in Article 4 paragraph (1), which guarantees safe, quality, and affordable health services, with a focus on equal access for vulnerable groups as mentioned in Article 28 paragraph (4). The law places the government as the main actor responsible for planning, regulating, and ensuring the accessibility of health services, including for underprivileged patients.

The success of implementing these regulations, however, depends heavily on the effectiveness of their execution by the central and regional governments. Article 6 of Law No. 17 of 2023 stipulates the government's responsibility to provide adequate health facilities, human resources, and medical equipment throughout Indonesia. While this obligation is regulated in detail, implementation in the field faces structural obstacles, including budget constraints, slow bureaucracy, and unequal distribution of health facilities. In remote, border, and island areas, these challenges are compounded by limited infrastructure and access to technology and health resources.

From an administrative legal perspective, oversight of regulatory implementation is a crucial

element in ensuring that the protection of the rights of patients is effective. Article 6 paragraph (1) of Law No. 17 of 2023 requires the government to supervise the implementation of health services, but existing oversight mechanisms are often less than optimal. Weaknesses in oversight lead to non-compliance with established health service standards, which ultimately harms underprivileged patients. To address this issue, it is necessary to strengthen an information technology-based oversight system that enables real-time monitoring of health service delivery, especially in hard-to-reach areas.

The optimization of health technology is also an important aspect in improving the effectiveness of this regulation's implementation. Article 39 paragraph (4) of Law No. 17 of 2023 emphasizes the role of information and communication technology in supporting the individual health service referral system. The use of this technology is often limited to urban areas with adequate infrastructure, while remote and underdeveloped areas do not have adequate access to health technology. The equitable development of health technology infrastructure can be a solution to improve the accessibility and quality of health services for underprivileged patients, while also strengthening oversight of the implementation of regulations. Law No. 17 of 2023 also emphasizes the importance of cross-sector coordination to ensure the implementation of legal protection for underprivileged patients. Cooperation between the central government, regional governments, and relevant institutions is key to ensuring the provision of inclusive and non-discriminatory health services. Public participation, as stipulated in Article 14 of Law No. 17 of 2023, also plays an important role in creating an environment that supports the implementation of the rights of underprivileged patients. Public involvement, including in the development of community-based health facilities such as Posyandu, must be supported by adequate socialization and education to improve health literacy among vulnerable people (Nalin et al., 2022).

Overall, Law No. 17 of 2023 has provided a strong legal framework to protect the rights of indigent patients. The success of this regulation, however, requires greater commitment from the government, optimization of health technology, strengthening of supervision, and improved coordination among stakeholders (Khayru, 2022). This regulation is therefore not only a normative legal instrument, but also has a real impact on improving the welfare of indigent patients in Indonesia.

Legal Challenges in Protecting the Rights of Indigent Patients in Health Care Services

Challenges in the legal protection of patients' rights continue to be a focus of attention in national health policy. Although Law No. 17 of 2023 on Health provides a comprehensive legal basis, the implementation of these rights often faces various operational and structural obstacles. This section analyzes the legal barriers inherent in the implementation of health care guarantees in accordance with the principles of nondiscrimination, accessibility, and quality mandated by the law.

1. **Limitations of Infrastructure and Resources**
Article 28 of Law No. 17 of 2023 stipulates that the government is obliged to provide access to primary and secondary health services throughout Indonesia. The reality, however, is that remote, border, and island areas often lack health infrastructure, including facilities and medical personnel. This provision requires equitable infrastructure development, but is often hampered by insufficient budget allocations and slow bureaucracy.
2. **Inequality in the Distribution of Health Workers**
Article 12 letter b stipulates the government's obligation to plan and utilize medical and health workers in accordance with the needs of the public. In practice, however, the distribution of medical personnel tends to be concentrated in urban areas, while remote areas lack doctors, nurses, and other supporting facilities. This imbalance creates significant obstacles to providing equitable services.
3. **Limited Access for Indigent Patients**
Article 4 paragraph (1) letter c guarantees that everyone has the right to affordable health services. Many patients, however, face administrative obstacles, such as difficulty enrolling in health insurance programs or unfamiliarity with legal procedures. The lack of public awareness about these policies exacerbates the situation.
4. **Lack of Equitable Funding**
Article 3 letter f states that health funding must be sustainable and equitable. The health budget is often insufficient to meet the needs of poor patients, especially under the JKN-KIS scheme. This results in health care facilities, particularly regional hospitals, often being overwhelmed in providing adequate services.
5. **Regulatory and Implementation Barriers**
Article 5(1) of Law No. 17 of 2023 mandates that everyone must participate in the health insurance program. The implementation of this policy, however, often faces regulatory issues due to overlapping responsibilities between the central and regional governments, resulting in inefficiencies in service delivery.

6. Lack of Public Education Article 4 paragraph (1) letter b guarantees the public's right to obtain information and education about health. The government's efforts to provide information and education are often ineffective. This results in low levels of health literacy among the poor, which impacts their understanding of their rights and the legal procedures available to them.
7. Weak Oversight Article 6 paragraph (1) states that the government is responsible for overseeing health care efforts. Existing oversight mechanisms are often weak, however, particularly in terms of ensuring that health care facilities comply with established service standards.

To overcome the various challenges that hinder the protection of the rights of underprivileged patients in health services, profound reforms are needed that focus not only on the formulation of comprehensive regulations but also on strengthening implementation, supervision, and continuous evaluation. Good regulations must be followed by concrete actions in the field, including mechanisms that ensure that all parties involved comply with healthcare standards. This reform requires a holistic approach that includes infrastructure improvements, equitable distribution of human resources, and the provision of fair funding (Herisasono et al., 2021).

Active collaboration between the central government, local governments, and the public is a key element in achieving this goal. The central government must establish a policy framework and budget allocation that supports equitable health services, while local governments are responsible for implementing policies according to local needs. The public can play a role in monitoring and active participation, including through community-based empowerment programs such as Posyandu and other health forums. The integration of these roles will create effective synergies to ensure that health services are accessible to all segments of society, especially vulnerable and underprivileged groups.

Strengthening the capacity of supervisory institutions is also an equally important aspect. The government must utilize information and communication technology to strengthen supervisory mechanisms, both to monitor health service providers and to assess the impact of regulations on the public. Through this measure, the government can ensure that the mandate of Law No. 17 of 2023 on Health, particularly regarding the rights of underprivileged patients, can be optimally implemented, providing a tangible impact on improving the quality of life of those most in need.

CONCLUSION

Based on the analysis conducted, this research concludes that legal protection of the rights of indigent patients in health services in Indonesia has a strong legal basis through Law No. 17 of 2023 concerning Health. This law emphasizes the principles of non-discrimination, accessibility, and fairness in health services. Implementation, however, still faces significant obstacles, including infrastructure limitations, uneven distribution of health workers, lack of funding, administrative barriers, and weak education and supervision. The rights of underprivileged patients, as stipulated in Articles 4, 12, and 28 of Law No. 17 of 2023, are often hampered by bureaucratic inefficiency and geographical inequality. Ineffective supervision also exacerbates the implementation of these regulations, so that the main objectives of this law have not been fully achieved.

The government needs to strengthen health infrastructure, especially in remote areas, and ensure an equitable distribution of health workers to guarantee health services for underprivileged patients. Efforts to optimize the National Health Insurance (JKN-KIS) system must be carried out by simplifying administrative processes and conducting more intensive public awareness campaigns. The health literacy of the public also needs to be improved through structured and sustainable education programs. Supervision of health facilities must be strengthened through the use of information technology to create a transparent and accountable system. These steps are expected to improve the implementation of legal protection for underprivileged patients in accordance with the mandate of Law Number 17 of 2023 concerning Health.

REFERENCES

- Barkatullah, A. H. (2010). *Hak-Hak Konsumen*. Nusa Media, Bandung.
- Danandhika, N. R., Putrawan, S., & Bagiastra, I. N. (2022). Perlindungan Hukum bagi Peserta Tidak Mampu BPJS Kesehatan dalam Mengakses Jasa Pelayanan Kesehatan di RSUD Puri Raharja. *Program Kekhususan Hukum Bisnis, Fakultas Hukum Universitas Udayana*, 4(1), 49–64.
- Hariani, M., N. A. Aaliyah, & F. Issalillah. (2021). Legal Guarantee of Children's Rights in Education and Health, *Journal of Social Science Studies*, 1(2), 177 – 180.
- Herisasono, A., R. Hardyansah, R. Nuraini, & Y. Vitrianingsih. (2021). Improving the

- Effectiveness of Legal Instruments in Addressing Environmental Pollution to Protect Public Health, *Journal of Social Science Studies*, 1(1), 245 - 250.
- Khayru, R.K. (2022). Transforming Healthcare: The Power of Artificial Intelligence, *Bulletin of Science, Technology and Society*, 1(3), 15-19.
- Nalin, C. (2021). Comprehensive Legal and Policy Approaches to Reproductive Health and Women's Rights in Access Equity, *Journal of Social Science Studies*, 1(2), 285-290.
- Nalin, C., S. A. B. Saidi, M. Hariani, V. Mendrika, & F. Issalillah. (2022). The Impact of Social Disparities on Public Health: An Analysis of Service Access, Quality of Life, and Policy Solutions, *Journal of Social Science Studies*, 2(1), 39 - 46.
- Subiakso, A., T. S. Juliarto, D. Darmawan, S. Sisminarnohadi, R. A. Romli. (2023). Legal Rights in Access to Health Services for Persons with Disabilities. *Bulletin of Science, Technology and Society*, 2(3), 15-20.
- Suratman, & Dillah, P. (2014). *Metode Penelitian Hukum*. Alfabeta, Bandung.
- Suwito, S., M. S. F. Yulianis, W. Evendi, M. Zakki, & M. Mujito. (2021). Regulatory Effectiveness in Ensuring Access to Education and Child Health in Low Income Communities through Scholarship Equity, *Journal of Social Science Studies*, 1(2), 181 - 186.
- Taufan, M., Ibrahim, & Fatriansyah. (2023). Implementasi Hak Pelayanan Kesehatan Pasien Tidak Mampu Berdasarkan Undang-Undang Nomor 44 Tahun 2009 dalam Praktiknya di RSUD KH Daud Arif Kuala Tungkal. *Legalitas: Jurnal Hukum*, 15(1), 97-109.
- Tengker, F. (2007). *Hak Pasien*. Mandar Maju, Bandung.
- Toar, A.M. (1995). *Tanggung Jawab Produk, Sejarah dan Perkembangannya di Beberapa Negara*. DKIH Belanda-Indonesia, Ujung Padang.
- Republik Indonesia. (2023). *Undang-Undang Nomor 17 Tahun 2023 tentang Kesehatan*. Lembaran Negara Republik Indonesia Tahun 2023 Nomor 105. Sekretariat Negara, Jakarta.
- Vitrianingsih, Y. & F. Issalillah. (2021). The National Legal System's Effectiveness in Handling Public Health Crises Responsively and Fairly, *Journal of Social Science Studies*, 1(2), 203 - 208.
- Widjaja, G. & Yani, A. (2000). *Hukum Tentang Perlindungan Konsumen*. Gramedia Pustaka, Jakarta.
- Wuryani, A.I., H. Kaseger, R. S. Tamaka, V. C. Tampil, & F. Issalillah. (2023). Juridical Review of Government Legal Measures for Ensuring Rights of Patients with Mental Disorders in Social Security Administration. *Bulletin of Science, Technology and Society*, 2(3), 28-36.