

# The Criminal Law Construction for Health Insurance Claim Payment Failure: A Synergy between Health Law and Financial Sector Regulation

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## ABSTRACT

This normative legal study aims to construct the criminal liability qualification for the failure to pay claims by health insurance companies, with primary reference to Law No. 17 of 2023 concerning Health. The research employs a qualitative doctrinal method through legislative and conceptual approaches. The analysis reveals that Law No. 17 of 2023 does not contain a specific criminal offense for claim payment failure. The primary legal basis for criminal sanctions is found in Law No. 4 of 2023 concerning the Development and Strengthening of the Financial Sector (P2SK Law). The Health Law functions as a philosophical and substantive foundation, establishing the right to health and obligations of transparency, thereby elevating the social gravity of violations in health financing. The criminal elements required are a synthesis of both frameworks, demanding proof of unlawful acts, fault, loss, causality, and the fulfillment of specific offense formulations in the P2SK Law. Corporate criminal liability is constructed through the identification doctrine and dual liability principles. This study concludes that criminal qualification requires a layered legal construction, integrating the substantive norms of the Health Law with the sanction instruments of the financial sector laws. This model provides a more precise analytical tool for prosecuting corporate misconduct in overlapping regulatory fields like health insurance.

## INTRODUCTION

The health insurance industry operates on the foundation of the policyholder's trust in the promise of financial protection against unforeseen health risks. This contractual relationship is governed by the principle of good faith, where the insured is obligated to provide truthful information, and the insurer must fulfill its obligations when valid claims are submitted (Fuchs, 2010). Public interest in becoming clients and committing to such protection contracts is significantly influenced by the economic value of the products and the positive reputation of the insurance company (Issalillah & Khayru, 2022). Failure by an insurance company to fulfill valid claims can collapse this foundation of trust and potentially cause significant losses to consumers (Sewu et al., 2022). Such behavior may be categorized as a violation, not only of civil law regarding agreements but also potentially of criminal law if it meets specific elements regulated by statute

(Mulhadi & Harianto, 2022). The criminal law framework serves as an *ultimum remedium*, a final legal resort to handle behavior deemed highly detrimental to public interest and order in the financial services sector (Firmansyah et al., 2022). In Indonesia, legal regulation of the insurance industry continues to evolve to protect consumers and ensure market stability.

The existence of Law Number 17 of 2023 concerning Health serves as an important instrument in this discourse because it explicitly regulates rights and obligations related to the implementation of health efforts, including aspects of their financing (Rusli & Halawa, 2024). Previously, consumer protection in health insurance transactions was often approached only from the perspectives of civil law and administrative law through the Financial Services Authority. However, this recent Health Law strengthens the legal position of health consumers by providing a more solid foundation. Every individual

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has the right to safe, quality, and affordable health services, as well as protection from financial risk due to health problems (Polontoh, 2024). Furthermore, public satisfaction with the fulfillment of these health rights in practice depends heavily on the quality of service provided by health facility providers (Darmawan et al., 2022). Delayed or denied health insurance claims without strong legal justification can be considered an obstacle to the realization of the right to financial protection, thereby warranting examination through the lens of criminal law.

Criminal provisions in sectoral regulations, such as the Health Law, are often *lex specialis* that complement the general provisions of the Criminal Code. The qualification of an act as a criminal offense requires careful analysis of objective and subjective elements as formulated in legislation (Firmansyah et al., 2022). In the case of claim default, the fundamental question is whether the action can be subsumed into specific offense formulations, such as embezzlement, fraud, or violations of business obligations as regulated in special legislation. This criminal enforcement step is an important instrument to mitigate all forms of fraud and falsification that could harm the sustainability of the health insurance industry (Setiawan et al., 2023). According to Shavell (2004), the threat of criminal sanctions in economic regulation is intended to create a stronger *deterrence* effect compared to civil sanctions, especially when the resulting losses are massive or involve elements of intent (*dolus*) or gross negligence (*culpa*).

The phenomenon of claim default by health insurance companies can occur in various forms, ranging from unreasonable delays and unilateral reduction of claim values to total denial based on reasons deemed disproportionate by the insured (Anggriheny & Nababan, 2022). From a criminal law standpoint, the essence lies in proving the elements of fault (*mens rea*) and unlawful acts (*actus reus*) committed by the corporation and/or its management. In the health insurance ecosystem, the potential for commercial deviation is comparable to the need for strict supervision of indications of fraud within health institutions to align with good governance (Jamiri et al., 2023). The theory of corporate criminal liability requires that the action be performed by management or individuals authorized to act for the corporation, for the corporation's benefit, and within the scope of their duties (Clarkson, 2005). This adds a layer of complexity in qualifying claim defaults as corporate criminal offenses.

Therefore, this study focuses on analyzing the

criminal law qualifications for health insurance companies that fail to fulfill their obligations to pay claims, with reference to Law Number 17 of 2023 concerning Health. This research seeks to trace which criminal provisions within the law are relevant and how their elements can be applied to patterns of claim payment failure. This legal study is crucial to ensure the creation of fair access, the fulfillment of public rights, and the realization of legal responsibility from health fund managers (Hartono et al., 2024). This approach is important to provide clarity on the boundaries between pure civil breaches resolved through compensation mechanisms and acts that have exceeded the threshold, thereby deserving of criminal prosecution to protect the broader public interest in the national health system.

The fundamental problem that arises is the lack of clarity in the normative boundaries between ordinary civil default and criminal acts in health insurance claim default cases. Although Law No. 17 of 2023 contains criminal provisions, its application to concrete cases of claim default requires in-depth interpretation. Often, claim disputes are resolved through the Financial Services Authority Mediation and Arbitration Body or civil courts without ever being brought into the criminal realm (Hutahaean, 2022). This raises questions regarding the effectiveness of criminal threats in the law as a tool for controlling the behavior of insurance business actors. Legal uncertainty in this sector can ultimately affect the psychology and public confidence in making financial decisions to protect themselves (Issalillah et al., 2021). This legal uncertainty can lead to disparities in case handling and the perception that criminal sanctions are merely symbolic, without real coercive power in law enforcement practice.

Furthermore, there is a problem regarding the identification of the correct offense in Law No. 17 of 2023 to penalize acts of claim default. This law primarily regulates health administration, and its criminal articles are largely aimed at violations in the fields of health facilities, health workers, or the distribution of medical equipment. The question is whether a failure to pay claims by an insurance company can be linked to articles such as obstruction of the right to health or violation of the obligations of health insurance system organizers. Legal interpretation is needed to connect the administrative-commercial acts of insurance companies with their impact on individual health rights, as guaranteed in the law. Moreover, in the digital era, adequate legal analysis regarding information technology management and consumer data is fundamental to prevent discriminatory

treatment and provide equal legal protection for customers (Bashori et al., 2024). Without systematic interpretation, the criminal articles in the Health Law are difficult to operationalize for claim default cases.

Furthermore, the complexity of corporate criminal liability acts as a substantive obstacle. Proving the element of corporate fault requires evidence that company policies or culture encourage or permit systematic claim payment failures. According to Gobert and Punch (2003), corporate *mens rea* can be proven through the doctrine of identification, where the mind and will of the directors who control the corporation are deemed as the mind and will of the corporation itself. In the insurance context, an analysis is needed to determine whether massive claim denials are the result of unlawful internal instructions or policies, or merely individual technical errors. The difficulty in gathering evidence and linking it to specific health losses suffered by the insured complicates efforts to qualify such actions as criminal.

First, regulatory developments in Indonesia indicate an increasing focus on consumer protection in the financial and health services sectors. The enactment of Law No. 17 of 2023 represents the state's renewed commitment to guaranteeing citizens' health rights. An analysis of the criminal instruments within this new law is relevant to test the consistency and strength of the available law enforcement mechanisms. This study provides an initial evaluation of the potential of the Health Law as a legal basis for addressing financial malpractice in health insurance, which has predominantly been regulated by lower-level regulations in the financial sector. The study's findings may contribute to future discourse on regulatory improvements.

Second, academic literature specifically linking criminal provisions in the Health Law to the practice of insurance claim default remains very limited. Most previous studies, such as research on insurance consumer protection (Hadjon, 2007), have focused more on civil and administrative aspects. This research seeks to fill this academic gap by bringing the perspective of substantive criminal law into the analysis of health insurance claim disputes. Through this approach, it is hoped that a more comprehensive understanding of the spectrum of legal tools available to address the issue can be obtained, while simultaneously critiquing the gap between legal norms and their implementation.

Third, from the perspectives of restorative justice and legal certainty, the explanation of criminal qualification provides guidance for various stakeholders. For consumers, this clarifies when a

claim dispute can be considered to have crossed the threshold of a civil dispute. For insurance companies, this study serves as a warning regarding the criminal legal risks of claim management practices that do not comply with the principles of prudence and good faith. For law enforcement officials, such as the police and public prosecutors, this academic study can serve as a consideration in handling public reports related to alleged fraud or embezzlement by insurance companies, by referring to the Health Law as a legal basis that may have previously been overlooked.

This research aims to analyze and construct the criminal offense qualifications in cases of health insurance claim defaults by insurance companies, based on Law Number 17 of 2023. Specifically, the research objectives are, first, to identify and interpret the relevant criminal provisions within the Health Law as the legal basis for such actions. Second, to describe and analyze the objective and subjective elements that must be proven to fulfill the qualification of a criminal offense. Third, to examine the construction of corporate criminal liability for insurance companies within the framework of said law. The theoretical contribution of this research is expected to enrich the field of economic criminal law and health law, particularly regarding the application of criminal sanctions within contractual insurance relationships. Practically, the results of this research can serve as a reference for policymakers, law enforcement officials, insurance practitioners, and consumers in understanding the legal boundaries of health insurance claim disputes.

## **RESEARCH METHOD**

This research is a normative legal literature study that is qualitative in nature. Normative legal research focuses on the examination of legal principles, legal norms, and legal systems found in various secondary data sources (Marzuki, 2005). This approach was selected because it aligns with the research objective to analyze criminal offense qualifications based on statutory provisions. The data used is entirely secondary, consisting of primary, secondary, and tertiary legal materials. Primary legal materials include legislation such as Law Number 17 of 2023 concerning Health, the Criminal Code, Law Number 8 of 1999 concerning Consumer Protection, and other relevant derivative regulations. Secondary legal materials consist of textbooks, scholarly journal articles, and academic writings from experts in criminal law, insurance law, and health law. Tertiary legal materials include legal dictionaries and encyclopedias used to clarify technical terms.

Data collection was carried out through a

systematic and comprehensive literature review technique. Source tracing was conducted using keywords such as "health insurance," "claim default," "corporate crime," "criminal liability," and "Health Law" in accredited legal journal databases and higher education institutional repositories. The inclusion criteria for sources were relevance to the research problem, publication quality (reputable journals or books from trusted publishers), and a publication range of 2000–2015 to ensure depth of analysis and time-tested academic validity. Regulatory sources were prioritized based on the most recent and prevailing regulations, with Law Number 17 of 2023 as the primary focus. Validation of secondary data was performed by comparing information from various credible sources and referring to official legislative texts.

The analysis technique used is qualitative content analysis and legal interpretation. Content analysis was conducted to identify patterns, themes, and meanings within the criminal provisions of the Health Law and supporting literature (Krippendorff, 2004). Legal interpretation techniques specifically grammatical, systematic, and teleological interpretation were applied to construct the meaning of relevant articles and apply them to hypothetical cases of claim default. The analysis was conducted in stages, starting from the inventory of criminal provisions and the identification of their elements, to the discussion regarding the construction of corporate liability. This analytical process aims to produce a coherent and argumentative legal synthesis, answering the research questions based on established legal logic and theory.

## RESULT AND DISCUSSION

### The Criminal Law Basis for Failure to Settle Claims under the Health Act

The relationship between the health regime and the financial regime requires careful explanation to avoid overlapping interpretations. Although the criminal provisions are embedded in financial regulations, the 2023 Health Law plays a vital complementary role. This law serves as a normative foundation that strengthens the legal position of insurance participants and provides a philosophical justification for why an act in the financial sector can have severe societal impacts. Article 5 of the 2023 Health Law asserts that every person has the right to safe, quality, and affordable health services. This right is constitutional in nature. When a health insurance company commits a breach of contract by failing to pay claims, the direct consequence is the obstruction of an individual's access to necessary healthcare due

to financial barriers. Although the criminal offense itself is not located within the Health Law, violations of rights guaranteed by this statute are essential in proving "loss" or "unlawful acts" in a broader context, whether in civil lawsuits for torts (*onrechtmatige daad*) or as a contextual background that aggravates criminal law enforcement under the P2SK Law. This positioning affirms the role of the Health Law as a source of values guiding juridical assessment.

Information transparency serves as a critical bridge between health rights and insurance contractual practices. Furthermore, the 2023 Health Law imposes obligations of transparency and accountability for all organizers of health efforts. Article 45 specifically stipulates that every individual has the right to obtain clear and accurate health information, including details regarding its funding sources. In the insurance context, this translates to the company's obligation to provide complete, transparent, and honest information regarding policy benefits, limitations, and claim procedures. Failures to pay claims that originate from misleading information or a lack of procedural transparency from the outset can be linked to violations of the spirit of Article 45. While administrative sanctions for these breaches may be governed by the Financial Services Authority, they serve as supporting evidence of intent or bad faith (*bad faith*) should the company's actions be qualified as criminal fraud or embezzlement under the P2SK Law framework. Thus, informational clarity functions as an early indicator of potential unlawful intent.

The concept of "legally protected interests" expands the perspective on the impact of claim defaults. The role of the 2023 Health Law is also evident in the construction of these interests. Criminal law protects specific legal interests (*legal interests*), such as life, physical integrity, property rights, and public order. The 2023 Health Law explicitly states that health is a fundamental human right and an investment in productive human resource development. This declaration elevates "health" to a fundamental public legal interest. Consequently, the impact of claim default is no longer merely a private financial loss but a potential threat to public health and the stability of the health system. This perspective allows legislators and law enforcement to assign greater weight to violations in the health insurance industry compared to other insurance sectors, as the real-world impact directly affects fundamental rights. Through this lens, contractual violations take on a broader social dimension.

Judicial interpretative approaches often necessitate references to laws beyond the primary

offense. While not a direct basis for criminal charges, provisions in the 2023 Health Law serve as tools for judges when prosecuting insurance companies under the P2SK Law. For instance, the P2SK Law may contain provisions for "acts that systematically harm consumers." In determining whether a claim default is "harmful," judges can refer to Articles 5 and 45 of the 2023 Health Law to gauge the magnitude of the harm. Harm is not restricted to the unpaid nominal value; it includes the loss of access to treatment, the deterioration of medical conditions, and psychological distress all of which are the antithesis of the right to quality health. Thus, the Health Law acts as a lens that clarifies and deepens the meaning of "loss" in the criminal enforcement of the financial sector. This reference helps judges assess the tangible impact of the act on the victim's quality of life, which is essential for ensuring that the protection of patients remains consistent with broader social safety nets (Noor et al., 2023; Sahidu et al., 2023).

The integration of general and specific norms is a hallmark of the modern legal system. This approach aligns with a legal order that adheres to the principle of legality while recognizing the necessity of teleological interpretation. The principle of legality (*nullum delictum nulla poena sine praevia lege poenali*) is satisfied because specific criminal offenses are articulated in the P2SK Law, not the Health Law. The Health Law functions as *lex generalis*, providing the social context and objective of legal development, while the P2SK Law acts as *lex specialis*, providing the offense formulations and sanctions. This synergy creates a comprehensive framework where the substantive aspects of health rights (governed by the Health Law) receive procedural safeguards through financial legal instruments (governed by the P2SK Law). This design ensures that the protection of health as a fundamental right including the accountability of health facilities for service disruptions (Yatno et al., 2023) is supported by robust enforcement mechanisms.

Conceptual clarification is vital to ensure the term "legal basis" is used accurately. The claim that the 2023 Health Law serves as a "legal basis" for criminalizing claim defaults must be understood as an indirect contribution. The formal legal basis for criminal prosecution remains the articles within the P2SK Law or the Criminal Code regarding fraud or embezzlement. However, the 2023 Health Law provides a powerful "substantive foundation." It explains why administrative financial misconduct warrants serious criminal attention: the consequences transcend financial loss and touch the core of human rights. Without the 2023 Health Law, claim defaults

might be viewed solely as civil contract breaches. Its presence reframes the narrative into a violation of the state-guaranteed social protection system. This shift in perspective is essential for the effective legal protection of patients (Tampil et al., 2023) and reflects the gravity of financial malpractice in health services (Setiawan et al., 2023).

The relationship between the health and financial regimes requires careful explanation to avoid interpretive overlap. Nevertheless, to address the research problem, we must examine the juridical correlation and the complementary role of the 2023 Health Law. This law serves as a normative foundation that strengthens the legal position of insurance participants and provides a philosophical justification for why an act in the financial sector can have severe consequences. Article 5 of the 2023 Health Law asserts that every individual has the right to safe, quality, and affordable healthcare. This is a constitutional right. This normative order aligns with the principle of fair legal protection for the broader community, including the constitutional rights of vulnerable groups, such as indigent patients, to receive equitable medical coverage (Noor et al., 2023). When a health insurance company commits a breach of contract by failing to pay claims, the direct impact is the obstruction of an individual's access to healthcare due to cost constraints. Although criminal offenses are not explicitly defined within the Health Law, violations of rights guaranteed by this statute can serve as crucial elements in proving "loss" or "unlawful acts" in a broader context both in civil tort lawsuits (*onrechtmatige daad*) and as aggravating background factors in criminal law enforcement under the P2SK Law. This positioning confirms the function of the Health Law as a source of values guiding juridical assessment.

Information transparency serves as an essential bridge between health rights and insurance contractual practices. Furthermore, the 2023 Health Law establishes obligations of transparency and accountability for all organizers of health efforts. Article 45 specifically mandates that every person has the right to obtain clear and accurate information regarding health, including its funding sources. In the insurance context, this translates into the company's duty to provide comprehensive, clear, and honest information concerning policy benefits, limitations, and claim procedures. This aspect of fulfilling transparent information is parallel to regulations regarding commercial information or medical promotions, which must prioritize public protection against misleading education (Sahidu et al., 2023). Claim defaults stemming from misleading

information or procedural opacity from the outset can be linked to violations of the spirit of Article 45. While administrative sanctions for these breaches may be governed by the Financial Services Authority, they can serve as supporting evidence of intent or bad faith (*bad faith*) should the company's actions be qualified as criminal fraud or embezzlement under the P2SK Law. Thus, informational clarity functions as an early indicator of the presence or absence of unlawful intent.

The concept of "legally protected interests" expands the view regarding the impact of claim defaults. The role of the 2023 Health Law is also evident in the construction of "legally protected interests." Criminal law protects specific *legal interests*, such as life, physical integrity, property, and public order. The 2023 Health Law explicitly states that health is a fundamental human right and an investment for the development of productive human resources, both socially and economically. This statement elevates "health" to a fundamental public legal interest. Such obstruction of access further infringes upon the basic rights to legal protection that should be received equally by every citizen, regardless of physical or social limitations (Subiakso et al., 2023). The impact of claim defaults is no longer merely a private financial loss but a potential threat to public legal interests in the form of public health and the stability of the health system. This perspective can be utilized by legislators or law enforcement to assign greater weight to violations in the health insurance industry compared to other sectors, as the real-world impact touches upon fundamental rights. From this viewpoint, contractual violations acquire a broader social dimension.

Judicial interpretive approaches often require reference to laws beyond the primary offense. Although not serving as a direct basis for criminal charges, provisions in the 2023 Health Law can function as an interpretative tool for judges when prosecuting insurance companies under the P2SK Law. For instance, while the P2SK Law may contain criminal articles regarding "acts that systematically harm consumers," a judge must determine whether a health insurance claim default constitutes such "harm." In this process, judges can refer to Articles 5 and 45 of the 2023 Health Law to grasp the full breadth of the intended damage. Harm is not merely calculated by the nominal value of unpaid claims, but also by the loss of opportunity to receive medical treatment, the worsening of health conditions, and psychological distress all of which are the antithesis of the right to quality health. This non-material damage is real, as poor service quality and bureaucratic

hurdles in insurance psychologically diminish the level of satisfaction and comfort for the public as consumers of medical insurance (Khayru & Issalillah, 2022; Mardikaningsih, 2022). Consequently, the Health Law acts as a lens that clarifies and deepens the meaning of "harm" within the criminal law enforcement process of the financial sector. This reference assists judges in assessing the tangible impact of an act on the victim's quality of life.

The integration of general and specific norms is a crucial feature of the modern legal system. This approach aligns with a legal order that adheres to the principle of legality while recognizing the necessity of legal interpretation. The principle of legality (*nullum delictum nulla poena sine praevia lege poenali*) is satisfied because specific criminal offense formulations are found in the P2SK Law, rather than the Health Law. The Health Law serves as a *lex generalis* that provides social context and the objectives of legal development (*teleological interpretation*), while the P2SK Law functions as a *lex specialis* that provides the formulation of offenses and their sanctions. This synergy between norms is essential for controlling the national health insurance program, mirroring the rigorous legal oversight required to curb indications of fraud within the bureaucracy of health institutional governance (Jamiri et al., 2023). Combining these two laws creates a comprehensive legal framework where the substantive aspects of health rights (governed by the Health Law) receive procedural safeguards and sanctions through financial sector legal instruments (governed by the P2SK Law). This synergy demonstrates a design of mutually reinforcing regulations.

Conceptual clarification is necessary to ensure the term "legal basis" is not misinterpreted. Therefore, the claim that the 2023 Health Law can serve as a "legal basis" for qualifying claim defaults as criminal acts must be understood in an indirect sense. The formal legal basis (*legal basis*) for criminal prosecution remains specific articles within the P2SK Law or the Criminal Code, provided the elements of fraud or embezzlement are met. However, the 2023 Health Law provides a robust "substantive foundation." It provides a fundamental rationale for why administrative financial misconduct deserves serious attention from criminal law, as the consequences transcend financial loss and touch upon the core of human rights. Furthermore, social dynamics and the characteristics of modern society demonstrate that guarantees for the protection of the right to health are primary determinants of population well-being (Warin, 2023). Without the

presence of the 2023 Health Law, claim defaults might be viewed solely as civil breaches of contract. Its presence reframes the narrative into a violation of the state-guaranteed social protection system. This shift in perspective enriches the understanding of the social weight of a financial violation.

The final overview must confirm the position of each legal regime proportionally. This analysis leads to a conclusion that is both realistic and consistent with the hierarchy of legislation. The 2023 Health Law does not contain criminal articles for claim defaults; its primary function is to establish standards, rights, and obligations in the health sector. Enforcement against breaches of obligations by insurance companies in fulfilling these health rights when the form of violation constitutes breach of contract or fraud is delegated to more specific legal instruments. This strategy of delegating instruments is essential for upholding concrete legal protection guarantees for consumers, even at the most fundamental level of service (Darmawan et al., 2022; Tampil et al., 2023). Such enforcement mechanisms are primarily found in administrative and civil law via the Financial Services Authority and commercial courts, as well as in criminal law via the P2SK Law. This understanding is vital for providing appropriate guidance to consumers, legal practitioners, and law enforcement officials in determining effective legal strategies. Correct placement between legal regimes prevents errors in formulating legal claims.

A layered framework serves as the key to understanding criminal construction in this context. Consequently, the qualification of a criminal offense for claim default by a health insurance company cannot stand alone by relying solely on the 2023 Health Law. It requires a two-layered legal construction. The first layer is proving the existence of a violation against substantive rights or obligations regulated in the 2023 Health Law, such as the right to healthcare (Article 5) and the right to information (Article 45). The second layer is proving that such a violation fulfills the formulation of specific criminal offense elements regulated in legislation outside the Health Law, particularly the Financial Sector Development and Strengthening (P2SK) Law, concerning unlawful insurance practices, fraud, embezzlement, or actions that systematically harm consumers. Only with the fulfillment of both these layers can a claim default be validly and solidly qualified as a criminal offense. This layered structure ensures consistency between the protection of health rights and the certainty of criminal law.

### **Elements of a Criminal Offense in the Non-Payment of Health Insurance Claims**

There are normative competence limitations within each legal regime. Purely juridically, the construction of criminal liability for health insurance claim defaults cannot be based directly on Law Number 17 of 2023 concerning Health. This law does not formulate a specific offense criminalizing the failure to fulfill contractual payment obligations. The absence of such specific criminal provisions confirms that the primary regime for liability rests within insurance law, consumer protection law, and civil law. Therefore, the search for criminal elements must begin by acknowledging that the Health Law serves as a normative framework establishing general obligations and protecting substantive rights, while the elements of offenses and criminal sanctions are derived from other legislation, particularly Law Number 4 of 2023 concerning the Development and Strengthening of the Financial Sector (P2SK Law). This analysis outlines the necessary elements by considering the correlative relationship between these two laws. This framework prevents errors in determining the legal basis for criminal prosecution.

The initial stage of proof focuses on the existence of an act violating legal obligations. The first and most fundamental element is the presence of an act or series of acts that objectively violate specific legal duties. In the P2SK Law, this obligation is formulated broadly but firmly. Article 26 paragraph (1) mandates that every Financial Services Sector Business Actor must conduct its activities based on the principles of prudence, compliance, and consumer protection. Failing to pay claims that meet agreement requirements is a clear violation of consumer protection principles and may also demonstrate a lack of prudence in managing operational risk. This objective act can manifest as written denials without basis, unreasonable prolonged delays, or the creation of convoluted administrative hurdles intended to obstruct claim resolution. The Health Law reinforces this obligation by asserting the right to access quality healthcare in Article 5, such that violations in the financial sector directly impact rights violations in the health sector. Challenges in fulfilling access rights and enforcing these regulations become a distinct dynamic in the discourse of national health law development (Harianto et al., 2024). These series of actions serve as the primary gateway for constructing an offense.

Criminal assessment relates directly to the perpetrator's psychological state. The second element is the element of subjective fault (*mens rea*) in the form of intent (*dolus*) or gross negligence

(*culpa lata*). To prosecute a perpetrator under the P2SK Law, law enforcement must prove the presence of a wrongful state of mind. Intent can be proven by demonstrating corporate policy, internal instructions, or a structured practice pattern to systematically deny claims to increase profits or maintain claim ratios. Evidence such as the same *modus operandi* applied to many customers or the disregard for Financial Services Authority mediation decisions can indicate *dolus*. Gross negligence can be proven if the default arises from an extremely poor claim management system, the absence of standard procedures, or negligent internal supervision that ignores the company's legal obligations. The Health Law provides additional nuance, where intent may be aggravated if the action tangibly obstructs access to life-saving measures in emergency situations, touching upon moral norms. This internal element determines the degree of fault that a judge will assess.

Determining who is responsible is the next crucial stage. The third element is the identification of the appropriate criminal legal subject. The P2SK Law clearly regulates corporate criminal liability. The subject can be the corporation (insurance company) itself and/or its management, specifically members of the board of directors and commissioners who have decision-making authority. This element requires proof that the unlawful act was committed by or on behalf of the corporation, for the corporation's benefit, and within the scope of their duties. Additionally, employees authorized in the claim process may also be made subjects. The connection to the Health Law arises in that the corporation is also recognized as a legal entity indirectly providing health efforts (financing), thereby meeting the requirements as a regulated legal subject. Clear subject identification prevents erroneous attribution of liability.

The dimension of harm is an inseparable objective element of an offense. The fourth element is the existence of material or immaterial loss suffered by the consumer or the system. Material loss is easily proven: the value of the unpaid claim. However, to upgrade the qualification or aggravate sanctions, broader harm must be proven. The P2SK Law protects the interests of a healthy financial system and public trust. Massive defaults can damage industry stability and reputation. The Health Law introduces a unique dimension of immaterial loss: the obstruction or infringement of participants' rights to health and welfare. Delaying treatment can have serious consequences, leading patients to wait for days or even choose not to undergo recommended

clinical tests (Lee et al., 2023). Harm in the form of deteriorating health conditions or psychological pressure due to financial stress can be considered in the prosecution process, although it still requires valid evidence. This spectrum of harm expands the scope of impact that must be assessed.

The causal relationship connects the act to its consequences. The fifth element is the causal link between the unlawful act and the resulting harm. This element requires that the loss suffered by the participant be directly caused by the insurance company's actions or omissions, rather than other factors. In cases of claim denial for medical treatment, the causal link is proven by showing that the participant could not undergo treatment due to the lack of insurance funding, and no other financing source was available. If it turns out the participant still received treatment by paying out-of-pocket, the loss is limited to the financial aspect. The Health Law reinforces this causal logic by linking financing as a prerequisite for access, making a failure in financing the direct cause of obstructed access. Causal analysis maintains the objectivity of legal assessment.

The distinction between breach of contract and criminal acts depends on the quality of the violation. The sixth element is the breach of fiduciary duty or misappropriation of funds. This element is crucial and serves as the differentiator between an ordinary breach of contract and a criminal offense. Articles in the P2SK Law governing unsound corporate management conducted in bad faith can be applied if it is proven that the company diverted premium funds that should have constituted the technical reserve for other speculative or inappropriate purposes, thereby causing insolvency. This action may satisfy the elements of embezzlement in office or fraud as regulated in the Criminal Code. This element of fund misappropriation transforms the nature of the violation from a mere failure to fulfill obligations into a criminal act that harms many parties, demonstrating a gross abuse of public trust.

The pattern of corporate behavior helps determine the severity of the act. The seventh element is the systemic or repetitive nature of the action. Many criminal provisions in the P2SK Law require that the act be committed systematically, structurally, or as part of a pattern. This element distinguishes isolated individual errors from a problematic corporate culture. A claim default occurring for one customer due to an employee's error might only have civil implications. However, if it occurs for hundreds of customers with similar patterns of denial, it demonstrates unlawful corporate business practices that satisfy the

"systemic" element. The presence of repetitive manipulation patterns often overlaps with aspects of administrative document falsification within criminal law and professional ethics (Hartika et al., 2023). Financial Services Authority audit findings or group reports from customers become vital evidence for this element. Repetitive patterns reveal the existence of an implicit, unlawful policy.

The assessment of unlawfulness also considers the possibility of justification. The eighth element is the absence of valid justifying or excusing reasons. An insurance company may defend itself by showing that a claim denial was based on valid exclusion clauses in the policy, evidence of fraud by the participant, or incomplete documents required as a prerequisite. This defense will negate the element of unlawfulness if proven. This is where Article 45 of the Health Law regarding the right to clear information becomes critical. If an exclusion clause is not communicated transparently or is concealed, the justifying reason proposed by the company is invalidated, as the participant did not receive adequate information from the outset. Evaluating these justifications ensures a balance between the rights and obligations of the parties.

The principle of legality demands precision in choosing the correct offense formulation. The ninth element is the fulfillment of the exact offense formulation within the P2SK Law or the Criminal Code. This element is the manifestation of the principle of legality; law enforcement must charge the act under the appropriate article. The choice of article may vary, for example, provisions regarding acts that systematically harm consumers, unlawful acts by corporate management, embezzlement, or fraud. Each article has its own formulation of elements that must be met cumulatively. Careful legal analysis is required to select the article that most accurately reflects the nature of the act and facilitates proof. The precision of the chosen article determines the success of the prosecution in court.

The *ultimum remedium* approach remains relevant in this context. The tenth element is the consideration of the failure of non-criminal resolution efforts. The Health Law prioritizes restorative justice. Therefore, in many cases, mediation efforts through the Financial Services Authority or the Consumer Dispute Settlement Agency (BPSK) are preferred. This priority for non-criminal resolution is ideally pursued to restore and improve the quality of service to maintain the satisfaction of the community receiving the guarantee (Issalillah et al., 2021). A company's failure to comply with mediation agreements or BPSK

decisions may serve as evidence of bad faith and strengthen the grounds for pursuing criminal channels. In other words, the company's "candor" or "good faith" in resolving disputes amicably can be a consideration, where its absence reinforces the criminal construction. This stage demonstrates that criminal law is utilized when other mechanisms prove ineffective.

The systemic dimension reveals impacts that transcend individual contractual relationships. The eleventh element is the impact on the health system as regulated by the Health Law. Although not a formal element of the offense in the P2SK Law, this systemic impact can be an aggravating circumstance in sentencing. If premiums are not paid by the policyholder, the life insurance agreement can be legally voided, and the policy cancelled or declared expired terminating insurance protection due to non-payment until the contract expires, with no refund of paid premiums (Aswin, 2021). If a claim default causes private hospitals to be reluctant to cooperate with an insurance company, or disrupts the payment chain within the health ecosystem, the act is considered to have damaged the health system order that the Health Law seeks to build. Furthermore, sustainable policies that prioritize the fulfillment of public health rights are the primary determinants for improving the population's quality of life (Issalillah, 2021). Judges may consider this when imposing criminal sentences. This broad impact confirms the social significance of financial violations.

Successful proof ultimately depends on evidentiary strength. The twelfth element is the availability of adequate evidence in accordance with criminal procedure law. This element of proof is instrumental yet decisive. Key evidence includes the insurance policy agreement, complete claim submission documents, records of communication with the company, the company's financial reports indicating fund diversion, Financial Services Authority mediation decisions, and expert testimony regarding sound claim management practices. It is this evidence that will be used to satisfy all of the aforementioned material elements. Without strong evidence, even if the elements are theoretically met, criminal liability cannot be established in court. The completeness of evidence serves as the final foundation for upholding criminal liability.

### **Criminal Liability of Insurance Companies**

This issue must be placed within the landscape of cross-regime corporate criminal liability. The construction of corporate criminal liability for health

insurance claim default cases based on Law Number 17 of 2023 requires an analysis of a composite legal system, as the law itself does not specifically regulate corporate liability mechanisms for offenses outside the direct scope of health service delivery. Therefore, this construction must be built by integrating general corporate liability principles from general criminal law and the financial sector with the substantive obligations arising from the Health Law. A crucial starting point is the recognition that health insurance companies, as corporations engaged in health financing, are legal subjects capable of being prosecuted. This recognition is derived from Law Number 4 of 2023 concerning the Development and Strengthening of the Financial Sector (P2SK Law), which explicitly regulates criminal liability for business actors in the financial sector, including corporations and their management, for violations of the provisions of that law and its implementing regulations. This foundation ensures that the corporate legal subject is within the reach of the financial sector's criminal regime.

The attribution of corporate fault rests on theories connecting the intent of individual controllers with the legal entity. The first basis of this construction is the application of the doctrine of identification in corporate criminal law. This doctrine states that the mind and will of those who control the corporation (the board of directors and board of commissioners) are considered the mind and will of the corporation itself. In the context of claim default, this means that to impose criminal liability upon the corporation, it must first be proven that these managers, while performing their duties and functions, committed, participated in, or ordered an unlawful act that caused the failure of claim payments. These acts can manifest as written policies, documented oral instructions, or the toleration of a corporate culture that hinders claim resolution. Furthermore, proving corporate intent in the current digital era also requires analytical precision regarding the use of data processing systems to prevent the emergence of discriminatory acts that harm consumer rights (Bashori et al., 2024). The element of corporate fault, whether in the form of intent or negligence, is shaped by proving the state of mind and actions of these managers. This doctrine serves as the primary bridge between the personal actions of management and the responsibility of the entity.

The relationship of public trust strengthens the dimension of fault in premium fund management. This construction is then linked to the breach of fiduciary duty inherent to insurance companies. This

fiduciary duty is not only regulated in Law Number 40 of 2014 concerning Insurance, which mandates that companies maintain adequate technical reserves, but also gains a new dimension from the 2023 Health Law. The Health Law places the right to health as a fundamental right. Insurance companies managing premium funds for health protection are essentially holding a fiduciary trust of a public nature. Failure to pay claims due to misuse or the improper diversion of premium funds causing technical reserves to be insufficient not only violates the Insurance Law but is also considered a betrayal of the public trust to guarantee health rights. This breach of fiduciary duty serves as the bridge to connect management fault with corporate criminal liability, which is public in nature rather than purely commercial. This public dimension reinforces that the legal rights of every patient, especially vulnerable groups, must be guaranteed equally within the insurance ecosystem's governance (Tamaka et al., 2023). This public dimension transforms the character of the violation into something more than a mere business dispute.

The character of an offense determines the perspective on the severity of accountability. Furthermore, the construction of corporate criminal liability requires an understanding of the nature of the offense committed. In cases of massive and systematic claim defaults, the offense may be *mala prohibita* (wrong because it is prohibited by law) while simultaneously possessing nuances of *mala in se* (inherently wrong). As *mala prohibita*, violations of technical insurance provisions, such as the claim settlement deadlines regulated by the Financial Services Authority, are sufficient to hold a corporation liable. However, obstructing health access under certain circumstances can be inherently immoral. This construction expands the basis of liability, where the corporation is responsible not only for technical regulatory violations but also for the social consequences imposed on the lives and health of many. This sociological impact is consistent with the view that guaranteed fair access to emergency basic medical facilities is a primary pillar of national health development (Harianto et al., 2024). This understanding assigns an ethical weight to administrative violations.

Parallel structures of responsibility reinforce the reach of law enforcement. Another important aspect is the construction of dual liability. The Indonesian legal system, as reflected in the P2SK Law and the Insurance Law, recognizes that both the corporation and its management can be held accountable simultaneously. This means that in a single claim

default case, the public prosecutor can indict the insurance company as a corporation and also the concerned members of the board of directors. This construction is effective in creating maximum deterrence, as it does not only punish the legal entity – which might only face fines but also reaches individual decision-makers with the threat of imprisonment. The 2023 Health Law supports this logic by regulating sanctions for "every person" who violates the law, which, in the interpretation of corporate law, includes corporate management. This dual model expands the spectrum of accountability.

Organizational culture serves as an important indicator in assessing collective fault. Furthermore, this construction must consider the principle of *corporate criminal liability*, which requires that the act be performed for and/or on behalf of the corporation. This element distinguishes crimes purely committed by individual employees for personal gain from actions that are manifestations of corporate policy. Proving this requires an analysis of whether the pattern of claim default results from unrealistic business targets, flawed incentive systems, or pressure to increase profits by suppressing claim payments. If it can be proven that the corporate culture encourages or allows such practices, then the corporation as a whole can be held accountable. The role of the Health Law here is as an interpretative tool to assess that a corporate culture which ignores claim payment obligations is socially dangerous because it sacrifices fundamental public rights. The disregard for these financial rights ultimately reduces satisfaction and public trust as users of health insurance (Issalillah et al., 2021; Khayru & Issalillah, 2022). Evaluating corporate culture reveals the structural patterns behind violations.

Delegation of operational authority does not remove the potential for corporate responsibility. Equally important is the construction regarding *vicarious liability*, or the corporation's vicarious responsibility for the acts of its employees. To classify a worker for the purposes of *vicarious liability*, courts refer to jurisprudence from the fields of labor law, taxation, and social security (Nolan, 2020). In the operations of an insurance company, the decision to deny a claim is often carried out by managers or mid-level staff based on delegated authority. The construction of corporate criminal law can implicate the company for these employees' actions, provided the actions were performed within the scope of their employment and for the company's benefit. To avoid liability, the company must prove it possessed adequate internal control and compliance systems to prevent violations. The provisions in the Health Law

regarding the obligation of organizers to be responsible (Article 22) can serve as a reference for mandatory compliance standards, so that negligence in building such a system can be the basis for the corporation's own liability. This approach emphasizes the importance of internal prevention systems.

The effectiveness of sanctions determines the deterrent power of the corporate criminal regime. Subsequently, the construction of accountability must also examine the corporation's capacity to be subject to criminal sanctions. The primary sanctions for corporations under Indonesian law are criminal fines and the revocation of business licenses. Fines must be proportional and possess a deterrent effect. In cases of health insurance claim default, the amount of the fine must consider not only the value of financial losses but also the social impact on public health. The 2023 Health Law, by positioning health as a national investment, provides an argument for judges to impose heavier fines as a form of protection for broader public interests. The revocation of a business license, which falls under the Financial Services Authority's authority, is the harshest administrative-criminal sanction, and its construction is based on the idea that the corporation has failed to fulfill the basic purpose of its license: to provide reliable financial protection. This type of sanction demonstrates that business sustainability is contingent upon legal compliance.

Proportionality in law enforcement demands consideration of the stages of intervention. The final construction that must be observed is the principle of *ultimum remedium* in corporate criminal law enforcement. This principle states that criminal law serves as a last resort. Before criminal proceedings are initiated, consideration must be given to whether administrative sanctions from the Financial Services Authority (such as warnings, administrative fines, or suspension of business activities) or civil remedies (such as *class action* lawsuits for damages) have been sufficient to resolve the issue and restore the losses. The construction of corporate criminal liability is justified only when the violation is extremely severe, systemic, demonstrates bad faith, and other sanctions are deemed inadequate. The 2023 Health Law emphasizes the principle of restorative justice, which aligns with this principle by prioritizing resolutions that restore the rights of the patient. The synergy between these instruments is essential to mitigate potential indications of fraud while simultaneously enforcing transparent institutional accountability to protect consumers (Jamiri et al., 2023). Therefore, a criminal construction must be built by demonstrating that such non-criminal efforts

have been pursued and failed, or that the nature of the violation was so serious from the outset that it demanded criminal intervention. This phased approach maintains the balance between repressive and restorative measures.

The synthesis of all elements results in a holistic model of accountability. By considering the entire construction layers above ranging from the doctrine of identification, public fiduciary breaches, dual liability, corporate culture proof, vicarious liability, types of sanctions, and the *ultimum remedium* principle corporate criminal liability for health insurance companies in cases of health claim defaults can be constructed solidly. This construction is hybrid in nature, merging provisions from the Law on Financial Sector Development and Strengthening (P2SK) and the Insurance Law as the formal basis for offenses and sanctions, while utilizing the 2023 Health Law as a philosophical foundation to intensify the weight of liability and provide strong social justification. The result is an accountability model that not only holds corporations liable for regulatory violations but also questions their role and contribution to guaranteeing the constitutional right to public health. This model affirms the integration of legal certainty and the protection of fundamental rights.

## CONCLUSION

Based on the normative juridical analysis conducted, it can be concluded that the qualification of a criminal offense in cases of claim default by health insurance companies cannot be based solely and directly on Law Number 17 of 2023 concerning Health, as this law does not contain specific criminal offenses for such acts. The criminal law construction for claim default is primarily derived from the financial sector legal regime, specifically Law Number 4 of 2023 concerning the Development and Strengthening of the Financial Sector (P2SK). The 2023 Health Law serves as a normative framework providing a philosophical and substantive basis, by asserting the right to health and the obligation of transparency, so that violations in health financing are viewed as having a more serious impact because they threaten constitutional rights. The criminal elements that must be satisfied are a synthesis of both legal frameworks, requiring proof of unlawful acts, fault, damage, causal links, and the fulfillment of specific offense formulations in the P2SK Law. Corporate criminal liability is built through the doctrine of identification, dual liability, and the principle that a corporation can be punished for the acts of its management committed for the company's benefit,

with the Health Law functioning as a moral and social weight enhancer in sentencing.

The findings of this study have dual implications for legal theory and practice. Theoretically, this study demonstrates a model of the legal relationship between substantive sectoral regulations (the Health Law) and instrumental/sanction-based enforcement regulations (the P2SK Law). This model challenges simplistic views that seek direct criminal offenses within sectoral laws and proposes a layered legal construction approach as a more accurate analytical method for corporate crimes in overlapping fields. In practice, the main implication concerns litigation and law enforcement strategies. Law enforcement officials, particularly the police and public prosecutors, must possess comprehensive understanding to link the facts of claim defaults with provisions in the P2SK Law, while utilizing the Health Law as an argumentative tool to strengthen indictments regarding the social impact of the acts. For consumers and their advocates, these findings indicate that criminal legal efforts must be supported by strong evidence demonstrating elements of intent, systematic patterns, or misuse of funds, and should be preceded by administrative efforts at the Financial Services Authority.

Based on the conclusions and implications above, several recommendations are proposed. First, to legislators: to increase future legal certainty, it is necessary to consider inserting explicit clauses in the revision of the Health Law or the Insurance Law that clearly connect the failure to fulfill health insurance claim payment obligations when such failure is massive and in bad faith with corporate criminal sanctions. Second, to the Financial Services Authority: it is suggested to issue regulations or more operational technical guidelines regarding indications of criminal acts in health insurance claim management, so that administrative audit findings can be more easily transitioned to criminal channels. Third, to law enforcement agencies: increased capacity is required through specialized training for handling financial cases in the health sector, to enable the construction of solid indictments by integrating the P2SK Law and the Health Law. Fourth, to the public and consumers: it is advised to document all communication with insurance companies and report systematic claim defaults to the Financial Services Authority as an initial step, before considering criminal reporting accompanied by legal counsel who understands both regulations.

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