

Analysis of Refusal of Inpatients by Government Hospitals Causing State Administrative Disputes

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Abstract

This research is based on the fact that in the community shows that there are still many hospitals that haven't provided health services to society without the element of discrimination, many mass media are preaching rejection of the patient until so that causes death. Rejection of patients in government hospitals in the form of direct action falls into the category of state administrative disputes if it is article 87 of Law number 30 of 2014 concerning government administration point, which is a written determination that is also a factual action of a government hospital. The methodology in this study uses normative juridical types as well as using statute, conceptual, and case approach. On this research, using primary legal materials in the form of the Constitution, AP Law and PTUN Law. This research relates to the involvement of state administration officials if there is any refusal of patients at government hospitals and authority and the act of granting decisions without authority (Factual Actions) reviewed from the AP Law that causes material and immaterial losses towards the community. Administrative sanctions on government officials who perform factual acts that article 81 of the AP Law, namely light, moderate, and severe administrative sanctions.

Keyword: *Government Hospitals, State Administration Officials, Factual Actions, Government Administration Act.*

Introduction

One of the important principles of Indonesia as a legal state is the Right to human rights. At the opening of the Constitution of the Republic of Indonesia Year 1945, one of the rights of citizens is healthy.¹ Article 28 H paragraph(1) The Constitution of the Republic of Indonesia in the year 1945 has been affirmed that everyone is entitled to health care, then in Article 34 paragraph (3) states that the state is responsible for the provision of service facilities, health care and decent public service facilities.²

In the health service the most important thing is the role of government to pay attention to the needs of health care facilities and infrastructure. One of them is the hospital. Hospitals have an obligation to provide health services to the community without the element of discrimination in it.³

The fact that there are in the community shows that there are still many houses who have not provided health services to the public without discrimination, and most occur in Government Hospitals on the grounds that the hospital is full. Thus, it causes losses even death to the patient.⁴

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If it is associated with the Government Administration Act, article 87 of the Government Administration Act point a. written determination that is also a factual action. Factual Action is the object of a dispute review of the state business and could be brought to the state administrative court.

Discussion

Government Policy in the Field of Health

Government Policy is interpreted as a government institution / institution in it contains employees of the State / Civil Apparatus of the State with the task of conducting public services.⁵ Public services are the provision of services, both by the government, private parties on behalf of the government, or private parties to the community, with or without payment to meet the needs and or the interests of the community.⁶

Lately we often hear public complaints about the bad public services by bureaucracy or government policy, such as services long and convoluted, lack of government-owned facilities in facilitating the needs of service users, the lack of government apparatus in providing it. Address the needs of users or recipients of services and so on. Other thing causes public dissatisfaction with the bureaucracy or government in conducting public services.

Unsatisfactory health services are still common at home government-owned sickness that is basically obliged to serve the community. Community bpjs health users must be willing to increase the cost to get a treatment room stay in a government hospital because the room based on the patient's dues rate has been full, whereas if the patient's family demands his/her rights, then the inpatient room intended to be obtained because there are still empty. Other examples, patients who are still receiving treatment are discharged on the grounds of regulatory provisions of legislation limiting hospitalization time.

Government Authority in the field of Health

Government as the ultimate holder of power and owner of authority to regulate the health sector has a responsibility to fulfill the right to health care which is one of the human rights and one of the welfares that must be realized to achieve the ideals of the Indonesian nation. State functions were expanded to include social services to individuals and families in special matters, such as 'social security', health, social welfare, education and training and housing. The level of public health will really affect the level of the welfare of the community

and have strong poverty.⁷

The poverty rate is also related to the level of welfare. Health is a major factor in efforts to improve the welfare of the community, health care has always been the main concern of the government as a service provider. The government should be able to guarantee people's right to be healthy by providing health services fairly, evenly, adequately, affordable, and quality.⁸

Duties and Responsibilities of the Government as referred to in Article 8 paragraph (1) is to provide hospitals according to the needs of the community, ensuring the financing of health services for the poor, fostering and supervising hospitals, as well as providing protection to the community users of hospital services in accordance with the provisions of the legislation.

Abuse of Authority by the Government in the Field of Health

Authority is a very important part and an early part of the law administration because the new administration can perform its functions on behalf of the authority obtained, meaning the validity of the government's actions on the authority stipulated in the laws and regulations (legalities begin with Len).⁹

In reality, there are many events where an Administration official of the State (government) issues a decision, (state administration) that is not statutory provisions or without authority. Whereas authority government officials are the basis for carrying out government actions, whether or not authority comes from attribution, delegation, or mandate. For example, a director Rs. Ask in writing the doctor not to take medical action or not to accept certain patients. Whereas the Director of the Hospital does not have authority.

The issuance of such decisions, materially and immaterially, have harmed his legal rights and interests. It is based on those decision state administration officials who are not based on regulations as a source of authority categorized as the arbitrary actions of government officials.

Decision of the state administration official (KTUN) or so-called *Beschikking* is an object in the

State Administrative Court; therefore, if decisions issued without authority will be tested at the Court of Justice State Enterprises. Government officials should be prohibited from abusing authority in accordance with Article 17 paragraph (1) of Law Number 30 of 2014 concerning Government Administration or acting arbitrarily in accordance with article 17 (2) letter C. But in reality, there are still many decisions of state administration officials that issue a decision without authority and ultimately bring losses to the citizens.¹⁰

Legal Responsibilities of Government Hospitals

In any exercise of obligations and the use of rights, it essentially remains accompanied by accountability, as well as implementation of Power. Basically, the hospital is responsible for three things, as following:¹¹

- a. Responsibilities related to duty of care (each implementation of obligation to provide good service);
- b. Responsibility for facilities and equipment;
- c. Responsibility for personnel.

Duty of care can be interpreted as the implementation of the obligation to provide good and reasonable service. The hospital's legal responsibility for the infrastructure must ensure that the existing one is functioning properly and continuously. And the hospital's legal responsibility to its personnel contains that the hospital must be responsible for the quality of personnel who work at home. The legal problems faced are also very varied and unique due to the nature of the services provided. They are mostly *inspanningsverbintenis* and not *resultaatsverbintennis*. Hospital Responsibilities in Indonesia are stipulated in Article 46 Hospital Law which makes it clear that hospitals are responsible for all losses incurred for negligence committed by the health workers at the hospital. So that the hospital must be responsible for the duty of care, facilities and infrastructure, as well as personnel. Based on the theory of accountability, the hospital as a corporation or company must responsible for doctors who work in hospitals. Hospital was domiciled as an employer responsible for its employees who were referred to as superior respondents to the theory. Based on Vicarious Liability, all staff who work in hospitals is a representative representation of the hospital. The

hospital is responsible for all staff. Hospitals should have guidelines that can be standardized for its staff to carry out their duties representing the hospital. The doctrine of superior respondent is an extension of the doctrine of vicarious liability. The similarities of the two doctrines are the concept of employer and subordinate status.¹²

Government Sanctions for Factual Actions

Administrative sanctions on government officials who commit factual acts in accordance with Article 81 of the AP Law where the government gets light sanctions, and heavy ones. Where in light of administrative sanctions get sanctions in the form of reprimands written as reprimands, and delays in promotion, class, and/or rights position. Administrative sanctions are being sanctioned in the form of payment of money and/or indemnification, temporary dismissal by obtaining the rights of office, and temporary dismissal without obtaining the rights of office. And sanctions administrative rights will be granted permanent termination by obtaining the rights of finance and other facilities, permanent dismissal without obtaining any finance and other facilities, permanent termination by obtaining the rights of finance and other facilities and published in the mass media, and without obtaining financial and other facilities rights and published in the mass media. And other sanctions in accordance with the provisions of the legislation.

Conclusions

This research relates to the involvement of state administration officials if there is a refusal of patients at government hospitals and authority and the act of granting decisions without authority (Factual Actions) reviewed from the AP Law that causes material and immaterial losses towards the community. Basically, the hospital is responsible for three things, as follows: a. Responsibilities related to duty of care (the implementation of the obligation to provide good service); b. Responsibility for facilities and equipment; c. Responsibility for personnel. Hospitals as a corporation or company must be responsible for the doctor who works at the hospital. The hospital is domiciled as a responsible employer. Employees called superior responders. Article 81 of the Administration mentioned administrative sanctions on the official's government, namely light administrative

sanctions, moderate administrative sanctions and severe administrative sanctions.

Limitation and Study Forward

This research is limited to the disclosure of cases of rejection in government hospitals because limited access to availability of inpatient rooms. So, research is needed further to find the type of case that is included in the factual and can be sued to PTUN.

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