

# The Function of the State in Providing Health Services: Indonesia Perspective

Marif<sup>1</sup>, Muhammad Yunus Idy<sup>1</sup>, Nurhaedah<sup>2</sup>, Handar Subhandi Bakhtiar<sup>3</sup>

<sup>1</sup>Faculty Of Law, Universitas Islam Makassar, Indonesia, <sup>2</sup>Faculty of Law, Universitas Muslim Indonesia, Indonesia, <sup>3</sup>Faculty of Law, Universitas Pembangunan Nasional Veteran Jakarta, Indonesia

## Abstract

The function of the state in providing health services is divided into the regulatory function, the controlling function, the entrepreneurial function and the supervisory function. In the regulatory function, the state develops policies in the field of health services that ensure that all people can enjoy health services. The state control function is responsible for the availability of equipment and medicines as well as maintaining the stability of the flow of health service distribution. In the entrepreneurial function, the state in addition to providing health services can receive income from health services which can later be used to equalize the costs of health care dependents, especially for the poor and underprivileged. In the oversight function, the state is responsible for carrying out full supervision of health facilities in order to optimally provide health services to the people. Keywords: State functions, health services, the right to health.

**Keywords:** State Functions, Health Services, The Right to Health

## Introduction

The responsibility of the state for its people specifically in the health sector is contained in the constitution, namely in the fourth paragraph Opening of the 1945 Constitution of the Republic of Indonesia, as one of the goals of the state which is *protecting all the people of Indonesia and all of Indonesia's blood spilled*. This is in relation to the objectives of the rule of law as constitutional and philosophical foundations as a nation and state. In addition, the mandate of Article 43 paragraph (1) of the 1945 Constitution of the Republic of Indonesia (hereinafter referred to as the 1945 Constitution) expressly stipulates that The poor and neglected children are maintained by the state, further on Article 34 paragraph (2) stipulated that *the State develops*

*a social security system for all people and empowers people who are weak and unable to match human dignity*. Furthermore, Paragraph (3) regulates that: *The State is responsible for the provision of adequate health service facilities and public service facilities*.

In addition to Article 34, the constitution provides for the protection of human rights. In protecting human rights in the health sector, it can be seen in Article 28H paragraph (1) which regulates that *every person has the right to live in a physical and spiritual prosperity, to live and obtain the environment. good and healthy and have the right to get health services*. Furthermore, paragraph (2) regulates that *every person has the right to get special facilities and treatment to obtain equal opportunities and benefits in order to achieve equality and justice*. Whereas paragraph (3) states that *every person has the right to social security which enables the development of himself as a whole with dignified humanity*

---

### Corresponding author:

**Handar Subhandi Bakhtiar**

Faculty of Law, Universitas Pembangunan Nasional Veteran Jakarta, Indonesia

Email: handar\_subhandi@yahoo.com

Talking about health services, especially about the health service system in hospitals and health clinics, is inseparable with regard to consumer protection efforts

in Indonesia today, because the health service delivery system concerns the relationship between health service providers and consumers (health service recipients), also very related with regulations and policies in the field of health, this has long been raised especially about the importance of legal protection for the parties, especially the efforts of the state in this case the government in improving the quality of health services that are dignified, humane and fair.

The problem of the health service system since the last few years has attracted a lot of attention, not only in the world of health (medicine), but also outside the health community (medicine), not only domestically, but also abroad. In the health service system there are 3 (three) groups of people who are at least involved, namely, first, the human health service provider (health providers, such as doctors, nurses and other medical personnel), the second is the group receiving health services (health consumers) and third, which is indirectly involved, for example administrators (both among companies and governments in this case the State).

The special nature of health care is that both health providers and consumers rarely consider cost aspects, as long as it involves the problem of healing a disease. Health providers will always be urged to use the latest capabilities, technology and medicines. This fact is also supported by the needs of consumers who want the best possible service, also in order to obtain a sense of security. This situation brings a tendency to ignore economic calculations, cost efficiency, and others. Therefore, it is not uncommon for health services to be considered merely consumptive in nature, regardless of the profit and loss aspects, including the legal aspects.

The above interests will be contrary to the interests of administrators (government, company leaders), who will more or less pay attention to aspects of the cost of health services. It is not uncommon for administrators to complain about the attitudes of consumers and health providers complain about the attitudes of administrators. Conflicts of interest stemming from human behavior will include a balanced solution, if an approach to the

development of a balance between obligations and rights is adopted, as well as responsibility and legal protection to the public or health consumers. Besides that, negative behavior must also be eliminated.

The right to health services is obtained since humans are still in the womb. This right is a part of basic human rights known as human rights. Although this basic right has been recognized by various religions and follows the development of the world, the literature records the name of John Locke as its originator. In the fourth paragraph of the Preamble of the 1945 Constitution it is strictly stated that: The state protects all of the Indonesian people and all of Indonesia's blood spilled (which has been redeemed) protection which is intended is no exception also the issue of guarantee of rights in the health sector. In 1960, the right to health was only recognized in Indonesian law. Article 1 of Law No. 9 of 1960 regulates that: Every citizen has the right to obtain the highest degree of health and needs to be included in government efforts. This provision is updated in Article 4 of Law No. 23 of 1992, that: everyone has the same right in obtaining optimal health status. Likewise in Law No. 36 of 2009 (hereinafter referred to as Health Law), in Article 5 paragraph (1) the Health Law regulates that: everyone has the same right in obtaining access or resources in the health sector. Paragraph (2) regulates that: everyone has the right to obtain safe, quality and affordable health services.

In addition, in Article 4 letter g of Law No. 8 of 1999 (hereinafter referred to as UUPK) regulates that: Consumers have the right to be treated or served properly and honestly and not discriminatory. What is regulated in Article 4 letter g of the UUPK, then becomes the obligation of business / service actors as regulated in Article 7 letter C of the UUPK that: The obligation of business / service actors is to treat or serve consumers properly and honestly, not discriminatory. Likewise in Article 44 of Law No. 29 of 2004 (hereinafter abbreviated as the Medical Practice Law), regulates that: Doctors or dentists in carrying out medical practices must follow medical or dental service standards. Article 52 letter c of the Medical Practice Law stipulates that:

patients, in receiving services in medical practice, have the right to receive services according to medical needs. Thus, all professions involved in the field of health are required to re-explore the foundation of Indonesia's state philosophy regarding the basic values adhered to, including also in health services, so that they can be consistently described from the central to the regional level. The basic values stated in the legislation need to specify the rights, obligations and responsibilities. For health, as a reference can be used the declaration of the United Nations (UN) on Human Rights and the Health Law are as follows:<sup>1</sup>

#### 1. Right:

a) Everyone has the right to an adequate standard of living for health, including health care, and is entitled to guarantees in times of suffering (United Nations Declaration on Human Rights in 1948).

b) everyone has the same rights in obtaining access or resources in the health sector, including having the right to obtain safe, quality and affordable health services. (Article 5 paragraph (1) and (2) Health Law).

#### 2. Responsible:

The government is responsible for improving the degree of public health (Article 9 of the Health Law).

The existence of free health programs as a form of government alignments to the needs of the poor in the health sector, as well as the government's response to the mandate of the Basic Law, the Health Law and regulations in other health fields. The free health care program is a positive solution for the underprivileged (poor) people who expect a health service system that is safe, quality, and affordable. So that various complicated problems faced by the public so far, especially in the field of health, such as the high price of drugs, as well as the inaccessibility of treatment costs in hospitals, and the inability of the public to go to the doctor because the costs are quite expensive, It is hoped that the free health service program can solve various problems that have been faced by the underprivileged (poor) people.

Hopefully it turns out that not everything can be in accordance with reality, many problems are still felt and faced by the poor (in poor) in an effort to obtain rights and free health program services.

### Research Methods

This research is a normative-legal research using a statute and conceptual approaches. Those legal material collected are analysed descriptively related to the problems and prescriptively

### Analysis and Discussion

#### The State Functions As Regulator (*Sturende*)

The implementation of the State's function of state responsibility in free health services is equitable, which can be seen from various existing laws and regulations. The laws and regulations referred to, among others, are contained in the 1945 Constitution can be seen in Article 34 paragraph (2) that the State develops a social security system for all people and empowers weak and unable to match human dignity. Furthermore, in paragraph (3) it is regulated that: The State is responsible for the provision of adequate health service facilities and public service facilities

In addition to Article 34 of the 1945 Constitution of the Republic of Indonesia NRI above, the constitution also provides protection of human rights in the field of health which can be seen in Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia which regulates that every person has the right to live in a physical and spiritual prosperity, located living and getting a good and healthy environment and the right to obtain health services. Furthermore, paragraph (2) regulates that every person has the right to get special facilities and treatment to obtain equal opportunities and benefits in order to achieve equality and justice. Whereas paragraph (3) states that every person has the right to social security which enables the development of himself as a whole with dignified humanity.

The right to a healthy life is a basic right that must be guaranteed, because health is part of the primary

needs of every human being. Healthy condition of body and soul will enable every human being to do his activities and works. Health is also part of the needs towards a prosperous life. This kind of right is one of the basic rights in health services. But for low-income people, especially the poor, they need to get free health services for survival in the community and state, so that in the constitution they also provide guarantees for state responsibility.

In this case, it can be seen in Article 34 paragraph (1) of the 1945 Constitution of the Republic of Indonesia that: The poor and neglected children are cared for by the state this provision was formulated to provide guarantees to people who are weak in income to be given health insurance that should be free. The provisions are then formulated further with a social security system for all people and empowering the weak and unable to comply with human dignity and the provision of adequate health care facilities and public service facilities, these are regulated in Article 34 paragraph (2) and paragraph (3) The 1945 Constitution of the Republic of Indonesia. This shows that the state's responsibility in the health sector is closely related to the state's guarantee of the poor and displaced children.

Development policy in the health sector which was originally in the form of efforts to cure patients, gradually develops towards the unity of public health development efforts with a comprehensive, integrated and sustainable community participation which includes efforts to promotive, preventive, curative and rehabilitative.<sup>2</sup> Based on the comprehensive, integrated and sustainable health development efforts, every effort to improve the level of public health is carried out based on the principles of non-discriminatory, participatory, protective and sustainable.

Furthermore, according to Article 1 point 1 of the Law No. 36 of 2009, what is meant by health is a healthy state both physically, mentally, spiritually which enables everyone to be socially and economically productive. The right of people to live healthy is a basic right that must be guaranteed. Because health is part of every

human's primary needs. Healthy condition of body and soul will enable every human being to do his activities and works. Health is also part of the need for a prosperous life. Basic rights in general and rights in health services in particular can be distinguished in basic social rights and individual basic rights.<sup>3</sup>

The right to health care is a basic right which includes basic social rights and basic individual rights, so Health Services are all efforts and activities to prevent and treat disease, all efforts and activities to improve and restore health carried out on the basis of individual relations between medical service experts and individuals in need.<sup>4</sup> As according to Wiku Adisasmita that health services are any efforts carried out alone or together in an organization to maintain and improve health, prevent and treat illnesses and restore the health of individuals, groups or communities.<sup>5</sup>

Everyone has the right to health as regulated in Article 4 of the Health Law. The explanation of this Article stipulates that, The right to health referred to in this article is the right to obtain health services from health service facilities in order to realize the highest health status. Furthermore, the provision on the right to health services is regulated in Article 5 of the Health Law that everyone has the same right in obtaining access to resources in the health sector, has the right to obtain safe, quality and affordable health services, and is entitled to independently and independently. responsible for determining the health services needed for themselves.

As for the provisions of Article 6 of the Health Law, it is regulated that, Every person has the right to a healthy environment for the achievement of health status. So the right to healthy living and the right to get health services is a right that everyone has. The provisions of the Health Law further stipulate that the Government is responsible for fulfilling and guaranteeing the realization of these rights. The government is obliged to maintain and improve quality, equitable and affordable health services for all levels of society.

The responsibility that must be shouldered by the government in the health sector is ensuring the

availability of health resources according to the needs and all forms of health service efforts to fulfill the people's right to health. Health resources in question include: health workers, health facilities, medical devices and pharmaceutical supplies, as well as other resources. The provisions of Article 15 of the Health Law stipulate that, The government is responsible for the availability of the environment, order, health facilities both physical and social for the community to achieve the highest degree of health. As for the provisions of Article 16 of the Health Law, it is regulated that.

In order to realize the right to a healthy life for the community, a source of health funding or health financing is needed. The Health Law regulates Health Financing, under the provisions of Article 170 of the Health Law it is formulated that health financing aims to provide sustainable health funding in sufficient quantities, fairly allocated, and utilized effectively and efficiently to ensure the implementation of health development so that improve the degree of public health as high as possible. The elements of health financing consist of sources of funding, allocation, and utilization. The sources of health financing come from the Government, regional government, community, private sector and other sources.

Based on the provisions on health financing, it can be interpreted that it is not possible for the government to endure or carry out its own health financing which is one of the main elements for the realization of the highest degree of health for the community. Because of that, it is necessary to hold a health financing guarantee which is at the same time the implementation of one of the national social guarantees.

Specifically the Government's responsibility in the implementation of health insurance is regulated in Article 20 of the Health Law which is formulated that the government is responsible for the implementation of public health insurance through the national social security system for individual health efforts. The government is obliged to fulfill the right of the people to obtain the highest degree of health, namely the

fulfillment of the right to live physically and mentally healthy, and fulfill their basic needs. Because the right to health services is a right that comes from human rights. Human rights in question are a set of rights that are inherently inherent and because of human existence as God's creatures, are His gifts that must be respected, upheld by the state law.<sup>6</sup>

#### **According to Richard that:**

It is a well recognized principle that it is one of the first duties of a state to take all necessary steps for the promotion and protection of the health and comfort of its inhabitants. The preservation of the public health is universally conceded to be one of the duties devolving upon the state as sovereignty, and whatever reasonably likely to preserve the public health is a subject upon which the legislature, within its police power, may take action.

However, in this case it is necessary to maintain a balance between the implementation of the obligations of the state towards the people and the implementation of the obligations of the people towards the state, because the State / government will not be able to carry out or bear it on their own. The state's obligation to fulfill people's rights, including in terms of health financing, must be realized by the state. Instead the community's obligation is to participate in realizing health in the family environment and itself is one form of social justice in health services, including in health financing. So the responsibility of fulfilling the needs of a healthy life is also the responsibility of the community, the government also regulates community participation in health services as formulated in Article 9 through Article 11 of the Health Law.

In the provision of Article 9 of the Health Law it is formulated that every person is obliged to participate in realizing, maintaining, and increasing the highest degree of public health. The obligations include the implementation of individual health efforts, public health efforts, and health-oriented development. As for Article 10 of the Health Law formulates that Everyone is obliged to respect the rights of others in an effort to obtain

a healthy environment, both physical, biological, and social. Whereas Article 11 of the Health Law stipulates that, Every person is obliged to behave in a healthy life to realize, maintain, and promote the highest health. Furthermore, Article 12 of the Health Law stipulates that, Everyone is obliged to maintain and improve the health status of others who are his responsibility. Whereas community obligations specifically related to the social health insurance program are regulated in Article 13 of the Health Law, which states that everyone has an obligation to participate in a social health insurance program.

As described above, that community participation is required for the realization of the highest degree of health. This is regulated in the provisions on Community Participation formulated in Article 174 of the Health Law, that People participate, both individually and organized in all forms and stages of health development in order to help accelerate the achievement of the highest degree of public health. Participation is intended to include active and creative participation.

### **The State Functions As Provider**

Health services can be seen as an important aspect of social policy. Health is a determining factor for social welfare. A prosperous person is not just someone who has adequate income or a home. But also healthy people, both physically and spiritually.

Of course, health care is not a government monopoly. However, like social security and housing, public health services are also largely intended for underprivileged citizens. Public health service schemes are usually closely related to social security systems, especially social insurance, because some of the services involve or take the form of health insurance. In addition, the role of the government in public health services also includes the ownership of hospitals and health centers, including the establishment of policies on providers and health care providers conducted by the private sector.

Control of health providers is very closely related to doctors and health workers in providing health services

to consumers in this case the patients. Therefore, it is very important for the State to provide control over doctors and health workers, so that the first need to be given responsibility to doctors is especially related to the obligations of a doctor because doctors become the main center of health care for patients.

According to J. Guwandi that the patient's relationship with a doctor, the law establishes obligations as follows:<sup>7</sup>

a) The doctor's obligation to have the knowledge and skills of his profession. If someone already holds a doctor's degree and has obtained a license to practice, then he must be expected, at least he has the ability, intelligence and skills of a doctor. If he is a specialist, then the benchmarks are also from a specialist in his field. According to Bambang Wibowo, Director General of Health Services of the Ministry of Health of the Republic of Indonesia that it is an obligation and obligation for every doctor to have knowledge and professional skills of a doctor if someone already holds a degree and works as a doctor, especially if he has obtained a license to practice, then he is already responsible to his profession and is expected to be able to carry out the duties and responsibilities of his profession, at least he has the ability, intelligence and skills of a doctor. He further said that *if he is a specialist then the standard measure of a specialist doctor in his field, specialists obtained through special education specialists, knowledge and skills*. Sources of knowledge and medical skills obtained from:

- 1) Faculty of medicine while still in college and clinical practice.
- 2) The results follow the development of his professional midwife by conducting research and reading literature, attending seminars, queries and international conventions.
- 3) The results of discussions with friends, conduct observations of the activities of other doctors in hospitals, clinics, etc.

b) The obligation to use their knowledge and skills with care, fairness and conscience as practiced by other doctors in the same circumstances.

The State function in the form of Control which is an important part of the health service system. Serious control from the government, especially for the provision of health services in a national health system to the community, especially for the poor and disadvantaged.

The national health system in question is an order that reflects the efforts of the Indonesian people to improve the ability to achieve optimal health status as a manifestation of public welfare through health development programs as a comprehensive, directed integrated and sustainable as part of national development.<sup>8</sup>

The aims and basis of health development within the National Health System are described as follows:

a) All citizens are entitled to obtain optimal health degrees, so they can work and live properly according to human dignity.

b) The government and the community are responsible for maintaining and enhancing the people's health status.

c) The implementation of health efforts is regulated by the government and is carried out in an integrated manner with efforts to heal and recover.

d) Every form of health effort must be based on humanity based on the Godhead by prioritizing national interests, the people at large, and not merely the interests of groups or individuals.

e) The attitude, family atmosphere, mutual cooperation and all existing potential are directed and utilized as far as possible for health development.

f) In accordance with the principle of fair and equitable, the results achieved in health development must be enjoyed equally by the entire population.

g) All citizens are equal in law and must uphold and obey all statutory provisions in the health sector.

h) National health development must be based on a belief in one's own abilities and strengths and on the basis of the nation's personality.

Long-term development in the health sector, which is part of the National Health System, is directed towards achieving the main objectives of the health sector. The main objectives of national health include increasing the ability of the community to help themselves in the field of health, improving the quality of the environment that can guarantee health, improving the nutritional status of the community, reducing morbidity and mortality (mortality), developing healthy and prosperous families with increasing accepted the norm of a happy and prosperous small family.

Health services are any efforts carried out independently or jointly in an organization to improve and maintain health, prevent and cure illnesses and restore the health of individuals, families, groups and or communities. Health services according to Benjamin Lumenta all efforts to prevent and treat disease, all efforts and activities to improve and maintain health carried out by social institutions or institutions with a certain population, community or community.

Furthermore Hodgelts and Casio, differentiate personal health services or medical services and environmental health services or public health services. Leavel and Clark describe the characteristics of the two forms of health care, as follows: individual health services aimed at curative and rehabilitative with the primary goal of individuals and families; while environmental health services are intended to promotive and preventive with the main target of community groups.<sup>9</sup>

In general, the characteristics of health services raised by Marius Widjajarta, include: consumer ignorance, the influence of large health service providers on consumers so that (consumers do not have bargaining power and select power (supply induced demand), non-health service products homogeneous concept, discussion of competition, uncertainty about illness and health as human rights.

According to Benyamin Lumenta, good health services can be provided, if they meet the following principles:

- 1) Limited to treatment based on medical science;
- 2) Stress prevention;
- 3) Requires fair collaboration between lay people (patients) and medical science implementers (doctors);
- 4) Treating someone completely;
- 5) Maintaining personal relationships between doctors and patients closely and continuously;
- 6) Coordinated with fostering social welfare;
- 7) Coordinate all types (specialization) of medical services;
- 8) Utilize all the services needed and that modern medical science can provide to people in need.

Quality health services according to Tabish: Health Services means providing a health service product according to individual and community needs. High-quality health services begin with high managerial ethical standards, including: systems for carrying out professional standards; both from the standpoint of behavior, organization and assessment of daily activities, the observation system so that services are always provided according to standards and detection if there are irregularities; and a system to always support the implementation of professional standards.

The quality of health services is related to the quality and level of patient satisfaction as consumers. Guarantee for quality health services is a process of meeting the quality standards of managing health services consistently and continuously so that consumers get satisfaction. The aim is to maintain and improve the quality of health services on an ongoing basis which is carried out by an internal health service advice to realize the vision and mission and meet the needs of consumers.

According to Somers, that for the implementation of good medical services, many conditions must

be fulfilled, covering 8 (eight) main points, namely available, appropriate, continue, acceptable, accesible, and affordable, efficient, and quality.<sup>10</sup>

Health service is one of the efforts that can be done to improve the health status of individuals, groups or the community as a whole. In addition to health services another term of medical services is medical services, which is a service that includes all efforts and activities in the form of prevention, curative, promotive, and rehabilitative of health carried out on the basis of individual relationships between the experts in medicine with individuals who need it.

### **The State Function As An Entrepreneur Or Interpreneur**

The role of the government as an agent of economic activity means that the government carries out consumption, production and distribution activities. The government in carrying out its role as an economic actor, establishing a state company or often known as a State-Owned Enterprise (abbreviated as BUMN). In accordance with Law No. 19 of 2003, BUMN is a business entity whose entire or most of its capital is owned by the state through direct investment from separated state assets. BUMN can be in the form of Perjan (Bureau Company), Perum (Public Company), and Persero (Corporate Company). SOEs make a positive contribution to the Indonesian economy. In a populist economic system, SOEs play a role in producing the goods or services needed in order to realize the greatest prosperity of the people.

BUMN was established by the government to manage production branches and sources of natural resources that are strategic and involve the lives of many people. These companies were established to improve the welfare and prosperity of the people, as well as to control the strategic and less profitable sectors. The government also acts as a consumption agent. Governments also need goods and services to carry out their duties. As is the case when carrying out their duties in the context of serving the community, namely carrying out construction of school buildings, hospitals, or highways. Of course



the government will need building materials such as cement, sand, asphalt, and so on. All these items must be consumed by the government to carry out their duties.

In addition to consumption and production activities, the government also conducts distribution activities. Distribution activities undertaken by the government in order to distribute goods that have been produced by state companies to the public. For example the government distributed nine staples to poor communities through BULOG. Distribution of groceries to the community is intended to help the poor meet their needs. Distribution activities undertaken by the government should be smooth. If the distribution activities are not smooth, it will affect many factors such as the scarcity of goods, high prices of goods, and even distribution of development is less successful. Therefore, the role of distribution activities is very important.

In the framework of carrying out government, community service, and development, the government basically has three main functions, namely the allocation function which includes, among other things, economic resources in the form of goods and services, community services, distribution functions which include, among others, income and wealth society, equitable development, and stabilization functions which include, inter alia, defense-security, economy and monetary. The distribution function and the stabilization function are generally more effectively carried out by the Central Government while the allocation function is generally more effectively carried out by the Regional Government, because the Regions in general are more aware of the needs and standards of community services.

The first task of the state by forming a business entity is to meet all the needs of the community, when these sectors cannot be done by the private sector. Then such tasks are translated as a form of pioneering efforts by the State to make SOEs a development agent / agent of development. The essence was formed of a State-Owned Enterprise (SOE) because it was based on the provisions of Article 33 specifically paragraphs (2) and (3) of the 1945 Constitution of the Republic of Indonesia

which meant that: Production branches were important for the State that controlled the livelihoods of the people controlled by the State. Then the earth, water, and natural resources contained therein are controlled by the State and used for the greatest prosperity of the people.

The objectives of establishing a BUMN are (1) Give out contribution on economy national and acceptance cashcountry; (2) Chasing and looking for profit; (3) Fulfillment intentpeople's lives; (4) Pioneer of business activities; (5) Give out helpand protection of small and weak businesses. BUMN is one of the economic actors in the national economy that is based on the principles of economic democracy so that it has a very important role in the administration of the national economy in order to realize the welfare of society as mandated by the 1945 Constitution of the Republic of Indonesia. The function of SOEs as implementing policies in the national economy is (1) Contribute to the development of the national economy and state revenue; (2) Improving the implementation of public benefits, in the form of providing goods and services in sufficient quantity and quality for the fulfillment of the lives of many people.

Health Insurance Administering Agency (BPJS Kesehatan) is a State-owned enterprises specifically assigned by the government to organize health care insurance for all people Indonesia, especially for Government employees, Recipients of civil servants and TNI/POLRI, Veterans, Pioneer of Independence and their families and other business entities or ordinary people. BPJS Health is a government program in unityNational health insurance (JKN) which was inaugurated on December 31st2013. BPJS Kesehatan began operating since January 12014, BPJS Kesehatan was previously called Askes (Health Insurance), which is managed by PT Askes Indonesia (Persero), but according to Law No. 24 of 2011, PT. Askes Indonesia changed to BPJS Health since the date January 12014.

Every Indonesian citizen and foreign citizen who has lived in Indonesia for a minimum of six months must be a member of the BPJS, that is regulated in Article 14 of the BPJS Law. Every company is obliged to register its

workers as BPJS members. Whereas people or families who do not work at companies are required to register themselves and their family members with BPJS. Each BPJS participant will be drawn in the amount determined later. As for the poor, BPJS contributions are borne by the government through the Contributions Assistance program. Being a BPJS participant is not only mandatory for workers in the formal sector, but also informal workers. Informal workers are also required to become members of the Health BPJS. Workers are required to register themselves and pay contributions according to the desired level of benefits,

In addition to the State having a business through BPJS, the State also benefits through hospitals, both government and private hospitals. Based on the legislation, private hospitals are seen as legal entities (*rechtspersoon*) because in reality hospitals through health workers can enter into therapeutic agreements with hospital service users. For government hospitals all matters relating to management/ management are determined by the government as the party that gives authority to hospital directors.

The difference in status between a government hospital as a public legal entity and a private hospital as a private legal entity/ foundation, makes a difference with regard to the parties responsible and accountable in the efforts of health services in hospitals.

Forms of hospital services can be divided into general hospitals and specialized hospitals. General hospital is a hospital that provides health services for all types of diseases from basic to subspecialistic. Special hospital is a hospital that organizes health services based on certain types of diseases or disciplines.

### **The State Functions As A Referee / Umpire Or Oversight Function**

According to Stoner and Wankel that *Supervision means that managers try to ensure that the organization moves in the direction or direction of the goal. If one part of the organization goes in the wrong direction, managers try to find the cause and then redirect it to the*

*right direction.*<sup>11</sup>

Meanwhile according to Mc Farland in Handayani that:

*Control is the process by which an executive gets the performance of his subordinates to correspond as possible to chosen plans, orders, objectives, or policies.*<sup>12</sup>

Next Smith in Soewartojo, states that: Controlling is often translated also with control, including the understanding of plans and norms that are based on managerial goals and objectives, where these norms can be in the form of quotas, targets and guidelines for measuring actual work against those set.<sup>13</sup> Supervision is activities in which a system is carried out within the framework of established norms or in a state of balance that supervision provides an overview of things that can be accepted, trusted or possibly imposed, and the control limit is the upper or lower value level a system can accept as a tolerance limit and still provide satisfactory results. In management, controlling is an activity to match whether operational actuating in the field in accordance with the planning that has been determined in achieving the goals of the organization. Thus, the object of surveillance activities is regarding mistakes, irregularities, defects and negative things such as fraud, violations and corruption.

There are various types of supervision as a form of implementation of the State's function of the responsibility for health services can be carried out by the government, namely based on Article 23 paragraph (5) of the 1945 Constitution of the Republic of Indonesia. Furthermore, the existence of the Supreme Audit Board is governed by the Law No. 15 of 2006 (hereinafter abbreviated to the BPK Law). Based on Article 1 of the BPK Law, the Supreme Audit Board, hereinafter referred to as BPK, is a state institution whose task is to examine the management and responsibilities of state finances as referred to in the 1945 Constitution of the Republic of Indonesia, so that the BPK has the responsibility for the task and obligation to examine the government's responsibility regarding state finances and checking all the implementation of the State Budget (APBN). The

results of the examination are notified to the House of Representatives. If an examination uses things that give rise to a suspicion of a criminal offense or an act that is detrimental to the country's finances, the Supreme Audit Board provides input to the government.

#### Conclusion

The state's function of the nature of state responsibility in equitable free health services, in the form of a function regulator has issued several regulations related to health service programs, including government regulations that specifically regulate health insurance for the poor and displaced children, but have not been fully implemented well in accordance with the mandate of the 1945 Constitution of the Republic of Indonesia NRI automatically protects and guarantees the right to health insurance for the poor and underprivileged, as well as the controlling function (provider) has not been optimally implemented, as seen distribution and procurement of drugs in hospitals still often have problems, health workers in some the area is not evenly distributed as needed, while the entrepreneurial function has basically benefited the country from the assets and premiums of participants received so far, but these funds have not been utilized optimally to improve the quality of service and satisfaction of some of the participants, especially for the poor who have not been included in the PBI program, and the function of supervision/referee (umpire) will give optimal results if it is truly implemented properly according to its basic principles.

**Source of Funding:** Author

**Ethical Clearance:** Yes

**Conflict of Interest:** No

#### References

1. Soejitno S. Reformasi Perumhaskitan Indonesia. Jakarta: Grasindo; 2002.
2. Nasution BJ. Hukum Kesehatan Pertanggungjawaban Dokter, Jakarta: PT. Rineka Cipta; 2005.
3. Tengker F. Hak Pasien. Bandung: Mandar Maju; 2007.
4. Lumenta B. Pelayanan Medis, Citra, Konflik, dan Harapan. Yogyakarta: Canisius; 1989.
5. Adisasmita W. Sistem Kesehatan. Jakarta: Rajawali Press; 2010.
6. Richards, Edward P & Khatarine C. Rathbun. Law and The Physician, A Practical Guide, Boston: Litle Brown and Company; 1993.
7. Guwandi J. 301 Tanya Jawab Informed Consent dan Informed Refusal. Jakarta: FKUI Publisher Center; 2003.
8. Ministry of Health RI. Sistem Kesehatan Nasional; 1982.
9. Aswar A. Pengantar Pelayanan Kesehatan Dokter Keluarga, Jakarta: IDI; 1995.
10. Azwar A. Standar Pelayanan Medis Materi Penerapan Standar Pelayanan Rumah Sakit, Medis dan Pengawasan Etik, Ujung Pandang; 1994.
11. HandayaniS. Pengantar Studi Ilmu Administrasi dan Manajemen, Jakarta: CV. Haji Masagung; 1994.
12. Subardi VA. Dasar-Dasar Manajemen, Yogyakarta: Bagian Penerbitan Sekolah Tinggi Ilmu Ekonomi YKPN; 1992.
13. SoewartoJ. Korupsi, Pola Kegiatan dan Penindakannya serta PeranPengawasan dalam Penanggulangnya, Jakarta: Restu Agung; 1995.