

## **Fulfillment of Citizens' Constitutional Rights in the Perspective of BPJS Kesehatan Services**

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### **Abstract**

*This Study Aims To Examine The Fulfillment of Citizens' Constitutional Rights In Obtaining Health Services Through BPJS Kesehatan Membership And Identify What Factors Hinder The Health Services Of BPJS Kesehatan Participants. Using An Empirical Juridical Research Method That Focuses On The Implementation of Law Number 24 Of 2011 Concerning BPJS And Law Number 17 Of 2023 Concerning Health. The Main Data Used Questionnaire, Interview And Observation Data. The Results of The Study Concluded That The Fulfillment of Citizens' Constitutional Rights In The Health Sector, Such As Promotive, Preventive And Curative Efforts, Has Been Carried Out In Accordance With Existing Regulations. Limited Facilities And Community Conditions Are An Inhibiting Factor. Suggestions In The Research, So That BPJS Kesehatan Can Optimize BPJS Mobile Services And Educate The Public To Register For BPJS Kesehatan Online. Further Research Is Suggested To Analyze The Empirical Juridical Aspects Related To The Effectiveness Of Mobile BPJS Services For Rural Communities.*

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## **1. INTRODUCTION**

Health is a constitutional right of citizens so that it is an element of welfare that must be realized. This obligation is seen in article 28H paragraph (1) of the 1945 Constitution, which reads: *"Everyone has the right to live a prosperous life in birth and mind, to live, to get a good and healthy living environment and to have the right to health services"*. Health as a human right, contains an obligation to nourish the sick and maintain the healthy to stay healthy. Then in Article 34 paragraph (3) of the 1945 Constitution, it reads: *"The State is responsible for the provision of health service facilities and proper public service facilities"*. Efforts to improve the degree of public health are carried out based on the principles of welfare, equity, non-discrimination, participatory and sustainable, which are very important for the formation of human resources and competitiveness nationally.

Following up on the mandate of Article 28 H and Article 34 paragraph (3) of the 1945 Constitution, Law No. 40 of 2004 concerning the National Social Security System (SJSN) was issued along with Law No. 24 of 2011 concerning the Social Security Administration Agency (BPJS). In article 4 letter g of Law No. 24 of 2011 concerning BPJS, it states: *"BPJS organizes a national social security system based on the principle of compulsory membership"*. This article requires all residents to become Social Security Participants, which is implemented in stages.

With the promulgation of these two regulations, it will become a legal umbrella in improving the quality of health services. As mentioned in the Law. No. 17 of 2023

concerning Health Article 1 number 2: "*Health Efforts are ..... in the form of promotive, preventive, curative, rehabilitative, and/or palliative by the Central Government, Regional Government, and/or the community.* And most importantly, all people obtain their constitutional rights, are better and more equitable. It is also hoped that the presence of BPJS Kesehatan can be a solution to the high cost of treatment complained about, including vulnerable groups in rural areas whose economic level is relatively lower than urban areas.

In rural areas, there are still people who have not been registered as BPJS Kesehatan participants. In North Sulawesi, Bolaang Mongondow district, Dumoga District, out of 15,639<sup>[1]</sup> people, 9,609 people have been registered as BJS Kesehatan participants<sup>[2]</sup>. There are still more than 6,000 residents who have not been registered. Although the public knows that health is full of uncertainties that can pose risks in the future, there are still many who do not register. This is partly due to the fact that income conditions are one of the main considerations when you want to register for BPJS Kesehatan<sup>[3]</sup>.

This research has an urgency for the right to health services which is a basic right that must be fulfilled by the state. Although there are regulations that regulate it, there are still challenges in its implementation. This study aims to examine the empirical aspects of the fulfillment of citizens' constitutional rights in obtaining health services through BPJS membership and identify what factors hinder health services through BPJS membership. It is hoped that this research can contribute to improving health services in an effort to fulfill the constitutional rights of citizens.

## 2. LIBRARY STUDY

In relation to BPJS Kesehatan, the constitutional right in question is, of course, the right to health. The discussion of the right to health is closely related to the theory of Human Rights. In addition, the theory of Legal Effectiveness is also used to dissect what factors hinder BPJS Kesehatan in improving the quality of health equally for all Indonesian people, especially those living in rural areas.

*John Locke's postulation* is based on the fact that initially individuals did not know government, at that time every individual was equal with the right to life, the right to liberty and the right to property, but because there was no government these rights were vulnerable to being violated by others, by Thomas Hobbes this condition was termed "man is a wolf to other human beings" (*Homo Homini Lupus*)<sup>[4]</sup>. To protect these rights, these individuals form governments and hand over some of their rights to the government in return that the government must protect every citizen and his rights (social contract).

According to Soerjono Soekanto<sup>[5]</sup>, the effectiveness or not of a law is determined by five factors, namely: (1). The legal factor itself, namely the law, (2). Law enforcement factors, namely the parties who form or implement the law, (3). The factor of the facilities or facilities that support law enforcement, (4). The community factor, namely the environment in which the law applies or is applied, and (5). Cultural factors, namely as a result of the work, creation and sense that is based on human *karsa* in life relationships. These five factors are closely interrelated, are the essence of law enforcement and also a benchmark of law enforcement effectiveness.

The researcher compared it with two previous journals that were relevant to this issue, the first journal was written by Asri Agung P and Ludfie Jatmiko, 2023. entitled Health Insurance in Constitutional Rights for Indonesian Migrant Workers in the Construction of a Welfare State<sup>[6]</sup>. In this journal, Agung and Ludfie discuss Indonesian migrant workers who contribute foreign exchange to Indonesia so that Indonesian migrant workers should get health insurance that is on the shoulders of the state and guaranteed by law as a consequence of the realization of a *welfare state*.

The second journal, written by Muhammad Emil Kesuma, 2024 entitled Regulation of Citizens' Constitutional Rights in the Health Sector<sup>[7]</sup>. The journal discusses the existence of cart humans in urban areas. These cart people (especially those from outside the region) have difficulty in obtaining health services because, they do not have a local Identity Card (KTP) but an ID card outside the area where they come from, this causes related agencies to have difficulties in collecting data.

Compared to the previous two journals, the first journal discusses Health Insurance for Migrant Workers Working abroad. The second journal discusses Cart Men in urban areas, so the novelty in this research journal lies in an empirical review of people in rural areas in obtaining health services through BPJS Kesehatan membership. The characteristics of rural communities are more homogeneous, bound by tradition and the profession of the majority as farmers, all of which differ from the characteristics of urban society<sup>[8]</sup>, especially migrant workers who work abroad.

### 3. RESEARCH METHODS

This research is an empirical juridical research that focuses on the study of the application of Law Number 24 of 2011 concerning the Social Security Administration Agency and Law Number 17 of 2023 concerning Health. The main data sources in this study used questionnaires, interviews and observations. Data presentation uses a qualitative approach, which produces analytical descriptive data. In the form of data that describes or describes events and occurrences without performing hypotheses and statistical calculations. This research also uses secondary sources, in the form of books related to thesis titles, legal journals, articles, research results, reports and so on obtained through print and electronic media.

### 4. RESULTS OF RESEARCH AND DISCUSSION

In realizing the National Health Insurance Program (JKN), it requires the involvement of many parties. The government as *a regulator*, BPJS Kesehatan plays a role as *an operator*, especially in providing budgets for both *capitation* and *non-capitation* schemes. And Health Facilities as *Vendors* that are contracted with BPJS Kesehatan to provide health services. The collaboration of the three parties that strengthen each other is the key to the success of the National Health Insurance Program.

#### 4.1. Fulfillment of Citizens' Constitutional Rights in Obtaining Health Services Through BPJS Membership in Dumoga District.

In Law No. 17 of 2023 concerning Health, Article 1 number 1 states: "*Health .... both physically, mentally, and socially and not just being free from disease to allow him to live productively.*" Then in Article 1 number 2 it is explained that to achieve the goal of healthy living is carried out with a series of health efforts: "*Health efforts .... in the form of promotive, preventive, curative, rehabilitative, and palliative by the Central Government, Regional Government, and/or the community*"

Data collection from 160 respondents in 12 villages in Dumoga District about promoting health efforts.

**Table 1. Promotive Health Efforts**

No.	Variable Indicators	Frequency	Percentage
1.	Yes, there are activities	153	96%
2.	No activities	7	4%
<b>Total</b>		<b>160</b>	<b>100%</b>

Source: Primary data for 2025 (data already processed)

From table 1, it can be seen that 153 (96%) respondents answered "Yes, there are promotive activities" and the remaining 7 people (4%) respondents answered "No promotive activities". The types of promotive activities include hygiene counseling, contraceptive counseling and other counseling.

For preventive health efforts, 160 people (100%) of respondents answered "Yes, there are preventive activities". The types of preventive efforts are in the form of immunization and vaccination.

**Table 2. Preventive Health Efforts**

No.	Variable Indicators	Frequency	Percentage
1.	Yes, there are activities	160	100%
2.	No activities	0	0%
<b>Total</b>		<b>160</b>	<b>100%</b>

Source: Primary data for 2025 (data already processed)

The fulfillment of constitutional rights in the health sector through BPJS Kesehatan membership is also seen from curative health efforts.

**Table 3. Number of Pusian Health Center Patient Visits.  
Period January – December 2024**

Moon	Patient Common	Patient BPJS	Free		Total
			Frame	RTM	
January	368	927	12	25	1.332
February	228	917	5	7	1.157
March	134	745	2	5	886
April	133	863	0	0	996
May	169	902	1	4	1.076
June	164	903	-	4	1.071
July	130	1.055	-	-	1.185
August	134	896	-	-	1.030
September	158	910	148	-	1.216
October	162	1.082	2	1	1.247
November	145	1.016	-	1	1.162
December	81	673	-	-	754
<b>Sum</b>	<b>2.006</b>	<b>10.889</b>	<b>170</b>	<b>47</b>	<b>13.112</b>

Source: Pusian Health Center in 2024

From the table above, it can be seen that during 2024 the total number of patient visits for treatment will be 13,112 people. A total of 10,899 (83.12%) of them are patients who use the BPJS Kesehatan Membership Service, the remaining 2,006 (15.30%) non-BPJS patients and 217 patients (1.65%) who come from underprivileged households but have not been registered as BPJS Kesehatan participants and from village cadre elements.

**Table 4. Responses to Curative Health Efforts Services**

No.	Variable Indicators	Frequency	Percentage
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1.	Yes, I have encountered	49	31%
2.	obstacles	111	69%
	Never encountered any obstacles		
<b>Total</b>		<b>160</b>	<b>100%</b>

Source: Primary data for 2025 (data already processed)

Based on the collection of data from 160 respondents in 12 villages in Dumoga District regarding curative health efforts, a total of 111 people (69%) of respondents admitted that they did not experience problems in seeking treatment using BPJS Kesehatan membership services, but there were 49 (31%) respondents who admitted to experiencing problems when seeking treatment using BPJS Kesehatan membership services. The obstacles encountered vary from limited drug supplies, arrears of contributions and fines to cases of membership that have been deactivated without notification from BPJS Kesehatan.

As for rehabilitative and palliative health efforts, they are not found at the FKTP of the Pusian Health Center, Dumoga District because both types of health efforts are handled by Advanced Referral Level Health Facilities (FKRTL) such as hospitals.

## 4.2. Inhibiting Factors in Obtaining Health Services Through BPJS Membership in Duoga District.

### 4.2.1. Means

In the theory of legal effectiveness put forward by, Soerjono Soekanto, it is stated that the third factor that affects the effectiveness or not of a law is the factor of supporting facilities or facilities.

In providing health services, BPJS Kesehatan divides health facilities into two levels, namely First-Level Health Facilities (FKTP) and Advanced Level Referral Health Facilities (FKRTL). In Dumoga District as the location of the research, there were no Advanced Referral Health Facilities (FKRTL), there were only two First Level Health Facilities (FKTP), namely one general practitioner practice and the Pusian Health Center along with a network of Auxiliary Health Centers (Pustu) located in the Dumoga District area.

Table 5. List of Auxiliary Health Centers in Dumoga District

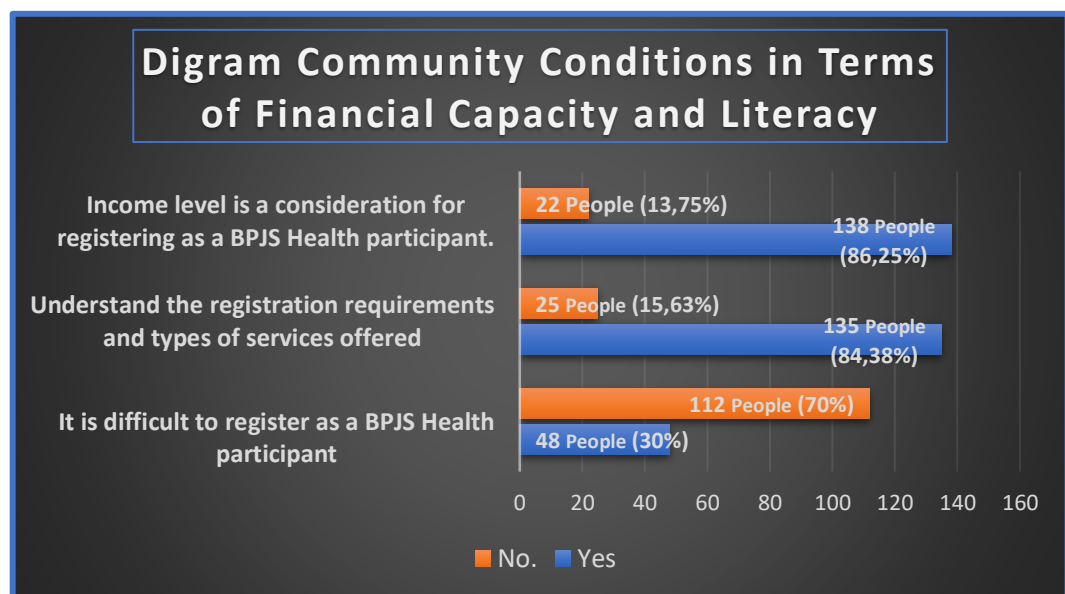
No.	Village Name	Pustu	Information
1	Bumbungon	Exist	Repair/non-operational
2	Dumoga Satu	Exist	Operate
3	Kanaan	Exist	Operate
4	Mototabian	Exist	Operate
5	Ponompiaan	None	Development Process
6	Pusian	None	Close to the health center
7	Pusian Barat	None	Close to the health center
8	Pusian Selatan	None	Close to the health center
9	Serasi	Exist	Heavily damaged
10	Siniyung	Exist	Operate
11	Siniyung Satu	Exist	Operate
12	Toruakat	None	Close to the health center

Source: Pusian Health Center in 2024

This study also observed supporting facilities, such as the availability of mini market outlets. This needs to be observed because considering that the orderly payment of contributions is the main factor to check when wanting to seek treatment. Based on the results of observation, the number of modern mini market outlets in Dumoga District is five, each of which is located in Dumoga Satu Village, Ponompiaan Village, Pusian Village and Siniyung Village. The number of people who come to pay contributions, each outlet in a month ranges from 30-50 people, each person sometimes makes transactions of 2-5 BPJS Kesehatan participants <sup>[9]</sup>.

#### 4.2.2. Community Conditions

The fourth factor that affects the effectiveness of a law, according to Soerjono Soekanto, is the condition factor of the community. To find out how the public's understanding of BPJS Kesehatan is, a total of 160 respondents from 12 villages in Duoga District were randomly selected. Three questions were asked to the respondents. From these three questions, an overview of the condition of the community was obtained, especially from the aspects of literacy and income. These two things are important because the decision to participate in BPJS Kesehatan is greatly influenced by these two aspects.



Source: Results of questionnaire collection (data has been processed)

Figure 1. Financial Ability and Literacy Level Diagram

From the diagram above, it is known that a total of 138 people (86.25%) of respondents answered that income level was the main consideration for them before deciding to join BPJS Kesehatan. The majority of the professions of the people of Dumoga District are farmers and farm laborers, very dependent on crop yields. Waiting for the harvest time of three to four months for certain commodities is the cause of some people hesitating to register for BPJS Kesehatan membership.

In the response section "understanding the registration requirements and the type of services offered", a total of 135 people (84.38%) of respondents answered "understanding the registration requirements and the type of services offered", this shows that the literacy aspect in the people of Dumoga District is very good even though the majority work as farmers.

In the last part, the response to the process of registering as a BPJS Kesehatan participant was 112 people (70%) respondents answered "not difficult" but there were still 48 people (30%) respondents who answered "yes difficult". This is due to the long distance between the BPJS Kesehatan office and the place of domicile of residents. This is an evaluation material for BPJS Kesehatan to present a more flexible and easy-to-reach registration process such as the Mobile BPJS service or online BPJS registration.

## 5. CONCLUSION

BPJS Kesehatan through the Puskesmas as a health service provider partner has made fulfillment efforts in the health sector that are promotive, preventive and curative. The availability of health facilities or facilities is also still very minimal. The majority of people work as farmers by relying on crops that are highly dependent on the weather, this economic condition is the main consideration before deciding to register for BPJS Kesehatan membership. The level of public knowledge about the requirements and types of BPJS Kesehatan services is very good. Most people stated that it was quite easy to register for BPJS Kesehatan membership, but there were still those who answered that it was quite difficult due to the long distance from the BPJS Kesehatan office. At the same time, this is a suggestion for BPJS Kesehatan to maximize mobile BPJS services and further educate the public for online BPJS Kesehatan registration. Further research can deepen the effectiveness of BPJS Mobile services. In addition, it can also explore the effectiveness of BPJS Kesehatan registration online by utilizing digital media is also an important recommendation for future research.

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