
Protection From The Government Related To Manpower Rights Handling Covid-19 Patients

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ABSTRACT

Health workers have a very important role in the implementation of health efforts carried out in terms of providing health services for the community in accordance with laws and regulations. During the Covid 19 pandemic it was recorded that a number of medical personnel died due to exposure to Covid 19. This legal research aims to determine the role of the government in providing protection for medical personnel who handle Covid 19.

Keywords: Medical personnel, COVID 19, government

1. INTRODUCTION

Addressing the preamble of the 1945 Constitution clearly states the ideals of the Indonesian nation which are also the national goals of the Indonesian nation, namely protecting the entire Indonesian nation and all Indonesian bloodshed and advancing public welfare, educating the nation's life and participating in implementing world order. based on freedom of eternal peace and social justice. In order to achieve this national goal, a sustainable development effort is carried out which is a series of comprehensive and integrated development, including health development.

Health, which is a basic right as in human rights, must be realized in accordance with the ideals of the Indonesian people as referred to in Pancasila and the Preamble to the 1945 Constitution of the Republic of Indonesia. Therefore, every activity and effort to improve the public health status as high as possible implemented based on the principles of non-discrimination, participation, protection, and sustainability which are very important for the formation of Indonesia's human resources, enhancing the nation's resilience and competitiveness, and national development.

Efforts to increase the level of health begin with efforts to cure diseases which then develop into health efforts for the entire community by involving the community at large which includes promotive, preventive, curative and rehabilitative efforts that are comprehensive, integrated and sustainable. A medical action can never be separated from the participation of health workers. The definition of health workers according to the Law of the Republic of Indonesia Number 36 of 2009 concerning Health (hereinafter referred to as the Health Law) is anyone who devotes himself to the health sector and has knowledge and / or skills through education in the health sector which for certain types requires the authority to perform health efforts. WHO has



declared *Corona Virus Disease 2019* (COVID-19) a pandemic. The spread of COVID-19 in Indonesia is now increasingly widespread across regions and across countries accompanied by an increase in the number of cases and / or the number of deaths. This situation is increasingly having an impact on the political, economic, social, cultural, defense and security aspects, as well as the welfare of the people in Indonesia, so a comprehensive strategy and efforts are needed to accelerate the handling of COVID-19. Observing the spread and transmission of COVID-19 in Indonesia which is increasingly concerning, the Government through Presidential Decree No.11 of 2020 concerning the Determination of Public Health Emergencies for *Corona Virus Disease 2019* (COVID-19) has declared COVID-19 as a type of disease that causes public health emergencies and stipulates Public Health Emergencies for *Corona Virus Disease 2019* (COVID-19) in Indonesia, which requires countermeasures in accordance with the provisions of laws and regulations. In addition to Presidential Decree Number 11 of 2020, the President has also issued Presidential Decree Number 12 of 2020 concerning the Determination of Non-Natural Disaster for the Spread of *Corona Virus Disease 2019*. Reporting from the electronic media compass, it was noted that 130 medical personnel had died due to exposure to the corona virus and 92 nurses. Of course this is a red report card for the government in terms of controlling the Covid virus and protecting medical personnel. This legal research aims to determine the protection of the rights of medical personnel who treat Covid 19 patients from the Government of the Republic of Indonesia and provide contributions to the authorities in the health sector.

2. RESEARCH METHODS

This type of research in legal research is normative legal research, which is a process of finding legal rules, legal principles, and legal doctrines in order to answer legal issues faced (Peter Mahmud Marzuki, *Legal Research*, 2011). Researchers use the normative type of research because this research is to find coherence, namely whether there are legal rules in accordance with legal norms and are there norms in the form of orders or prohibitions in accordance with legal principles, and whether one's actions are in accordance with legal norms or legal principles (Peter Mahmud Marzuki, *Revised Edition of Legal Research*, 2014) As this research is to find. In this study, researchers used three problem approach methods, namely, the statutory approach, the conceptual approach.

The statutory approach is carried out by examining all laws and regulations related to the legal issue being handled. [1] In this study, the laws used are Law No. 36 of 2009 concerning Health, Law No. 36 of 2014 concerning Health Workers and the Decree of the Minister of Health of the Republic of Indonesia Number Hk.01.07 / Menkes / 392/2020 concerning Providing Incentives and Compensation Deaths for Health Workers Handling *Corona Virus Disease 2019* (Covid-19).



The conceptual approach departs from the views and doctrines developed in the science of law. Studying views and doctrines in legal science, researchers will find ideas that give birth to legal notions, legal concepts, and legal principles that are relevant to the issues at hand. In the conceptual approach, new legal knowledge will be found. The formulation of the problem will then be analyzed with the existing concepts and theories. In this study, researchers used legal material sources, including:

Primary legal materials are legal materials that are authoritative, meaning they have authority. Primary legal materials consist of legislation, official records or minutes in the making of legislation and judges' decisions. Primary laws to be used in this research include Law No. 36 of 2009 concerning Health, Law No. 36 of 2014 concerning Health Workers and Decree of the Minister of Health of the Republic of Indonesia Number Hk.01.07 / Menkes / 392/2020 Regarding Providing Incentives and Compensation for Health Workers Who Deal with *Corona Virus Disease* 2019 (Covid-19).

Secondary legal materials are in the form of all legal publications that are not official documents. Publications on law include text books, legal dictionaries, legal journals, and commentaries on court decisions. In this research, the secondary legal materials used include books in the field of law, papers, articles, and theses.

3. DISCUSSION

Legal Position of Health Workers in Legislation - Invitation

Human beings as dignified beings have a number of basic rights that must be protected, such as the right to life, the right to speak, the right to assembly, and the right to religion and belief. Human rights values emphasize basic rights that must be protected and respected. Human rights have the principles of equality and human freedom so that there is no discrimination, exploitation and violence against humans in any form and there are also no restrictions and restrictions on basic human freedoms. Human rights as a gift from God Almighty are formulated as inherent natural rights possessed by humans as gifts from God to human beings in sustaining and maintaining their life and pre-existence on earth. (Nurul Qamar, 2013, *Human Rights in a State of Law Democracy*, Sinar Grafika, Jakarta, p. 10).

The Health Law defines that a Health Worker is anyone who devotes himself to the health sector and has knowledge and / or skills through education in the health sector which for certain types requires the authority to carry out health efforts.

Article 11 (1) of the Law of the Republic of Indonesia Number 36 of 2014 concerning Health Workers (hereinafter referred to as the Law on Health Workers) classifies health workers including:

- a. medical personnel;



- b. clinical psychologist;
- c. nursing staff;
- d. midwifery staff;
- e. pharmaceutical personnel;
- f. public health workers;
- g. environmental health personnel;
- h. nutritionist;
- i. physical energy;
- j. medical technical personnel;
- k. biomedical engineering staff;
- l. traditional health workers; and
- m. other health workers.

The government as the authority in regulating health workers has assigned duties and authorities as in several articles, namely:

- a. Article 4 of the Law on Health Workers

It states that the Government and Local Governments are responsible for regulating, fostering, monitoring and improving the quality of Health Workers, planning, procuring and utilizing Health Workers according to their needs, protecting Health Workers in carrying out their practices.

- b. Article 5 of the Health Workforce Law

In carrying out its responsibilities, the Government has the authority to: establish a national scale health worker policy in line with national development policies, plan the needs of health workers, procure health workers, utilize health workers, develop, supervise and improve the quality of health workers through implementation of Competency certification activities and implementation of Health Worker Registration.

The Health Workforce Law qualifies that health workers under Article 8 consist of Health Workers and Assistant Health Workers. The basic difference is that health workers have a minimum diploma 3 education while assistant health workers are at least senior high school in the health sector. A health profession has rights and obligations, especially health workers as stipulated in Article 57 of the Health Workers Law, which states that in carrying out their practice, health workers have the right to:

- A. obtain legal protection as long as they carry out their duties in accordance with Professional Standards, Professional Service Standards, and Standard Operating Procedures. ;
- B. obtain complete and correct information from Health Service Recipients or their families;

- C. receive fees for services;
- D. obtain protection for occupational safety and health, treatment in accordance with human dignity, morals, morals, and religious values;
- E. get the opportunity to develop his profession;
- F. rejecting the wishes of Health Service Recipients or other parties that are contrary to Professional Standards, code of ethics, service standards, Standard Operating Procedures, or the provisions of laws and regulations; and g. obtain other rights in accordance with the provisions of the Laws and Regulations.

In order to maintain a balance between the rights and obligations of health workers, the obligations of health workers are regulated in Article 58 (1) that in carrying out the practice, health workers are obliged to:

- a. provide health services in accordance with Professional Standards, Professional Service Standards, Standard Operating Procedures, and professional ethics as well as health needs of Health Service Recipients;
- b. obtain approval from the Health Service Recipient or their family for the action to be given;
- c. maintain health confidentiality of Health Service Recipients;
- d. make and keep records and / or documents regarding examinations, care, and actions taken; and
- e. refer Recipients of Health Services to other Health Workers who have the appropriate competence and authority.

Not only rights and obligations, health workers have responsibilities stipulated in Article 60 of the Law, including:

- a. obliged to devote oneself in accordance with the scientific field they have;
- b. increase competence;
- c. behave and behave in accordance with professional ethics;
- d. prioritizing the interests of society over personal or group interests; and
- e. carry out service quality control and cost control in carrying out health efforts.

The Role of the Government in the Protection of Health Workers Who Deal with Covid Patients 19 The

State is an institution that provides protection to the people and their staff, legal protection of human rights is carried out to achieve the welfare of each of its citizens. According to Fitzgerald, quoted by Satjipto Raharjo as saying that the origin of the emergence of this theory of legal protection comes from the theory of natural law or the flow of natural law. This flow was pioneered by Plato, Aristotle and Zeno. According to the flow of natural law, it states that the law comes from God who is universal and eternal, and between law and morals cannot be separated.

Adherents of this school view that law and morals are internal and external reflections and rules of human life which are manifested through law and morals (Satjipto Raharjo, Ilmu Hukum, PT. Citra Aditya Bakti, 2000). Satjipto Rahardjo argues that legal protection is an effort to protect someone's interest by allocating a human right to the power to act in his interests.

In 2020 there has been a Covid 19 emergency which has harmed the state and society, in an effort to handle the COVID-19 case the Ministry of Health has established a referral hospital for handling infectious diseases *emerging* certain and a hospital that can provide services for COVID-19 patients and operate hospitals. Emergency COVID-19, such as at Wisma Athlete, Galang Island Special Hospital for COVID-19 Infection. In addition to hospitals, in an effort to handle COVID-19 cases, there are laboratories capable of providing services in the form of examining specimens *Corona Virus Disease 2019* (COVID-19). Public Health Centers (Puskesmas) and health institutions such as the Provincial Health Service, District / City Health Office, Port Health Office (KKP), as well as the Environmental Health and Disease Control Engineering Center (BTKL-PP) and the Center for Environmental Health Engineering and Control Diseases (BBTKL-PP) Technical Implementation Unit of the Ministry of Health which is involved in COVID-19 health services and other health service facilities, both hospitals owned by the Central Government, hospitals owned by the Regional Government and private hospitals.

The COVID-19 pandemic situation requires the participation of all parties to contribute to its handling. Efforts to handle COVID-19 are the responsibility of the Central Government, Provincial Government, Regency / City Government, the private sector, and all elements of society in the territory of the Republic of Indonesia. that the presence of health workers is an important factor and determines the success of these efforts. The role and real work of health workers from various types of professions as the frontline in efforts to deal with COVID-19 are very important and needed to accelerate the handling of this pandemic. The Task Force for the Acceleration of Handling of *Corona Virus Disease 2019* (COVID-19) and governors, regents and mayors as Chair of the Task Force for the Acceleration of Handling *Corona Virus Disease 2019* (COVID-19) in the regions, in determining policies in each region must pay attention to Government policies Center.

It has been regulated by the Decree of the Minister of Health of the Republic of Indonesia Number Hk.01.07 / Menkes / 392/2020 concerning the Providing of Incentives and Death Compensation for Health Workers Handling *Corona Virus Disease 2019* (Covid-19) with several things stipulated in the decree, including that:

1. Health workers those who handle *Corona Virus Disease 2019* (COVID-19) are given incentives and death benefits.
2. Guidelines for the implementation of incentives and compensation for death as referred to in the FIRST Dictum are listed in the Appendix which is an integral part of this Ministerial Decree.

3. The guidelines as referred to in the SECOND Dictum aim to provide a reference for every leader of health service facilities, leaders of health institutions, Central Government, Provincial Government, and Regency / City Government in providing incentives and death benefits for health workers who handle *Corona Virus Disease 2019* (COVID-19).
4. Incentives and death benefits for health workers who handle *Corona Virus Disease 2019* (COVID-19) are given starting from March 2020 to May 2020, and can be extended in accordance with the provisions of laws and regulations.

The scope and objectives of the Decree of the Minister of Health of the Republic of Indonesia Number Hk.01.07 / Menkes / 392/2020 concerning the Providing of Incentives and Death Compensation for Health Workers Handling *Corona Virus Disease 2019* (Covid-19) includes:

1. Criteria for health service facilities or health institutions who are entitled to receive incentives and death benefits.
2. The criteria for health workers who are entitled to receive incentives and death benefits.
3. Procedures for paying incentives and compensation for death, starting from the process of proposing, verification to disbursing incentives and compensation for death.

The purpose of establishing the Minister of Health's decision cannot be separated as a reference for leaders of health service facilities, leaders of health institutions, the Central Government, Provincial Governments and Regency / City Governments in providing incentives and death benefits for health workers handling COVID-19. The target of providing incentives and compensation for death consists of health workers, both State Civil Servants, State Civil Servants, and private employees. In the Minister of Health's decision, there is a mechanism for providing incentives and compensation for death. Incentives for Health Workers:

Amount of incentives for health workers a. The maximum incentive for health workers who provide COVID-19 services in the hospital is:

1. Specialist IDR 15,000,000 / OB
2. General and Dental Doctor IDR 10,000,000 / OB
3. Midwives and nurses IDR 7,500,000 / OB
4. Other Medical Personnel IDR 5,000,000 / OB

The amount of incentives given to doctors who take part in special assignments for residents and doctors who take part in the Indonesian Doctors Internship Program at hospitals involved in handling COVID-19 is a maximum of IDR 10,000,000 (ten million rupiah) while doctors who take part in the Indonesian Doctors Internship Program at Puskesmas who are involved in handling COVID-19 are at a maximum of Rp.5,000,000 (five million rupiah).

The maximum amount of incentives given to doctors who participate in Specialist Doctor Utilization involved in handling COVID-19 is IDR 15,000,000 (fifteen million rupiah). The

amount of incentives for health workers at the Institute for Environmental Health and Disease Control Engineering (BTKL-PP) and the Center for Environmental Health and Disease Control Engineering (BBTKL-PP) for the Technical Implementation Unit of the Ministry of Health, is given according to the size of each type of health worker.

Incentives for health workers at the Port Health Office (KKP), Provincial Health Office and District / City Health Office, Puskesmas including health workers who participate in the Special Assignment of Health Workers in Supporting the Healthy Nusantara Program, a maximum of IDR 5,000,000 (five million rupiah) equivalent to the incentive amount for other medical personnel.

Incentives for health workers and other personnel involved in carrying out examination of specimens *Corona Virus Disease 2019* (COVID-19) directly in the laboratory set by the Ministry of Health at a maximum of IDR 5,000,000 (five million rupiah) equivalent to the amount of labor incentives other medical.

In the case of health workers and other personnel who conduct examination of specimens *Corona Virus Disease 2019* (COVID-19) directly in a laboratory with a Strata 3 (S3) education, clinical pathology specialists and clinical microbiology specialists, the amount of the incentive is equal to the amount of the doctor's incentive specialist.

The amount of incentives given to health workers at the Center for Community Lung Health, the Ministry of Health's Technical Implementing Unit for handling COVID-19 is equivalent to the incentive for health workers handling COVID-19 at the Puskesmas.

In the event that health workers who participate in the Special Assignment of Health Workers in Support of the Healthy Nusantara Program are involved in handling COVID-19 at the hospital, incentives are given in the amount according to the size of each type of health worker handling COVID-19 in the hospital. In order to verify the proposed incentives for health personnel, a verification team was formed at the Ministry of Health, Provincial Government, Regency / City Government, health service facilities, and health institutions. Health Research and Development Agency.

The Ministry of Health verification team is appointed by the Secretary General of the Ministry of Health, consisting of at least the main units of the Ministry of Health:

- 1) Secretariat General;
- 2) Directorate General of Health Services;
- 3) Directorate General of Public Health;
- 4) Directorate General of Disease Prevention and Control;
- 5) Health Human Resources Development and Empowerment Agency; and

The tasks of the Ministry of Health verification team include:

1. Verifying and validating proposals made by leaders of health service facilities, health

institutions, or the Head of the PPSDM Health Agency;

2. Make notes on the results of verification and validation if necessary; and
3. Submitting recommendations on the results of verification and validation through the Head of the PPSDM Health Agency to:
 - a) the head of the health service facility or the head of the proposing health institution if the results are not suitable; or
 - b) Commitment Making Officer (PPK), if the results are appropriate, then the incentive payment disbursement will be processed.

The Provincial Health Office verification team is appointed by the Head of the Provincial Health Service, with the elements at least consisting of the Internal Supervisory Unit (SPI), service elements in health service facilities or health institutions; and Management elements of health service facilities or health institutions.

The duties of the verification team at the Provincial Health Office include:

- a) Verifying and validating proposals submitted by the head of health service facilities or leaders of health institutions;
- b) Make notes on the results of verification and validation if necessary; and
- c) Prepare and submit a recapitulation of the verification results to the Head of the Provincial Health Office.

4. CONCLUSION

Covid 19 has an impact on aspects of life globally that are detrimental to all parties so that the government and society are required to join hands to break the chain of the spread of covid 19, the role of health workers during the Covid 19 pandemic is very important, to appreciate medical action is necessary incentives are given to health workers who work as the frontline for handling covid 19 and In practice, not only health workers will be exposed to the risk of covid 19 transmission, the government needs to review conditions in the practice of parties other than health workers who are at high risk of covid transmission 19.

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