

Implementation of Public Policy on Health Services Based on Law Number 23 of 2014 on Regional Government

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Abstract—Regional autonomy is the right, authority, and obligation of autonomous regions to regulate and manage their own Government Affairs and the interests of the local community in the Unitary State of the Republic of Indonesia (NKRI) system. The type of research used is normative or doctrinal law, through qualitative descriptive legal analysis. Results and discussion of the implementation of public policy on health services based on Law No. 23 of 2014 concerning Regional Government, namely health services are part of concurrent government affairs because health services are the authority of the Regional Government based on the principle of decentralization, so the regional government has the right to manage all forms of health service provisions, as regulated in Article 12 paragraph (1) which states that government affairs must provide basic services, one of which is in terms of health. The Bali Provincial Government is developing services in terms of traditional health by issuing Governor Regulation No. 55 of 2019 concerning Traditional Balinese Health Services. The Central Government and Regional Government are required to coordinate, especially in making regulations so that they have a socially just impact on all Indonesian people, especially in the field of health services that must reach remote villages. Health service efforts are carried out in a promotive, preventive, curative and rehabilitative manner carried out by the government.

Keywords: Public policy; health services; regional government

Introduction

Law and public policy are likened to two sides of a coin that cannot be separated. Understanding this meaning can be reviewed from the definition according to Kraft and Furlong public policy is "A course of government action (or inaction) taken in response to social problems. Social problems are conditions the public widely perceives to be unacceptable and therefore requiring intervention". While the definition of law according to Van Kan is "The entirety of life regulations that are mandatory to protect human interests in society".

To create optimal development, the government creates several policies that will later be used to help meet primary needs and solve problems in society. The birth of a public policy is none other than because there is a foundation used to solve problems that occur in society. None other than the use of public policy is oriented to fulfilling the needs and interests of society which at the beginning of the policy were

determined by the parties or stakeholders. The substance of the policy is essentially an agreement from a decision from several series of choices that are related to each other. Policy is basically an activity of the government that regulates the lives of society and the public. To create optimal development, the government creates several policies which will later be used to help meet basic needs and solve problems in society.

The term policy is often used interchangeably with other terms such as goals, programs, decisions, laws, provisions, proposals and grand designs. For policy makers, these terms will not cause any problems because they use the same references. However, for people outside the policy-making structure, these terms may be confusing. Syafiie stated that policy should be distinguished from wisdom because wisdom is the embodiment of rules that have been set according to local situations and conditions by authorized officials. For this reason, Syafiie defines public policy as a kind of answer to a problem because it will be an effort to solve, reduce, and prevent bad things and vice versa to become an advocate, innovation, and leader of good things in the best way and with directed actions. Keban provides an understanding from the perspective of public policy, according to him that: "Public Policy can be seen from a philosophical concept, as a product, as a process, and as a framework. As a philosophical concept, policy is a series of principles, or desired conditions, as a product, policy is seen as a series of conclusions or recommendations, and as a process, policy is seen as a way through which an organization can find out what is expected of it, namely programs and mechanisms in achieving its products, and as a framework, policy is a process of bargaining and negotiation to formulate issues and methods of implementation".

The implementation of public policy as one of the activities in the public policy process, often contradicts what is expected, even making the policy product a stumbling block for the policy maker itself. That is why the implementation of public policy requires a deep understanding of public policy studies, which according to Djadja Saefullah in his preface to Tachjan's book that public policy studies can be understood from two perspectives, namely; First, the political perspective, that public policy in its formulation, implementation, and evaluation is essentially a battle of various public interests in allocating and managing resources in accordance with the vision, hopes and priorities that are to be realized. Second, the administrative perspective, that public policy is a matter related to systems, procedures, and mechanisms, as well as the ability of public officials (official officers) in translating and implementing public policy, so that the desired vision and hopes can be achieved in reality.

Understanding public policy from both perspectives in a balanced and comprehensive manner will help us better understand and understand why a public policy, even though it has been formulated well, is difficult to implement. One of the public policies set by the government is related to regional autonomy based on Law Number 23 of 2014 concerning Regional Government (hereinafter referred to as the Regional Government Law). This policy regulates the rights, authorities, and obligations of autonomous regions to regulate and manage their own government affairs and the interests of the local community in the system of the Unitary State of the Republic of Indonesia. These regions then regulate and manage their own government affairs according to the principles of autonomy, namely the principles of decentralization and assignment tasks, have the right to stipulate regional regulations to implement this autonomy and carry out autonomy as widely as possible except for government affairs that are determined by law as affairs of the Central Government. Government affairs that are fully under the authority of the government are affairs in the fields of foreign policy, defense, security, national monetary and fiscal, justice and religion. Government affairs that can be managed jointly between levels and structures of government or concurrently are government affairs other than government affairs that are fully the affairs of the government.

According to Article 12 Paragraph (1) letter b of the Regional Government Law, the implementation of government affairs in the health sector is one of the mandatory affairs related to basic services, the Regional Government Law has regulated the division of government affairs in the health sector for the Central Government and Provincial Governments and Regency/City Governments. According to the Law, government affairs consist of 3 affairs, namely absolute government affairs, concurrent government affairs, and general government affairs. Regarding concurrent affairs, the central government and regional

governments (provinces and regencies/cities) are divided based on the principles of accountability, efficiency, and externalities, as well as national strategic interests. The role of the central government within the framework of regional autonomy is to determine macro policies, supervision, monitoring, evaluation, control and empowerment (capacity building) so that each autonomous region can carry out its autonomy optimally. Autonomy contains the concept of freedom to take the initiative in making decisions based on the aspirations of the community that has such a status without direct control by the central government. Government affairs in the health sector consist of health efforts, health human resources, pharmaceutical supplies, medical devices, and food and beverages, thus in every field of concurrent government affairs there are always parts of affairs that are the authority of the central government, provincial government, and district/city government.

Health services are an effort carried out individually or together in an organization to maintain and improve health, prevent and cure diseases and restore health to individuals, families, groups, or communities. Regulations on Health in Indonesia are regulated in Law Number 36 of 2009 concerning Health, while health facilities themselves are further regulated in Government Regulation of the Republic of Indonesia Number 47 of 2016 concerning Health Service Facilities. The government's policy has really looked at the readiness of the regions themselves or even the policy has paid less attention to the readiness of adequate health facilities. The government's efforts to run its government effectively and efficiently are not easy. Moreover, the real conditions of the Indonesian nation are diverse both vertically and horizontally. It takes seriousness to think about and find the best way to organize government so that national ideals can truly be realized. If the government is run centrally, it will reduce the flexibility of action needed to anticipate various problems faced by regions in Indonesia.

Based on the background explained above, this research examines the implementation of public policy on health services as a concurrent government affair, with a focus on its alignment and compliance with Law Number 23 of 2014 concerning Regional Government. The study explores how the policy is carried out within the framework established by the law, assessing the coordination between different levels of government and the effectiveness of the regulatory provisions in managing health services. Through this analysis, the research aims to provide a comprehensive understanding of the practical application of the law in the public health sector.

Method

This study uses a normative research method. This means that the research topic uses sources of legal materials, both primary legal materials derived from laws and regulations and secondary legal materials, namely those derived from legal theories, legal principles, and legal principles to obtain the expected results from journals and various related literature. The types of approaches used are the statutory approach (Statute Approach), the fact approach (Fact Approach), and the conceptual approach (Conceptual Approach).

Discussion

Implementation of Public Policy on Health Services as Concurrent Government Affairs Reviewed from Law Number 23 of 2014 concerning Regional Government.

The Constitution of the Republic of Indonesia, namely the 1945 Constitution, states that "Everyone has the right to live in physical and spiritual prosperity, to have a place to live, and to have a good and healthy living environment and has the right to receive health services" as regulated in Article 28 H paragraph (1) of the 1945 Constitution. Every citizen has the right to receive health services, as stated in the constitution of the Republic of Indonesia, namely the 1945 Constitution in Article 34 paragraph (3) which reads "The state is responsible for providing adequate health service facilities and public service facilities". This means emphasizing the importance of providing health service facilities from the state, namely the

central and regional governments, which will be provided to the community. The meaning of health service facilities is a tool and/or place used to organize health service efforts, whether promotive, preventive, curative or rehabilitative, carried out by the government, regional government, and/or the community.

A very important constitutional rule to know is that the National Health Insurance (JKN) is adequate health protection as one of the basic living needs of every person in Indonesia. JKN is a constitutional mandate that gives everyone the right to obtain health services. This is stated in Article 28 H of the 1945 Constitution. JKN must be based on the principles of humanity, benefits, and social justice for all Indonesian people. In addition to organizing JKN, the state is also responsible for providing adequate health facilities. So, the implementation of JKN and the provision of health services and their facilities are two government responsibilities that have the same legal standing.

The Central Government and Regional Governments are required to guarantee the availability of health service facilities as regulated in Article 138 paragraph (2) of Law No. 36 of 2009 concerning Health, which states that the Government is required to guarantee the availability of health service facilities and facilitate the elderly group to be able to continue to live independently and productively socially and economically. Concurrent Government Affairs are government affairs that are divided between the central government and provincial and district/city regions. The provision of health service facilities by the Government, both the Central Government and the Regional Government, is a form of Public Service, in accordance with Article 1 number 16 of the Regional Government Law which states that Basic Services are public services to meet the basic needs of citizens. According to Mardiasmo, there are three main aspects that support the success of regional autonomy, namely supervision, control and inspection.

The administration of the health sector constitutes a regional government affair related to basic services, including those classified as concurrent government affairs, over which the Regional Government holds mandatory authority to administer. The implementation of public policy by the Regional Government in exercising autonomy carries legal responsibility for the development of basic health services through public health centers, as stipulated in Articles 66 and 67 of the Regional Government Law. One of the duties of the regional government is to lead the execution of government affairs within its authority, including the management and operation of public health centers, while one of its obligations in the health sector is to establish working relationships with all vertical agencies within the region and all regional apparatus.

The division of concurrent government affairs between the Central Government, Provincial Governments, and Regency/City Governments is set forth in the Annex to Law Number 23 of 2014 concerning Regional Government (State Gazette of the Republic of Indonesia of 2014 Number 244, Supplement to the State Gazette of the Republic of Indonesia Number 5587).

Table 1. Division of Concurrent Government Affairs Between the Central Government, Provincial Regions, and Regency/City Regions.

No.	Affairs	Central Government	Province Area	Regency/City Area
1	Health Efforts	a. Management of national/ cross-provincial referral individual health efforts (UKP).	a. Management of referral UKP at the provincial level/across district/city levels.	a. Management of District/City Regional UKP and District/City Regional referrals.
		b. Management of national and national/cross-provincial referral public health efforts (UKM).	b. Management of provincial and referral UKM at the provincial level/across district/city levels.	b. Management of District/City Regional UKM and District/City Regional referrals.
		c. Implementation of registration, accreditation, and standardization of public and private health service facilities.		
		d. Issuance of class A hospital permits and foreign investment (PMA) health service facilities as well as national-level health service facilities.	c. Issuance of class B hospital permits and health service facilities at the provincial level.	c. Issuance of Class C and D hospital permits and District/City Regional health service facilities.

2	Human Resources (HR) for Health	<p>Determination of standardization and registration of Indonesian health workers, foreign health workers (TKWNA), and issuance of recommendations for ratification of foreign worker utilization plans (RPTKA) and permits to employ foreign workers (IMTA).</p> <p>Determination of the placement of specialist doctors and specialist dentists for regions that are unable and not in demand.</p> <p>Determination of technical competency standards and certification of implementers of Government Affairs in the health sector.</p> <p>Determination of standards for developing the capacity of health human resources.</p>	Planning and Development of Health Human Resources for Provincial SMEs and UKPs.	Issuance of practice permits and work permits for health workers. Planning and development of health human resources for UKM and UKP District/ City.
3	Pharmaceutical Preparations, Medical Devices, and Food and Beverages	<p>a. Provision of drugs, vaccines, medical devices, and health supplements for national programs.</p> <p>b. Supervision of the availability, distribution, and affordability of drugs and medical devices.</p> <p>c. Development and supervision of industry, production facilities and distribution facilities for pharmaceutical preparations, traditional medicines, medical devices and Household Health Supplies (PKRT), medicinal materials, natural raw materials related to health.</p> <p>d. Pre-market supervision of drugs, traditional medicines, cosmetics, medical devices, PKRT, and food and beverages.</p> <p>e. Post-market supervision of drugs, traditional medicines, cosmetics, medical devices, PKRT, and food and beverages.</p>	Issuance of recognition of Pharmaceutical Wholesalers (PBF) branches and Medical Device Distributor (PAK) branches. Issuance of Traditional Medicine Small Business (UKOT) permits.	<p>a. Issuance of permits for pharmacies, drug stores, medical equipment stores and optical shops.</p> <p>b. Issuance of permits for traditional medicine micro businesses (UMOT).</p> <p>c. Issuance of certificates for production of certain class 1 (one) medical devices and certain class 1 (one) PKRT for household companies.</p> <p>d. Issuance of permits for production of food and beverages in household industries.</p> <p>e. Post-market supervision for food and household industries.</p>
4	Community Empowerment in Health Sector	Community empowerment in the health sector through national and international figures, community groups, non-governmental organizations and the business world at the national and international levels.	Community empowerment in the health sector through provincial figures, community groups, non-governmental organizations and the business world at the provincial level.	Community empowerment in the health sector through district/city figures, community groups, self-help organizations, communities and the business world at the district/city level.

Source: Law No. 23 of 2014 concerning Regional Government (State Gazette of the Republic of Indonesia 2014 Number 244). Supplement to the State Gazette of the Republic of Indonesia Number 5587.

Legally, the concept of decentralization of health services is based on Law Number 23 of 2014 concerning Regional Government relating to the authority of the Regional Government in the field of organizing registration, accreditation and standardization of public and private health service facilities in the

central government, issuing class B hospital permits and health service facilities at the provincial level, and issuing class C and D hospital permits at district/city level health service facilities. To optimize its potential, cooperation between local governments and the private sector can be one alternative innovation/concept based on considerations of efficiency and effectiveness, synergy and mutual benefit, especially in areas that concern cross-regional interests.

Based on Article 28 H paragraph (1) of the 1945 Constitution, Article 30 paragraph (1) of Law No. 36 of 2014 concerning Health, Article 12 paragraph (1) letter b of Law No. 23 of 2014 concerning Regional Government, to Article 5 paragraph (1) of Government Regulation No. 47 of 2016 concerning Health Service Facilities, regulates health services from the Center to the Regions and has been implemented by the Bali Provincial Government by issuing Bali Governor Regulation Number 55 of 2019 concerning Traditional Balinese Health Services in the provisions of Article 1 number 24 concerning Health Service Facilities. So in this case it is very clear that the central government's efforts to decentralize to provincial or district/city areas that have implemented traditional Balinese health services based on the principle of decentralization, namely the full transfer of authority from the central government to the regions is implemented by issuing Bali Governor Regulation Number 55 of 2019 concerning Traditional Balinese Health Services in the provisions of Article 1 number 24 concerning Health Service Facilities.

The implementation of policies in the health sector is a regional government affair related to basic services including concurrent government affairs, where the Regional Government has the mandatory authority to organize it, as stated in Article 12 paragraph (1) letter b of Law No. 23 of 2014 concerning Regional Government which regulates "Mandatory Government Affairs related to Basic Services as referred to in Article 11 paragraph (2) includes Health", then in Article 36 paragraph (8) letter b of Law No. 23 of 2014 concerning Regional Government which states that "The parameters of the ability to organize government as referred to in paragraph (1) letter g include accessibility to basic health services".

Implementation of Public Policy on Health Services In Government Regulation of the Republic of Indonesia No. 47 of 2016 concerning Health Service Facilities is a tool and/or place used to organize health service efforts, both promotive, preventive, curative and rehabilitative carried out by the central government, regional government, and/or the community which is the implementation of public policy on health services. The phrase in this article shows that not only the central government but also regional governments have the authority to organize health services in accordance with their respective regional autonomy as regulated in the laws and regulations on regional government number 23 of 2014 concerning Regional Government, so that the implementation of health services in the regions has been supported by the central government and this is reinforced by Article 2 which states that Health Service Facilities are established to organize health services both promotive, preventive, curative, and rehabilitative. Article 3 states that Health Service Facilities organize health services in the form of individual health services; and/or Public health services.

Article 4 paragraph (1) states that the types of health service facilities as referred to in Article 3 consist of:

- a. Independent practice places for health workers;
- b. Community health centers;
- c. Clinics;
- d. Hospitals;
- e. Pharmacies;
- f. Blood transfusion units;
- g. Health laboratories;

- h. Optical;
- i. Medical service facilities for legal purposes; and
- j. Traditional health service facilities.

Article 5 paragraph (2) states that the first level health service facilities as referred to in paragraph (1) letter a provide basic health services. Article 5 paragraph (3) states that the second level health service facilities as referred to in paragraph (1) letter b provide specialist health services. Article 5 paragraph (4) states that the third level health service facilities as referred to in paragraph (1) letter c provide health services. Article 5 paragraph (5) states that the second and third level health service facilities as referred to in paragraph (3) and paragraph (4) can provide services provided by the health service facilities at lower levels.

This is in accordance with the theory of authority put forward by Philipus M. Hadjon who stated that authority is obtained through three sources, namely attribution, delegation, mandate (Ridwan, H.R, 2007, p.4). Attribution authority is usually outlined through the division of state power by the Constitution, delegation authority and mandate are authorities that come from delegation. Therefore, the Central Government through Law No. 47 of 2016 concerning Health Service Facilities gives a mandate to the Regional Government to fully organize health services to the community.

The implementation of good governance policies requires governance of the personnel system in each government agency and in its implementation, authority is required. Based on Article 1 number 14 of Law Number 5 of 2014 concerning the State Civil Apparatus, it is explained that: "The Personnel Development Officer has the authority to determine the appointment, transfer, and dismissal of ASN Employees and the development of ASN Management in government agencies in accordance with applicable provisions." The implementation of the health sector in the region, the Regional Head is assisted by the regional apparatus, namely the Health Service, to be able to implement and organize all government affairs in the region. The basic regulations for the implementation of all regional government affairs are Government Regulation Number 18 of 2016 concerning Regional Apparatus. As in the example in the Province of Bali. The implementation of the health sector in the Province of Bali is regulated in the Regulation of the Governor of Bali Number 55 of 2019 concerning Traditional Balinese Health Services, stated in Article 1 number 24 concerning Health Service Facilities is a tool and/or place used to organize health service efforts, both promotive, preventive, curative and rehabilitative carried out by the government, local government and/or community.

Conclusion

Implementation of Public Policy on Health Services Based on Law No. 23 of 2014 concerning Regional Government, namely health services are part of concurrent government affairs because health services are the authority of the Regional Government based on the principle of decentralization, so the Regional Government has the right to manage all forms of provisions regarding these health services, as in Article 12 paragraph (1) of Law No. 23 of 2014 concerning Regional Government which states that mandatory government affairs related to basic services as referred to in Article 11 paragraph (2) include one of them health which is related to this matter the Bali Provincial Government through Governor Regulation No. 55 of 2019 concerning Traditional Balinese Health Services. The Central Government, Regional Governments to coordinate with each other, especially in making laws and regulations so that they have a socially just impact on all Indonesian people, especially in the field of health services that must reach remote villages and these public health services if handled alone by the government will not achieve good quality of service. The government needs to find ways that can help it improve services. Public-Private Partnership or cooperation between local government (public sector) and the private sector. With cooperation between two or more sectors, it is expected to improve services. This cooperation can also be done between fellow public sector organizations/units. For example, cooperation with the health department.

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