

# The Essence of Good Governance in Free and Fair Health Care Program

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## Abstract

State responsibility for its people, particularly in the health sector, is contained in the constitution, namely the fourth paragraph of the Preamble of the Constitution of the Republic of Indonesia Year 1945, as one of the state's objectives which is "to protect the entire nation and the entire homeland of Indonesia". It is in relation with the purpose of being law state, supported by the constitutional and philosophical basis in maintaining and governing the country... Public services in the health sector is a function of government in running and providing basic rights which all community understood as a right to enjoy life of dignity and the rights recognized by the legislation. Government as the public service providers should perform its duty in accordance with the principles of Good Governance. The most fundamental aspect in fulfilling the basic rights is the right to obtain access for the need of government services... This principle in the administration of the current government still refers to the four main indicators namely public participation, openness and transparency, effective and efficient, and accountability.

**Keywords:** Good Governance, Free and Fair Health Care Program

## 1. Introduction

State responsibility for its people, particularly in the health sector, is contained in the constitution, namely the fourth paragraph of the Preamble of the Constitution of the Republic of Indonesia Year 1945, as one of the state's objectives which is "to protect the entire nation and the entire homeland of Indonesia". It is in relation with the purpose of being law state,<sup>1</sup> supported by the constitutional and philosophical basis in maintaining and governing the country. Moreover, the mandate within article 34 (1) of the Constitution of The State of The Republic of Indonesia of the year 1945 (hereinafter referred as the 1945 NRI Constitution) firmly stated that "Destitute people and neglected children shall be nurtured by the state", further expand within article 34 (2) stated that "The state shall develop a social security system for all the people and empower the poor and incapable society in accordance with human dignity." In addition, article 34 (3) rules that "The state shall be responsible for the provision of decent health care facilities and public service facilities."

Besides, article 34 of the constitution provides human rights protection. Healthcare sector of the human rights protection is contained within article 28H (1) regulating that "every person is entitled to live prosperous physically and spiritually, to have a place to reside, and to acquire a good and healthy living environment as well as be entitled to obtain health care." Further paragraph two of the same article expresses that "every person is entitled to receive ease and special treatment in order to obtain the same opportunity and benefit in order to achieve equality and justice." While paragraph 3 stated that "every person is entitled to social security that enables his/her integral self development as a dignified human being."

Discussion regarding healthcare, particularly concerning the healthcare system in hospitals and clinics, is associated with the consumer protection in Indonesia nowadays considering the healthcare delivery system deals with the relations between actors who provide healthcare services and consumers (the recipient of health care services), also closely related with the relations between regulations and policy in health sector. It has long been raised primarily regarding the importance of legal protection for the parties, especially the country's efforts in this regard to the government in improving the quality of health care dignified, humane, and just.<sup>2</sup>

Health development is intended to increase awareness, willingness and ability of healthy life for everyone in order to achieve optimal health status as one element of general welfare as set forth in the Preamble of the Constitution of the Republic in 1945. Besides, health as a human right should be realized in the form of variety of healthcare to the entire community through the implementation of good quality and affordable health development.

Problems of health care system for the last few years have taken a lot of attentions, not only in the medical field but also outside the medical field, not only in the country but also abroad. In the health care system

<sup>1</sup>Meaning and Purpose of 1945 Constitution Preamble. [www.pusakaindonesia.org](http://www.pusakaindonesia.org) . Access on 12 May 2016.

<sup>2</sup> Zaelani, 2012, *The government's commitment in the Implementation of the National Social Security*, *Journal of Indonesia Legislation* Volume 9 No. 2, p.193.

there are three (3) groups of people who at least involved; first, a group of health care providers (*health provider*, such as doctor, nurse and other medical personnels); Second, a group of health care service recipients (consumer of healthcare); and the third, which is not directly involved, such as the administrator (either from companies or government in this context country). Even there are still other groups that are indirectly involved who consist of the general public or the patient's family who commonly participate in determining the process of health care system.

The nature of health care is that both the health providers and consumers rarely consider the aspects of cost, as long as it concerns a matter of healing a disease. The health provider will always be urged to use the capabilities, most updated technologies and medicines. This fact is also supported by the needs of consumers who desire the best and the safest service that possible. This situation brings the trend of neglecting the economic calculations, cost efficiency, and others. Therefore, it is not uncommon for health services to be considered consumptive, regardless of the cost-benefit aspects, including the legal aspects. In 1960 the right to health is recognized in the new Indonesian regulations. Article 1 of the Law No. 9 of 1960 concerning health ruled that: "Each and every citizen is entitled to retain the highest health standard possible and need to be included in the government's efforts". This provision then being amended through article 4 of the law no.23 of 1992 concerning Health mentioned that: "everyone has equal rights in obtaining optimal health status". Likewise, Law Number 36 Year 2009 on Health<sup>1</sup> (referred as UUK), in article 5 (1) regulating that: "everyone has the same rights in access or resources in the field of health". In addition, paragraph (2) ruled that: "everyone has the right to obtain safe, good quality and affordable health services".

For health, references that can be used are the United Nations (UN) Declaration of Human Rights and Health Law as follows:<sup>2</sup>

1. Rights:
  - a. Everyone has the right to a standard of adequate living for the health, including health care, and the right to security in times of suffering (The UN Declaration on Human Rights in 1948).
  - b. everyone has the equal rights in gaining access or resources in the field of health, including the right to obtain safe, good quality and affordable health services". (Article 5 (1) and (2) of Law of Health).

2. Responsibility:

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

Therefore, the focus of this article is to reveal the nature of free and fair health services equitable in the frame of good governance as stipulated in Indonesian legislation.

## **2. Management of Good Governance in Free and Fair Health Care Program**

Public services in the health sector is a function of government in running and providing basic rights which all community understood as a right to enjoy life of dignity and the rights recognized by the legislation. Government as the public service providers should perform its duty in accordance with the principles of Good Governance. The most fundamental aspect in fulfilling the basic rights is the right to obtain access for the need of government services. Access towards such basic rights must be accommodated in the development. Without fulfilling the basic needs, it will be difficult to expect the participation in line with freedom and equality. Article 1 of the Law No. 25 of 2009 concerning Public Service defined public service as activity or series of activities in order to fulfill the needs of the service in accordance with the laws for every citizen and resident towards the goods, services, and / or administrative services provided by public service providers in this case government in providing of service that should be based on legislation and mechanisms of good governance and should be prepared to accept consequences from what has been held by the administrative law enforcement.

The implementation of good governance in Free and Fair Health Care in this research is the implementation of good governance principles in health sector through free health care program by the government, which fulfill the sense of justice for the people. New concepts within the health program at the Ministry of Health of the Republic of Indonesia which was known with the term of PBI (Participant of Fee Assistance)) replacing the term of Free Health Care, has become the featured program intended as an implementation of the Indonesian Health Card.<sup>3</sup>

Director General of Health Services express that free medical term is a political term used in political processes such as local elections. Such term often used as a featured program by politicians to gain sympathy and

<sup>1</sup> (Indonesia State Gazette No.144 of 2009, Additional State Gazette No. 5063)

<sup>2</sup> Soedarmono Soejitno, et.al. 2002. *Reformation of Indonesian Hospital*. Grasindo, Jakarta, p. xxi.

<sup>3</sup> Director General of Health Services, Ministry of Health of the Republic of Indonesia, dr. Bambang Wibowo, SP. OG (K), MARS on 1 November 2016 in the Office Building of Ministry of Health of Republic of Indonesia Jalan H.R. Rasuna Said Blok X5 Kav. 4-9, Kuningan.

support from constituents, whereas health care is essentially paid for by the State (government) through the health budget allocation in the state budget or regional budget.<sup>1</sup>

According to the author's view that the term PBI is less precise to be used in the healthcare system for referring free health care considering it is a basic right for every citizen and the State's responsibility to fulfil. Free health care is a constitutional right for the poor or disadvantaged protected by the 1945 Constitution, specified within article 34 stated that: Destitute people and neglected children shall be nurtured by the state. The term PBI can be interpreted as:

1. The word "assistance" puts the country as subjects with the choice to do or not do, and as the subject of acquiring the service for assisting, however health care is a right of every citizen and a duty of State.
2. The term PBI seems transactional because health service is interpreted as a form of state achievement over the obligation of citizens to pay taxes.
3. The impact of transactional sense of the PBI concept gives an obligation for citizens to be registered as participants BPJS (Social Security Agency), and citizens who are not registered as participants of BPJS will not be able to receive certain public services, even though the Constitution guarantees the rights of citizens, including the right to health, and gives obligations to the state or government to fulfill the right to health of the citizens without any discrimination.
4. The concept PBI changed the concept of the state's obligation towards public for health services becoming the Government rights to give health services, and on the other hand it turns the right of citizens to obtain health care from the state into the duty of citizens to register as a participant of beneficiaries to health services. The consequences of the obligation of citizens to register in BPJS are very risky for people who are not registered because they will not be able to receive guarantee on their right to a fair health care.

Therefore, the authors prefer the term Free health services, especially to the poor or those who can not afford.<sup>2</sup> The term of free health service is often used as a featured program or promises of politicians. In this context, precisely every candidate both in central and local government is obliged to make a political deal to implement the constitutional rights of the people in the field of free health services and if during the governing time such appointment is not implemented then people can ask for its accountability.

Decree of the Minister of Administrative Reform No. Kep./25/M.PAN/2/2004 concerning Public Satisfaction Index states that: "Public Satisfaction Index (IKM) is data and information on the index of public satisfaction obtained from the quantitative measurement and qualitative over public opinion in obtaining the services of public service apparatuses by comparing the expectations and needs".

In order to determine the satisfaction of the public towards health services can be made through measurements to be able to find out to what extent the health services have been able to meet expectations or may provide services to the community. Social condition in Indonesia as a developing country, where its poverty rate according to the Central Bureau of Statistics in March 2016 showed the number of poor people (the population with capita expenses each month is below poverty line) in Indonesia has reached 28.01 million people (10.86 percent).<sup>3</sup> Furthermore, the data included in the PBI program to be financed by the allocation of APBN / APBD is as much as 92.4 million people.<sup>4</sup> The poor people have the constitutional right to get health services. Index of satisfaction of the poor and those who can not afford is the fulfillment of their basic rights to health obtained free of charge from the state, as guaranteed by the Constitution as a state obligation. Therefore, the meaning of transactional in PBI will eliminate the value of justice and of public satisfaction in the health service.

According to Kep./25/M.PAN/2/2004 there are 14 elements which are "relevant, valid and reliable", as the minimal elements that must be present as the basic measure of community satisfaction index, namely:

1. Service Procedure, the ease stages of service provided to the community in terms of the simplicity of the service flow.
2. Terms of Service, the technical and administrative requirements required to obtain the services in accordance with the type of service.
3. The clarity of service personnel, namely the presence and assurance officers who provide services.
4. The discipline of service personnel, the commitment of the officers in providing services primarily regarding the consistency of applicable working time.
5. The responsibility of service personnel, namely clarity of authority and responsibility of the officer in the administration and settlement services.
6. The ability of service personnel, the level of expertise and skills possessed by the officers and ability in accomplishing services to the community.

<sup>1</sup> *Ibid.*

<sup>2</sup> The words "poor" and "improverished" can be differed in the area of health service. The poor people is intended to people do not have revenue or they have revenue but still below standard revenues.

<sup>3</sup> The Central Bureau of Statistics, Percentage of Poor People Achieves 10.86 Percent in March 2016, Website: <https://www.bps.go.id/brs/view/id/1229>, access in 1 November 2016.

<sup>4</sup> Director General of Health Services, Ministry of Health of the Republic of Indonesia. *Op.cit.*

7. Speed of service, the target of service time could be completed within the time specified by the service delivery units.
8. Justice in receiving services, which is the implementation of services without distinguishing mark / status of the community it serves (no discrimination).
9. Courtesy and hospitality of the clerk, the attitude and behavior of staff in providing services to the community in polite and friendly manner as well as mutual respect.
10. Reasonableness of fees, which is accessibility of the society towards the costs that have been assigned by the service unit.
11. The certainty of service charge, which is a match between the fees paid with the cost that has been determined.
12. The certainty of service schedules, where the implementation of service time should be in accordance with the stipulated provisions.
13. Environmental comfort must provide the clean, neat, and organized condition of infrastructure services in order to provide a sense of comfort to the recipient of the service.
14. Security of services, by ensuring the environmental safety level of service units or means used so that people feel at ease in obtaining the services towards risks arising from the implementation of service.

Noting the wide range of health development in the capital city and the regions, particularly emphasizing on the capacity and capability of the provincial government, which is discussed in the working meeting of the National Health 2011, are as follows:

1. Performance achievements of basic health services varied between provinces and have not meet the target which could hamper the efforts to accelerate drop in IMR and MMR and the increase in life expectancy.
2. Access to health care remains as serious obstacle, which includes access to cheap medicine for people who cannot afford.
3. The hampered and late communication between central and local governments makes health policy becoming ineffective and tends to weaken the health planning programs. This then leads the local decision-makers to work with own creativity which aggravated also by the weakness of civil society including professional organizations, the knowledgeable and others in participating in the development of public health.
4. Effective health budget policy remains to be a concern of policy and political processes at all levels because of the quantity and effectiveness of the health budget are very limited. Related to BOK predicted to have many problems, it includes doubts that the budget will be misused and in the end basic health programs become more obstructed.
5. The existence of unconformity between the central and local governments in the implementation of health programs as a result of (excess) decentralization.

Strong governance building in health aspect can be demonstrated by the process of democratization of health development by involving civil society, particularly professional organizations and universities as a place of transferring knowledge and scientific development. Recently, considering the wide scope of the subject matter concerning its governance, the application of this principle in the administration of the current government still refers to the four main indicators,<sup>1</sup> namely:

1. Public Participation.
2. Openness and Transparency.
3. Effective and efficient.
4. Accountability.

Four principles mentioned above, by the Team of National Policy Development of Good Governance, Bappenas called as "More Good Administrative Governance". The detail explanation of the principles can be seen, as followings:

### **1. Participation**

Public participation refers to the active involvement of communities in decision-making related to governance. Public participation is absolutely necessary so that the government administration be more familiar with its citizens as well as its citizens ways of thinking and life habits, the problems, the manner or suggested solutions, contribution for problem solving, and so forth. Thus the public interest can be channeled in the formulation of policies that can accommodate as much aspirations and interests of the community possible, and received broad public support.

The direct participation is important because parliamentary representation system can never be relied as the sole channel of people's aspirations. The principle of representation in ideas distinguished from the representation in presence, as the physical representation does not necessarily reflect the representation of an idea or aspiration. In the law enforcement run by the police, prosecutors, lawyers, judges, and prisoner officials,

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<sup>1</sup> Bappenas, 2008, *Module of the Implementation of Good Governance in Indonesia*, Bappenas, Jakarta, p.15.

all of them require social control in order to work effectively, efficiently and ensure justice and truth.

The presence and participation of citizens in the forum of public meetings, and involvement in contributing their ideas and suggestions in the field of public health, showed that health matters are not just matter for government but also involving community and not merely limited for the bureaucrat. Nevertheless, it must be admitted that it is not easy engage all levels of society in the field of health. One alternative solution is to provide access to the entire community as well as representatives from various levels of society to participate in voicing the interests of the group they represent and submit proposals and thoughts in the forums of public meetings, for example in the development forum at the village or regional consultation development to provide ideas in government policy making in the field of health care. Lack of participation in the implementation of public health by the government will makes public policies unable to accommodate the aspirations and interests of the community in health services and unable to improve public satisfaction in health care, which can lead to failure in achieving the objectives of government policy in the field of health care.

Participation, interpreted that every community has a voice to provide ideas in making decisions related to public health services, either directly or through the ministry of health. Participation is based on freedom of association, to speak and participate constructively.

## **2. Transparency**

Transparency is built on the basis of free flow of information. The whole process of government, institutions and information needs to be accessible by the parties concerned, and the information provided should be sufficient to be understood and monitored. Transparency refers to the availability of information and clarity for the public to find out the creation, implementation, and results which have been achieved through a public policy. All the governance matters in the form of public policies, in regard to public services and development in the region must be open to the public. The contents of the decision and reasons of public policy should be accessible to the public. Similarly, information concerning the activities of policy implementation and its results should be open and accessible to the public. In this case, the apparatus of government must be willing to openly and honestly provide the information needed by the public. Community efforts to establish transparency, direct communication, forum with the executive and legislative branches, communication forum, cross information through print and electronic media, are examples of tangible manifestation of the principles of openness and transparency. The lack of openness and transparency in government affairs will lead to a misunderstanding of the various public policies.

Transparency and social control that opens to the implementation of the public health system as well as the use of the health budget allocated from APBN / APBD may complement the weaknesses and shortcomings inherent in the bureaucratic mechanisms Ministry of Health helped by community direct participation in order ensure justice in the public health community.

In accordance with the moral commitment in the context of improving health services by the Government, which is to realize the service that is transparent, participatory, efficient and effective, fair, professional and accountable, hence in every form of ministry, particularly the fulfillment of basic rights to public health, should be transparent. It means that the bureaucracy and the use of health budgets need to be clearly provided to the public, so that the parties who need health services can clearly understand the health care system, the rights and obligations as well as the fulfillment of the satisfaction or sense of justice.

Transparency of free health services by the Ministry of Health is indispensable in order to build public trust in government. By the presence of transparency and accountability in the free health service, the basic rights in the field of public health can be met. In that matters, it can be known whether the rights of every citizen, patients' rights, and the rights of society in general have been fulfilled or not.

Transparency, defined as the freedom of the public to access information so that it can be directly received and create easier access for those who need it. Information must be understandable and can be monitored to the public.

Code Provisions for transparency in the health care field are as follows:

- a. Institutions must provide adequate, clear, accurate and comparable and easily accessible information timely to stakeholders in their respective sectors.
- b. Information that must be disclosed include the vision, mission, objectives and organizational strategy, financial condition, and so forth, including monitoring systems and internal controls, systems and the implementation of the Good Governance as well as the level of compliance, and important events that can affect the organization.
- c. The transparency principle adopted by the institutions does not reduce the obligation to comply with the confidentiality of an institution in accordance with the legislation, occupational confidentiality, and personal rights. Openness and transparency regarding the cost of treatment and medication for the patient and family are very important in health services.
- d. Institution policies must be in writing and proportionally communicated to stakeholders.

### 3. Effective and efficient

In order to support the principles mentioned above, clean and good governance must meet the criteria of effectivity and efficiency that is efficient and effective-use. Effective criteria is measured with a parameter product that can reach maximum number of the interests of people of various groups and social classes. To achieve effective and efficient government, then government officials should be able to arrange plans in accordance with the real needs of society in a rational and measurable way. With rational planning, expectations of public participation will be easily moved, as the programs are becoming a part of their needs. Governance and institutions processes produce results according to the needs of society and citizens by using existing resources as optimal as possible.

### 4. Accountability

Decision-makers in government, the private sector and civil society organizations are responsible both to society and to the respective institutions. Form of liability depends on the type of respective organization. Accountability is the liability of public officials to the people who gave them the authority to take care of their interests. Decision-makers in government, the private sector and civil society organizations are responsible both to society and to the respective institutions. Form of liability depends on the type of respective organization. The basic instrument of accountability is the applicable legislation, with political commitment and accountability mechanisms, while supporting instruments are guidelines for behavior and performance monitoring system of the government administration and supervision system with clear and decisive sanctions.

Public accountability is a measure or a standard that indicates the extent of implementation of public policy conformance with laws and regulations that apply to respective public organizations. Basically, every public decision making will have a certain impact on a group of people or an entire community, either beneficial or detrimental impacts, or directly or indirectly. Therefore, public policy makers should be accountable for their policy to the public.

Application of the principle of accountability or responsibility in governance begins at the time of preparation of the program of public service and development (program accountability), financing (fiscal accountability), as well as the implementation, monitoring, and assessment (process accountability) so that the program can provide results or optimal impact in accordance with defined goals or objectives (outcomes accountability). The government administrators apply the principle of accountability in relation to society / public (accountability outwards), with subordinate officers in the government institutions itself (downwards accountability), and to their superiors (upwards accountability).

Based on the substance, the principle of accountability include such administrative accountability system and the use of certain procedures (administrative accountability), legal accountability, political accountability between the executive to the legislature, professional accountability such as the use of specific methods and techniques, and ethical accountability. If all the efforts mentioned above can be fulfilled, the people's trust to the authorities and the reliability of the existing institutions of government will grow. Governance who do not apply accountability will lead to abuse of authority.

Based on the application of the principle of accountability, accountable government organization / institution / work unit is expected to be no longer just report of impressions and messages, instead being a performance accountability report for the relevant office. This is in line with the policy of Performance-Based Budgeting.

Accountability is a measure that indicates whether the activity of the public bureaucracy or services carried out by the government is in conformity with the norms and values espoused by the people and whether public services are able to accommodate the real needs of people. Thus the accountability is associated with the philosophy that the executive branch of government whose primary job is to serve the people should be responsible directly or indirectly to the people. Starling said that accountability is a willingness to answer questions from the public. *"a good synonym for the term accountability is answerability. An organization must be answerable to someone or something outside itself. When things go wrong, someone must be held responsible. Unfortunately a frequently heard charge is that government is faceless and that, consequently, affixing blame is difficult."*<sup>1</sup>

According to Starling, a good synonym for the term accountability is responsibility. An organization must be accountable to someone or something outside of itself. When the wrong thing took place, it is necessary to respond. Unfortunately, it is often heard that government lose face, and obviously it has consequences, admitting mistakes is difficult. Accountability, defined as organizers obligation to account for management and control of its resources and implementation of policies (service delivery) in order to achieve the goals set through accountable media periodically.

Code Provisions for accountability in the health care field are as follows:

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<sup>1</sup> Wahyu Kumorotomo, 2005, *Accountability in Theory and Practice; Accountability of Public Bureaucracy, sketch in the Transition Period*, MAP UGM and Pustaka Pelajar, Yogyakarta, p. 29.

- a. Institutions should set details of the duties and responsibilities of each corresponding field in the organization that aligned with the vision, mission, goals objectives and strategy of the organization.
- b. Institutions must ensure that all are competent in accordance with the duties, responsibilities, and roles in the implementation of Good Governance.
- c. Institutions should ensure an effective system of internal control in the management of the institutions organization.
- d. Institutions must have performance indicators for all levels of institutions that are consistent with the values, the main objectives and strategies, as well as having rewards and punishment system.
- e. In performing its duties and responsibilities, each member must hold on to organizational ethics and code of conduct.

Within a law state, supervision towards government actions is intended to encourage the government to perform its duties in accordance with law and give legal protection to the citizens. It has been mentioned that besides supervision, sanctions are also present. Sanction is essential part in laws. J.B.J.M Ten Berge stated that sanction is the main point of administration law enforcement. In State Administration Law, the use of sanctions is the implementation of government authority where its authority came from either written or unwritten rules of administration law.

In line with the development of society, the essence of administration law is getting important, especially in the middle of autonomy era which demands for public services that are In line with proper good governance. Based on the previous discussions, we would like to sharpen the details regarding matters discussed in this paper as follows:

a. Health Care in General

Health as the primary needs of human beings is a part of human rights which firmly mandated with 1945 Constitution stated that everyone is entitled to live prosperously, have proper residence, and enjoy good and healthy environment as well as receive right for health care. Internationally, constitution of World Health Organization in 1948 also expressed that "Health is a fundamental right", which contain obligation to cure the sick person and maintain and improve the health situation.

It underlies the idea of health as a human right and health as an investment. The essence of public service is as the manifestation of the obligation of government apparatus as public servants. This statement affirms that government through its institutions of public service providers is responsible to provide prime services towards the society. Basically, society is the citizen whose rights must be fulfilled by the government.

Thus, the word "prime" should become mission emphasized within every unit of public service. Consequently, if the quality of the service provided is considered not optimal, the providers of public services will be considered fail. Public service in health sector means the health tool which responsible in providing health care to the public which called public health facilities. In Indonesia the primary public health facility located in primary health clinic (puskesmas) having function to perform health care in accordance with good governance.

Puskesmas is the frontline of health care facilities in Indonesia which directly interact with the society, integrated through a centre of integrated health care as the centre of the development movement in health orientation, as family and community empowerment centers, and as Health Care Center Level I. Puskesmas participate in some innovations of the government in health sector such as Jamkesmas, Jamkesda and other services related to fulfilment of the citizen's basic rights in accordance with the principle of good governance. Community empowerment in the health sector generally still puts people as objects and not as subjects of health development. Knowledge, attitudes and behavior of people to live a healthy life needs to be improved and therefore we will first highlight the government steps related to the implementation of good Governance in health sector.

Implementation of Good Governance in achieving good health services are as follows :

1) Health service Stages in Health Centers

Government of Makassar policies related to health services initially allowed the use of ID card and family card to obtain health care. However, after the establishment of BPJS Health care system, only patients who have BPJS cards and registered as a patient of PBI Health Security who will be served for free. It is inversely proportional to reality. Intensity and public awareness have been increased in line with the efficiency within bureaucratic process. Previously, only 50 to 60 people a day came to seek treatment. After the establishment of BPJS Program, they increase into 60-100 people a day started in January 2016. When it is said to be similar with Jamkesmas and Jamkesda, government argued that this program is different as everyone including the poor are obligated to register as BPJS participants.

This service also covers outpatient and hospitalization in accordance with implementation, duties and functions of Health Facility Level One,<sup>1</sup> that also take place in: Puskesmas or equivalent, individual physician

<sup>1</sup>First Instance Health Facilities of BPJS Health, BPJS Health Brochure, 2016. [www.bpjs-kesehatan.go.id](http://www.bpjs-kesehatan.go.id)

practices, dental practices, primary clinics or equivalent, Primary Hospital Grade D or equivalent.

## 2) Community Health insurance (Jamkesmas)

Community Health insurance (Jamkesmas) is social assistance programs in health care for the poor and those who can not afford, organized nationally, so that cross-subsidies can take place in order to create comprehensive healthcare services for the poor. The effort of Jamkesmas implementation is the manifestation of the fulfillment of people rights to health and mandate within Law No.40 of 2004 concerning National Social Security System (SJSN), and is one of the government commitment for health development in Indonesia. Until now, the implementation rules and institutions which should be established in accordance with Law No.40 of 2004 concerning National Social Security System (SJSN) has not been established, therefore Department of Health issues policy of health insurance program for the poor as an expression of the fulfillment of the people's right to health. Implementation of Jamkesmas policy is stipulated in Decree of Health No. 125/Menkes/SK/II/2008 concerning Guidelines for the Implementation of Public Health Insurance Program.

Jamkesmas Program, as one of the featured program of the Ministry of Health, has been implemented since 2005 with the number of participants 36.1 million poor people. For 2007 and 2008, the number of poor and almost poor that are guaranteed by government continued to increase to be 76.4 million people. Improvement in Jamkesmas utilization shows that the program objectives have been achieved.

Naming of Jamkesmas program experienced some form of change. Initially, before the program becomes the regulation mandated by the Law No.23 of 1992 concerning Health, various efforts to mobilize public funds by using the insurance principle has been done partly by the Fund of Public Health Effort (DUKM). By mobilizing people, quality of health care is expected to be improved without increasing the government budget. The concept offered a system where the health finance should be imposed by public while the government will take role as regulators. DUKM program is operationally elaborated in the form of Community Health Insurance (JPKM).

To ensure the access of the poor to health services, since 1998 the government has taken various efforts of health care of the poor. Begins with the development of the Social Safety Net in Health Sector (JPS-BK) in 1998–2001, Energy Subsidy Reduction Program (PDPSE) in 2001 and Compensation of Fuel Subsidition Program (PKPS–BBM) in 2002–2004.

1945 Constitution fourth amendment approved by the MPR General Assembly on 11 August 2000 has successfully laid the foundation of the finance guarantee system, as described in Article 34 paragraph (2) that the country was given the task to develop social security for all citizens. Two years later, precisely on 19 October 2004, Law No. 40 Tahun 2004 concerning National Social Security System (SJSN) has been authorized, which provide the legal basis for the assurance of protection and social welfare for all the people of Indonesia. Social security within the meaning of the Social Security Act is social protection to ensure that all people able to meet the basic needs of a decent life, including health. But until now the social security system mandated in the legislation has not run yet because the rules of procedure have not existed.

In 2005, the government launched a health insurance program for the poor being known as Poor People Health Insurance Program (Askeskin). Organizer of the program is PT Askes (Persero), which assigned by the Ministry of Health based on the Ministry of Health No. 1241/Menkes/SK/XI/2004 concerning Assignment of PT Askes (Persero) in the Management of Health Maintenance Program for the Poor. This program is an organized social assistance in social health insurance scheme.

After the evaluation and in the context of efficiency and effectiveness, a change in the system of implementation took place in 2008. The changes in this program management took place through separation between management function and payment function supported with the verifiers' placement in each hospital. Such program also changes its name becoming Public Health Service Assurance (Jamkesmas).

The poor health service is performed by referring to the principles of insurance:

- a) Management of trust funds and non-profit with the use only to improve the health of the poor.
- b) A comprehensive health services should be in accordance with effective cost and rational medical service standards.
- c) Health services are conducted on the structured and tiered principle.
- d) Health services are provided with the principle of portability and equity.
- e) Program management need to be transparent and accountable.

Legal basis for Jamkesmas program are 1945 Constitution, Law No. 23 of 1992, Law No. 1 of 2003, and Law No. 45 of 2007. In the past, health care programs for the poor called the Health of the Poor or Askeskin. The main obstacle lies in the unfinished business of the poor data collection in period of 2005-2007. Thus we can be sure that the government's main problem in this case is the lack of accurate data system with the field survey method. The second problem, which is no less important, is how the fates of Poor Households were spared from government data collection. Finally, the third issue is that government was not serious enough in putting attention to the poor.

This issue then becomes the basis for the establishment of the Regional Health Insurance Regulation.



This spirit appears at the discretion of the Community Health Insurance (Jamkesmas) in 2008 issued by Head of Funding and Health Insurance, on 10 March 2008, which states that the Poor Households (RTM) which do not have JAMKESMAS card will be served for their right to health with budget claimed from the budget of provincial and district / city where poor patients are domiciled.

### 3) Regional Health Insurance (Jamkesda)

Regional Health Insurance (Jamkesda) is health care with its costs ensured by the local government. Jamkesda is established due to the situations where the poor who have not been registered within jamkesmas and do not receive healthcare. Therefore jamkesda has main function to cover the scope of Jamkesmas which have not been well covered.

This program aims to develop the management and implementation of excellent, accountable, easy access, cheap, fast, decent, and fair public service to the society in order to support the needs of society, simplify the business activities, as well as encourage community participation and empowerment.

The main activities undertaken include:

- a) Increase the public service qualities in accordance with fast, certain, easy, cheap, decent and fair principle;
- b) Encourage the implementation of good governance principles in each process of public service particularly in supporting health care;
- c) Increase the efforts to dismiss the obstacles on the implantation of public service through deregulation, de-bureaucratization and privatization;
- d) Improve the implementation of the system within minutes of service;
- e) Conduct consolidation of the fostering coordination of public services and development of public service official qualities;
- f) Optimize the utilization of technology and information in public service;
- g) Intensify the handling of complaints;
- h) Develop the public participation in the regions and cities in formulating public service through dialog mechanism and open deliberations with the local communities in each region; as well as
- i) Develop mechanisms of regular report of performance achievements of the implementation of the central government, provincial and district / city to the public.

From the Director General of Health Services, Ministry of Health of the Republic of Indonesia, we can conclude that the autonomy reform also brought own problems towards healthcare. Not a few districts see health care not to be right of people to be given, instead seeing it as the source of local revenue. Such liberal approach causes basic health center (puskesmas) exposed to the target to raise revenue from year to year. In some districts, the budget for health is very small because most of the budget is used for routine expenses.

The implementation of Free Health Care is based on:

- a) 1945 Constitution within article 28 H (1) stated that every person is entitled to live prosperous physically and spiritually, to have a place to reside, and to acquire a good and healthy living environment as well as be entitled to obtain health care.
- b) Law No. 23 of 1992 concerning Health (State Gazette No.100 of 1992, additional state gazette no. 3495)
- c) Law No. 17 of 2003 concerning State Finance (State Gazette No.47 of 2003, additional state gazette no. 4286)
- d) Law No. 1 of 2004 concerning State Treasury (State Gazette No.5 of 2000, additional gazette no.4355)
- e) Law No. 15 of 2004 concerning Management and Financial Responsibility of State (State Gazette No.66 of 2004, additional gazette no.4400)
- f) Law No. 32 of 2004 concerning Regional Government (State Gazette No.125 of 2004, additional gazette no.4437), as been amended with the Law No. 8 of 2005 on Stipulation of Government Regulation as Law Substitution No. 3 of 2005 concerning Amendment of Law No. 32 of 2004 Concerning Regional Government becoming Law (State Gazette No.108 of 2005, additional state gazette No. 4548)
- g) Law No. 33 of 2004 concerning Financial Balance Between Central and Local Government (State Gazette No.126 of 2004, additional state gazette No.3637);
- h) Law No. 40 of 2004 concerning National Social Security System (State Gazette No.150 of 2004, additional state gazette No.4436);
- i) Government Regulation No. 79 of 2005 concerning Guidelines for Development of Local Government Supervision (State Gazette No.165 of 2005, additional state gazette No.4593);
- j) Government Regulation No. 38 of 2007 concerning Sharing of Government Affairs between the Government, Provincial Governments and Regional Government of Regency / City (State Gazette No.82 of 2007, additional state gazette No.4737).

#### b. *Good Governance* in Free and Fair Health Care

Efforts that must be taken in order to achieve the good health care services based on good governance and optimal health care in order to create synergetic and affordable public service for all class of citizens. Services generally have to put customer satisfaction as their primary measure of the success of their administration and

implementation. As public service is a real transaction arena on government activities by state instruments that move and serve the needs of the public, including the public health area. Supposedly, complaints against health care should be accepted and acted as critic tools for the field officer who directly interact with respective public services. Thus, we can conclude the major problems and efforts that should be taken in the implementation of public services in health care area, such as:

- 1) The bureaucracy reform in the field of health need to be carried out since all this time the problems that being complaint are regarding the health care received by the poor which most likely turned complicated due to the complicated and difficult bureaucracy matters among the society. Sometimes, the poor faced rejection due to the lack of documents as the formal requirements in order to obtain health cares. Therefore the bureaucracy reform focussing more on the poor should prioritize the service instead of other formal requirements. So that no more people died only because they do not meet the complicated bureaucracy requirements.
- 2) The service quality between patients should be equal. It is based on the facts that sometimes there is discrimination towards the poor patients who being treated secondary, particularly patients using either *Jamkesmas* or *Jamkesdas* services compared to general patients paying with high nominal of money.
- 3) Institutions providing health services must maintain its accountability by determining the detail of the duties and responsibility of each unit within the organization that in line with the organization vision, mission, objectives and strategies. Institutions should assure that every stakeholder has competences in accordance with its duties, responsibilities, and roles in the implementation of Good Governance. Institutions should ensure an effective system of internal control in the management of the institutions organization.
- 4) Principle of transparency need to be implemented in all aspects of the health services started from basic health clinics (*puskemas*) to big hospitals so that public can conduct their individual supervision through the availability and easy access to all the information.
- 5) Services provided should be effective based on needs and supported with fast, easy, proper process that could create optimal services.
- 6) *Citizen Charter* has not been implemented within health service standard in regions with the aim by the presence of service contract, public service can become more responsive, transparent, and accountable.
- 7) The lack of the use of discretion rights concerning fulfilment of prime healthcare by the officers of the healthcare in the level of basic health clinics (*puskemas*) in order to ensure the fast and easy access services.
- 8) Optimization of LOD role in supervising health care.
- 9) *Complaint center* accomodating the dissatisfaction of the customer towards health services received should be established by initiating the complaint system baed on data and short messages, which fully integrated through an independent agency managing the public complaints.
- 10) Government should have commitment in implementing principles of good governance in running activities for fulfilling good and accountable public services.
- 11) Application of fair and consistent *Reward* and *punishment* in its implantation is still partial.

### 3. Conclusion

Free and fair healthcare is one of the major respect for human rights which the state has responsibility to make this happen. In the context of good governance, the free health care is placed on the frame of Public Participation, Openness and Transparency), Effective and efficient, and Accountability. The fourth important elements of good governance as mentioned above can be transformed into health care which is important and should become the primary responsibility of the state over its citizens as mentioned both within 1945 Constitution and in other legislation.

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