
LEGAL RESPONSIBILITY OF THE INSURANCE COMPANY FOR UNPAID PARTICIPANT CLAIMS

Herry Polontoh

Universitas Cenderawasih, Papua, Indonesia

88mherry@gmail.com

ABSTRACT

Insurance is a financial institution that has a vital role in the economy. Insurance protects the public from various risks, such as accidents, illness, and death. The insurance company must pay claims to insurance participants who experience losses in an insurance agreement. However, in practice, claims are often rejected by insurance companies. The purpose of this research is to analyze the legal responsibility of insurance companies for unpaid participant claims. This research uses normative legal research methods. Research data was obtained through a literature study. Research data was analyzed qualitatively using descriptive analysis methods. The research results show that insurance companies that reject insurance participants' claims can be subject to civil and criminal legal responsibility. If the participant's claim is not paid, the participant can file for bankruptcy through court. The regulations that provide the legal umbrella for protecting insurance participants consist of Law Number 8 of 1999 concerning Consumer Protection, Law Number 40 of 2014 concerning Insurance, Decree of the Minister of Finance No. 422/KMK.06/2003 concerning the Implementation of Insurance Business and Reinsurance Companies, and Financial Services Authority Regulation Number 23/POJK.05/2015 concerning Insurance Products and Marketing of Insurance Products. Legal protection for insurance policyholders as consumers are regulated in the Insurance Law and the Consumer Protection Law.

Keywords: Responsibility, Company Law, Insurance, Claims, Participants.

Corresponding Author: Herry Polontoh

Email: 88mherry@gmail.com



INTRODUCTION

Insurance has a central role in the economy as a financial institution that protects against the risks faced by society. By utilizing insurance mechanisms, people can protect themselves from the risk of accidents, the risk of illness, and death, which can threaten their financial stability (Rani, 2016). More than just a business entity, insurance acts as a risk insurer that helps individuals and families manage the uncertainties of everyday life (Humaemah & Ulpatiyani, 2021). An insurance policy allows a person to transfer financial risks to an insurance company so that the individual will not be financially burdened when the risk occurs. Insurance contributes to people's peace of mind and financial security by providing guaranteed protection, making it an inseparable component of a country's financial system (Toyyibah & Hariyanto, 2015).

Insurance companies are responsible for paying claims to insurance participants who experience losses per the policy's provisions. However, the reality on the ground often shows that insurance companies reject claims. The claim process is an official submission from the insured to the Insurance company to request reimbursement. However, various reasons can cause the Insurance company to reject the participant's claim (Nurkholidah, 2018). There are at least five common reasons why a life or health insurance claim may be denied. First, rejection can occur if the

insurance policy is inactive (lapses) because the premium is not paid after maturity. Second, dishonesty in disclosing disease history when purchasing a policy can be a reason for rejection, especially if the participant had certain health conditions before the protection benefits took effect (pre-existing conditions). The third reason is the importance of completing all documents requested by the insurance company when submitting a claim because incomplete documents can cause delays in claim payment. Fourth, claims can be rejected if they fall within an exception. Namely risks not covered by the policy agreement. Meanwhile, the fifth reason is submitting a claim past the expiration date because every insurance claim has a specific deadline that the customer must follow to submit a claim request.

Previous research by (Afrita and Arifalina, 2021) examined the legal responsibility of life insurance companies towards the insured in paying insurance claims. The research results showed that the legal responsibility of life insurance companies towards the insured in paying insurance claims where the life insurance agreement called the policy is valid if has been closed (there has been an agreement with the wishes) based on these provisions, the payment of compensation money to the policyholder or nominee must be carried out by the insurer if an event or risk occurs. The legal settlement carried out by the life insurance company against the insured in payment of insurance claims in the event of the Insurance Company's bankruptcy, the guarantee of protection for the insurance policyholder has been strictly regulated by the policyholder getting repayment before other creditors.

Another research by (Mahfud, 2021) examined the review of Islamic law on the mechanism for submitting Sharia insurance claims; the results of the research show that the process of submitting health insurance claims provided by the insurance company starts from submitting the participant to the insurance to the claim analysis process to see whether the claim submitted has occurred—delay, rejection, and acceptance. Then, the next step is the claim payment process if the claim is accepted in accordance with Sharia principles. Claims in insurance are a process where participants obtain their rights according to the policy agreement. The procedures and conditions stated in the policy do not contain any elements that make things difficult for participants. Health insurance claims are submitted by the contracts and agreements that have been agreed upon from the start.

The novelty of this research comes from the research object, namely the legal responsibility of insurance companies for unpaid participant claims, which has never been studied before. The results of this research can contribute to increasing consumer awareness regarding their rights in insurance claims. Consumers can better understand their rights and how to involve the authorities if their claim is denied for no apparent reason. The purpose of this research is to analyze the legal responsibility of insurance companies for unpaid participant claims.

METHOD

This research uses normative legal research methods. Normative research methods are research approaches that focus on the analysis of existing laws and regulations or legal norms. This descriptive research prioritizes formal legal aspects rather than involving empirical data. Research data was obtained through a literature study. The library study data collection technique collects information through literature in books, journals, articles, papers, and other sources related to the

research topic. Research data was analyzed qualitatively using descriptive analysis methods. Descriptive analysis describes the legal provisions governing the legal responsibilities of insurance companies, factors that can cause claim rejection by insurance companies, and the legal responsibilities of insurance companies for unpaid participant claims.

RESULTS AND DISCUSSION

Insurance is defined based on article 246 of the Commercial Code (KUHD) of the Republic of Indonesia, namely, "Insurance or coverage is an agreement, whereby an insurer binds himself to the insured, by receiving a premium, to provide compensation to him due to a loss, damage or loss of expected profits, which he may suffer due to an unspecified event." Based on this law, insurance is a tool to overcome future risks by paying premiums to the insurer (insurance company (Anam & Astuti, 2020). In Indonesia, Law Number 40 of 2014 concerning Insurance applies, which regulates the industry of healthy, reliable, trustworthy, and competitive insurance to increase protection for policyholders, insureds, or participants and play a role in encouraging national development (Ratnaningsih, 2022). Then, the provisions of Article 1 number 28 of Law No. 40 of 2014, it is regulated Insurance Agents, namely people who work alone or work for a business entity, who act for and on behalf of an Insurance Company or Sharia Insurance Company and fulfill the requirements to represent an Insurance Company or Sharia Insurance Company marketing insurance products or sharia insurance products (Sumiyati, 2017) Insurance benefits according to (Kusnadi & Lisnawati, 2020) are categorized into two parties, namely for customers and insurance companies :

1. For Customers
 - a. It provides a sense of security and protection
 - b. Fairer distribution of costs and benefits
 - c. Functions as savings
 - d. Risk spreading tool
 - e. Helps increase business activities
2. For Insurance Companies
 - a. Profits from premiums given to customers
 - b. Profits from capital participation from other companies
 - c. Profit from interest yields from investments in securities

The characteristics of insurance agreements are based on the limitations of Article 246 of the Criminal Code in Erlina et al. (2022) are as follows:

1. An insurance agreement is basically a compensation agreement (shcadevezekering or indemnities contract). The insurer is bound to compensate for losses because the insured party suffers losses, and what is compensated is proportional to the losses suffered (principle of indemnity).
2. An insurance agreement is a conditional agreement. The obligation to indemnify the insurer is only carried out if an event that is not specified for which the insurance is provided occurs.
3. The insurance agreement is reciprocal. The insurer's obligation to compensate for losses is expected from the insured's obligation to pay premiums. The loss suffered resulted from an unspecified event in the name of which insurance was provided.

The basis for submitting an insurance claim is an insurance policy based on an agreement between the parties and the principle of good faith. It can be interpreted that submitting an insurance claim is an official request to the insurer to request a payment amount based on the insurance policy's provisions. Submission of insurance liability is proposed by carrying out a review by the insurance company for validation, and then ultimately, a sum of money will be paid to the insured. Good faith and agreements made by both parties in the form of an insurance agreement must be based on compliance by the parties with the contents of the agreement made (Saputra et al., 2021). In a life insurance contract, the policyholder, insurance company, and intermediary (insurance enthusiast) benefit from each other, and the insurance company's rights and obligations are also the policyholder's rights and obligations. According to (Sari et al., 2023), these rights and obligations include:

1. Policy Holder Rights
 - a. The right to compensation if an incident occurs.
 - b. The right to payment of insurance money if no accident occurs during the insurance period.
2. Policyholder Obligations
 - a. Obligation to provide premiums to insurance companies.
 - b. Obligation to insurance companies to provide information in good faith.

The legal responsibility of the life insurance company towards the insured in paying insurance claims where the life insurance agreement called the policy is valid if it has been closed (there has been an agreement of will) in the life insurance agreement, the parties, namely the policyholder, the insurer and the appointed person (insurer) have the rights and The respective obligations are reciprocal where the rights and obligations of the policyholder are also the rights and obligations of the insurance company as the insurer. Based on these provisions, the insurer must pay compensation money to the policyholder or nominee if an event or risk occurs (Afrita & Arifalina, 2021).

An insurance claim is an official request to the insurance company to request payment based on the insurance policy's provisions. The company will review the submitted insurance claims for validity and then pay the insured party after approval. According to article 246 of the Commercial Law (KUHD), an insurance claim is a claim from the insured party in connection with the existence of a contractual agreement between the insurance company and the insured party, where each party binds itself to guarantee payment of compensation by the insurer if the insured party has made the insurance premium payment. The insured party when a disaster occurs that is suffered by the insured party (Handayani, 2017). An insurance claim aims to provide benefits by the insurance policy's provisions to the policyholder (insured) (Handayani, 2017).

If the participant's claim is not paid, the participant can file for bankruptcy through the court. Because insurance participants have legal protection. The regulations that form the legal umbrella for protecting customers/insurance participants consist of Law Number 8 of 1999 concerning Consumer Protection, Law Number 40 of 2014 concerning Insurance, Decree of the Minister of Finance No.422/KMK.06/2003 concerning Implementation of Insurance Business and Reinsurance Companies, and Financial Services Authority Regulation Number 23/POJK.05/2015 concerning Insurance Products and Marketing of Insurance Products (Bonita & Nurdin, 2021). Legal protection for insurance policyholders as consumers is not only regulated in the Insurance Law. However, it is

also regulated by the Consumer Protection Law, which provides certainty regarding the security and safety of consumers when consuming goods and services (Pangaribuan & Girsang, 2022). These two laws regulate the responsibilities that must be faced by business actors, in this case, insurance companies providing information that is not understood by consumers, which has a detrimental impact on consumers or insurance policyholders (Laksono, 2018).

In principle, customers will be guaranteed legal protection by statutory provisions stipulating various prohibited provisions. At the same time, insurance companies make regulations or policies prohibited by statutory regulations to give customers legal protection. When a dispute or conflict arises between an insurance policy holder and an insurance company, by its function, duties, and authority, the Financial Services Authority carries out a mechanism for resolving consumer disputes either through justice or litigation or extrajudicial or non-litigation dispute resolution (Majid & Sumriyah, 2023).

CONCLUSION

Insurance companies that reject participant claims may be subject to legal responsibility in both civil and criminal realms. Based on this, insurance participants can file for bankruptcy through a judicial process. The legal basis that protects insurance participants consists of several regulations, including Law Number 8 of 1999 concerning Consumer Protection, Law Number 40 of 2014 concerning Insurance, Decree of the Minister of Finance No.422/KMK.06/2003 concerning the Implementation of Insurance Business and Reinsurance Companies, as well as Financial Services Authority Regulation Number 23/POJK.05/2015 concerning Insurance Products and Marketing of Insurance Products. Legal protection for insurance policyholders who act as consumers are regulated in the Insurance Law and consumer provisions in the Consumer Protection Law.

REFERENCES

- Afrita, I., & Arifalina, W. (2021). Tanggung Jawab Hukum Perusahaan Asuransi Jiwa Terhadap Tertanggung Dalam Pembayaran Klaim Asuransi. *Jurnal Hukum Respublica*, 20(2), 123–134.
- Anam, R. C., & Astuti, Y. P. (2020). Analisis Kinerja Keuangan Perusahaan Asuransi Berdasarkan Rasio Keuangan Menggunakan Metode Goal Programming (Studi Kasus Pt Asuransi Kredit Indonesia). *MATHunesa: Jurnal Ilmiah Matematika*, 8(2), 135–144.
- Bonita, B., & Nurdin, M. (2021). Perlindungan Hukum Terhadap Klaim Nasabah Produk Asuransi Yang Dikaitkan Dengan Investasi (PAYDI). *Jurnal Justitia: Jurnal Ilmu Hukum Dan Humaniora*, 8(4), 619–631.
- Handayani, S. (2017). Pengaruh penyelesaian klaim asuransi terhadap pencapaian target penjualan produk asuransi ajb bumiputera 1912 cabang bengkulu. *EKOMBIS REVIEW: Jurnal Ilmiah Ekonomi Dan Bisnis*, 5(1).
- Humaemah, R., & Ulpatiyani, U. (2021). Analisis Manajemen Risiko Dana Tabarru Asuransi Syariah (Studi Pada PT Asuransi Umum Bumiputera Muda 1967 Serang). *Syar'Insurance: Jurnal Asuransi Syariah*, 7(1), 25–43.
- Kusnadi, I. H., & Lisnawati, L. A. (2020). Prosedur Pembukaan Rekening Tabungan Pada Pt. Bank Tabungan Pensiunan Nasional (Btpn) Kcp Subang. *The World of Financial Administration Journal*.
- Laksono, J. T. (2018). Perlindungan Hukum Pemegang Polis Asuransi Terhadap Kendaraan Bermotor Dalam Angkutan Penyeberangan. *Jurnal Hukum Magnum Opus*, 1(1), 26–35.
-

- Mahfud, I. (2021). Tinjauan Hukum Islam Terhadap Mekanisme Pengajuan Klaim Asuransi Syariah. *Madani Syari'ah*, 4(1), 14–27.
- Majid, A., & Sumriyah, S. (2023). Bentuk Perlindungan Hukum Terhadap Nasabah Akibat Gagal Bayar Perusahaan Asuransi. *Jurnal Hukum Dan Sosial Politik*, 1(3), 125–134.
- Nurkholidah, S. (2018). Penolakan Klaim Asuransi Jiwa Dan Kesehatan Pada PT. Allianz Indonesia. *Az-Zarqa': Jurnal Hukum Bisnis Islam*, 10(1).
- Pangaribuan, A. B., & Girsang, J. (2022). Perlindungan Pasien Covid-19 Dalam Asuransi Kesehatan Oleh E-Cash Pada Aplikasi Ovo. *Journal of Law and Policy Transformation*, 6(2), 42–54.
- Rani, M. (2016). Insurance protection for fishermen. *Jurnal Selat*, 4(1), 1–14.
- Ratnaningsih, R. (2022). Inkonsistensi Perlindungan Hukum Nasabah Pemegang Polis Asuransi Jiwa Bersama Bumi Putera 1912. *Journal of Economic and Business Law Review*, 2(1), 16–30.
- Saputra, A., Listiyorini, D., & Muzayanah, M. (2021). Tanggungjawab Asuransi Dalam Mekanisme Klaim Pada Perjanjian Asuransi Berdasarkan Prinsip Utmost Good Faith. *Jurnal Pendidikan Kewarganegaraan Undiksha*, 9(1), 211–222.
- Sari, M. P., Rafsanjani, A., Fatwa, A. M. J., Kharisma, N. A., & Rifqi, M. J. (2023). Analisis Fungsi Pengawasan Otoritas Jasa Keuangan Terhadap Perusahaan Asuransi. *Jurnal Fundamental Justice*, 1–16.
- Sumiyati, S. (2017). Praktik Asuransi Dengan Sistem Multi Level Marketing Berdasarkan Undang-Undang Nomor 40 Tahun 2014 Tentang Perasuransian. *Jurnal Bina Mulia Hukum*, 1(2), 206–215.
- Toyyibah, T., & Hariyanto, E. (2015). Implementasi Manajemen Resiko Pada Sistem Asuransi Jiwa Syariah Di PT. Prudential Life Assurance Cabang Madura. *IQTISHADIA Jurnal Ekonomi & Perbankan Syariah*, 2(2), 146–170.



© 2024 by the authors. It was submitted for possible open-access publication under the terms and conditions of the Creative Commons Attribution (CC BY SA) license (<https://creativecommons.org/licenses/by-sa/4.0/>).