

Perlindungan Tenaga Kerja Terpapar Covid-19 Dikaitkan dengan Program Jaminan Kecelakaan Kerja BPJS Ketenagakerjaan = Protection of Workers Exposed to Covid-19 in connection with the BPJS Ketenagakerjaan Accident Insurance Program

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Abstrak

Seluruh tenaga kerja yang terpapar Covid-19 di tempat kerja harus dilindungi oleh Program Jaminan Kecelakaan Kerja. Namun, hal ini tidak dapat terwujud karena terbitnya Kepmenkes HK.01.07/MENKES/327/2020 dan SE Menaker M/8/HK.04/V/2020. Permasalahan dalam tulisan tesis ini yaitu 1) Bagaimana perlindungan bagi tenaga kerja atas penyakit akibat kerja berdasarkan peraturan perundang-undangan di kondisi pandemi Covid-19?; 2) Studi kasus terhadap kasus penyakit akibat kerja tenaga kerja terpapar Covid-19 pada program Jaminan Kecelakaan Kerja BPJS Ketenagakerjaan?; dan 3) Bagaimana seharusnya pengaturan perlindungan Jaminan Kecelakaan Kerja bagi pekerja yang terkena Covid-19 sebagai penyakit akibat kerja berkaca pada kondisi pandemi saat ini?. Metode penelitian ini menggunakan bentuk yuridis normatif dengan menggunakan data yang bersumber dari data sekunder. Kesimpulan penelitian ini bahwa: 1) Kepmenkes HK.01.07/MENKES/327/2020 dan SE Menaker M/8/HK.04/V/2020 mempersempit definisi peserta yang dapat dilindungi oleh program JKK akibat Covid-19 sebagaimana diatur oleh undang-undang, yakni hanya pekerja tertentu saja; 2) kebijakan Kepmenkes HK.01.07/MENKES/327/2020 dan SE Menaker M/8/HK.04/V/2020 tidak memenuhi tujuan dibentuknya program jaminan sosial yaitu memberikan perlindungan ekonomis kepada seluruh pekerja dan keluarga dari pekerja; dan 3) Kedudukan hukum Kepmenkes HK.01.07/MENKES/327/2020 dan SE Menaker M/8/HK.04/V/2020 bertentangan dengan peraturan perundang-undangan yang lebih tinggi, yakni PP 44 Tahun 2015. Saran dari penelitian ini bahwa: 1) Melakukan perubahan terhadap Kepmenkes HK.01.07/MENKES/327/2020 dan SE Menaker M/8/HK.04/V/2020 yang tidak sejalan dengan sistem jaminan sosial nasional; 2) Membuat peraturan terkait penyakit akibat kerja akibat Covid-19 yang diperuntukan kepada seluruh tenaga kerja yang terpapar Covid-19 di tempat kerja; dan 3) Pemangku kebijakan harus berkoordinasi dengan BPJS Ketenagakerjaan untuk memastikan tercapainya tujuan jaminan sosial nasional.

.....All workers exposed to Covid-19 at work must be protected by the Work Accident Program. However, due to published of Decree of the Minister of Health No. HK.01.07/MENKES/327/2020 and Circular Letter of the Minister of Manpower No. M/8/HK.04/V/2020, the protection program cannot be enforced. The problems in this thesis are: 1) How is the implementation of protection for workers affected by Occupational Diseases during the Covid-19 pandemic based on laws and regulations?; 2) Case studies on Occupational Diseases for workers exposed to Covid-19 case through the Working Accident Protection Program; and 3) How should the protection of Work Accident Insurance for workers affected by Covid-19 as an Occupational Disease be reflected in the current pandemic conditions?. This research method uses a normative juridical form and the data used in this research based on secondary data. This tesis conclusion are: 1) The Decree of the Minister of Health No. HK.01.07/MENKES/327/2020 and Circular Letter of the Minister of Manpower No. M/8/HK.04/V/2020 narrows the definition of participants who can be protected

by the JKK program regulated by law, namely only certain worker; 2) Policies as regulated in Minister of Health No. HK.01.07/MENKES/327/2020 and Circular Letter of Minister of Manpower No. M/8/HK.04/V/2020 is not in line with the objective of establishing a social security program which is to give economic protection for all workers and their families.; and 3) The legal position of The Decree of the Minister of Health No. HK.01.07/MENKES/327/2020 and Circular Letter of the Minister of Manpower No. M/8/HK.04/V/2020 is contrary to higher laws and regulations. Based on the results of the research, suggestions that can be submitted are 1) Those regulations should be amendment caused by those are not in line with the national social security system; 2) Provide regulations regarding with occupational diseases due to Covid-19 which is belonging to all workers who are exposed to Covid-19 in the workplace; 3) Regulators should have coordinated with BPJS Ketenagakerjaan to achieve the goals of national social security are ensured. government. As a suggestion to the government, both central and regional, to support the efforts of BPJS Ketenagakerjaan in the implementation of the employment social security program, especially in law enforcement.