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## Payment of Education Insurance Claims from the Insurer to the Insured

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### ABSTRACT

*In everyday life humans do not escape from various kinds of threats and risks of danger. humans cannot know what will happen tomorrow, either in the form of a soul mate, sustenance and death ... Law enforcement is needed to provide rule certainty for parties who violate the rules against the insurer in claiming coverage fees that are not in accordance with the agreed agreement. in law enforcement it is also necessary to have legal protection, especially to protect the rights of the insured who are harmed. The research method in this paper uses a normative juridical approach because the author conducts an inventory of laws and regulations governing insurance problems. The imposition of administrative sanctions in the form of written warnings is carried out at most three (3) times in a row for each violation. The period when imposing administrative sanctions in the form of written warnings for insurance companies is a maximum of 30 (thirty) days from the imposition of the administrative sanctions. Protection of consumers harmed by OJK business actors means evidence of integrated supervision, regulation, and consumer protection of financial services institutions. Insurance companies will be subject to administrative penalties in the form of activity restriction if the insurance company cannot overcome the violation which means the cause of the issuance of the last written warning sanction until using the period that has been influenced.*

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### I. INTRODUCTION

In daily life, humans are not free from various kinds of threats and risks of danger. humans cannot know what will happen tomorrow, whether in the form of soul mates, sustenance and death. Threats and risks can be in the form of life, property, honor, trust, and homeland. The threat of danger causes fear and anxiety in the human being, therefore humans will try to protect themselves from the threat of danger. one way humans overcome risk is through the transfer of risk to other parties in this case, namely through the institution of insurance contributions. According to the Law of the Republic of Indonesia number 40 of 2014 concerning Insurance. in Article 1 of this Law what is meant by:

1. Premium means an agreement between 2 parties, namely the insurance company and the policyholder, which is the basis for receiving insurance by the premium company in return for:

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- a. To compensate the insured or the policyholder for any loss, damage, loss of profits, or legal liability to a third party which the insured or the policyholder may suffer by reason of the occurrence of an imperfect event; or
- b. Provide payments based on the death of the insured or payments based on the life of the insured with benefits that have been determined and / or based on the results of fund management.

Insurance means an agreement that is consensual in nature. where things that have been agreed upon in the insurance contribution agreement are outlined in a deed called a policy. The policy serves as evidence in the implementation of an insurance in terms of a guarantee of compensation for the occurrence of imperfect incidents or existing risks. The coverage policy plays an important role because it is very useful at the time of filing a claim for compensation (claim) for the contract of performance as a result of the insurance premium paid to the insurer. in this case it can be seen that the parties have their respective rights and obligations that must be understood, especially the insured as a life insurance contribution policy holder. Related to the understanding of the rights and obligations of policyholders there are elements of the cause which is the lack of knowledge of policyholders in using their rights and obligations. with the existence of these rights and obligations known as "Achievements or counter achievements", it allows the parties to prosecute for their rights, in addition it is also the obligation of the other party to fulfill it.

Law enforcement is needed to provide rule certainty for parties who violate the rules against the insurer in claiming coverage fees that are not in accordance with the agreed agreement. in law enforcement it is also necessary to have legal protection, especially to protect the rights of the insured who are harmed. protection rules mean providing protection for human rights (HAM) that are harmed by others and protection is given to the insured so that they can enjoy their rights. Especially in insurance claims that are not in accordance with the agreement.

Previous research conducted by Dudi Badruzaman (2019) in his research entitled "Legal Protection of the Insured in the Payment of Life Insurance Claims". This type of research is descriptive, using a qualitative approach method.

The similarities between previous research and this research are as follows:

- a. The objects studied are both insurance
- b. The type and method of research approach used both use normative juridical methods.

While the differences between previous research and this research are as follows:

- a. The subject in previous research was Life Insurance while in this study the object was Insurance in general.
- b. The theory used in previous research is Dispute Resolution Theory, while the theory used in this research is Legal Certainty Theory and Legal Protection.

## II. RESEARCH PROBLEMS

Based on the background described above, the following problems can be formulated:

1. How is the law enforced against the insurer for the payment of insurance claims that are not in accordance with the agreement?
2. How is the protection of the rights of the insured for losses suffered in the payment of insurance claims?

## III. RESEARCH METHODS

The research method in this writing uses a normative juridical approach because the author conducts an inventory of laws and regulations governing insurance problems. The data collection method uses literature study, this form of data collection method is by studying written news information related to using the research conducted. The written info can come from various sources that are published in general, it can be in the form of legislation, books of rules, as well as law journals.

## IV. RESULT AND DISCUSSION

### 1. Legal Enforcement for Insurers for Payment of Claims that are not in accordance with the Agreement.

Pointing to Article 37 of the Financial Services Authority Regulation (POJK) Number 69/POJK.05/2016 concerning the Implementation of the Business of Insurance Companies, Sharia Insurance Companies, Reinsurance Companies, and Sharia Reinsurance Companies, which contains:

"The Company or Sharia Unit is prohibited from taking actions that may delay the settlement or payment of claims, or not taking actions that should be taken resulting in delays in the settlement or payment of claims."<sup>1</sup>

<sup>1</sup> Pasal 37 POJK Nomor 69/POJK.05/2016 tentang Penyelenggaraan Usaha Perusahaan Asuransi, Perusahaan Asuransi Syariah, Perusahaan Reasuransi, dan Perusahaan Reasuransi Syariah

In accordance with using these rules, the premium company must settle claims. if this is violated, the insurance contribution company can be subject to sanctions in accordance with Article 77 paragraph (1) POJK number 69 / POJK.05 / 2016 regarding the implementation of the struggle of the insurance contribution company, Sharia insurance company, reinsurance company, and Sharia reinsurance company, namely:

This OJK Regulation is subject to administrative sanctions in the form of:

- a. Written warning;
- b. Restriction of business activities, for part or all of the struggle activities; as well as
- c. Revocation of business license."<sup>2</sup>

For the mechanism and norms for the imposition of administrative penalties for insurance companies themselves, it is carried out little by little, starting with administrative sanctions in the form of written warnings. The imposition of administrative sanctions in the form of written warnings is carried out for a maximum of three (3) consecutive times for each violation. The period of imposition of administrative sanctions in the form of written warnings for insurance companies is a maximum of 30 (thirty) days from the imposition of the administrative sanctions.

The insurance company will be subject to administrative penalties in the form of activity restriction if the insurance coverage company cannot overcome the violation which means the cause of the issuance of the last written warning sanction to use the period of time that has been influenced. for the restriction of this struggle activity is able to partially or all business activities. if with the imposition of penalties for limiting business activities for all struggle activities but the insurance coverage company still cannot overcome the existing violations, then the heaviest penalty will be imposed, namely the revocation of the business license of the insurance coverage company. this rule is synchronized using Article 6 POJK number 17 / POJK.05 / 2017 concerning procedures and customs for the imposition of administrative sanctions in the field of insurance and blocking the assets of premium companies, Sharia insurance companies, Reinsurance Companies, and Sharia Reinsurance Companies. /2017 regarding procedures and customs for the imposition of administrative sanctions in the insurance sector and blocking the assets of premium companies, Sharia insurance companies, reinsurance companies, and Sharia reinsurance companies.

## **2. Protection of the Insured's Rights to Losses Experienced in the Payment of Education Insurance Claims**

Insured protection is a word used to describe the legal protection given to the insured in his efforts to meet his needs from things that can harm the insured himself. In the field of regulation, the insured can be said to be a consumer because, in the consumer protection law, consumers are every user of goods and/or services, this word is still relatively new, especially in Indonesia, while in developed countries, this has begun to be discussed along with the development of industry and technology.

Using the understanding that consumer protection questions the protection (rules) given to consumers in their efforts to obtain goods and services from the possibility of incurring losses due to their use, the consumer protection rules can be said to be rules that regulate the discourse on the gift of protection to consumers (insured) in the context of fulfilling their needs as consumers. Using this, consumer protection rules regulate the rights and obligations of consumers and producers.

Protection of consumers harmed by OJK business actors means evidence of integrated supervision, regulation, and consumer protection of financial services institutions. One of the objectives of the establishment of the Financial Services Authority is to protect the interests of consumers and the public, so the OJK is authorized to convey the protection of consumer rights in the financial sector. In protecting consumers and the people, the Financial Services Authority is given several authority to take actions to help prevent losses to consumers and the people. One of the powers granted by law to the Financial Services Authority is preventive consumer protection.

In line using this, the Financial Services Authority is also given the authority of the law to defend the rules for consumers and the people, as Article 30 of Law number 21 of 2011 concerning the Financial Services Authority, "ordering or taking exclusive action at the financial services forum to resolve consumer complaints that are harmed by the financial services forum in question". Consumer protection carried out by the Financial Services Authority covers consumers in the financial services sector, as explained in Article 1 number 3 POJK number 1 / POJK.07 / 2013 discourse on consumer protection in the financial services sector "Consumer protection is the protection of consumers using the scope of the attitude of financial services struggle actors".<sup>3</sup>

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<sup>2</sup> Pasal 77 ayat (1) POJK Nomor 69/POJK.05/2016 tentang Penyelenggaraan Usaha Perusahaan Asuransi, Perusahaan Asuransi Syariah, Perusahaan Reasuransi, dan Perusahaan Reasuransi Syariah

<sup>3</sup> Pasal 1 angka 3 Peraturan Otoritas Jasa Keuangan Nomor 1/POJK.07/2013 tentang Perlindungan Konsumen Sektor Jasa Keuangan

The protection of rules for insurance customers or policyholders is not specifically regulated in the Civil Code. However, based on Article 1 of the Commercial Code, the general provisions of the agreement in the Civil Code can apply to the insurance contribution agreement. There are several articles that are related and can apply to the insurance contribution agreement and provide protection for policyholders. The relationship of legal protection for policyholders with the Civil Code is explained in several articles.

Referring to the opinions of legal experts on the discourse of the definition of insurance, it can be concluded that insurance is also included in the agreement, namely the insurance agreement. In Article 1320 of the Civil Code which regulates the conditions for the validity of the agreement, the existence of this provision conveys the consequence that the policyholder who believes that the premium agreement is due to misdirection (dwaling), coercion (dwang) and fraud (bedrog) from the insurer can submit an application for cancellation of the insurance contribution agreement to the court. If the insurance agreement is declared void in whole or in part and the insured or policyholder is in good faith, the insured is entitled to demand the return of the premium paid.

## V. CONCLUSION

Law for Insurers for Payment of Claims that are not in accordance with the Agreement. The Company or Sharia Unit is prohibited from taking actions that can slow down the settlement or payment of claims, or not taking actions that should be taken resulting in delays in settlement or payment of claims. For the mechanism and norms for imposing administrative penalties for insurance companies themselves, it is carried out little by little, starting with administrative sanctions in the form of written warnings. The insurance company will be subject to administrative penalties in the form of activity restriction if the insurance company cannot overcome the violation which means the cause of the issuance of the last written warning sanction until using the period that has been influenced. If with the imposition of a business activity restriction penalty for all struggle activities but the insurance contribution company still cannot overcome the existing violations, then the heaviest penalty that will be imposed is the revocation of the business license of the insurance company.

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