



Legal Protection for Insured Persons in the Life Insurance Claim Process at Insurance Companies Experiencing Bankruptcy

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Abstract

This study aims to examine the legal protection afforded to the insured under a life insurance contract, particularly when the insurance company experiences payment failure or bankruptcy. Using a normative legal approach, this study highlights the role of laws and regulations and the authority of the Financial Services Authority (OJK) in guaranteeing the rights of policyholders. The results indicate that life insurance contracts are consensual and remain valid even before the policy is issued, as long as there is an agreement between the parties. In the event of insurance company bankruptcy, the law grants policyholders special status as preferred creditors, who have priority rights in the settlement of receivables. This strengthens the legal protection for the insured as stipulated in Law Number 40 of 2014 concerning Insurance.

I. INTRODUCTION

The insurance industry plays a highly strategic role within the national economic system. This industry not only manages public risks but also acts as a means of raising long-term funds that can then be used to finance development. Life insurance, in particular, plays a crucial role in providing economic protection for individuals and families in the face of life's risks, such as death, accidents, or permanent disability. Therefore, insurance is not only a necessity for individuals but also contributes to maintaining social and economic stability.

Increasing public awareness of the importance of insurance protection has driven a growth in the number of policyholders in Indonesia. Insurance companies are competing to offer a variety of innovative products with extensive coverage and competitive premiums. Unfortunately, amidst this industry's growth, several serious legal issues have emerged, one of which is the failure of insurance companies to pay policyholder claims. Several high-profile cases, such as those involving PT Asuransi Jiwasraya, AJB Bumiputera 1912, and PT Kresna

Life, are clear examples of insurance companies' failure to fulfill their obligations to their customers.

This issue raises fundamental questions about the extent of legal protection provided to policyholders when insurance companies experience financial difficulties, even bankruptcy. Under civil law, the relationship between insurance companies and policyholders is based on an agreement or contract set forth in a policy. However, when the company is no longer able to fulfill its obligations, the effectiveness of this legal protection is questionable. This becomes even more crucial given that the premiums paid by policyholders represent a form of public trust that the company must uphold and protect by law.

Bankruptcy in an insurance company is a highly complex situation. It involves not only corporate law and contracts, but also broader public interests. Therefore, the legal provisions governing insurance company bankruptcy differ from those for conventional companies. One of the mechanisms under current regulations is granting policyholders preferred creditor status,

giving them priority rights to claim payments from the company's remaining assets.

This issue has also attracted the attention of several researchers. Yulianti and Damarwan (2021) highlighted weak oversight and suboptimal legal mechanisms for protecting policyholder rights. Meanwhile, Hasanuddin (2023) emphasized the need to strengthen the legal framework and the role of the Financial Services Authority (OJK) as a supervisory agency capable of acting proactively in crisis situations.

In this context, an in-depth legal study is essential to determine how the state, through its legal instruments, should provide fair and effective protection to the insured. This study specifically aims to analyze the legal responsibilities of life insurance companies in paying claims to insured parties and how legal protection is implemented when the company is insolvent. Using a normative approach, this study examines relevant regulations, examines existing practices, and offers legal insights to strengthen the legal protection system for the insured.

II. RESEARCH METHODS

This research uses a normative legal approach. Data sources come from primary and secondary legal materials, including laws and other official documents. The analysis was conducted qualitatively by interpreting applicable legal norms to provide solutions to issues of legal protection for policyholders.

III. RESULTS AND DISCUSSION

A. Agreement Life Insurance as Legal Instruments

A life insurance contract is a contract that holds important legal standing in protecting the financial interests of the public. In practice, this agreement arises from an agreement between the policyholder and the insurance company, which can be reached verbally or in writing. Even if the policy document has not been issued, as long as there is good faith, agreement, and proof of premium payment, a legal relationship has been established. This is affirmed in civil law doctrine and jurisprudential practice, which view

consensus as an essential element of an agreement.

Besides being a form of ordinary civil contract, life insurance also has social and economic dimensions. The insurance company acts as a risk bearer for uncertain future events. Meanwhile, the policyholder provides trust through regular premium payments. Thus, insurance is not only legally binding but also reflects a reciprocal relationship that prioritizes the principles of fairness and trust. If either party fails to fulfill its obligations, it will result in legal consequences in the form of civil liability.

The clauses in an insurance policy must be clearly worded and easily understood by customers. Ambiguity often leads to claim rejections by companies. Therefore, the policy's contents, the rights and obligations of the parties, and exclusions from coverage must be clearly defined to avoid harming the insured. This aligns with the principles of transparency and consumer protection in insurance law.

B. Responsibilities of Life Insurance Companies

As a financial services provider, insurance companies have the primary responsibility to fulfill their obligations as stipulated in their insurance policies. This responsibility includes paying insurance claims in a timely manner and in accordance with the agreed terms. If the company fails to fulfill its obligations, it can lead to legal action from the insured, who feels aggrieved. In practice, failure to pay claims can even be classified as a breach of contract.

Law No. 40 of 2014 concerning Insurance explicitly stipulates that insurance companies are required to maintain liquidity and solvency to ensure the continuity of insurance benefit payments. Therefore, a company's legal responsibility extends beyond the policy issuance process to include risk management, premium fund management, and fair and professional claims services.

In the social sphere, insurance companies must maintain public trust. Failure to fulfill claims not only has legal repercussions but also

tarnishes the industry's reputation and reduces public interest in insurance. Therefore, the sustainability of insurance companies is crucially determined by adherence to prudent principles, good corporate governance, and the proportional fulfillment of customer rights.

C. Legal Status of Policyholders in Bankruptcy Cases

In bankruptcy cases, the legal status of policyholders receives special attention in the Indonesian legal system. When an insurance company is declared bankrupt, policyholders do not automatically lose their rights to promised claims. Under Article 52 of Law Number 40 of 2014 concerning Insurance, policyholders have the status of preferred creditors. This means they have a higher legal standing than ordinary creditors when it comes to the distribution of bankruptcy assets.

This protection demonstrates the state's recognition of the importance of guaranteeing the rights of customers who have fulfilled their obligations by paying premiums. Funds collected from policyholder premiums must be prioritized for claim settlement before company assets are used for the benefit of other creditors. This aligns with the principle of fairness in resolving bankruptcy disputes.

However, the claim settlement process during bankruptcy is not simply carried out by the company itself, but rather through a legal mechanism involving a curator and a commercial court. The curator is appointed to manage and distribute the bankruptcy estate according to the court-approved list of receivables. During this process, policyholders must submit claims invoices accompanied by sufficient evidence to ensure verification and recognition of the payment.

Furthermore, bankruptcy petitions against insurance companies cannot be filed by just any party. Under Article 50 of the same law, only the Financial Services Authority (OJK) has the authority to file bankruptcy declarations against insurance companies. This is intended to maintain financial system stability and prevent

misuse of bankruptcy legal instruments by irresponsible parties.

D. Implementation Reality and Its Problems

Putri (2019) emphasized that in various cases, policyholders not only experience material losses but also face administrative difficulties in claiming their rights. The lack of clear information from insurance providers, as well as limited legal literacy among customers, results in a slow and confusing claims process. This indicates that the consumer protection aspect of insurance remains weak in practice. Similarly, Sutrisno (2020) reminded that insurance companies have a social responsibility that is no less important than their commercial function. He argued that companies should not only focus on accumulating premiums but also must ensure that the promise of protection can actually be realized when a risk occurs. In situations of default, companies must continue to demonstrate good faith and transparency in resolving the insured's claims.

Despite clear legal provisions, implementation often faces obstacles. Numerous default cases, such as those at PT Asuransi Jiwasraya, AJB Bumiputera, and other companies, demonstrate weak oversight and suboptimal protection for policyholders. In the case of PT Asuransi Jiwasraya, for example, losses to the state and customers reached trillions of rupiah due to investment mismanagement and weak internal oversight. Insureds who had paid premiums regularly lost confidence because they did not receive the promised benefits.

Furthermore, insured parties often lack adequate information about claims filing procedures in bankruptcy. A lack of education and transparency from both companies and regulators exacerbates the situation. Many customers are unaware of the existence of complaint mechanisms or the legal steps they can take when their rights are violated. Yet, Law Number 40 of 2014 explicitly stipulates that insurance companies are required to maintain their ability to pay claims as a form of protection for policyholders.

On the other hand, normative legal protection also needs to be strengthened with practical measures on the ground. For example, the Financial Services Authority (OJK) needs to establish a special unit to handle life insurance disputes expeditiously and transparently. The government could also consider establishing a claims guarantee agency, similar to the Deposit Insurance Corporation (LPS) for the banking sector, tasked with guaranteeing basic claim payments if insurance companies are unable to fulfill their obligations.

IV. CONCLUSION AND SUGGESTIONS

A. Conclusion

Life insurance companies have a legal obligation to fulfill policyholders' rights regarding claims filed, including in the event of bankruptcy. Legislation grants policyholders special status as preferred creditors to ensure the protection of their rights. This provision aims to provide legal certainty and maintain public trust in the insurance industry.

However, implementation challenges remain significant. Weak oversight, low public legal literacy, and the absence of a dedicated insurance guarantor are issues that must be addressed immediately. As Wibowo and Sari (2022) noted, the urgent need to establish a policy guarantor is essential to prevent customers from being the most disadvantaged in the event of default.

The government and the Financial Services Authority (OJK) need to take concrete steps by strengthening regulations, increasing public education, and establishing effective and fair dispute resolution mechanisms. The OJK's 2023 report also emphasized the importance of good governance and increased oversight of insurance companies to ensure national financial stability.

With these steps, it is hoped that legal protection for the insured will not only be a normative discourse, but can actually be realized in practice in order to create a healthy, transparent, and consumer-friendly insurance industry.

B. Suggestion

Life insurance companies need to improve transparency and service in the claims payment process to ensure the insured's rights are fully protected. Furthermore, oversight by the Financial Services Authority (OJK) needs to be strengthened to ensure insurance companies comply with regulations, particularly in the event of bankruptcy. The government is also expected to clarify and strengthen policy guarantee programs to provide legal certainty for policyholders. Furthermore, public education regarding the rights and obligations under life insurance needs to be enhanced to better understand the protections they receive and the correct claims procedures. These measures can foster public trust in the life insurance industry and enhance legal protection for the insured.

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