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The End of an Era: A Critical Analysis of the Elimination of Mandatory Health Budget Allocations and Its Legal Implications for National Health Insurance

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Abstract:

This study aims to analyze the juridical implications of abolishing mandatory health budget allocation under Law Number 17 of 2023 on the protection of the right to health and legal certainty of the National Health Insurance system. The research focuses on the paradigm shift from mandatory spending to performance-based budgeting and its impact on the role of the state as the guarantor of the right to health. Key concepts employed in this study include the right to health as a constitutional right, legal certainty, the rule of law, distributive justice, and performance-based budgeting. This research adopts a normative juridical method using statutory, conceptual, and analytical approaches. The scope of the study covers constitutional guarantees of health rights, national health regulations, and the financing framework of the National Health Insurance program. The findings reveal that the removal of mandatory health budget allocation weakens legal certainty in health financing and increases the risk of regional disparities in health service provision. While performance-based budgeting may enhance efficiency and flexibility, the absence of normative safeguards potentially undermines the protection of health rights as fundamental rights. The main challenge identified is the lack of detailed implementing regulations establishing minimum financing standards and effective oversight mechanisms. This study recommends the formulation of implementing regulations that establish legally binding yet adaptive minimum health financing standards, accompanied by strengthened budgetary oversight mechanisms. This research contributes to health law and constitutional law scholarship by advancing a rights-based perspective on health budget reform and offering a normative framework to balance fiscal efficiency with the protection of constitutional rights.

Keywords: health budget; legal certainty; national health insurance; right to health; welfare state.

INTRODUCTION

The provision of health insurance is one of the fundamental pillars in the building of a welfare state that positions the state as the primary actor in guaranteeing, protecting, and fulfilling the basic rights of citizens (Olsen, 2024). The right to health is not merely understood as a social need, but has been constitutionally recognized as part of the Human Rights (HAM) inherent in every individual. The Indonesian Constitution

expressly states that everyone has the right to receive adequate health services as stipulated in Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia (Sari et al., 2024b). This constitutional norm has legal consequences that the state is not only morally but also legally obliged to provide a fair, equitable, and sustainable health financing and service system. Thus, health policies, particularly those related to the budget, must be placed within the framework of protecting citizens' constitutional rights, not merely as a technocratic instrument for managing state finances.

To operationalize this constitutional mandate, Indonesia has for many years implemented a mandatory health budget allocation policy, namely a minimum of 5% of the State Budget (APBN) and 10% of the Regional Budget (APBD). This policy is explicitly regulated in Law Number 36 of 2009 concerning Health, specifically Article 171 paragraphs (1) and (2), which emphasizes that the health budget is a national and regional priority. The presence of this mandatory allocation norm provides legal certainty in health financing and serves as a primary foundation for the sustainability of various strategic programs, including the National Health Insurance Program (JKN). From a legal perspective, the regulation of mandatory budget allocation functions not only as a fiscal guideline but also as an instrument for protecting citizens' social rights so that they are not reduced by the dynamics of annual budget politics (Aranda et al., 2023). However, the dynamics of health regulation have undergone significant changes with the enactment of Law Number 17 of 2023 concerning Health (Yu et al., 2023). This law introduces a new paradigm in health budget management by eliminating provisions regarding mandatory allocations and replacing them with a performance-based budgeting mechanism. This provision, as stipulated in Article 409 paragraph (3) of Law 17/2023, marks a fundamental shift from a normative-prescriptive approach to a managerial-technocratic approach in health financing. Theoretically, performance-based budgeting is seen as capable of increasing the efficiency, accountability, and effectiveness of budget use (Mauro et al., 2021). However, in the context of fulfilling the right to health, this change raises complex legal issues, particularly those related to ensuring legal certainty and protecting community rights.

The changes in health budget policy have sparked heated debate among academics, legal practitioners, and public policy observers. On the one hand, the government views the elimination of mandatory allocations as a structural reform effort to promote efficiency and avoid budget waste. On the other hand, concerns have arisen that the elimination of mandatory allocation norms will actually create uncertainty in health funding, particularly for vulnerable groups who are heavily dependent on the National Health Insurance (JKN) program. This uncertainty is not only administrative but also touches on constitutional dimensions, given that the right to health is a right guaranteed by the 1945 Constitution of the Republic of Indonesia and cannot be reduced solely to considerations of budget efficiency (Sari et al., 2024a).

The National Health Insurance program itself is the country's primary instrument for realizing the principle of universal health coverage in Indonesia. Various studies have shown that JKN has had a positive impact on increasing public access to healthcare services, particularly for lower-middle-income groups. Sunjaya emphasized that public participation in the JKN program is influenced by perceptions of benefits, ease of access, and assurance of program sustainability (Sunjaya et al., 2022). Meanwhile, Soraya, in her systematic literature review, concluded that the JKN policy generally contributes to improving access and quality of healthcare services, although it still faces financing issues and disparities in service provision between regions (Soraya et al., 2023). These findings demonstrate that sustainable funding is a key factor in maintaining the effectiveness of the JKN program. In this context, the elimination of mandatory allocations for the health budget becomes a crucial issue. When health funding relies entirely on performance-based budget mechanisms, the sustainability of the National Health Insurance (JKN) program is largely determined by administrative and political performance indicators. This has the potential to create tension between the managerial logic of the budget and the state's obligation to guarantee the right to health as a fundamental right. Felen emphasized that in practice, various forms of neglect of JKN participants' rights still occur, whether due to limited facilities, administrative issues, or weak oversight (Felen, 2024). Without strong normative guarantees for health funding, the risk of neglecting JKN participants' rights increases, especially in regions with limited fiscal capacity.

Legally, changes to the health budget policy following the enactment of Law 17/2023 also raise fundamental questions regarding its compliance with the principles of a state based on the rule of law (rechtstaat). One of the main characteristics of a state based on the rule of law is legal certainty (rechtszekerheid), including in the fulfillment of citizens' social rights (Nurbaedah & Hayeemaming, 2025). The elimination of mandatory allocation norms, previously expressly regulated by law, can be seen as a weakening of legal certainty, as it no longer provides a minimum quantitative guarantee for health funding. From a constitutional law perspective, policies that directly impact the fulfillment of constitutional rights should be clearly and explicitly regulated in law, rather than

being left entirely to annual budget policies that are heavily influenced by political dynamics (Baraggia & Bonelli, 2022). To date, academic studies on Law 17/2023 on Health have tended to focus on the substantive aspects of health services and the responsibilities of health workers. Some studies examine the implications of this law for nursing practice and patient care (Sari et al., 2024a), while others highlight the responsibilities of health workers in the context of protecting the rights of JKN participants (Felen, 2024). On the other hand, studies on JKN have focused more on financing issues within the perspective of public policy and health management, such as community participation factors and the policy's impact on service quality. However, there is still very limited research specifically examining the legal implications of eliminating mandatory health budget allocations for legal certainty and the protection of the right to public health insurance.

The limitations of this study indicate a significant research gap. First, there has been no comprehensive analysis linking the changes to the health budget mechanism in Law 17/2023 with the principles of the rule of law and human rights protection. Second, existing studies have not thoroughly evaluated how the elimination of mandatory allocations impacts the legal certainty of JKN financing as a national strategic program. Third, the lack of a normative juridical approach to discussing health budget policy reforms has led academic discourse to become bogged down in technical and administrative analysis, without a thorough examination of its constitutional implications. However, changes to health budget policy cannot be separated from the state's obligation to fulfill the right to health as a fundamental right of citizens. Based on this background, this study aims to fill the gap in research by placing health budget policy reform within a legal perspective. This study specifically examines the legal implications of the elimination of mandatory health budget allocations in Law Number 17 of 2023 on the legal certainty of public health insurance. Using a normative juridical method, this study analyzes the legal norms governing health financing, from constitutional provisions to sectoral laws, and assesses their consistency with the principles of human rights protection and the rule of law. This approach is expected to provide a critical understanding of the position of the health budget within the national legal system and the impact of its reforms on the fulfillment of public rights.

The research problem formulation in this study covers two main issues. First, how has the national health funding budget policy changed following the enactment of Law Number 17 of 2023, specifically regarding the elimination of mandatory allocations and the implementation of a performance-based budgeting system. Second, what are the legal implications of this policy change for the protection of rights and legal certainty of health insurance for the community. In line with this problem formulation, the purpose of this study is to analyze in-depth the reform of the health funding budget policy following the enactment of Law Number 17 of 2023 and assess its legal implications for the protection of the right to health and the legal certainty of health insurance, which should be guaranteed by the state under the law. This study hopes to develop a strong legal argument regarding the importance of a clear and firm normative basis for national health financing. It is also expected to provide theoretical contributions to the development of health and constitutional law, as well as practical contributions to policymakers in formulating implementing regulations for Law 17/2023 that are fairer, prioritize rights protection, and ensure the sustainability of the national health insurance program.

METHOD

This research uses a normative juridical method, a legal research method that focuses on the study of written legal norms as stipulated in laws and regulations, court decisions, and legal doctrine. This method is used to examine law as a system of norms that regulates human behavior and the relationship between the state and citizens, particularly in the context of fulfilling the right to health as a constitutional right (Solikin, 2019). The normative juridical approach is considered relevant because this research does not aim to measure policy effectiveness empirically, but rather analyzes the consistency, certainty, and legal implications of changes in health budget policy following the enactment of Law Number 17 of 2023. Within the framework of the normative juridical method, this study uses several legal approaches, namely the Statute Approach, the Conceptual Approach, and the Analytical Approach. The statutory approach is used to examine and compare legal norms governing health financing, specifically the provisions of the 1945 Constitution of the Republic of Indonesia, Law Number 36 of 2009 concerning Health, Law Number 17 of 2023 concerning Health, and Law Number 40 of 2004 concerning the National Social Security System. Through this approach, the suitability, synchronization, and implications of the elimination of mandatory health budget allocations with the principles of the rule of law and the protection of the right to health are analyzed (Muhaimin, 2020).

Next, a conceptual approach is used to examine legal concepts relevant to the research problem, such as the right to health, legal certainty, social justice, and state responsibility in public financing. This approach is

based on the views and doctrines of legal experts, which provide a theoretical basis for assessing changes in health budget policy. Using a conceptual approach, this research seeks to deeply understand the normative meaning of the right to health as a human right and the implications of its regulation within the national legal system. An analytical approach is used to analyze the shift in the health financing model from a mandatory budget allocation scheme to a performance-based budgeting system as stipulated in Law Number 17 of 2023. This approach aims to critically assess the legal implications of this change for ensuring legal certainty and justice for the community, particularly regarding the sustainability of the National Health Insurance program. Through this analysis, the research seeks to assess whether the performance-based budgeting system is capable of providing equal legal protection or whether it has the potential to undermine the guarantee of the right to health, previously guaranteed normatively through mandatory allocation provisions.

The legal sources used in this study consist of primary legal materials, secondary legal materials, and tertiary legal materials. Primary legal materials include relevant laws and regulations, namely the 1945 Constitution of the Republic of Indonesia, Law Number 36 of 2009 concerning Health, Law Number 17 of 2023 concerning Health, and Law Number 40 of 2004 concerning the National Social Security System. Secondary legal materials consist of relevant legal literature, including textbooks, scientific journals, and academic articles discussing health law, social security, and public financing policies. Meanwhile, tertiary legal materials are used as supporting materials in the form of legal dictionaries and legal encyclopedias to clarify the terms and concepts used in the study (Muhaimin, 2020). This research approach is qualitative, namely by interpreting and analyzing legal materials systematically, logically, and comprehensively to obtain conclusions relevant to the research problem. Qualitative analysis is conducted through legal reasoning by connecting applicable legal norms with the underlying legal concepts and principles, thus obtaining a comprehensive understanding of the legal implications of changes in health budget policy on the protection of rights and legal certainty of health insurance for the community (Muhaimin, 2020).

RESULTS AND DISCUSSION

Changes in the National Health Funding Budget Pattern Policy

Changes in national health funding policy following the enactment of Law Number 17 of 2023 mark a paradigm shift in budget law from a normative-quantitative approach to a performance-based, managerial approach. Whereas previously the law explicitly defined minimum health financing limits, the new regime positions budget allocation as a function of national program needs and performance achievements. This transformation is not merely technical but reflects a conceptual shift in understanding the state's role as a guarantor of social rights (Whyle & Olivier, 2023). Under the previous regime, Law No. 36 of 2009 established a mandatory allocation scheme of at least 5% of the national budget and 10% of the regional budget, excluding salaries. This provision served as a fiscal certainty instrument binding the central and regional governments to ensure the continuity of health financing. Theoretically, this regulation reflects the characteristics of a welfare state, which places health spending as a constitutional obligation, not simply a policy choice (Arza et al., 2022).

The minimum allocation obligation also serves as a legal protection mechanism against political fluctuations in the budget. In the context of a multi-party presidential system, mandatory spending is seen as a "legal lock" that limits executive fiscal discretion, preventing it from sacrificing the social sector for short-term interests (Mncube, 2025). The literature on state financial law shows that without normative limits, the basic services sector tends to become a variable in adjustments when fiscal pressures arise (Brändle & Elsener, 2024). In contrast, Law Number 17 of 2023 abolishes the mandatory allocation formula and replaces it with an allocation principle based on national program needs, as stipulated in Article 409 paragraph (3). This norm places health budgeting within a performance-based budgeting framework that emphasizes program outputs and outcomes. From a public administration perspective, this model is considered capable of increasing the efficiency and accountability of state spending (Shafritz et al., 2022). However, from a legal perspective, this shift raises the issue of normative certainty. The "national program needs" provision is open-ended and lacks clear quantitative parameters. In the theory of the rule of law, norms that are open to interpretation and allow for broad discretion have the potential to undermine the principle of legal certainty, particularly when it comes to fulfilling citizens' fundamental rights (Bisoyi, 2025).

The right to health itself has been recognized as a constitutional right guaranteed by Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia. This right places the state in the position of obligation bearer which is obliged to ensure the availability, affordability, and sustainability of health services (Birchall, 2022). Within the framework of social human rights, state obligations cannot be fulfilled sufficiently through

optional policies, but rather require a firm and binding legal basis (Halkos & Nomikos, 2021). Legal studies show that the elimination of mandatory allocations shifts the guarantee of rights from a rigid norm-based model to an annual policy-based model (Sautter, 2026). Consequently, the sustainability of health financing is highly dependent on the government's political commitment and the dynamics of fiscal priorities each fiscal year. This reduces the predictability of financing, especially for long-term programs like the National Health Insurance (Harahap et al., 2026). From a social security system perspective, funding stability is a key prerequisite for service sustainability. Empirical studies show that budget uncertainty directly impacts service quality, claims delays, and reduced participant confidence (Antoniou & Tsioulpa, 2024). In the context of the National Health Insurance (JKN), financial sustainability is crucially determined by the certainty of the state's commitment to public health financing.

Another equally serious implication is the potential for inter-regional disparities. Without mandatory minimum allocations, regions with low fiscal capacity risk reducing health spending to cover the needs of other sectors. Regional fiscal policy literature shows that mandatory spending serves as an equalizing instrument to reduce disparities in basic services between regions (Miranda-Lescano et al., 2024). The performance-based approach also contains a structural bias against programs that are easily measured quantitatively. Promotive and preventive programs with long-term impacts are often deprioritized compared to curative programs with more readily visible outcomes. This phenomenon has been widely criticized in global health policy studies as a "measurement trap" in performance budgeting (Piatti-Fünfkirchen & Schneider, 2018). In terms of normative design, Law 17/2023 does not provide a safeguard mechanism in the form of a budget floor or mandatory indicators to protect basic services. This absence of normative safeguards increases the executive's discretion in determining the annual health budget. In constitutional budgeting theory, this situation has the potential to weaken the law's function as a tool to limit power (Gerzso, 2023).

Initial data following the implementation of Law 17/2023 indicates that the 2024 health budget allocation remains above the 5% threshold of the state budget. However, this achievement is factual, not normative, and therefore lacks long-term binding power. Dependence on political goodwill makes health rights protection contingent and vulnerable to change (Kementerian Kesehatan Republik Indonesia, 2024). Thus, the shift in national health budget policy presents a paradox. On the one hand, it offers managerial flexibility and efficiency. On the other, it undermines legal certainty and constitutional guarantees of the right to health (Pandey, 2024). Without a strong normative design, performance-based budgeting has the potential to shift health from a right to a mere policy object (Sim, 2013). Therefore, health budgeting reform should not stop at eliminating mandatory allocations, but should be followed by the creation of protective legal instruments. These instruments could include adaptive minimum financing standards, binding outcome indicators, and effective oversight mechanisms. Only then can the logic of efficiency align with the state's obligation to guarantee citizens' health rights (Rosanvallon, 2022). The government deemed the old regulations ineffective in managing the health budget, thus creating Law 17/2023 as an effort to improve the integration of health services, reduce overlapping policies, and improve outcomes. Several comparisons between Law 36/2009 and Law 17/2023 are outlined in the following table:

Table 1 Comparison of Regulations

Comparative Aspects	**UU 36/2009 (Old Rules)**	**UU 17/2023 (New Rules)**
Legal Basis for Budget Policy	The policy is regulated in Article 171 Paragraph (1) of Law 36/2009 concerning the obligations of central and regional governments in allocating a minimum budget for health.	Deleted and does not include budget allocation provisions.
Budget Form	Mandatory Spending, The budget is set at a minimum percentage of 5% of the APBN and 10% of the APBD.	Performance Based Budgeting mechanism, Allocations are given based on performance achievements and program effectiveness.
Objective	Providing guarantees of rights regarding health services and budget equality to the community.	Increase the efficiency and effectiveness of budget use through program results assessment patterns.

Role of Government	The state has an obligation to be responsible for guaranteeing national health financing through clear legal obligations.	The state only has a role as a program manager that depends on the results.
Supervisory Mechanism	The DPR and BPK are given the freedom to assess the mandate of the law regarding the minimum budget limit.	The assessment benchmark is uncertain for assessing the budget.
Regional Impact	Equal distribution of funds is guaranteed due to the obligation to operate a minimum health fund.	The determination of the proportion of the health budget is adjusted to the fiscal capacity of the region without a minimum amount of health funds.
Impact of Health Insurance	The stability of JKN is due to the support from mandatory allocations set by the government.	JKN depends on the annual performance budget as well as on program performance.
Effectiveness	Have a strong legal basis.	Implementing regulations are required because they do not yet contain more detailed rules regarding minimum standards for health financing.

Source: Processed by Researchers

The table above demonstrates a significant change between government regulations in the old Health Law and the new one. This new mechanism is expected to improve budget efficiency and program outcomes. However, its implementation has created legal uncertainty due to the lack of a clear minimum threshold. This complicates oversight and ensures the protection of the public's right to adequate health care. Consequently, the potential for regional disparities is increasing, particularly in regions with limited fiscal capacity, which may struggle to meet optimal health budget needs (Hao et al., 2021). In the previous regulation, the state had a strong role and a strong legal basis in providing a minimum health budget, while with the new regulation, the approach has changed drastically to a performance-based one. However, this new policy is considered more flexible because the budget used will be adjusted to the needs and results of the program achieved (Mishra & Alzoubi, 2023). The elimination of regulations regarding mandatory allocations can weaken legal protection for the public regarding adequate health service guarantees, even though health services should be fully managed by the state to ensure that all access to health services is equal. Therefore, implementing regulations are needed to ensure that performance-based policies can continue to operate while providing legal certainty, justice, and equitable distribution of services to the public (Mulyati et al., 2025).

Legal Implications of the Protection of National Health Rights Following the Budget Policy Reform

The reform of health budget policy following the enactment of Law Number 17 of 2023 has profound legal implications for the configuration of state responsibilities in guaranteeing the national right to health (Witter, Palmer, et al., 2025). The transition from mandatory spending to performance-based budgeting normatively shifts the state's role from guaranteeing funding certainty to managing a budget that is highly dependent on program achievements and annual policy priorities (Dodson, 2023). This shift marks a shift in the relationship between law, fiscal policy, and human rights, which demands serious examination from the perspective of the rule of law and the protection of constitutional rights. The right to health is explicitly guaranteed in Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which places health as an integral part of the right to a prosperous and dignified life (Dwi Prakoso et al., 2024). In modern human rights doctrine, the right to health is categorized as a social right that gives rise to a positive obligation for the state to respect, protect, and fulfill it through effective and sustainable policies (Moldovan et al., 2022). Thus, any changes in health financing policies must be tested based on their ability to guarantee the fulfillment of this right in a real and sustainable manner (Litvinenko et al., 2022).

Legally, the elimination of the mandatory allocation of the health budget raises serious issues regarding legal certainty for the public (Ballardini et al., 2022). Legal certainty is a fundamental principle of the rule of law,

which requires clear, predictable, and binding norms for state administrators (Tapia-Hoffmann, 2021). When the minimum health funding threshold is removed, the public loses normative assurances regarding the sustainability of funding for basic health services previously protected by law (Dastan et al., 2021). This uncertainty is not merely abstract but has direct implications for the legal protection of National Health Insurance (JKN) participants (Martins et al., 2022). JKN is designed as a social security system that requires long-term funding stability to ensure access, quality, and sustainability of services. With a budget that relies entirely on annual policies, the sustainability of JKN benefits becomes vulnerable to fiscal policy dynamics and macroeconomic pressures (Witter, Bertone, et al., 2025). The next legal implication is the potential weakening of the principle of distributive justice in national health services. The elimination of the minimum allocation requirement opens up room for differentiation in budget policies between regions based on fiscal capacity and local political priorities. From a legal justice perspective, this situation has the potential to create disparities in access to health services between regions, which contradicts the principle of equality of citizens before the law (Madanipour et al., 2022).

Public policy studies show that regions with high fiscal capacity tend to be able to maintain health spending, while regions with fiscal constraints have the potential to reduce health allocations when there are no binding normative obligations (Sim, 2013). This situation can be legally classified as a form of structural injustice because citizens' health rights become dependent on geographic location and regional fiscal capacity, rather than on equal legal guarantees (Della Croce, 2025). From a state administrative law perspective, this reform also expands executive discretion in managing the health budget. The term "national program needs" in Law 17/2023 is open-ended and lacks clear quantitative parameters, giving the government broad authority to determine funding priorities (Felen, 2024). Discretion that is not normatively constrained has the potential to lead to abuse of authority and undermine the principle of public accountability.

In modern constitutional theory, discretion can only be justified if it is limited by clear norms and effective oversight mechanisms (Enqvist & Naarttijärvi, 2023). Without minimum standards for health financing, it is difficult for the public and oversight bodies to assess whether budget policies meet the state's constitutional obligations. This situation indicates a legal design deficit in health budget policy reform. Another significant implication is the potential decline in legal protection for vulnerable groups. The right to health has a special dimension of protection for the poor, the elderly, and communities in disadvantaged areas who are highly dependent on state intervention (Fahad et al., 2022). As health financing becomes more competitive and performance-based, groups with high needs that are difficult to quantify risk being marginalized from policy priorities (Lohmann et al., 2022). From a human rights law perspective, the state cannot abdicate its responsibility to fulfill the right to health simply for the sake of budget efficiency. State obligations are non-derogable, meaning they cannot be arbitrarily reduced by administrative policies or short-term fiscal considerations (Lemke, 2025). Therefore, budget reforms that reduce normative guarantees potentially conflict with the principle of human rights protection. Furthermore, these changes also impact the effectiveness of overall health regulations. Laws lacking detailed implementing regulations risk becoming weak norms that are difficult to implement. Numerous regulatory studies have shown that performance-based policies require clear indicators, minimum standards, and sanction mechanisms to ensure they remain legally binding (Wigger, 2025).

In the Indonesian context, the absence of minimum financing standards in the derivative regulations of Law 17/2023 has the potential to create policy fragmentation at the regional level. This fragmentation not only hinders national coordination but also complicates the comprehensive evaluation of the health system's performance (Whyle & Olivier, 2023). Legally, this situation weakens the law's function as an instrument of integration and control of public policy. The final, most fundamental implication is the potential erosion of the rule of law principle in implementing health policy. The rule of law demands that every public policy, especially those concerning fundamental rights, be based on clear, binding, and legally testable norms (Pech, 2022). When the protection of health rights relies more on political commitment than on statutory norms, the rule of law risks being displaced by the rule of policy.

Based on this analysis, it can be emphasized that the health budget reform through Law 17/2023 carries complex and multidimensional legal implications. This reform is not merely a matter of efficiency or budget management, but rather addresses the core of the state's responsibility to guarantee the right to health as a constitutional right (W Musungu, 2022). Therefore, firm and measurable implementing regulations are needed to restore the balance between policy flexibility and legal certainty. Normatively, the government needs to formulate adaptive yet binding minimum financing standards, strengthen oversight mechanisms, and ensure that performance indicators do not compromise the protection of basic rights. Without these steps, budget reform has

the potential to create setbacks in the protection of health rights and undermine the foundations of the rule of law (Harahap et al., 2026).

Theoretical Implications, Practical Implications, and Academic and International Contributions

Theoretically, the findings of this study enrich the discourse on the relationship between the rule of law, fiscal policy, and the fulfillment of social rights, particularly the right to health. The shift from mandatory spending to performance-based budgeting indicates a paradigm shift from a legal certainty-oriented model to a managerial governance model in public health governance (Rosanvallon, 2022). This shift challenges the classical assumption that the protection of social rights must always be realized through rigid quantitative norms in legislation. In modern rule of law theory, legal certainty is not only defined as the existence of written norms but also as a guarantee of the predictability and sustainability of public policy (Beqiraj & Moxham, 2022). However, this study shows that when quantitative norms are removed without normatively equivalent replacements, predictability actually weakens. This finding provides a critical contribution to legal certainty theory by emphasizing the importance of minimum normative boundaries in performance-based policies (Navazhylava & Ibraimova, 2024).

This research also contributes to the development of social rights theory by emphasizing that the right to health cannot be reduced to a mere policy outcome. Social rights require structural guarantees in legal and budgetary design that ensure their continued fulfillment, regardless of annual political dynamics (Challoumis, 2025). Thus, a performance-based approach should be read as a complementary instrument, not a substitute for normative guarantees. From the perspective of distributive justice theory, this study's findings reaffirm the relevance of the equity principle in public health financing. Eliminating mandatory allocations has the potential to increase inequality between regions due to uneven regional fiscal capacity (Mesfin & Teka, 2023). The theoretical contribution of this study lies in its assertion that distributive justice in the health sector requires corrective legal intervention through national minimum financing standards. This research also adds to the literature on performance-based budgeting by demonstrating its normative limits in a sector characterized by fundamental rights. Previous policy studies have tended to position performance-based budgeting as a solution for efficiency and accountability (Lamond, 2020). However, this study's findings demonstrate that without a robust legal framework, this mechanism has the potential to erode the protection of social rights.

Practically, this research has direct implications for policymakers in the health and public finance sectors. First, the findings underscore the need to formulate implementing regulations for Law 17/2023 that include flexible yet binding minimum health financing standards. These standards are crucial for maintaining the continuity of national health programs and preventing budget fluctuations that are detrimental to the public (Khoshmaram et al., 2025). Second, this research implies the need to strengthen oversight mechanisms for health budgeting, both by state audit institutions and by parliament. Without mandatory minimum allocations, the oversight function must shift from mere numerical compliance to substantive evaluation of the impact of budget policies on the fulfillment of health rights (Al-Najjar et al., 2026). This requires the development of more comprehensive legal and social indicators. Third, for local governments, the results of this study warn of the risk of inequality in health services if budget policies are not balanced with the principle of social justice. Local governments need to integrate the principle of protecting the right to health into regional budget planning, even though it is no longer quantitatively mandated by law (Sim, 2013). Without this commitment, the fragmentation of health services has the potential to worsen. Fourth, for National Health Insurance (JKN) administrators, this study emphasizes the importance of funding stability as a prerequisite for system sustainability. Performance-based budgets must be designed in such a way as not to disrupt long-term financing schemes and ensure the certainty of benefits for participants (Madsen, 2025). Managerial practices need to be aligned with social security law principles. Fifth, practical implications also touch on the role of the judiciary. Judges and judicial review bodies need to interpret health budget policies progressively, placing the right to health as a primary parameter in testing the constitutionality of fiscal policy (Wang, 2021). The findings of this study can serve as argumentative references in judicial review cases in the health sector.

This research's academic contribution lies in integrating constitutional law, health law, and fiscal policy approaches into a unified normative analytical framework. Health budget studies have tended to be fragmented between economic and public management approaches. This research demonstrates that the legal dimension plays a central role in bridging policy efficiency and the protection of fundamental rights (Harahap et al., 2026). This research also makes a methodological contribution by demonstrating the relevance of normative-juridical

methods in analyzing contemporary budget policy. Amid the dominance of empirical and quantitative approaches, this research confirms that normative analysis remains crucial for testing the legitimacy and fairness of public policies (Tushnet, 2021). This opens up space for the development of more interdisciplinary legal studies. Furthermore, this study enriches the Indonesian health law literature by presenting a critical analysis of the relatively new Law 17/2023. The findings and arguments in this study can serve as an important reference for further research, both nationally and comparatively with other countries implementing performance-based budget reforms (Li et al., 2024).

Internationally, this research contributes to the global discourse on health financing and social rights. Many developing and developed countries are adopting performance-based budgeting as part of public sector reforms. The findings offer a critical perspective that such reforms must be aligned with a human rights protection framework (Shue, 2020). This research is also relevant for comparative studies of health law because it demonstrates how countries with national social security systems navigate the dilemma between fiscal efficiency and rights protection. Indonesia's experience can serve as an important case study for other countries in the Global South facing similar challenges in financing universal health care (Piatti-Fünfkirchen & Schneider, 2018). Furthermore, this research contributes to the development of international norms on the right to health by highlighting the importance of legal safeguards in budget policy reform. These findings align with a rights-based approach to global health policy, which positions law as the primary instrument for protecting vulnerable groups (Rosanvallon, 2022).

This research not only offers conceptual and practical contributions to national health law but also broadens academic and international horizons regarding the relationship between law, budgets, and human rights. Thus, this research emphasizes that health budget reform must always be situated within the framework of the rule of law and social justice so that efficiency goals do not compromise citizens' fundamental rights. To clarify the theoretical and practical position of this research's findings, the resulting implications should not only be read descriptively but also systematically mapped. This mapping is crucial to clearly demonstrate how the health budget policy reforms following Law Number 17 of 2023 impact legal theory, public policy practice, and academic contributions at both the national and international levels. Therefore, the following table serves as a comparative analysis tool that summarizes the research's key implications in a structured and comprehensive manner, without compromising the depth of the normative argument.

Table 2 Theoretical, Practical Implications, and Academic Contributions

Analysis Aspects	Implications Description
Theoretical Implications	Health budget reform underscores a paradigm shift from a rule of law model based on normative certainty to performance-based governance. These findings enrich legal certainty theory by demonstrating that the elimination of quantitative norms without normative safeguards weakens the predictability of public policy (Tushnet, 2021).
	This research strengthens the theory of social rights by emphasizing that the right to health requires structural guarantees in legal and budgetary design, not merely the measurement of policy outcomes (Shue, 2022).
	From a distributive justice perspective, the findings of this study confirm that public health financing requires corrective legal intervention to prevent regional disparities due to differences in fiscal capacity (Rawls, 2020).
Practical Implications	For policymakers, this study emphasizes the urgency of establishing implementing regulations that establish flexible yet legally binding minimum health financing standards (Widodo, 2023).
	For local governments, this finding serves as a warning that the absence of a minimum allocation obligation has the potential to widen the gap in health services if not balanced with a commitment to social justice (Rayadina, 2024).
	For National Health Insurance administrators, funding stability must be maintained so that the performance-based budget mechanism does not disrupt the continuity of benefits and participant trust (Wahyuni et al., 2022).
	For supervisory and judicial institutions, this research provides a normative basis for assessing health budget policies based on the protection of constitutional rights, not solely on fiscal efficiency (Huda, 2022).

National Academic Contribution	This research enriches the study of Indonesian health law with a critical analysis of the relatively new Law 17/2023, while integrating the perspectives of constitutional law, health law, and fiscal policy (Rambe, 2024).
	Methodologically, this study confirms the relevance of a normative juridical approach in analyzing contemporary budget policies that have a direct impact on fundamental rights (Tushnet, 2021).
International Contribution	This research contributes to the global discourse on performance-based budgeting by demonstrating its normative limits in sectors directly related to human rights (Robinson, 2021).
	The Indonesian experience analyzed in this study can serve as an important case study for Global South countries developing universal health insurance systems amidst fiscal efficiency pressures (Asante, 2023).
	The findings of this study strengthen the rights-based approach in global health policy by emphasizing the importance of legal protection for vulnerable groups in budget reform (Shue, 2022).

Based on the mapping in the table above, it can be emphasized that the implications of this research are multidimensional and interconnected between the realms of theory, practice, and scientific contribution. Health budget reform cannot be understood solely as a technocratic policy, but rather as a legal issue that touches on the core of the state's responsibility in guaranteeing the right to health (Ferrer et al., 2025). These findings demonstrate that budget efficiency and accountability will only be normatively meaningful when placed within the framework of a state based on the rule of law that guarantees certainty, justice, and the protection of human rights. Thus, the primary contribution of this research lies in its ability to bridge the managerial logic of public policy with the principles of constitutional law and human rights. At the national level, this research provides an argumentative foundation for the formulation of fairer and more sustainable derivative regulations. At the international level, this research enriches the global debate on how health budget reforms should be designed to ensure they do not compromise citizens' fundamental rights.

CONCLUSION

Based on the results of the normative legal analysis conducted, this study concludes that the elimination of the mandatory allocation provisions for the health budget in Law Number 17 of 2023 marks the end of a legal regime for health financing that was previously oriented towards normative certainty, moving towards a new regime that emphasizes performance-based managerial flexibility. Answering the first research question, the changes in national health budget policy following the enactment of Law 17/2023 indicate a paradigm shift from mandatory spending that is quantitatively binding to performance-based budgeting that relies on program needs and annual performance achievements. This shift conceptually offers efficiency and accountability, but legally weakens the guarantee of certainty of health financing as an instrument for protecting citizens' constitutional rights. In response to the second research question, the legal implications of this policy change indicate a real risk to the protection of the right to health and the legal certainty of national health insurance. The elimination of the minimum budget threshold reduces the predictability of health funding, expands executive discretion, and opens up the potential for disparities in service delivery between regions due to differences in regional fiscal capacity. This situation places the sustainability of the National Health Insurance Program in a vulnerable position, as it relies on political commitment and annual budget priorities, rather than on normative guarantees enshrined in law. Theoretically, this research confirms that the right to health as a social right cannot be fulfilled solely through a results-based policy approach. This right requires structural guarantees in legal and budgetary design that ensure sustainability, equity, and distributive justice. These findings enrich the theories of legal certainty and social rights by demonstrating that policy flexibility without normative safeguards has the potential to erode the protection of basic rights in a state governed by the rule of law. Practically, the results of this study imply the need for firm and measurable implementing regulations to balance performance-based budget flexibility with the protection of constitutional rights. The government needs to formulate adaptive yet binding minimum health financing standards, strengthen budget oversight mechanisms, and ensure that performance indicators do not compromise basic services and vulnerable groups. Without these steps, budget reform risks creating policy fragmentation and widening the gap in national health services. This study has limitations because it focuses on a normative

analysis of legislation and legal doctrine, without empirical analysis of the implementation of health budgets at the regional level or their quantitative impact on the quality of JKN services. Furthermore, this study does not conduct a comprehensive comparison with health budgeting practices in other countries that implement similar models. Therefore, further research is recommended to combine normative legal approaches with empirical and comparative approaches, particularly in assessing the actual impact of performance-based budgeting on access, quality, and sustainability of health services. International comparative studies are also crucial for formulating health financing models that more balancedly integrate fiscal efficiency with human rights protection.

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