



FULFILLING THE RIGHT TO HEALTH CARE FOR VICTIMS OF CRIME: LOCAL GOVERNMENT RESPONSIBILITY FOR FUNDING BEYOND NATIONAL HEALTH INSURANCE

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Abstract: Presidential Regulation No. 59 of 2024 excludes health care resulting from certain criminal offenses from the National Health Insurance program if other funding schemes, including those of local governments, already cover it. Meanwhile, Law No. 3 of 2026 on the Protection of Witnesses and Victims reinforces local governments' obligation to support victim protection but does not yet clarify the operational mechanisms for funding. This study employs a doctrinal method using a legislative and conceptual approach, along with qualitative analysis through systematic interpretation and legal harmonization. The results indicate that local governments' responsibility for funding health services for victims of criminal offenses is fulfilled through planning and budgeting, the establishment of local regulations, and collaboration with stakeholders. Implementing regulations for Law No. 3 of 2026 are needed to provide legal certainty regarding the funding mechanisms and the fulfillment of local governments' responsibilities.

Keywords: Victims of Crime, Local Governments, Health Care Funding

INTRODUCTION

Health is a fundamental right, the fulfillment of which is part of the state's responsibility toward its citizens, as outlined in the constitutional foundation regarding this right, which is affirmed in Article 28H, paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which guarantees every person's right to access health care (Fadhilah, Farizki, and Ircham 2025). Health, within the framework of human rights and as enshrined in the Constitution, is stipulated in Article 28I, paragraph (4) of the 1945 Constitution of the Republic of Indonesia, which establishes the protection, promotion, enforcement, and fulfillment of human

rights as the responsibility of the state, particularly the government (Tampubolon, Siregar, and Siburian 2022).

Furthermore, Article 34, paragraph (3) of the 1945 Constitution of the Republic of Indonesia mandates that the state is responsible for providing adequate health care facilities and public services. This constitutional provision indicates that the state's responsibility for health does not end with the provision of health care facilities but also includes the establishment of a system that guarantees the public's access to health care, including for individuals who require medical care as a result of being victims of criminal acts (Mikhael 2022).

The government's responsibility for public health must be read alongside the division of governmental authority under Law No. 23 of 2014 on Regional Government (Abdul Haq, Almas Musyafa, and Rosidin 2025). Article 9(1) distinguishes exclusive, concurrent, and general governmental affairs. Under Article 9(3), concurrent affairs are shared among the central, provincial, and regency or municipal governments (Arifin 2024).

Concurrent governmental affairs under the authority of local governments consist of Mandatory Governmental Affairs and Optional Governmental Affairs; therefore, pursuant to Article 12(1)(b) of Law No. 23 of 2014 on Regional Government, health is classified as part of Mandatory Governmental Affairs related to basic services. It is these matters that impose an obligation on local governments to provide health services, which must be carried out to ensure the fulfillment of basic services for the community.

The fulfillment of the right to health care to be reviewed and analyzed is the right to health care for victims of criminal offenses who are registered as participants in the Health Insurance program administered by the Health Social Security Agency. Pursuant to Article 52(1)(r) of Presidential Regulation No. 59 of 2024 concerning the Third Amendment to Presidential Regulation No. 82 of 2018 on Health Insurance, health services that are not covered include those resulting from criminal acts of maltreatment, sexual violence, victims of terrorism, and the crime of human trafficking—which are already covered through other funding schemes implemented by ministries, agencies, or local governments in accordance with applicable laws and

regulations. Based on the aforementioned article, it can be concluded that there are restrictions and categorizations for certain crimes that are not covered by health insurance, and the funding for these services is transferred to ministries, agencies, or local governments.

Furthermore, in accordance with the provisions of Article 5, paragraph (3) of Law No. 3 of 2026 on the Protection of Witnesses and Victims, it is also stated that protection is provided to witnesses, victims, perpetrator-witnesses, reporters, informants, and/or experts who face threats and/or are in special circumstances as determined by the LPSK; and/or by a court ruling or decision, this reaffirms that the Witness and Victim Protection Agency (LPSK) is an agency acting on behalf of the Central Government that guarantees protection for victims of criminal offenses. This is in accordance with the provisions of Article 404 of Law No. 17 of 2023 on Health, which stipulates that the Central Government and local governments are responsible for funding medical examinations and health services for victims of criminal acts and/or autopsies for legal purposes.

However, the implementation of local government funding for victims of criminal offenses, as stipulated in Law No. 3 of 2026 on the Protection of Witnesses and Victims, Law No. 17 of 2023 on Health, and Presidential Regulation No. 59 of 2024 on the Third Amendment to Presidential Regulation No. 82 of 2018 on Health Insurance, has not yet been fully and effectively implemented.

A study conducted by Maytie Retnowulan et al. showed that a male

victim of a stabbing, identified only by the initial "K," arrived at the Emergency Department of Dr. Kariadi General Hospital in Semarang. He was diagnosed with a hemothorax, a condition that required further treatment and close monitoring; however, the patient decided to go home at his own request because the cost of further treatment was considered too high and would have to be covered out of pocket. (Retnowulan, Utomo, and Dhanardhono n.d.).

The above indicates that there are regulations that have been clearly established; however, in practice, their implementation has not been carried out effectively because funding for these measures should be provided through the mechanisms stipulated in Article 404 of Law No. 17 of 2023 on Health, Article 5(3) of Law No. 3 of 2026 on the Protection of Witnesses and Victims, and Article 52(1)(r) of Presidential Regulation No. 59 of 2024 on the Third Amendment to Presidential Regulation No. 82 of 2018 on Health Insurance, under which victims of criminal offenses are supposed to receive funding from the LPSK and/or the local government.

RESEARCH QUESTIONS

Based on the background of the issue described above, the main issues can be formulated as follows:

1. How are the responsibilities of local governments regulated regarding the fulfillment of the right to health care for victims of criminal acts who are not covered by the National Health Insurance program?
2. What are the responsibilities of local governments regarding funding for victims of criminal acts who are not

covered by the National Health Insurance program?

RESEARCH METHOD

This study employs a doctrinal method using both a legal and a conceptual approach (Hakim 2017). A legal approach is used to analyze the responsibilities of local governments in funding health care services for victims of criminal acts who are not covered by the National Health Insurance program. A conceptual approach is used to review the concepts of state responsibility, decentralization of health affairs, the right to health care, victim protection, and the financing of health care services within the National Health Insurance system.

The primary legal sources in this study include the 1945 Constitution of the Republic of Indonesia, Law No. 23 of 2014 on Regional Government and its amendments, Law No. 17 of 2023 on Health, Law No. 3 of 2026 on the Protection of Witnesses and Victims, as well as Presidential Regulation No. 82 of 2018 on Health Insurance, as last amended by Presidential Regulation No. 59 of 2024, and other implementing regulations related to the financing of health services for victims of criminal acts. Secondary legal materials were obtained from books, journal articles, research findings, and legal literature relevant to the responsibilities of local governments, the right to health, the National Health Insurance, and the protection of victims of criminal offenses.

The legal materials were collected through a literature review and analyzed qualitatively using systematic interpretation and legal harmonization methods (Hardiyanti, Wijaningsih, and Jalil 2025). The

analysis was conducted by linking the division of government responsibilities in the health sector as stipulated in the Law on Regional Government with the responsibilities for funding health services for victims of criminal acts as stipulated in the Health Law; the provisions regarding services not covered under Article 52(1)(r) of the Presidential Regulation on Health Insurance; and the provisions regarding the protection and funding of victims as stipulated in the Law on the Protection of Witnesses and Victims.

RESULTS AND DISCUSSION

Regulations on Local Government Responsibilities in Ensuring the Right to Health Care Services for Victims of Criminal Offenses Not Covered by the National Health Insurance Program

Health is a fundamental right of every human being, guaranteed by the state. The right to health encompasses not only access to health care facilities but also the guarantee that every individual will receive prompt and appropriate medical care, especially in emergency situations (Azmani and Kusumaningrum 2026). Provisions regarding the responsibilities of local governments in fulfilling the right to health care for victims of criminal acts in Indonesia—which are not covered by the National Health Insurance program—are technically regulated in several Indonesian laws and regulations, including:

1. Article 12(1)(b) of Law No. 23 of 2014 on Regional Government, which stipulates that “Mandatory Government Affairs related to Basic Services as referred to in Article 11(2) include health”;

2. Article 404 of Law No. 17 of 2023 on Health stipulates that “The Central Government and Regional Governments are responsible for funding medical examinations and health services for victims of criminal offenses and/or autopsies for legal purposes”;

3. Article 68(1) of Law No. 3 of 2026 on the Protection of Witnesses and Victims provides that “The Central Government and Local Governments are obligated to support the protection of witnesses, victims, perpetrator-witnesses, reporters, informants, and/or experts in accordance with their respective authorities”;

4. Article 68(2) of Law No. 3 of 2026 on the Protection of Witnesses and Victims stipulates that “The support referred to in paragraph (1) shall be provided in the form of:

- a. formulating policies with a protection-oriented perspective;
- b. developing programs for protection efforts;
- c. allocating budgets for protection efforts;
- d. providing health care and psychological recovery services; and/or
- e. other active roles related to protection in accordance with the provisions of laws and regulations.”

5. Article 1132 of Government Regulation No. 28 of 2024 on the Implementing Regulations of Law No. 17 of 2023 on Health stipulates that “The Central Government and Local Governments are responsible for funding medical examinations and health services for victims of criminal acts and/or postmortem examinations for legal purposes”; and

6. Article 52(1)(r) of Presidential Regulation No. 59 of 2024 on the Third Amendment to Presidential Regulation

No. 82 of 2018 on Health Insurance stipulates that “Health services not covered by insurance include health services resulting from criminal acts of abuse, sexual violence, victims of terrorism, and criminal acts of human trafficking that are already covered through other funding schemes implemented by ministries/agencies or local governments in accordance with the provisions of laws and regulations”.

Based on the six provisions mentioned above, local governments—as defined in Law No. 23 of 2014 on Regional Government, which comprises provincial governments and regency/city governments—must ensure that victims of criminal acts have access to health care services. The fulfillment of these obligations by local governments can be viewed from several perspectives.

First, from the perspective of Law No. 17 of 2023 on Health, local governments are responsible for medical examinations and health services. Second, from the perspective of Law No. 3 of 2026 on the Protection of Witnesses and Victims, local governments are obligated to support protection efforts by formulating policies, developing programs, allocating budgets, providing health and rehabilitation services, and playing an active role in protection efforts. Third, from the perspective of Presidential Regulation No. 59 of 2024 concerning the Third Amendment to Presidential Regulation No. 82 of 2018 on Health Insurance, local governments guarantee funding for health services, but only for victims of certain criminal offenses, namely abuse, sexual violence, terrorism, and human trafficking.

The structure of these provisions indicates that the local government’s responsibility to fulfill the right to health care for victims of criminal offenses cannot be understood solely as an administrative obligation in the field of health. This responsibility stems from the fact that health is a mandatory government function related to basic services (Yuliantari 2023). The designation of health as a mandatory area of government responsibility under Law No. 23 of 2014 on Regional Government provides a legal basis for local governments to play an active role in ensuring the provision of health services in their respective regions.

In the context of victims of criminal offenses, this authority is reinforced by Law No. 17 of 2023 on Health, which specifically assigns responsibility for funding medical examinations and health services for victims of criminal offenses to the central government and local governments. Thus, the obligations of local governments extend beyond the provision of health facilities to include the necessary funding to ensure that victims can receive health services (Weniastri 2026).

Law No. 3 of 2026 on the Protection of Witnesses and Victims broadens this responsibility by requiring local government support through policies, programs, budget allocations, health services, and victim recovery and protection measures (Martira and Nursadi 2020).

Victims are no longer viewed merely as parties whose testimony is needed in the law enforcement process, but rather as legal subjects who have the right to receive redress. Therefore, health services for victims of criminal acts should be considered an integral part of the victim protection

system. Consequently, local governments need to integrate a victim protection perspective into local health policies, regional development planning, local government programs, and budgeting policies in accordance with the respective authorities of each level of government.

Legal issues arise when these obligations of local governments are linked to the National Health Insurance system. Article 52(1)(r) of Presidential Regulation No. 59 of 2024 essentially limits National Health Insurance coverage to health services resulting from certain criminal offenses only if such services are already covered through other funding schemes implemented by ministries/agencies or local governments.

This provision indicates that there is a relationship between the National Health Insurance scheme and funding schemes outside of National Health Insurance. The issue is that any exclusion from National Health Insurance coverage must be accompanied by certainty regarding an alternative funding scheme that is accessible to victims. Without a clear mechanism regarding budget sources, application procedures, administrative requirements, the responsible institutions, and payment mechanisms to health care facilities, victims may face financing uncertainty precisely when health care services are urgently needed.

If these provisions are read systematically, there are differences in the scope of the regulations that require attention. Law No. 17 of 2023 on Health uses the broad terminology "victims of criminal acts," whereas Article 52(1)(r) of Presidential Regulation No. 59 of 2024 specifically refers to health services resulting from

abuse, sexual violence, terrorism, and human trafficking.

This difference in wording raises questions regarding the scope of victims whose health care costs are the responsibility of local governments, particularly with regard to victims of criminal acts outside the categories explicitly mentioned in the Presidential Regulation. This situation highlights the importance of harmonizing the provisions establishing local government responsibilities with those governing coverage exceptions under the National Health Insurance program to prevent a protection gap that would shift the financial burden onto the victims.

Based on this framework, the responsibility of local governments in fulfilling the right to health care for victims of criminal acts can be understood, at a minimum, in three interrelated dimensions: regulatory responsibility, service responsibility, and financial responsibility. Regulatory responsibility is realized through the formulation of local policies that provide certainty regarding service delivery and financing mechanisms for victims; service responsibility is realized through the availability and accessibility of health facilities and personnel capable of providing services in accordance with the victims' needs; while financing responsibility is realized through the provision of budget allocations and coverage mechanisms that can be utilized when health care costs are not covered by the National Health Insurance program.

These three dimensions must be implemented in an integrated manner because normative recognition of victims' rights will not result in effective

protection if it is not accompanied by institutional instruments, service procedures, and certainty regarding funding sources at the local level.

Local Governments' Responsibility for Providing Financial Assistance to Victims of Criminal Offenses Not Covered by the National Health Insurance Program

Philosophically speaking, the 1945 Constitution of the Republic of Indonesia affirms that the purpose of the state is to protect and promote the welfare of the people; therefore, local governments also have a responsibility to serve the public and fulfill the basic rights of citizens, one of which is the right to health care (Ningsih, Ardiansah, and Fahmi 2024). The primary basis for the government's obligation to protect human rights is the democratic principle that the government is authorized to protect the rights of its citizens; furthermore, the concept of the welfare state as a concept of the modern state grants the government greater authority to act, and this authority is intended solely to advance and realize human rights (Harianto, Kusumaningrum, and Sukmariningsih 2024).

The provision of health care to victims of crime must be carried out responsibly, safely, with high quality, equitably, and without discrimination (Wulandari, Purwanto, and Susanti 2025). These services are provided at hospitals, which are health care institutions that offer comprehensive individual health care services, including outpatient, inpatient, and emergency care, and are required to adhere to operational standards in accordance with Government Regulation No. 47 of 2021 on the

Operation of Hospitals (Hartiana, Haryanto, and Anggreliana 2025).

In this study, it can be normatively analyzed that there are several health services not covered by the National Health Insurance program, including health services resulting from criminal acts of abuse, sexual violence, terrorism, and human trafficking, which are already covered through other funding schemes. This is because Article 7(2), Article 9(1), Article 68(1), and Article 68(2) of Law No. 3 of 2026 on the Protection of Witnesses and Victims state that:

1. Article 7(2): "Recovery programs for witnesses, victims, perpetrator-witnesses, reporters, informants, and/or experts consist of medical services, psychosocial and psychological rehabilitation services, and/or other programs as needed";

2. Article 9, paragraph (1): "In addition to the rights referred to in Article 7, victims are entitled to health insurance, social security provided by other agencies based on recommendations from the LPSK, and/or funding for recovery services derived from the Victims' Endowment Fund";

3. Article 68(1): "The Central Government and Local Governments are obligated to support the protection of witnesses, victims, perpetrator witnesses, reporters, informants, and/or experts in accordance with their respective authorities"; and

4. Article 68, paragraph (2): "The support referred to in paragraph (1) is provided in the form of formulating policies with a protection perspective, developing programs for protection efforts, allocating budgets for protection efforts, providing health and psychological recovery services, and/or other active roles related to

protection in accordance with the provisions of laws and regulations”,

thereby ensuring that health services for victims of criminal offenses not covered by the National Health Insurance program are regulated under the 2026 Act on the Protection of Witnesses and Victims.

Specifically regarding the responsibility of local governments in funding care for victims of criminal offenses, the exclusion of a particular health service from National Health Insurance coverage cannot be interpreted as a waiver of the state's obligation to ensure that victims' rights to health care are fulfilled. This exclusion essentially indicates a division in the coverage mechanism, namely that the financing of certain health services is not borne by the National Health Insurance scheme because it has been or should be covered through other funding mechanisms. Therefore, the legal issue at hand is not merely whether or not coverage under the National Health Insurance exists, but rather which party is responsible for ensuring the availability of funding when victims require health services as a result of a criminal act.

Before addressing the local government's responsibility for funding, there are mechanisms available for victims of criminal acts to seek funding for their health services. Under the regulatory framework, victims of criminal offenses are governed by Law No. 3 of 2026 on the Protection of Witnesses and Victims, which was recently enacted on May 20, 2026, by President Prabowo Subianto. The Transitional Provisions of this law state that upon the entry into force of Law No. 3 of 2026 on the Protection of Witnesses and Victims,

the implementing regulations of Law No. 13 of 2006 on the Protection of Witnesses and Victims—as amended by Law No. 31 of 2014 Amending Law No. 13 of 2006 on the Protection of Witnesses and Victims—shall remain in effect to the extent they do not conflict with this Law.

Consequently, the technical mechanisms for providing health services to victims of criminal offenses continue to be governed by Government Regulation No. 7 of 2018 on the Provision of Compensation, Restitution, and Assistance to Witnesses and Victims, as amended by Government Regulation No. 35 of 2020 amending Government Regulation No. 7 of 2018 on the Provision of Compensation, Restitution, and Assistance to Witnesses and Victims, in conjunction with Regulation of the Witness and Victim Protection Agency No. 2 of 2020 on Applications for Protection of Witnesses and/or Victims of Criminal Offenses.

Victims of criminal offenses seeking financial assistance must first submit an application to the Witness and Victim Protection Agency (LPSK). Article 9 of Regulation of the Witness and Victim Protection Agency No. 2 of 2020 on Applications for Protection of Witnesses and/or Victims of Criminal Offenses states that to receive protection, the Applicant must meet both formal and material requirements. Formal requirements generally pertain to conditions establishing the victim's legal standing and statements from authorized parties regarding the victim's status in relation to the criminal offense, while material requirements consist of documents or information demonstrating the significance of the applicant's

testimony, the level of threat, the findings of a medical or psychological evaluation, and the criminal case record. Subsequently, the LPSK reviews the application and prepares a report on the request for protection, which is then used to make a decision.

The process from filing an application to its approval is often confusing because victims/applicants must go through a lengthy process to obtain protection from the LPSK (Rangkuty, Ritonga, and Khoiri 2026). This process is often lengthy, which may explain why witnesses and victims are reluctant to seek protection from the Witness and Victim Protection Agency (LPSK) and prefer to remain silent; this is particularly true for those who do not fully understand the procedures established by the LPSK, especially those who are not well-versed in the law (Fevernova and Firmansyah 2023).

An example of the protection provided by LPSK is a case of abuse that occurred in Central Bangka, in which the perpetrator set the victim on fire due to a domestic dispute, resulting in the victim sustaining burns covering 70% of their body. In response, the LPSK in the Bangka Belitung Islands region provided financial assistance in the amount of Rp160,000,000.00 (one hundred sixty million rupiah) to the victim to facilitate their medical rehabilitation (Sartika et al. 2024).

The phrase “obligated to support” in Law No. 3 of 2026 establishes a legal obligation for local governments to support victim protection. Implementation remains subject to the division of authority under applicable laws and regulations.

Currently, the scope of local governments’ responsibilities toward

victims of criminal offenses extends beyond merely covering hospital bills, as the enactment of Law No. 3 of 2026 on the Protection of Witnesses and Victims provides a broader framework, stipulating that local government support may take the form of developing policies with a protection-oriented perspective, creating protection programs, allocating budgets for protection efforts, providing health care and psychological recovery services, and/or other active roles related to protection in accordance with applicable laws and regulations.

Therefore, local governments should now plan programs, designate the responsible local government agencies (OPDs), allocate budgets, and establish mechanisms that ensure victims of criminal offenses can access financial assistance as provided for in Article 52(1)(r) of Presidential Regulation No. 59 of 2024 on the Third Amendment to Presidential Regulation No. 82 of 2018 on Health Insurance. The fiscal capacity of each local government in terms of fulfilling funding for victims of criminal acts must be taken into account, as each local government has its own fiscal capacity. Therefore, a commitment is needed from regional heads and the leaders of relevant regional government agencies to ensure the fulfillment of the mandatory support provisions as stipulated in Law No. 3 of 2026 on the Protection of Witnesses and Victims.

Several local governments have fulfilled their responsibilities toward victims of crime; for example, West Java Governor Dedi Mulyadi has emphasized that the West Java Provincial Government will cover the medical expenses of both victims and

offenders who are receiving treatment at hospitals (Bagaskara 2026). Similarly, Medan Mayor Rizo Waas stated that many criminal cases, such as muggings, are not covered by BPJS; therefore, the Medan City Government has issued a policy by enacting Medan Mayor Regulation No. 20 of 2026 on Procedures for the Payment of Health Care Claims, under which victims of criminal acts can be covered because funding has been allocated in the Regional Revenue and Expenditure Budget (APBD) (Syahputra 2026).

However, if a local government has not yet developed a funding plan or faces fiscal or financial constraints regarding the funding of health services for victims of criminal acts who are not covered by the National Health Insurance, it may take action by collaborating with the National Zakat Agency (BAZNAS), as exemplified by an initiative implemented by the Bulukumba Regency Government and BAZNAS Bulukumba Regency, which jointly agreed to sign a cooperation agreement regarding the provision of health care assistance to residents not covered by the National Health Insurance program within the service areas of all community health centers (puskesmas) throughout Bulukumba Regency (Baznas 2026).

Thus, the provision of health care for victims of criminal offenses who are not covered by the National Health Insurance program requires clarity regarding funding mechanisms and the division of responsibilities among agencies. Local governments retain the obligation to provide support within their authority as stipulated in Law No. 3 of 2026 on the Protection of Witnesses and Victims, which can be realized, among other things, through

program planning, budget allocation, the provision of health services, and psychological recovery.

In the event of budget constraints or the absence of a funding mechanism, collaboration with other institutions such as BAZNAS can serve as an alternative to expand access to funding, while still adhering to applicable laws and regulations. Therefore, local governments need to establish clear, coordinated, and sustainable mechanisms to ensure that victims of criminal offenses continue to have timely access to health services without discrimination.

CONCLUSION

Based on the research findings and discussion outlined above, it can be concluded that the provisions regarding the responsibilities of local governments in fulfilling the right to health care for victims of criminal acts not covered by the National Health Insurance program are specifically set out in Article 52, paragraph (1)(r) of Presidential Regulation No. 59 of 2024 concerning the Third Amendment to Presidential Regulation No. 82 of 2018 on Health Insurance and Article 68(2) of Law No. 3 of 2026 on the Protection of Witnesses and Victims. The local government's responsibilities in fulfilling the right to health care services for victims of criminal offenses not covered by the National Health Insurance program begin with budget planning, the formulation of local regulations, and cooperation with relevant stakeholders.

The transitional provisions of Law No. 3 of 2026 retain existing implementing regulations insofar as they do not conflict with the new law. Its final provisions require new implementing regulations within two

years of promulgation. The central government should therefore issue the necessary regulations promptly to provide legal certainty for local governments in fulfilling the obligations set out in Article 68(2).

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