

Tryg Forsikring meets the requirements within the data protection regulations

Date: 08-12-2021

Decision

Private companies

No criticism

Complaint

Sensitive information

Basis of treatment

The Danish Data Protection Authority has assessed that Tryg Forsikring A/S' collection of health information about a policyholder (complainant) had taken place within the data protection rules. The supervisory authority has further established that the complainant's consent was not a consent covered by the GDPR.

Journal number: 2020-31-3840.

The Danish Data Protection Authority hereby returns to the case where you complained on 3 September 2020 about Tryg Forsikring A/S' processing of information about you.

The Danish Data Protection Authority has understood your inquiry as a complaint that Tryg Forsikring A/S has collected information about you in the form of medical records 10 years ago, even though you had only given consent for the company to collect information for a period of up to 5 years previously for the time of the injury.

Summary

The Danish Data Protection Authority has made a decision in a case where a citizen [complainant] has complained that Tryg Forsikring - for use in the assessment of a claim for compensation made by the complainant - had obtained information about the person concerned in the form of medical records.

The Danish Data Protection Authority found that Tryg Forsikring's collection of health information about complaints had taken place in accordance with the data protection rules.

The Danish Data Protection Authority emphasized that Tryg Forsikring's collection of information about complaints took place with the aim of determining whether the complainant was entitled to compensation in accordance with the insurance conditions applicable to the insurance contract. The inspectorate placed further emphasis on the fact that the collection of the information

took place with a view to fulfilling the agreement between Tryg Forsikring and the policyholder in order to determine a possible claim for payment in accordance with the insurance agreement.

Furthermore, the Data Protection Authority found no basis for overriding Tryg Forsikring's assessment that they had collected the information that was necessary for them, as an insurance company, to process the reported damage.

Finally, the Danish Data Protection Authority noted that the consent given by the complainant in the case to Tryg Forsikring was not a data protection legal consent covered by the rules of the data protection regulation.

## 1. Decision

After a review of the case, the Danish Data Protection Authority finds that Tryg Forsikring A/S' processing of information about you took place within the framework of the rules in the data protection regulation[1], cf. article 9, subsection 2, and Article 6, subsection 1.

Below follows a closer review of the case and a rationale for the Data Protection Authority's decision.

## 2. Case presentation

It appears from the case that you have reported an injury to Tryg Forsikring A/S, where you are insured.

On 30 May 2020, you signed a statement stating that Tryg Forsikring A/S, in connection with the processing of your claim, had to obtain and pass on the information that was necessary for the company's assessment of your case. The consent included information for a period of up to 5 years prior to the time of injury or the time of onset of the illness and up to the time when Tryg Forsikring A/S had made a decision on your case.

### 2.1. Your comments

You have stated that you have only given your consent to Tryg Forsikring A/S being allowed to obtain information about you, including health information, for a period of five years prior to the time of the claim, and that Tryg Forsikring A/S has collected information despite this about you, which goes back 10 years.

You have also stated that it must be considered unnecessary that Tryg Forsikring A/S has collected information about you that goes back 10 years. In this connection, you have referred to the fact that it is clear from the Data Protection Regulation and the Data Protection Act that no more information may be collected about the individual than is relevant and sufficient for the fulfillment of the objective purposes for which the information is collected.

### 2.2. Tryg Forsikring A/S' comments

Tryg Forsikring A/S has stated that Tryg Forsikring A/S has obtained information about you from your doctor in order to be able to assess whether the damage reported by you is covered by the terms of the insurance and whether, if applicable, compensation must be paid for a permanent injury, including the size of any permanent injury.

The information that Tryg Forsikring A/S has collected about you consists of health information in the form of a medical record 5 years prior to the time of injury, as well as a functional certificate, which contains information about current ailments and any ailments 10 years prior to the time of injury. The medical information is necessary for Tryg to calculate the claim for compensation from you. The collection of information has taken place on the basis of the legal requirements rule in the data protection regulation, article 9, subsection 2, letter f, cf. Article 6, subsection 1, letter b) for policyholders and letter f) for insured persons under the insurance.

Tryg Forsikring A/S has also noted that the consent obtained in the case does not constitute the processing authority for Tryg Forsikring A/S' processing of personal data for use in the compensation settlement.

Finally, Tryg Forsikring A/S has stated that the collection of information about you has taken place in accordance with the basic principles for processing personal data in Article 5 of the Data Protection Regulation. Tryg Forsikring A/S has hereby emphasized that the collection of information is necessary for , that Tryg, as an insurance company, can process your reported claim. Information about your health history helps to determine whether you are entitled to compensation according to the insurance conditions applicable to the insurance contract. Here it is, among other things, determining whether the reported injury is the result of pre-existing or present injuries/diseases.

### 3. Reason for the Data Protection Authority's decision

The Danish Data Protection Authority assumes that you have taken out insurance with Tryg Forsikring A/S and that the information referred to in the case relates to Tryg Forsikring A/S' treatment of a reported claim.

According to the data protection regulation's article 9, subsection 1, a ban on the processing of health information generally applies. However, the prohibition does not apply if one of the exceptions in Article 9, subsection 2, applies.

It appears from Article 9, subsection 2, letter f, that the prohibition on processing does not apply if the processing is necessary for legal claims to be established, asserted or defended.

When processing information covered by Article 9, subsection 1, there must also be a legal basis for the processing in the data protection regulation, article 6, subsection

It follows from the data protection regulation's article 6, subsection 1, letter b, that personal data can be legally processed if the processing is necessary for the fulfillment of a contract to which the data subject is a party.

The Danish Data Protection Authority finds that Tryg Forsikring A/S' processing of your health information is covered by the exception to the prohibition in Article 9, paragraph 1 of the Data Protection Regulation. 2, letter f.

The Danish Data Protection Authority has hereby emphasized that Tryg Forsikring A/S collected information about you from your doctor with the aim of determining whether you are entitled to compensation according to the insurance conditions applicable to the insurance agreement.

Furthermore, the Danish Data Protection Authority considers that the processing could take place on the basis of Article 6, paragraph 1 of the Data Protection Regulation. 1, letter b.

The Danish Data Protection Authority has hereby emphasized that the said information was obtained for the purpose of fulfilling the agreement with you as the policyholder in order to determine a possible claim for payment in accordance with the insurance agreement.

On this basis, the Danish Data Protection Authority finds that Tryg Forsikring A/S' processing of your health information took place in accordance with the data protection regulation's article 9, subsection 2, letter f and Article 6, subsection 1, letter b.

In addition, the Danish Data Protection Authority finds that there is no basis for disregarding the statement by Tryg Forsikring A/S that Tryg Forsikring A/S has collected the information about you that is necessary for Tryg Forsikring A/S, as an insurance company, can process your reported damage, cf. the data protection regulation, article 5, subsection 1, letter c. (the principle of data minimisation).

The Danish Data Protection Authority assumes that Tryg Forsikring A/S, when fulfilling its obligation to provide information pursuant to Articles 13 and 14 of the Data Protection Regulation, has disclosed the processing bases on which Tryg Forsikring A/S bases its processing in connection with the assessment of a reported claim, and that from this it appears that the processing of personal data takes place on the basis of the data protection regulation, article 6, subsection 1, letter b, and 9, subsection 2, letter f.

It should be noted that the consent given in the statement in question for use by Tryg Forsikring A/S's collection of health information about you is not a data protection legal consent covered by the rules of the Data Protection Regulation and does not constitute the basis for processing information in connection with your reported damage.

[1] Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons in connection with the processing of personal data and on the free exchange of such data and on the repeal of Directive 95/46/EC (general regulation on data protection).