

## The complaint

Mr D complains that Aviva Health UK Limited declined his claim against his private medical insurance policy. Mr C is assisting Mr D in bringing the complaint.

## What happened

The details of this complaint are well known to both parties, so I won't repeat them again here in full. In summary, Mr D has the benefit of private medical insurance underwritten by Aviva. His cover is on a continued personal medical exclusions basis, which means that Aviva agreed to continue Mr D's previous cover without the need for fresh underwriting, so pre-existing conditions are covered to the extent they were previously covered or disregarded altogether. The certificate shows that there are no medical exclusions specific to Mr D.

I understand that in 1981, Mr D was diagnosed with type 1 diabetes and that he was first referred for treatment for wet macular degeneration in 2017. Mr D says that he's had injection treatment for wet macular degeneration in 2017 and 2020. On both occasions, the treatment was covered by previous insurers.

In mid to late November 2022, Mr D suffered a bleed in his left eye. On 3 December 2022, he saw a consultant ophthalmologist in a private clinic. I understand that the consultant recommended an injection for wet macular degeneration. On 6 December 2022, Mr D made a claim against his policy for the injection treatment which he was due to have on 9 December 2022.

Aviva declined Mr D's claim. It said that the injection treatment was for a chronic condition and excluded from cover. Aviva said that its policy is to authorise a claim for injection therapy for wet macular degeneration only once for a maximum of four months but only if it is a newly diagnosed condition. As Mr D has previously had an injection for this condition, cover isn't provided. I understand that Mr D had the injection treatment in February 2023.

Mr D didn't think that Aviva's decision to decline his claim was fair and pursued his complaint.

One of our investigators looked at what had happened. She didn't think that Aviva had acted unfairly in declining Mr D's claim. The investigator thought that Aviva declined the claim in line with the policy terms, which provide that chronic conditions aren't covered by the policy.

Mr D didn't agree with the investigator and responded to say, in summary:

- He's had type 1 diabetes since 1981 and all of his private medical insurers have covered his chronic illness. Whenever he has switched provider, he's made it clear that he wants continued cover for his chronic illness. He doesn't expect Aviva to cover regular routine issues associated with type 1 diabetes but does

expect cover for flare-ups of the condition. He believes that his claim here is for a flare-up.

- He asked who told the investigator that the flare-ups happen often and queried the definition of 'often'.
- His recent treatment for the flare-up was in February 2023 and his previous treatment was in October 2020. So, he doesn't need regular consultations about this.
- Aviva told him that its policy was to cover the first two injections only. This is a flare-up and not a routine procedure.
- His previous insurer covered the cost of treatment in October 2020, and it had very similar policy wording to Aviva.

The investigator considered what Mr D said but didn't change her view. Mr D asked that an ombudsman consider the complaint, so it was passed to me to decide.

### **What I've decided – and why**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

#### the relevant terms and conditions

The starting point is the terms and conditions of the policy. The policy covers eligible treatment of acute conditions and doesn't cover chronic conditions. The policy says:

#### **'Exclusions**

[...]

#### **6. Chronic conditions – [...]**

*We do not cover **treatment** of a **chronic condition** including:*

*Regular planned check ups for a **chronic condition** where a **member** is likely to need **treatment***

*Expected deterioration of a **chronic condition** which needs regular consultations, **diagnostic tests** or **treatment** from a **specialist**.*

**BUT**

*We do cover unexpected acute flare-ups of a **chronic condition** until the **member's** condition is restabilised [...]*

*'An **acute condition** is defined as a disease, illness or injury that is likely to respond quickly to **treatment** which aims to return a **member** to the state of health they were in immediately before suffering from it, or which leads to their full recovery.*

*A **chronic condition** is defined as a disease, illness or injury that has one or more of the following characteristics:*

*-it needs ongoing long-term monitoring through consultations, examinations, check-ups and/or tests*

*-it needs ongoing or long term control or relief of symptoms*

*-it requires a **member's** rehabilitation or for them to be specifically trained to cope with it*

*-it continues indefinitely*

*-it has no known cure*

*-it comes back or is likely to come back.'*

has Aviva acted unfairly or unreasonably?

The relevant rules and industry guidance say that Aviva has a responsibility to handle claims promptly and fairly and it shouldn't reject a claim unreasonably. I don't uphold Mr D's complaint because I don't think that Aviva treated him unfairly or unreasonably. I say that because:

- Insurance policies aren't designed to cover every eventuality or situation. An insurer will decide what risks it's willing to cover and set these out in the terms and conditions of the policy document. The onus is on the consumer to show that the claim falls under one of the agreed areas of cover within the policy. If the event is covered in principle but is declined on the basis of an exclusion set out in the policy the onus shifts to the insurer to show how that exclusion applies.
- There's very little medical evidence in this case. It's common ground that Mr D's wet macular degeneration is related to his type 1 diabetes. I haven't seen a letter from the consultant setting out exactly what treatment was recommended in late 2022 for Mr D's wet macular degeneration and why. I've proceeded on the basis that Mr D's claim was for injection treatment for wet macular degeneration.
- I've set out above the policy's definition of a chronic condition. Aviva's notes show that it referred Mr D's request for treatment to its clinical team, which is what we'd expect it to do. The clinical team said that wet macular degeneration is a chronic condition. I don't think that Aviva acted unfairly or unreasonably in coming to that conclusion. That's because wet macular degeneration continues indefinitely and has no known cure.
- The policy covers unexpected acute flare-ups of a chronic condition. Aviva says that wet macular degeneration is caused by abnormal blood vessels that can bleed and suggests that any bleed is expected for this condition, not an unexpected acute flare-up. I've seen no medical evidence which suggests that Mr D's symptom which led to the claim – a bleed in his eye - was an unexpected flare-up of his wet macular degeneration. There's no cover for expected deterioration of a chronic condition. I don't think that Aviva acted unfairly or unreasonably in deciding that what Mr D required treatment for here wasn't an unexpected acute flare-up of a chronic condition.
- Mr D queries the investigator's reference to frequent flare-ups. When Mr D first contacted this service in February 2023, he explained that he'd had a flare-up of a chronic condition and that these happen often. I accept what Mr D now says about the frequency of his injection therapy for wet macular degeneration and that his previous treatments covered by other insurers were in 2017 and October 2020. I don't think that alters the outcome here.

- Aviva has explained that it will provide cover for injection therapy for wet macular degeneration once only, for a maximum of four months but only if it is a newly diagnosed condition. Mr D was first referred for treatment for wet macular degeneration in 2017, so this is not a newly diagnosed condition. I don't think that Aviva is at fault in declining cover for injection treatment in this case.
- I can't comment on decisions by Mr D's previous insurers, as it's not part of this complaint against Aviva and I haven't seen the terms and conditions of the previous cover or the circumstances of those claims.
- I'm sorry to disappoint Mr D but for the reasons I've explained, I don't think that Aviva acted unfairly or unreasonably in declining his claim.

### **My final decision**

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 17 October 2023.

Louise Povey  
**Ombudsman**