

The complaint

Mr W is unhappy with how Euroins AD want to settle a claim he made on his travel insurance policy.

What happened

In early January 2023 Mr W was on holiday and had an accident which caused a fracture to his clavicle. At the relevant time he was approaching his 70th birthday and was travelling alone. He had a history of brachial plexus injury.

Mr W says he contacted his insurer around the time of the accident, but the first note of contact is in early February. By then he was also experiencing gastric symptoms including pain and diarrhoea. Mr W didn't return home on his planned return date in mid-February 2023 and returned to the UK in mid-April 2023. In their final response letter Euroins said that their medical director had reviewed the case and there was no medical reason for Mr W to stay beyond his planned return date.

Mr W complained to the Financial Ombudsman Service that Euroins wouldn't cover expenses he incurred beyond his original return date. Our investigator looked into what happened and didn't uphold the complaint. She thought Euroins had acted reasonably based on the available medical evidence.

Mr W didn't agree and asked an ombudsman to review the complaint. In summary, he doesn't think Euroins decision is consistent with the available medical evidence and the information contained within their claims handling notes. He highlighted various correspondence and information in support of his position. So, the complaint was passed to me to make a decision.

In February 2023 I issued a provisional decision. I said:

At the outset I acknowledge that I've summarised this complaint in far less detail than Mr W has, and in my own words. I won't respond to every single point made. No discourtesy is intended by this. Instead, I've focussed on what I think are the key issues here. The rules that govern our service allow me to do this as we are an informal dispute resolution service.

If there's something I've not mentioned, it isn't because I've overlooked it. I haven't. I'm satisfied I don't need to comment on every individual point to be able to fulfil my statutory function.

The relevant rules and industry guidelines say that Euroins has a responsibility to handle claims promptly and fairly. And they shouldn't reject a claim unreasonably.

The policy terms and conditions say:

If you have to stay on your trip longer because of events which are covered by the insurance we will extend the period of insurance by up to 30 days, at

no extra cost.

Under the medical expenses section of cover it says:

If you become ill or sustain a bodily injury we have the right to bring you back to your home country, if the emergency assistance company medical practitioner states that you can safely travel. If you refuse to come home no further costs will be covered.

I don't think Euroins did reasonably conclude that Mr W was able to return home on his planned return date. I'll explain why.

The medical evidence

I've looked at the reports from the treating doctor.

On 11 February 2023, around five days before Mr W was due to return home, the treating doctor said:

He got continuous injection (sic) on 20, 30 Jan, 4-6, 9-11 Feb 23. Because of pain, ongoing diarrhoea and weakness, he is not fit to fly. He should stop travelling and postpone his flight by 30 days. This report also noted that Mr W had recently had an MRI scan on his shoulder.

Euroins' medical team reviewed the report and concluded:

Once his diarrhoea has stopped for 24 hours or more and shoulder pain controlled then he should be FTF. Recommend business upgrade, WCHS – other option is that he remains for 30 days then returns in economy (window seat on affected side) – whichever is the most cost effective.

A report from the treating doctor in early March said Mr W was still needing analgesic injections to control the pain, had diarrhoea for the whole of February which had only improved in the last few days and had mobility problems due to weakness. It said he had the assistance of a nurse and was hardly able to walk to the toilet. The doctor noted that Mr W was also experiencing renal insufficiency and other conditions. The report concluded that Mr W was a high risk of falling over and personal assistance is recommended.

A medical report from 12 March says Mr W had developed a high fever with shivering and had a urination problem. I note there was reference to renal insufficiency in the previous report. Mr W was diagnosed with acute pyelonephritis and treated with intravenous antibiotics. The NHS website describes it as a painful and unpleasant illness and says that most people who are diagnosed and treated promptly with antibiotics feel completely better after about two weeks. However, it says people who are older or have underlying conditions may take longer to recover. On 16 March Mr W was returned to an intravenous drip as he was still experiencing a fever. A medical report was also provided on 10 April 2023. It says that Mr W had on and off uncontrollable diarrhoea and was not yet fit to fly. It noted that Mr W was very weak but could fly on 13 April 2023. It confirmed that Mr W had been visited by a doctor almost daily.

I've taken into account the further comments from the medical team which say:

I can see no medical reason why Mr W needs any additional assistance. If he

wishes to pay for a business class seat, that is his prerogative. Of course, travelling in business class will always be more comfortable than travelling in economy but there is no medical necessity for it – as there was no medical necessity for him to travel out to [redacted] in business class.

The settlement of the claim

Based on the available evidence I don't think it was reasonable to conclude that Mr W could have returned to the UK on his original return date in February. The medical evidence suggests that it is most likely that Mr W was experiencing ongoing symptoms which were going to make travelling alone very difficult. In reaching that conclusion I bear in mind Mr W's age, pre-existing condition, that he was travelling alone and that he was facing a long-haul flight.

Mr W had been able to travel out with a pre-existing condition. But I think it's most likely that this would have been impacted by his injury and other symptoms which arose prior to his return date. The medical evidence from the treating doctor indicates that his mobility was impacted and he was very unwell with a number of health issues.

I'm also not persuaded that the medical evidence indicates that Mr W's gastric symptoms had resolved so that he was symptom free or that his shoulder pain was adequately controlled. The medical evidence says that Mr W's symptoms were still ongoing throughout March and included acute gastroenteritis. So, I don't think the suggestion that Mr W could have returned on his planned return date, even in business class, is consistent with the guidance from the treating hospital or available medical evidence. It's also not consistent with the recommendation that he needed to be free of diarrhoea for 24 hours or more.

I don't think the conclusion reached by Euroins' medical team fairly reflects the overall medical evidence available which supports that Mr W experienced a complex range of symptoms over some time and had other conditions which were likely going to impact on his recovery time. So, I don't think it is fair and reasonable to conclude he could have returned home in February.

I think it's reasonable to conclude that Mr W wasn't well enough to return to the UK until at least the end of March. And I think, in the circumstances of this case, it's fair and reasonable to rely on the evidence of the treating doctor who says Mr W wouldn't have been able to return until 13 April. In reaching this conclusion I've carefully considered the available medical evidence from the parties. I think Mr W has provided credible and persuasive medical evidence which demonstrates there were legitimate reasons why he couldn't return home.

I've thought about the policy terms which allow for an extension of cover for up to 30 days. But I don't think that leads to a fair and reasonable outcome in the circumstances of this case. I think it would be fair and reasonable to direct Euroins to cover the expenses covered under the policy until Mr W was well enough to return home. It's not disputed there was an insured event, and I don't think I can fairly conclude Mr W's cover should end after 30 days when, based on the medical evidence, he wasn't well enough to travel home until mid-April.

I think Euroins should cover the cost of Mr W's business class seat. He'd been very unwell over a sustained period of time. And the medical evidence outlines the issues he was experiencing with his mobility and stomach. Euroins also initially considered that he'd need to return in a business class seat and Mr W's condition became more

complex between the date of that recommendation and his return as he was diagnosed with other conditions.

I'm also directing Euroins to pay Mr W £500 compensation for the distress and inconvenience caused by his claim being declined. Mr W has explained that he was in a lot of pain and on medication during the time he was abroad. He then developed infections and arranged his own nursing care when he wasn't well. He also made his way home with assistance he arranged and with some of his luggage being sent on ahead of him. I think this caused Mr W additional distress at an already difficult time following a protracted period of ill health. So, I think the impact of determining Mr W could return home as planned has caused him significant inconvenience that took a lot of extra effort to sort out. I also think it caused him considerable upset and worry.

Putting things right

I'm intending to direct Euroins to put things right by reconsidering the claim for expenses incurred after Mr W's planned return date in line with the remaining policy terms and on the basis that he wasn't well enough to return to the UK before 13 April 2023 and required a business class seat.

They should also pay Mr W £500 compensation for the distress and inconvenience caused by not fairly assessing the medical evidence which has delayed the overall settlement of his claim and the level of assistance provided to him when he did return home.

Mr W said that he agreed with my provisional decision. He later clarified that this should include his accommodation up until the point I determined it was reasonable for him to return home. He also highlighted that he'd been told that the insurance could be extended by up to six months and provided some further context of the physical and mental impact of his injury.

Euroins didn't agree with my provisional decision. In summary, they said that they had relied on expert medical opinion to support their decision on claims. They highlighted the evidence which they said supported their position. Euroins said there was no medical evidence to support that Mr W needed to remain abroad after 13 March and that the policy terms and conditions should be applied. They didn't think £500 compensation was fair and suggested that £100 was more reasonable.

So, I now need to make a decision.

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.

As I outlined in my provisional decision the relevant rules and industry guidelines say that Euroins has a responsibility to handle claims promptly and fairly. And they shouldn't reject a claim unreasonably.

I'm upholding Mr W's complaint as the further representations by Euroins haven't persuaded me that this complaint shouldn't be upheld. I say that because:

- I don't agree that there's no medical evidence to support that Mr W's pre-existing condition was impacted by his injury and other symptoms. Based on the medical evidence I referred to in my provisional decision I think it's reasonable to conclude that Mr W was unwell with different issues during the relevant time

frame.

- I think it's most likely Mr W did have mobility issues. He had the brachial plexus injury and is described as being hardly able to walk to the toilet. I think it's reasonable to conclude that this, together with the other symptoms he was experiencing, are likely to have impacted on his overall mobility and ability to cope with daily tasks.
- I've taken into account what Euroins has said about the usual recovery time following Mr W's accident. However, I think Mr W has given credible testimony about how he was feeling which is, in my view, supported by the available medical evidence.
- I think the available medical evidence does support that Mr W had ongoing gastric symptoms. I did not suggest that they were pervasive and all-consuming. But on balance, I'm persuaded it's most likely that he was experiencing a complex range of symptoms which, when considered together, made returning home very difficult.
- Euroins have questioned the strength of the medical evidence as they've said that the hospital wasn't reputable and was more of a wellness centre. They haven't provided any compelling or persuasive evidence in support of this assertion and the information available in the public domain suggests that they do employ doctors. In any event the medical evidence that is available is consistent with a treatment plan as opposed to a wellness regime. Furthermore, if Euroins had concerns that Mr W wasn't receiving treatment from a reputable provider they could have taken further action, such as instructing a local representative to engage with Mr W or arranging an independent examination.
- I appreciate that Euroins had difficulty contacting Mr W. But I'm not persuaded that this was done to avoid engaging with them. There were a number of options available to them if they wanted to make direct contact with Mr W or the hospital. That includes, but wasn't limited to, instructing an agent or medical professional for a review. And, in any event, I can't see that this has been to Euroins detriment given the level of evidence Mr W has since provided.
- As I outlined in my provisional decision I think it's fair and reasonable to step outside the policy terms in the circumstances of this case in relation to the trip limit. I don't think removing cover, when the medical evidence indicates that Mr W was unwell, leads to a fair outcome. I think it would be reasonable to extend cover up to and including the 13 April 2023 which is when I think the available evidence suggests that he was well enough to return to the UK.

Mr W commented in response to my provisional decision that he wanted to clarify whether accommodation would be calculated in the settlement of the claim. My direction is that Euroins should reassess the claim on the basis that I've set out below. If Mr W is unhappy with the settlement of the claim then he may be entitled to bring a further complaint to the Financial Ombudsman Service.

Putting things right

I'm upholding this complaint and direct Euroins to put things right by reconsidering the claim for expenses incurred after Mr W's planned return date in line with the remaining policy terms and on the basis that he wasn't well enough to return to the UK before 13 April 2023 and required a business class seat.

They should also pay Mr W £500 compensation for the distress and inconvenience caused by not fairly assessing the medical evidence which has delayed the overall settlement of his claim and the level of assistance provided to him when he did return home.

My final decision

I'm upholding Mr W's complaint and direct Euroins AD to put things right in the way I've outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 12 June 2024.

Anna Wilshaw
Ombudsman