

The complaint

Mr G is unhappy that AXA XL Insurance Company UK Limited ('AXA XL') declined a claim made on a group personal accident insurance policy.

What happened

Mr G has the benefit of a group personal accident policy ('the policy').

A claim was made on the policy in mid-2022 in respect of a back injury Mr G says he incurred during a football match.

AXA XL declined the claim because it concluded that the bodily injury Mr G experienced wasn't caused by an accident as defined by the policy.

After Mr G complained to AXA XL about its decision, and it maintained its position to decline the claim, he brought a complaint to the Financial Ombudsman Service.

Our investigator looked into what happened and didn't uphold Mr G's complaint. Mr G disagreed and raised further points in reply. These didn't change our investigator's opinion and the complaint has been passed to me to consider everything afresh 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.

AXA XL has a regulatory obligation to handle insurance claims promptly and fairly. And it mustn't unreasonably decline a claim.

The relevant terms and conditions of the policy

The policy says:

If an Accident occurs during the Period of Insurance and Effective Time that causes Bodily Injury to an Insured Person which results in...Temporary Total Disablement...We will pay the Insured Person up to but not exceeding the Benefit Amount for the Benefit Period stated if shown as insured in the Policy Schedule.

Temporary Total Disablement means:

Temporary disablement which entirely prevents the Insured Person from engaging in their Usual Occupation

Accident and Accidental means:

A single, sudden, unusual and unexpected event, which occurs at an identifiable time and place during the Period of Insurance and the Effective Time which causes Bodily Injury

Bodily Injury means:

Injury which is caused solely by Accidental means and which independently of illness or any other cause occurs within twelve months from the date of the Accident

Has AXA XL fairly and reasonably declined the claim?

I know Mr G will be very disappointed but for the reasons set out below, I'm satisfied AXA XL has relied on the terms of the policy to decline the claim.

- Mr G says he suffered an injury to his back after being tackled during a football match in October 2021.
- I don't think AXA XL has unreasonably relied on the information Mr G put in his claim form when asked how the accident occurred. It's reflected "during the game I started to feel a pain in my back and down my left leg". There's no mention of Mr G being tackled.
- Mr G has provided an extract of the accident book for the relevant football match. It does reflect: "player involved in a tackle with opposition player. Pain presented in leg following attempts to run following collision". However, I don't think this, in isolation, is persuasive evidence that the tackle caused the injury to Mr G's back.
- As part of the claim form, Mr G's GP completed a doctor's statement. It reflects that they answered Mr G first presented with low back pain, a year before, in September 2020, and first received medical attention for this condition then. There had been ongoing issues despite private chiropractor and "eventually had MRI in Feb 2022".
- Mr G says his GP is mistaken and has provided extracts of his GP records in support that there's no entry in his medical records in September 2020. However, I don't think AXA XL has unfairly relied on the doctor's statement when declining the claim particularly as the doctor hasn't provided a follow up statement to correct what was said and to explain why they provided the information as part of the claim form.
- Further, the report reflecting the radiology examination undertaken in February 2022 – and after the MRI – describes the clinical history as "L buttock and posterior thigh pain since running Marathon in October 2021. No change despite extensive conservative treatment. Slight reduction L5 myotome on L? disc bulge". There's no mention of Mr G reporting that his symptoms began after the football match in October 2021. And as the marathon took place a week before the relevant football match, I think AXA XL has fairly relied on the radiology report in support of its reason to decline the claim.
- I've taken on board all Mr G's points including what he says about if the injury had been caused by the marathon, he wouldn't have been able to play football the following week. Further, he hasn't been able to exercise or play football since the injury and has undergone surgery. However, looking at the totality of the evidence, I'm satisfied that AXA XL has fairly concluded that there's insufficient evidence that Mr G's back injury was caused by being tackled during the football match. Or that the bodily injury was caused by an accident, as defined by the policy terms.
- AXA XL has said that it would reconsider Mr G's claim if he provided any evidence in the form of a medical report that establishes his injury was caused by playing football. I think that's fair and reasonable.

AXA XL hasn't paid the benefit amount stated in the policy schedule to cover physiotherapy arising from bodily injury. However, for that benefit to be paid it must be established that "an Accident occurs during the Period of Insurance and Effective Time and causes Bodily Injury to an Insured Person that directly results in a valid Temporary Total Disablement Claim".

As I'm satisfied AXA XL has fairly concluded that Mr G didn't experience bodily injury caused by an accident, as defined by the policy terms, I don't think a claim for the physiotherapy benefit has been established.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 8 December 2023.

David Curtis-Johnson
Ombudsman