DRN-4739164

The complaint

Mrs C complains that BUPA Insurance Limited mis-sold her a private medical insurance policy. Mrs C's complaint about BUPA's decision to decline her claim has been dealt with separately.

What happened

In summary, in 2013, Mrs C took out a private medical insurance policy with BUPA. The policy renews annually in May each year. Mrs C believes the policy was mis-sold to her because in June 2023, BUPA declined her claim for a referral to a haematologist following a diagnosis of anaemia by her GP.

Mrs C says that the policy terms are unclear and misleading. She believed that her policy covered treatment after a diagnosis in the NHS. Mrs C says that she wouldn't have bought the policy if she had known that she'd have to pay for private treatment before being eligible for cover under the policy.

Mrs C says that she previously called BUPA to enquire about a referral and was told that it was only possible after a diagnosis but wasn't told that she'd have to fund a private consultation after diagnosis.

Mrs C wants BUPA to honour the conditions she believed were part of the policy and cover a claim for a consultation with a consultant, or refund the premiums she has paid since 2013.

BUPA said there was limited information available from the time of the initial sale. One of our investigators asked BUPA whether it consented to us looking at Mrs C's complaint, as the rules we operate under say we can only look at complaints made within specific time limits. BUPA consented.

The investigator didn't think that BUPA had mis-sold the policy to Mrs C. He said that the original sales call wasn't available, so he can't be sure what was discussed. The investigator said that BUPA provided Mrs C with all the information a policyholder would need to understand how the policy worked and that the information was clear and not misleading.

Mrs C didn't agree with the investigator. She disputes that the terms are clear. Mrs C says that BUPA provided an explanation about the policy terms which she later discovered wasn't correct.

Mrs C asked that an ombudsman consider her 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.

I've considered all that's been provided. I have a good understanding of Mrs C's points and so I don't need to speak with her for the fair resolution of this complaint and it's rare that this is necessary.

Mrs C first took out a policy with BUPA in June 2013. Potentially, the complaint about the sale of the policy could have been outside the time limits set out in the rules under which we operate. But as BUPA has consented to us looking at the complaint, I don't need to consider whether it's out of time.

The recording of the phone call at the time of the initial sale in 2013 is no longer available, so I can't know for sure what was said. On balance, I think it's more likely than not that this was a non-advised sale. That means that BUPA didn't give Mrs C advice about the suitability of the policy for her needs. I think that's likely because BUPA doesn't generally give advice about suitability and Mrs C hasn't alleged that it did so in this case.

In a non-advised sale, BUPA is required to provide Mrs C with information that's clear and not misleading. I've looked at the information BUPA made available to Mrs C in 2013.
Mrs C's certificate includes the following:

'***TREATMENT AND CARE***
This core health insurance option applies to the following;
[Mrs C]
Getting treated

Consultants' fees			
Type of cover	***Membership guide section***	***Cover***	***Limits***
out-patient *consultations following* ***diagnosis*** *of your* ***acute condition***	*C2.1*	*Yes*	***out-patient*** *consultations are only covered when directly related to* ***day-patient treatment, in-patient treatment*** *or an* ***out-patient surgical operation*** *and follow within six months of the discharge date of that* ***treatment.***
[…]'			

The 2013 membership guide contains the following:

'***Getting treated***
[…]

- ***we*** *pay for* ***out-patient*** *consultations,* ***out-patient diagnostic tests*** *and* ***out-patient*** *MRI, CT and PET scans but only when:*

-they are directly related to ***out-patient treatment****,* ***day-patient treatment****,* ***in-patient treatment*** *or an* ***out-patient surgical operation*** *carried out to treat that* ***acute condition****; and*
-they follow within six months of the discharge date of that ***treatment****.*
[…]
Any fees or charges you incur for any ***out-patient*** *consultations,* ***diagnostic tests*** *or scans that take place either before you receive* ***out-patient treatment****,* ***day-patient treatment, in-patient treatment*** *or an* ***out-patient surgical operation*** *to treat your* ***acute condition*** *or more than six months after the discharge date of your treatment for that acute condition are your responsibility.'*

BUPA says that the membership terms have been consistent since Mrs C became a member. I've looked at the policy documents from May 2023, which are the ones relevant to Mrs C's claim which led to her complaint. The certificate says:

'*This is your Certificate setting out the details of the cover you have chosen. We do not pay for any Benefit mentioned in the Benefits Table of your Policy Benefits and Terms booklet, unless it is included in section seven of this Certificate.*
[…]
Section seven
Cover details
[…]
Treatment and Care
The following members have Treatment and Care
[Mrs C]
[…]

Benefit	*Benefit Number*	*Limits*
Out-patient Treatment *Treatment in Hospital* *Recognised Facility Charges*	*B1* *B2* *B3*	• *We pay these Benefits only in relation to Eligible Treatment you need after your Acute Condition has been diagnosed.* • *We do not pay for any Treatment before your Acute Condition has been diagnosed.* • *We only pay for Out-patient consultations, diagnostic tests and MRI, CT and PET scans when they follow on from, and are related to, private Day-patient or In-patient Treatment or an Out-patient Surgical Operation and they take place within 6 months of the discharge date of that Treatment.'*

The 2023 Insurance Product Information Document (IPID), which is a summary of the cover, says:

*'**What is insured?***
[…]
Out-patient treatment
- ✓ *Consultations, scans (MRI, CT, PET) and diagnostic tests – paid in full*
- *Only when they follow on from, and are related to, private day-patient treatment, in-patient treatment or an out-patient surgical operation and they take place within six months of the discharge date of that treatment.*

[…]'

I think that the information provided by BUPA was clear. Mrs C's cover doesn't extend to an out-patient consultation unless it follows on from and is related to private day-patient or in-patient treatment or an out-patient surgical operation that's taken place in the previous six months.

I've listened to the recordings of the phone calls Mrs C has provided. In one of the calls, Mrs C asked about a referral to a dermatologist and BUPA explained correctly that Mrs C doesn't have cover for consultations in the scenario she presented. I don't think that BUPA misled Mrs C in the phone calls.

Mrs C has provided a link to current information about her Treatment and Care cover. That information wouldn't alter the outcome of her complaint as it's not part of the information

provided to Mrs C when she decided to take out the policy. But, in any event that information includes the following:

'**What's not covered on our Treatment and Care policy?**
[…]
X **Out-patient appointments before treatment**
[…]
X **Tests before treatment**
[…]
X **Scans before treatment**
[…]'

I'm sorry to disappoint Mrs C but as I don't find that the policy was mis-sold or that she was mis-led by BUPA, there's no basis on which I can fairly direct BUPA to authorise her claim or refund her premiums.

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 Mrs C to accept or reject my decision before 12 June 2024.

Louise Povey
Ombudsman