

The complaint

Mrs W has complained that Pinnacle Insurance Plc unfairly and unreasonably refused to pay her claim under her pet policy.

What happened

Mrs W bought a maximum benefit policy for her dog. The policy started on 28 June 2022, and she renewed it for 2023. Her dog suffered from ataxia on 26 May 2023 and was referred to a specialist vet for investigation. Subsequently, Mrs W made a claim for the costs of her own vet and the investigation costs of the referral vet to Pinnacle to include the cost of an MRI in the total sum of £3,560.71.

Pinnacle said on investigating the claim and more particular the vet history of Mrs W's dog, it noted her dog had suffered previous neurological issues before the policy started. So, it decided that the claim costs related to pre-existing conditions and therefore were not covered by the policy. This then excluded the costs for investigating the ataxia from 26 May 2023 for which Mrs W had claimed.

Pinnacle seeks to underwrite a pet policy if a consumer on application discloses previously suffered conditions. Mrs W did disclose on application that her dog had suffered some issues unconnected to this claim. So, Pinnacle wrote to Mrs W on 12 July 2022, 19 July 2022 and 8 August 2022 asking her to get her vet to send Pinnacle the vet history for her dog. It never received the vet history from Mrs W's vet at this time.

It said once it had reviewed the vet history following Mrs W's claim, that she had merely carelessly omitted to disclose these previous neurological issues, rather than deliberately or recklessly. Therefore, under the Consumer (Disclosures and Representations) Act 2012 (CIDRA) this means it was a qualifying misrepresentation. Under the terms of CIDRA any such qualifying misrepresentation permitted Pinnacle to impose the terms it would have done had the misrepresentation not occurred. It said under its underwriting guide had it known about the neurological conditions her dog had suffered before the policy start date, it would have classed them as pre-existing and therefore no new neurological conditions or symptoms would have been covered.

So, in addition to refusing to pay Mrs W's claim Pinnacle also wrote to Mrs W on 23 June 2023 explaining that her policy wouldn't cover future instances of heat stroke, eye problems, neurological disorders, heart problems, respiratory problems and metabolic problems. Furthermore, all of these issues were non reviewable according to their underwriting guide, so these exclusions would stay on the policy always. Mrs W complained but Pinnacle wouldn't change its stance, so she brought her complaint to us.

The investigator was of the view Pinnacle hadn't done anything wrong. Mrs W didn't agree so her complaint has been 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.

Having done so, I'm not upholding this complaint. I'll now explain why.

Insurers are entitled to decide what risks they wish to cover and which they don't under the regulations, provided they treat all consumers the same in similar circumstances. This is called their commercial discretion. Insurers' individual underwriting guides in the pet insurance industry sets out what is covered, what is not and whether that can change in the future, and this ensures consumers in similar circumstances are treated the same. It's not unusual for pet insurers to exclude cover for any issue related to any pre-existing condition.

So, I don't consider it's an unusual or significant restriction by Pinnacle in this complaint. Neither do I have any authority to require any insurer to cover anything it had already decided it wouldn't cover. Therefore, my role here is to assess if Pinnacle adhered to its own policy terms and conditions correctly and I consider it did.

Here, unusually for pet insurers, Pinnacle seeks to underwrite any new policy where the applicant has disclosed some previous health events of their pet as many other pet insurers don't do this. Pinnacle asked Mrs W on 12 July; 19 July; and 8 August 2022 to get her vet to forward her dog's vet history. Sadly, this didn't happen for whatever reason. I consider if Pinnacle had received the vet history as it had requested, it would have been able to tell Mrs W in 2022 the restrictions and exclusions on her policy. That would have enabled Mrs W to consider what investigations she might have to do in 2023 given such further neurological conditions might not be covered. This is because once Pinnacle was able to see the dog's pet history following Mrs W's claim, it detailed heat stroke, eye problems, neurological disorders, heart problems, respiratory problems and metabolic problems would not be covered under this policy for Mrs W's dog because he had suffered symptoms of these issues before the policy start date.

The policy says the following, all of which are relevant to Mrs W's complaint.

'Accidental Injury means a sudden physical injury which is the result of an identifiable and known cause or event. This includes any symptoms, whether or not diagnosed.'

'Condition(s) means any illness or accidental injury whether or not it results in a diagnosis. There will be conditions that will fall in the following categories:

- 1. Bilateral means any condition affecting right and left sides of your pet where there is an underlying cause. For example, hip dysplasia for hips, ear inflammation (otitis) for ears, cruciate ligament disease, or luxation of the kneecaps (patellae).*
- 2. Recurring means any previous condition or symptom that may come back or is likely to happen to your pet again. For example, this could be repeating episodes of diarrhoea, vomiting or injuries to claws.*
- 3. Related means if a number of symptoms are:*
 - Subsequently diagnosed as one condition; or*
 - Caused by, related to, or a result of another condition or symptom.**For example, a related condition could be excessive drinking as a symptom of diabetes. We would consider this as one condition not two.'*

'When applying a maximum benefit or exclusion, we will consider bilateral, recurring or related conditions as one condition.'

'Illness means physical disease, sickness, abnormality, infection or failure which is not caused by an accidental injury. This includes any symptoms, whether or not diagnosed.'

'Symptom(s) means a change in your pet's normal healthy state, its bodily functions or behaviour.'

'Treatment(s) means any examination, consultation, advice, tests, X-rays, medication, surgery, nursing and care given by a vet, veterinary practice or member of an approved professional organisation following your vet's instruction. We may call your vet to confirm that treatment was right for the particular condition.'

'Vet Fees means fees charged to give treatment for a condition.'

'Maximum Benefit Cover

The maximum benefits we will pay for each condition under this policy are shown in your certificate of insurance. Each condition is only covered until the maximum benefit as shown on your certificate of insurance is paid for that condition. After this, we will not make any further claims payments for that condition or any bilateral, recurring or related conditions.'

'What we will not pay for

Any condition or symptom, or anything related to it, that you were aware of or has been noted and/or checked by a vet, before this policy started.

...

Costs relating to routine or investigative tests such as pre-operative blood tests, unless these are to diagnose a condition for an existing symptom for a condition covered under this policy.'

So essentially regardless of whether anything was diagnosed by the vet or not, if symptoms of a possible condition were suffered before the policy start date and were noted in the vet history, that condition or symptoms of that condition will be deemed pre-existing and won't be covered by the policy.

In the vet history for Mrs W's dog the following was detailed:

- Her dog had BOAS surgery on 8 November 2019.
- Her dog presented with heat stroke on 18 July 2021.
- Her dog presented with a seizure the previous night on 15 October 2021 and the vet said that Mrs W said there had been two similar episodes of this before. In that vet note possible epilepsy was noted and she was advised it wasn't usual to medicate unless the seizures increased in regularity. Mrs W was advised to keep a seizure diary.

I consider this history denotes some symptoms that were neurological in nature which pre-dated the start of the policy. The terms and conditions of the policy do not require any diagnosis to be made before such symptoms could be classed as a pre-existing condition, as condition includes just symptoms without any diagnosis in Pinnacle's policy terms.

In response to the investigator's view Mrs W initially said her dog's previous issues were due to heat stroke. She then said it was due to issues concerning BOAS symptoms. However, the vet history notes both of these issues, plus more importantly the fact that her dog presented with a seizure on 15 October 2021, so well after both the BOAS surgery two years

previously and the heat stroke some months previously. And more importantly that Mrs W told the vet in October 2021 that her dog had had two similar type seizures before.

Vets are fully aware that insurers are permitted to consider that whatever the vet notes in the vet history for each pet is as accurate as possible. If there is any issue with what is written in the vet history then that is a matter between the consumer and their vet and doesn't affect the insurer. So, if Mrs W has any problem with what is written in her dog's vet history that is a matter between her and her vet only. If Mrs W had ensured her vet had forwarded the vet history back in 2022 when Pinnacle asked her three times in the summer of 2022, she would have been aware of this exclusion and indeed all the others at this time too, which would have been before she incurred these costs.

Therefore, in conclusion I don't think Pinnacle did anything wrong in relying on the vet history which shows previous symptoms of a neurological nature. Given its underwriting guide and policy terms it's also clear these symptoms occurred before the policy date. On that basis, I consider that it's then correct that under the terms of the policy and its underwriting guide, that Mrs W's claim isn't payable by Pinnacle given the existence of these pre-existing neurological issues.

And for the avoidance of any doubt given Mrs W's claim concerned the costs of an MRI scan diagnosing Syringomyelia, such costs are only claimable if that condition would be covered under the policy. Since Syringomyelia is a neurological condition and neurological conditions are deemed pre-existing under this policy given the dog's vet history, those costs cannot be met under this policy.

In conclusion I don't consider Pinnacle has done anything wrong in refusing to pay Mrs W's claim.

My final decision

So, whilst I do understand and appreciate Mrs W will be deeply disappointed with my decision, for these reasons it's my final decision that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs W to accept or reject my decision before 9 January 2024.

Rona Doyle
Ombudsman