

The complaint

Mr M is unhappy AWP P&C SA turned down a claim he made on his legal expenses insurance policy.

What happened

Mr M took out single trip travel insurance with AWP to cover a journey in December 2021. His policy included legal expenses insurance. He became unwell on a flight while travelling. After returning home he says he wasn't given the correct treatment by the NHS. He made a claim on his policy in May 2023 for assistance with negligence proceedings. On his claim form he said the date of negligence was 1 March 2023. AWP turned down the claim. It said the alleged negligence had taken place outside of the period covered by Mr M's insurance policy (1 December 2021 – 14 December 2021).

Our investigator thought AWP had acted fairly in saying the claim wasn't covered. Mr M didn't agree. He argued his policy said illness needed to take place while cover was in place. If it did the policy would cover legal action for damages against a third party.

In this case he'd become ill during his journey and was taking action for negligence. So he thought the policy should provide cover as his claim related to being taken ill on his journey. He also said he'd contacted the NHS while on the flight home and the negligence began from that point as the delay in taking action formed part of his claim. And the policy didn't say he couldn't make a claim after his journey for something that happened while he was away.

So I need to reach a final 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.

The relevant rules and industry guidelines say AWP has a responsibility to handle claims promptly and fairly. It shouldn't reject a claim unreasonably.

I've looked first at the terms and conditions of Mr M's policy. The legal expenses section provides cover for up to £10,000 in legal costs *"if you die, are ill, or injured during your journey and you or your personal representative take legal action to claim damages or compensation for negligence against a third party"*.

Mr M believes his claim should be covered because he became unwell during his trip and he has a claim for negligence against a third party. But in my view for cover to be provided there must reasonably be a clear link between the occurrence of the illness or injury and the claim that's being made against the third party. So, for example, cover might engage if Mr M was seeking to hold the airline on which he developed his illness responsible because he thought that had come about because of a failing on its part.

That isn't what's happened here. Mr M's illness occurred during his trip. But the claim he's making is against the NHS for what he believes is its failure to properly deal with this after he returned home. He clearly isn't suggesting it was the cause of the original problem. In fact he suggested in his claim form to AWP the negligence took place on 1 March 2023 which is around 15 months after his journey and policy ended.

I appreciate he's now suggested the delay in him being provided with treatment also forms part of that negligence and would have begun soon after his return home. But even if he's right about that the alleged negligence would still have taken place after his journey finished. His claim isn't about responsibility for the illness itself but about how that was dealt with in the months after his cover with AWP ended.

In addition any claim under the legal expenses section of cover is subject to the general terms and conditions of the policy. The 'Important Information' section says "*We will pay for any claim you make which is covered by this policy and happens during the period of insurance*". And apart from cancellation cover the policy says the period of insurance "*starts at the beginning of your journey and finishes at the end of your journey*".

Mr M says that shouldn't prevent him making a claim after his journey for something that happened during it. I agree. But I think the policy would reasonably only cover a claim where the event giving rise to it took place during the period of insurance. That isn't what happened here. Mr M became unwell during the period of insurance but the event giving rise to his claim is the alleged negligence of the NHS which took place after his return home.

So, while I was very sorry to learn of the serious and long term consequences that have impacted Mr M, for the reasons I've explained I think it was fair and reasonable of AWP to say his claim wasn't one his policy covered.

My final decision

I've decided not to uphold this complaint. Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 7 February 2024.

James Park
Ombudsman