

The complaint

The estate of Mr W is unhappy with the way in which Great Lakes Insurance SE handled a claim made on Mr W's travel insurance policy including delays in repatriating him back to the UK and only paying part of the expenses being claimed.

Any references to Great Lakes include its claim handlers and medical assistance team.

What happened

Mr W had the benefit of an annual, multi-trip, travel insurance policy, underwritten by Great Lakes ('the policy') which covered him for a trip abroad in July 2022.

Whilst away Mr W became ill and initially attended a private hospital. After contacting Great Lakes for assistance, he was subsequently admitted to a public hospital and formally diagnosed with terminal cancer. Mr W didn't return to the UK on his scheduled flight.

After Great Lakes obtained a medical report from the treating hospital and his GP notes, it concluded that Mr W hadn't declared a heart condition when applying for the policy and answering questions about his medical history. So, Great Lakes said it would only cover 73% of his claim.

Based on the medical information available and the treating hospital's assessment that Mr W was fit to fly subject to certain arrangements being made, Great Lakes took steps to arrange repatriation including booking a flight back to the UK on 24 August 2022. Based on further medical information – and medical advice that a second medical escort should be with Mr W on the flight home – Mr W was re-booked on a flight departing the country he'd been visiting three days later.

Very sadly, Mr W's health deteriorated and a day before the re-booked flight, it was determined that he wasn't fit to fly. An air ambulance was considered but ultimately, after discussions with the treating hospital, Mr W's family decided to leave Mr W where he was and seek palliative care. Mr W died a few days later and Mr W's body was repatriated back to the UK.

The estate of Mr W ('the estate') is very unhappy with the overall support Mr W received from Great Lakes and the way in which Mr W's claim was handled. The estate says because of Great Lakes' delays, a window of opportunity was missed to repatriate Mr W home whilst he was alive. The estate also says Great Lakes' decision to only cover 73% of the claim is unfair, that it should pay the costs of an additional family member accompanying Mr W's daughter who travelled to be with Mr W. The estate is also unhappy that Great Lakes didn't initially agree to cover the full costs of the undertaker/repatriation service the family used to transport Mr W back to the UK.

In its final response letter, Great Lakes didn't agree that it had handled the claim unfairly. However, it did agree to cover the full cost of the undertaker/repatriation service to repatriate Mr W's body back to the UK even though it had initially only agreed to cover 73% of the cost of its preferred agents which was around £1,500 less expensive.

The estate complained to the Financial Ombudsman Service. Our investigator looked into what happened and didn't uphold the estate's complaint. The estate disagreed so this complaint has been passed to me to consider everything afresh and 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.

At the outset I acknowledge that I've summarised this complaint in far less detail than the estate has, and in my own words. And I'm not going to 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 remit.

I'd also like to pass on my sincere condolences to the family of Mr W during an incredibly upsetting time.

Proportionately settling the claim

When considering whether Great Lakes has acted fairly and reasonably, I've taken into account The Consumer Insurance (Disclosure and Representations) Act 2012 (CIDRA) as I think it's relevant here. This requires consumers to take reasonable care not to make a misrepresentation when taking out a consumer insurance contract (a policy). The standard of care is that of a reasonable consumer.

And if a consumer fails to do this, the insurer has certain remedies provided the misrepresentation is - what CIDRA describes as - a qualifying misrepresentation. For it to be a qualifying misrepresentation the insurer (so in this case, Great Lakes) has to show it would have offered the policy on different terms or not at all if the consumer hadn't made the misrepresentation.

CIDRA sets out a number of considerations for deciding whether the consumer failed to take reasonable care. And the remedy available to the insurer under CIDRA depends on whether the qualifying misrepresentation was deliberate or reckless, or careless.

It's Great Lakes' position that when taking out the policy and answering the medical questions, Mr W failed to take reasonable care not to make a misrepresentation. So, it only agreed to cover 73% of the claimed costs. For the reasons set out below, I'm satisfied Great Lakes' decision to only cover a percentage of the claim is fair and reasonable.

Great Lakes says Mr W applied for the policy online and without any evidence to the contrary, I accept that. I've been provided with the sales process journey he followed, including the questions asked at the time. The questions included:

For each traveller named on this policy please select **Yes** if they:

- a. Have, in the last two years, suffered from any medical or psychological conditions and for which they've received treatment, been prescribed medication, attended any consultations, investigations or check-ups.
- b. Have ever suffered from or received treatment, investigations or test for:

- Heart attack, angina, chest pain(s) or any other heart condition...

I'm satisfied these questions are clear. If any of these questions were answered "yes", I'm also satisfied that the applicants are then asked to input the medical conditions and they're asked further, specific questions about these.

It's accepted that Mr W declared one of his pre-existing medical conditions. However, the medical records provided to Great Lakes also detailed other medical conditions which hadn't been disclosed, including a heart condition. I think Great Lakes was entitled to rely on the contents of Mr W's medical records when deciding whether he'd answered questions about his medical history with reasonable care.

Having done so, I'm satisfied that Great Lakes has fairly concluded that Mr W didn't disclose all his medical conditions as he ought to have in response to the questions asked. And, because of this, I'm satisfied that Great Lakes has fairly concluded that he made a qualifying disclosure as he acted carelessly.

Great Lakes says had Mr W declared the other conditions, the policy would've still been offered but he would've paid more for the annual premium. And it's provided evidence showing how it's reached that conclusion. I'm satisfied that Great Lakes has accurately rescreened Mr W's medical conditions by fairly answering the follow up questions Mr W would've been asked if he'd declared his other medical conditions. And that this resulted in a higher weighting being applied to the premium resulting in the increase in premium.

I'm satisfied Mr W only paid around 73% of the correct premium. And I don't think Great Lakes has acted unfairly by offering to proportionately settle the claim made on the policy and paying 73% of the costs it's accepted as covered under the terms of the policy.

Great Lakes' decision to decline certain claims under the policy and the overall service it provided

The insurance industry regulator, the Financial Conduct Authority ('FCA'), has set out rules and guidance for insurers in the 'Insurance: Conduct of Business Sourcebook' ('ICOBS'). ICOBS says that insurers should act honestly, fairly and professionally in accordance with the best interests of their customers. It also says they should handle insurance claims promptly and fairly - and shouldn't unreasonably reject a claim.

I know the estate will be very disappointed but, overall, I'm satisfied Great Lakes has acted fairly and reasonably in the way in which it handled the claim and the assistance provided to Mr W. I'll explain why.

Claims

- Mr W had travelled abroad alone to stay with family. After he became ill, his daughter travelled to the country Mr W had been visiting to be with him. She was accompanied by another family member. Great Lakes has agreed to cover 73% of the costs of Mr W's daughter's flights and accommodation, which – for the reasons set out above - I think is fair and reasonable.
- The terms of the policy only provide cover for one relative or friend to travel from the UK to stay with and travel home with Mr W if deemed necessary by Great Lakes' medical officer. I've taken into account the reasons why Mr W's daughter says she needed to be accompanied but I think Great Lakes has reasonably relied on the terms of the policy to conclude that the travelling costs (and any additional accommodation costs) relating to the family member who accompanied her weren't covered under the policy. So, it

doesn't need to pay – or proportionately settle – those particular expenses. Nor do I think Great Lakes is reasonably required to pay the family member's loss of earnings as a result of travelling to the country Mr W was in.

Medical assistance and claim handling

- Subject to the remaining terms of the policy, Great Lakes covers emergency medical and repatriation expenses. The policy also says treatment in a private hospital or clinic abroad isn't covered where a suitable public or state facility is available.
- When first contacting Great Lakes for assistance, Mr W said he was in a private hospital. I don't think Great Lakes acted unreasonably by telling Mr W that it would need a medical report to advise on cover. And given the country he was in, he'd need to enrol for Medicare as required by the terms of the policy. He was also given details of how to find the nearest medical centre where Medicare was accepted. I don't think this was unreasonable and if a medical report had been provided by the private medical facility setting out Mr W's symptoms and likely diagnosis and that it wasn't medically safe to move him at that stage, I've got no reason to doubt that Great Lakes would have considered covering the costs of the private treatment.
- As it transpired, the private facility didn't provide a medical report and Mr W subsequently attended a public hospital. I'm sorry to hear that Mr W was waiting some time to be admitted when he clearly wasn't feeling well, and his condition was deteriorating. But I don't think I can reasonably hold Great Lakes responsible for this. Particularly at this time, it didn't have a medical report to understand the likely cause of his symptoms and seriousness of his condition.
- I'm satisfied that Great Lakes promptly sent Mr W a document to sign and return, consenting to release his medical information. After this was returned by Mr W, I'm satisfied Great Lakes quickly requested a medical report and travel recommendations from the treating hospital.
- Despite Great Lakes chasing for this and asking Mr W to remind the treating hospital to send this information to Great Lakes, it took several days for the treating hospital to do so. Initially it only sent a document on 16 August 2022 reflecting that Mr W was fit to fly as of that day, which was also his original return date. And that he could fly unassisted with a full reclining seat in the front row.
- However, I don't think Great Lakes acted unreasonably by wanting to see a full medical report before arranging Mr W's repatriation. And I don't think I can reasonably hold Great Lakes responsible for the delays in the medical report being provided. Although it had received information from the treating hospital that Mr W was fit to fly, until it had a medical report to fully understand the nature and seriousness of Mr W's condition, I don't think Great Lakes was able to properly assess the available – and most beneficial - options for Mr W. Whilst the fit to fly document contained some information about Mr W's vital signs, it didn't contain any information about his symptoms, diagnosis or prognosis.
- Based on the available information at the time, I don't think Great Lakes acted unfairly by contacting the original booking provider to see whether Mr W's pre-booked return flight ticket could be moved to a later date if he was deemed fit to fly on a commercial plane. It's not unusual for travel insurers to look into that option in order to mitigate the cost. And, in principle, I don't think that's unfair.

- The medical report was sent on 17 August 2022 reflecting a new diagnosis of terminal cancer. Given the information in the medical report, and in light of the medical declarations made by Mr W when taking out the policy, I don't think Great Lakes acted unfairly by seeking to verify cover under the policy by then requesting Mr W's GP records. I'm satisfied that it's standard practice for travel insurers to request GP medical records when a policyholder falls ill whilst abroad and requires assistance from their travel insurer. That's so it can check a policyholder's medical history (usually against the medical declarations made when the policy was taken out) before verifying a claim.
- The GP notes were promptly requested shortly after receipt of the treating hospital's medical report and were received on the same day. It then took Great Lakes over 24 hours to review the GP records in light of the medical report and medical disclosures made by Mr W applying for the policy. I don't make any finding on whether this was too long in the circumstances of this case because even if the review had happened more quickly than it did, for reasons set out below, I don't think this had a material impact or would've led to Mr W being repatriated back to the UK.
- After concluding that cover would've still been provided at an additional premium, I'm satisfied Great Lakes promptly and reasonably told Mr W and his family that it would only be covering 73% of the claim. I'm not a medical expert but based on the available medical evidence, I don't think Great Lakes unreasonably concluded that Mr W was fit to fly business class with a medical escort. It then promptly made arrangements for a medical escort to travel to the country Mr W was staying to escort him home. Given the distance, it's understandable why this took a couple of days to arrange. I don't think that's unreasonable.
- Great Lakes also booked a flight home for Mr W for 24 August 2022, subject to airline clearance. I can understand the estate's disappointment that this ended up being pushed back a few days. However, I don't think Great Lakes unreasonably relied on the medical evidence received around 23 August 2022 reflecting that given Mr W's condition, the length of the flight and Mr W needing continuous care, a second medical escort would be required to travel back with Mr W.
- I'm satisfied Great Lakes looked into further options such as using a local medical professional to also travel to the UK with Mr W and existing medical escort and a medical escort meeting them in the country, they were due to stopover in. But ultimately, I'm persuaded by the reasons why Great Lakes didn't think these were viable alternatives and it promptly arranged for a second medical escort to fly to the country where Mr W was staying. Based on the available information at the time, I think that was reasonable.
- Around this time, there seems to have been confusion about the treatment Mr W might be having at the treating hospital. However, I don't think Great Lakes are responsible for that and looking at the correspondence from the time, I'm satisfied that Great Lakes was doing what it could to get up to date and accurate information about the status of Mr W's health.
- Around 26 August 2022, so the day before Mr W was due to be repatriated to the UK, the medical advice that Mr W's condition had deteriorated, and he was no longer fit to fly and wouldn't be for the foreseeable future.
- I'm persuaded by what I've seen that Great Lakes considered arranging an air ambulance to repatriate Mr W to the UK. And on 29 August 2022 a discussion took

place with the treating doctor. It's reflected the treating doctor wasn't able to "make a call" on the air ambulance and would need to speak to their senior team. Ultimately, the option of an air ambulance wasn't explored any further as the treating doctor met with the family the following day, who decided to keep Mr W where he was with palliative care. But I think Great Lakes acted reasonably by exploring this as an option when repatriation by commercial flight, with the assistance arranged, was no longer deemed medically appropriate.

- The policy also covers the cost of returning an insured person's body or ashes to their home country. Mr W's family used an undertaker's services whilst abroad and Great Lakes initially concluded that it would only make a contribution to the amount its preferred agents would charge. That was around £1,500 less expensive. And because Mr W made a careless disclosure when applying for the policy, Great Lakes said it would only pay 73% of the contribution it would ordinarily make.
- However, in its final response letter, Great Lakes has agreed to cover the undertaker costs and the costs of repatriating Mr W's body to the UK in full. It accepts it took three days to provide Mr W's family with the quotes from its preferred agents and this was the reason why they made the family made their own arrangements. Great Lakes also says the estate doesn't need to make a 27% contribution to those costs. That's more than I would reasonably expect Great Lakes to do. So, I think it's acted fairly.
- I know Mr W's family are unhappy with the communication they received with Great Lakes and delays confirming details of the undertaker, at a very upsetting time for them. But Mr W was the sole beneficiary of the policy. So, although they may have experienced distress and inconvenience, they aren't eligible complainants in respect of the complaint I've been asked to decide. They didn't enter into a contract of insurance with Great Lakes. So, I don't have any power to direct it to pay Mr W's family members any compensation for distress and inconvenience they've personally experienced as a result of anything Great Lakes may have done wrong.

My final decision

I don't uphold this complaint. Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Mr W to accept or reject my decision before 16 November 2023.

David Curtis-Johnson
Ombudsman