

The complaint

Mr A complains that Vitality Health Limited has turned down a claim he made on a personal private medical insurance policy.

What happened

Mr A was insured under a personal private medical insurance policy. In 2022, he experienced problems with his left knee. Medical specialists suggested that Mr A should undergo surgery or stem cell treatment. Mr A decided against undergoing treatment at that point. In November 2022, Mr A decided to cancel his policy due to an increase in premium.

Subsequently, in March 2023, Mr A chose to take out a new policy with Vitality on a fully underwritten basis. During the sales calls, Vitality's healthcare adviser (HCA) told Mr A that any disorders of his left knee or related conditions would be specifically excluded from cover. Mr A agreed to take up the policy on this basis.

In August 2023, Mr A made a claim on the policy for the cost of a partial left knee replacement. But Vitality concluded that the exclusion for treatment of Mr A's left knee applied to his claim. And so it told Mr A that his claim wasn't covered by the policy terms.

Mr A was unhappy with Vitality's decision and he asked us to look into his complaint. He felt that because his knee problem had been diagnosed while he'd been covered by his previous policy with Vitality, it should be covered.

Our investigator didn't think Vitality had treated Mr A unfairly. She thought it had clearly explained to Mr A that left knee conditions wouldn't be covered before he took out the policy. And she felt that as Mr A had chosen to cancel his original policy and had taken out a new contract which specifically excluded left knee conditions, it wouldn't be fair to tell Vitality to pay the claim.

Mr A disagreed and so the complaint's 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, whilst I'm very sorry to disappoint Mr A, I don't think it was unfair for Vitality to turn down his claim and I'll explain why.

The relevant regulator's rules say that insurers must handle claims promptly and fairly. And that they mustn't turn down claims unreasonably. So I've considered, amongst other things, the terms of Mr A's policy and the available evidence, to decide whether I think Vitality handled Mr A's claim fairly.

Both sides agree that Mr A was diagnosed with a left knee condition while he was covered under his previous policy with Vitality. In 2022, Mr A's specialists recommended treatments he could undergo. If Mr A had decided to go ahead with those treatments, I'd have expected

Vitality to consider a claim for those costs under the terms of the policy Mr A held at that time. Mr A's said that Vitality told him injection treatment wouldn't have been covered, but that knee replacement surgery would have been. However, Mr A's told us he decided against undergoing treatment at that time because his knee wasn't that painful. And in November 2022, Mr A decided to cancel his policy with Vitality. That meant that all cover under that particular insurance policy ended. So Vitality was no longer obliged to provide any treatment for Mr A's existing knee condition under the terms of Mr A's old policy.

In 2023, Mr A decided to take out a new policy with Vitality. At this point, Vitality was reasonably entitled to decide the terms on which it wanted to offer Mr A cover. The purpose of insurance is to cover unforeseen and unexpected events. So, in my experience, most, if not all, private medical insurers exclude medical conditions a policyholder already has when offering fully underwritten policies. Mr A had been experiencing a left knee problem serious enough for treatment to be recommended only months before he took out the new policy. Therefore, I don't think it was unfair for Vitality to decide to exclude left knee disorders and related conditions from the cover it was prepared to offer Mr A.

I've listened to the pre-sales call and sales call between Mr A and Vitality's HCA. During those calls, the HCA clearly explained that claims related to Mr A's left knee wouldn't be covered and they checked that Mr A was happy for a policy to be set-up on this basis. Mr A indicated that he understood the exclusion and agreed to take out the policy knowing that left-knee claims wouldn't be covered.

Following the sale, Vitality sent Mr A a policy certificate setting out the cover he'd taken out. This included a section called 'Personal Medical Exclusions'. Immediately underneath, the certificate stated:

'If personal medical exclusions apply, they will be listed below. We will also not cover treatment of any medical conditions that are related to these excluded conditions...

A related condition is any symptom, disease illness or injury which reasonable medical opinion considered to be associated with another symptom, disease, illness or injury. It could be deemed to be an underlying cause of a condition arising from another medical condition.

Benefit will not be payable under this plan for: Any further investigations or treatment due to Any disorder of the left [sic] and related conditions.'

I appreciate that Vitality made a typing mistake on the policy certificate and omitted the word 'knee' from the exclusion. I've considered whether I think this makes a difference to the outcome of this complaint. I don't think it does. Overall, as I've explained above, I think Vitality made it very clear to Mr A that left knee claims wouldn't be covered by the terms of the new policy. And Mr A explicitly stated that he was aware of this and confirmed he was happy to proceed with taking out the contract. So in the round, I think Vitality made the exclusion clear enough to Mr A and that he ought reasonably to have been aware of it.

Mr A feels strongly that Vitality should pay his claim because his old policy had been in force when he'd first been diagnosed with left-knee problems. While I sympathise with Mr A's position, I don't think it would be reasonable for me to direct Vitality to pay a claim outside of the new policy terms, when it had specifically decided not to insure Mr A for claims related to his left knee. I'm mindful too that Mr A opted not to have treatment during the period when he was covered by the original contract. And so it follows that I don't think Vitality acted unfairly when it turned down Mr A's claim.

My final decision

For the reasons I've given above, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 9 February 2024.

Lisa Barham
Ombudsman