

The complaint

Mr and Mrs J complain that Great Lakes Insurance SE has turned down a medical expenses claim they made on a travel insurance policy.

All references to Great Lakes includes the actions of its agents.

What happened

Mr and Mrs J took out an annual travel insurance policy online through a broker. In October 2021, Mr and Mrs J were abroad on holiday. Unfortunately, Mr J was taken ill and was admitted to hospital. He was diagnosed with acute alcoholic pancreatitis. While he was in hospital, he also received treatment for existing hypertension and diabetes. Mr and Mrs J got in touch with Great Lakes' medical assistance company to make a medical expenses claim.

Great Lakes assessed the available medical evidence and turned down Mr and Mrs J's claim. That's because it said the cause of Mr J's illness was alcohol abuse, which was specifically excluded by the policy terms. It also referred to a policy term which excluded cover for any pre-existing medical conditions which a policyholder had which hadn't been declared to and accepted by it. It said that Mr J hadn't declared his existing diabetes and hypertension when the policy was purchased.

Mr and Mrs J were unhappy with Great Lakes' decision and they asked us to look into their complaint. They said that all of their family had been unwell whilst they were abroad, but Mr J had been affected more seriously. They disputed that Mr J's illness was caused by alcohol, as they said he hadn't been drinking. And they also said that he hadn't been impaired by alcohol at the time of his admission. Mr and Mrs J added too that Great Lakes' medical assistance company had guaranteed to pay their costs.

I issued my first provisional decision on 20 June 2023, which explained the reasons why I didn't intend to uphold this complaint. I said:

'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 and Mrs J's policy and the available medical evidence, to decide whether I think Great Lakes treated them fairly.'

I've first considered the policy terms and conditions, as these form the basis of the contract between Great Lakes and Mr and Mrs J. The policy does cover a policyholder's emergency medical and repatriation expenses if they become unwell abroad. However, Great Lakes has also listed specific, defined events which it has chosen to exclude from cover in the 'General exclusions applying to your policy' section of the contract. This list of exclusions includes the following term:

'Your policy does not cover you for any claim directly or indirectly resulting from any of the following:

Any form of alcohol abuse including alcohol withdrawal or you drinking too much alcohol

where it is reasonably foreseeable that such consumption could result in a serious impairment of your faculties and/or judgement resulting in a claim. We do not expect you to avoid alcohol on your trip but we will not cover any claim arising because you have drunk so much alcohol that your judgement is seriously affected and you need to make a claim as a result.'

Great Lakes concluded that Mr J's illness resulted directly from alcohol abuse and so it considered that his claim fell within the scope of this exclusion clause. So I've gone on to think about whether this was a fair conclusion for it to reach.

It's common ground that the policy doesn't define what Great Lakes means by 'alcohol abuse'. Our investigator concluded that alcohol abuse meant the habitual and long-term misuse of alcohol. And she wasn't persuaded that Mr J's medical records indicated long-term alcohol misuse.

But I don't agree with the investigator's interpretation of this particular phrase. I don't think there's anything in the exclusion which suggests that alcohol abuse has to relate to long-term or habitual alcohol mis-use. Instead, I've considered a dictionary definition of alcohol abuse which defines the phrase as: 'the excessive consumption of alcoholic drinks.' I've also considered the plain and ordinary meaning of the phrase. And I think it would be reasonable and common for most policyholders to understand the meaning of 'alcohol abuse' to be the excessive consumption of alcohol.

As such then, I don't currently find that Great Lakes needs to show that Mr J had a long-term history of alcohol misuse in order to fairly rely on the exclusion clause above. In my view, if the medical evidence indicates that Mr J's illness was likely directly or indirectly caused by alcohol abuse, then it's fair and reasonable for Great Lakes to rely on the term to turn down his claim.

I've looked closely at the available medical evidence. I've placed particular weight on the hospital report, as this shows the contemporary diagnosis reached by Mr J's treating doctor, following their assessment and treatment of Mr J's condition. Both the provisional and final diagnoses were 'acute alcoholic pancreatitis'. Mr J's GP also issued a medical certificate which restated that the nature of Mr J's illness was 'alcohol-related pancreatitis.' And I note too that Mr J's medical records contain an entry dated 12 December 2021 which states: '(Mr J) admits to having excess alcohol intake in the past until he ended up in hospital with pancreatitis.'

There's nothing in the hospital report which indicates that Mr J was treated for the other causes of pancreatitis – such as gall stones, pancreatic injury or hypercalcaemia - or that his pancreatitis was caused by any other condition. So I currently don't think it was unfair or unreasonable for Great Lakes to rely on the available medical evidence to conclude that Mr J's illness was most likely caused by 'any form of alcohol abuse'. This means I currently find that Great Lakes was reasonably entitled to rely on the exclusion clause to turn down Mr J's claim.

It appears that Mr J also received treatment for hypertension and diabetes whilst he was an inpatient. I've considered whether I think it would be fair and reasonable to direct Great Lakes to cover the cost of any treatment Mr J received specifically for these conditions. But, on the facts of this complaint, I don't think it would. That's because there's no indication from the available medical evidence that but for Mr J's admission to hospital for acute alcoholic pancreatitis, he would've required hospital treatment for either diabetes or hypertension. And it also appears from the evidence that Mr J didn't declare either condition to Great Lakes at the time he took out the policy through the broker.

Mr and Mrs J say that Great Lakes' medical assistance company agreed to cover Mr J's expenses and the family's costs of extending their trip and returning to the UK. However, while they've provided me with screenshots of text messages to show they'd got in touch with the assistance company; I haven't seen any evidence to indicate that Great Lakes accepted full cover. And it seems to me that irrespective of whether or not Great Lakes agreed to cover Mr J's claim, it's likely he and Mrs J would've always had to extend their trip while he underwent treatment in hospital and incurred costs in doing so.

Overall then, whilst I sympathise with Mr and Mrs J's position, I currently find that it was fair and reasonable for Great Lakes to turn down their claim. This means I'm not intending to direct Great Lakes to settle their claim or pay any compensation.

I asked both parties to send me any further evidence or comments they wanted me to consider.

Great Lakes provided me with copies of the assistance team's notes and copies of calls between the assistance team and Mrs J.

Mr and Mrs J disagreed with my first provisional findings. In summary, they said:

- They didn't agree with my interpretation of Mr J's NHS medical records. They didn't agree that there was any mention of Mr J drinking excessive alcohol in the past;*
- Mrs J had had a phone call with the assistance team, where it had confirmed cover and allowed them to change their flights;*
- They provided a report from a radiologist dated October 2022, which showed a stone had been found in Mr J's ureter. They queried whether the stone had been present at the time of the claim and whether this had been the cause of Mr J's illness in October 2021;*
- They asked me to elaborate on my provisional findings in relation to Mr J's pre-existing medical conditions.'*

I issued a second provisional decision on 21 September 2023, which explained why I still thought it was fair for Great Lakes to turn down Mr and Mrs J's claim, but why I now felt it should pay Mr and Mrs J a modest award of compensation. I said:

'Neither Mr and Mrs J nor Great Lakes have commented on my provisional conclusion as to what I considered to be a fair interpretation of the phrase 'alcohol abuse'. And so I see no reason to comment on this particular point further, other than to confirm that my provisional findings on this point remain unchanged.

As I explained in my first provisional decision, I was satisfied that the medical evidence from the treating hospital indicated that the cause of Mr J's acute pancreatitis was alcohol. There was no contemporaneous medical evidence which suggested that Mr J's illness was down to any other cause. Having considered again all of the evidence which was available to Great Lakes at the time it issued its final response to Mr and Mrs J's complaint, I still find it was fair for Great Lakes to conclude that the cause of Mr J's illness was likely alcohol. And as such, that it was fair for Great Lakes to rely on the alcohol exclusion to turn down this claim. Mr and Mrs J have questioned my findings regarding entries set out in Mr J's medical records. An entry dated 21 November 2021 states: 'Patient reports that he was on holiday...and was admitted for 6 days where he was diagnosed with acute alcohol related pancreatitis...Has stopped drinking since the attack.' I also referred to a further entry, dated 15 December 2021 (rather than 12 December 2021, as I set out in my first provisional decision) which refers to Mr J admitting 'having excess alcohol intake in the past until he ended up in hospital.' I'm still satisfied then that it does appear Mr J told his GP practice that

he'd both been diagnosed with acute alcoholic pancreatitis and that he'd previously drunk alcohol to excess.

Following my provisional decision, Mr and Mrs J have provided me with a report dated 12 October 2022 which shows that a stone was found in Mr J's ureter. They have questioned whether the stone was present at the time of Mr J's hospital admission and therefore, whether it was the cause of the pancreatitis. However, this report is dated four days after Great Lakes issued its final response to Mr and Mrs J's complaint. As such, this evidence wasn't available to Great Lakes when it considered the complaint and it isn't at all clear that Great Lakes has had a chance to assess it. My role is to decide whether Great Lakes fairly relied on the evidence available to it at the time it issued its final response to Mr and Mrs J's complaint. And therefore, it would be inappropriate for me to make any finding on the new report when deciding this complaint. It's open to Mr and Mrs J to send the new evidence on to Great Lakes for its consideration should they wish to do so.

I note Mr and Mrs J have asked for clarification regarding my first provisional findings as to the impact of Mr J's existing medical conditions on the claim. The policy specifically excludes claims related to pre-existing medical conditions unless they've been declared to and accepted by Great Lakes. Mr J's medical notes show that he had existing diabetes and high-blood pressure. The policy schedule and application records both make it clear that Mr J didn't disclose these conditions when he applied for the policy and therefore, Great Lakes hadn't agreed to provide cover for any claims related to those conditions. The medical report from the treating hospital shows that Mr J received treatment for diabetes and high blood pressure whilst in hospital. In my view, Mr J most likely wouldn't have needed hospital treatment for either of those conditions if he hadn't been admitted to hospital with alcohol-related pancreatitis. And it's for these reasons that I still don't think it would be fair or reasonable for me to direct Great Lakes to pay any costs associated with inpatient treatment Mr J received specifically for his existing diabetes or hypertension.

Further to previous requests, in response to my first provisional decision, Great Lakes has now provided me with copies of the assistance team's notes and recordings of calls between its call handlers and Mrs J. It's unfortunate that this evidence wasn't provided previously. I've reviewed the assistance team's records and listened to calls carefully. It seems to me that Mrs J knew that she'd need to provide Great Lakes with Mr J's medical report and other evidence before the claim could be paid. And I think at times, it appears she was made aware that cover wouldn't be confirmed until the medical evidence had been received. However, having listened to calls specifically on 3 November 2021, I do agree that Mrs J was left with the impression that the costs of the claim and the costs of amending the return flights would be covered. I don't doubt how frustrating it must have been when Mr and Mrs J learned that this wasn't the case and the claim wasn't payable.

So I've thought about what Great Lakes should do to put things right for its failings here. I note that at the point Mrs J notified Great Lakes about the claim, Mr J had already been in hospital for two days. And he was discharged on 3 November 2021 – the day I think unclear and misleading information was given. So even if Great Lakes had clearly told Mrs J that cover wouldn't be confirmed until all of the evidence had been reviewed, it still seems to me that Mr J would've incurred the same medical expenses.

I acknowledge that prior to amending the original return flights, Mrs J was left with an impression that these costs would be covered. However, it doesn't necessarily follow that this means Great Lakes should pay the costs of amending the flights. In order for me to make such a finding, I'd need to be satisfied, on balance, that Mr and Mrs J would've acted differently had they known there was a potential that their claim wouldn't be paid.

We asked Mrs J what she would have done had she been clearly told that the claim

remained effectively under review until the evidence had been considered. She and Mr J told us that it would have depended. In summary, they indicated that if Mrs J could have arranged to pay the bills, decided on necessary surgery and arranged either family or private care for Mr J, she and the children would have returned to the UK early. She added that given Great Lakes had indicated that it would cover the costs for the whole family to stay abroad, she chose that option. She said staying abroad with Mr J was crucial, as he'd been in intensive care; and he required assistance with arranging medicines, personal care and returning to the UK, as he wasn't recovered enough to be on his own.

I've thought about this carefully to decide what I think is most likely to have happened. But I don't think I could fairly or reasonably find that say that even if Mrs J had known that the claim remained under review, she would have chosen to act differently. I say that because she told the assistance company that Mr J couldn't fly back on the original flight, as he was too weak. So Mr J's flight would always have needed to be rearranged. On balance, given what Mrs J has told us about the need for Mr J to receive care and assistance both while in hospital and on the return flight, I think it's more likely than not that Mrs J would have chosen to extend her trip and remain abroad with Mr J and their children in any event. This means I think it's most likely that Mrs J would still have opted to extend the whole family's trip, even if she'd known the amendment costs might not be paid.

Overall then, I don't find that it would be fair or reasonable for me to direct Great Lakes to pay Mr and Mrs J's flight amendment costs. However, as I've said, I do think Mrs J was left with an impression that the claim would be paid. And therefore, I think she and Mr J were likely caused unnecessary additional frustration and upset, on top of the understandable disappointment when their claim was turned down. So I think it would be fair and appropriate for Great Lakes to pay Mr and Mrs J a modest amount of compensation to reflect this. I currently find that an award of £250 compensation is fair in all the circumstances.'

Great Lakes accepted my second provisional decision.

Mr and Mrs J didn't agree with my provisional findings. They didn't agree with the entry dated 15 December 2021 which had been recorded in Mr J's medical records. They said Mr J had never made those comments and what he'd said had been misinterpreted by the nurse. They said that whether Mrs J and the children would have returned to the UK on their scheduled return date had depended on several factors and that Great Lakes had indicated that their costs would be reimbursed. They didn't feel compensation of £250 justified the costs or humiliation they'd suffered.

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 sorry to disappoint Mr and Mrs J, I still find that it was fair and reasonable for Great Lakes to turn down their claim. And I'm still satisfied that an award of £250 compensation is fair and reasonable in all the circumstances. I'll explain why.

I appreciate that Mr and Mrs J say Mr J's medical records contain an error and that Mr J didn't make the comments which were noted in the entry dated 15 December 2021. I've set out details of this entry above. However, I don't think it was unfair or unreasonable for Great Lakes to rely on the medical evidence which was provided to it when it assessed the claim, including an entry made only a short time after Mr J's hospitalisation. It's open to Mr and Mrs J to speak to their medical practice if they feel the records contain incorrect information.

For completeness, for the reasons I've given, I still think it was fair for Great Lakes to turn

down this claim, based on the available evidence.

As I explained in my provisional decision, I do acknowledge that at points, I think Great Lakes led Mrs J to believe that the amendment costs would be covered. And I don't doubt that Mr and Mrs J therefore suffered unnecessary disappointment and frustration on top of their natural upset when they learned that the claim wasn't covered. However, I explained above why I thought, on balance, it was more likely than not that Mrs J would have chosen to stay abroad with Mr J. And in response to my provisional decision, Mr and Mrs J acknowledged that whether or not Mrs J and the children returned to the UK on the scheduled return date depended on a number of factors. So I still think it's more likely than not that Mrs J would have chosen to extend the trip, even if she'd known the amendment costs might not be paid. On that basis, I don't think I could fairly or reasonably direct Great Lakes to cover these costs.

However, I'm still satisfied that Great Lakes must pay Mr and Mrs J a modest award of compensation. That's to reflect the additional unnecessary upset and frustration they were caused when their claim was declined, given I think Great Lakes had led them to have a reasonable expectation that at least some costs would be covered. And in the circumstances of this complaint, I still find that £250 compensation is a fair, reasonable and proportionate award to reflect this. I was pleased to note that Great Lakes agreed to my provisional finding on this point.

My final decision

For the reasons I've given above and in my provisional decisions, my final decision is that it was fair for Great Lakes to turn down Mr and Mrs J's claim.

But I direct Great Lakes to pay Mr and Mrs J a total award of £250 compensation for their trouble and upset,

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs J and Mr J to accept or reject my decision before 9 November 2023.

Lisa Barham
Ombudsman