

The complaint

Mr V complains that CIGNA life Insurance Company of Europe SA-NV has turned down a claim he made on a private medical insurance policy.

What happened

The background to this complaint is well-known to both parties. So I've set out a brief summary of what I think are the key events.

Mr V is insured under a group private medical insurance policy.

In December 2020, Mr V travelled abroad. On 18 February 2021, while Mr V remained abroad, he suffered from back pain and other associated symptoms. He visited a hospital and was diagnosed with a herniated disc. The hospital arranged for Mr V to undergo surgery on the following day.

Mr V contacted CIGNA to obtain pre-authorisation to undergo surgery. CIGNA told Mr V that it didn't think the claim would be covered, but that it would assess the claim once it had further evidence.

On 19 February 2021, Mr V underwent disc surgery and he made a claim on the policy.

CIGNA said the policy was primarily designed to provide private medical cover in the UK. Cover was only provided for emergency treatment which takes place abroad. It didn't think Mr V had required surgery as an emergency. So CIGNA turned down his claim.

Mr V brought a complaint to us about CIGNA's decision, which was assessed in April 2022. Our investigator didn't think CIGNA had treated Mr V unfairly.

Subsequently, Mr V provided CIGNA and our service with further medical evidence, which CIGNA went on to assess in April 2023.

CIGNA reviewed the new medical report Mr V had provided. But it maintained its decision to turn down the claim. That's because it considered the evidence indicated that Mr V's surgery had been elective, rather than surgery he'd needed as an emergency. It did agree, however, that it had failed to deal with the new evidence and reassess Mr V's claim in a timely way. So it apologised for the delays Mr V had experienced.

Remaining unhappy with CIGNA's position, Mr V asked us to consider a new complaint about its reassessment of the claim.

Our investigator didn't think Mr V's complaint should be upheld. He felt the policy terms made it clear that the policy only covered emergency treatment abroad. And he didn't think the evidence indicated that Mr V had needed spinal surgery as an emergency.

Mr V disagreed and I've summarised his response. He acknowledged that the medical report didn't refer specifically to the surgery being carried out as an emergency. But he said that due to the Covid-19 pandemic at the time, only emergency surgeries were being carried out

at the hospital. And he felt that redress should be awarded for CIGNA's failure to reassess his claim and respond to his complaint.

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 V, I don't think it was unfair for CIGNA 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 the group policy and the available evidence, to decide whether I think CIGNA handled Mr V's claim fairly.

At the outset, I must make it clear I will only be looking at the decision CIGNA made in April 2023 to turn down Mr V's claim. Mr V's previous complaint was assessed separately by an investigator in April 2022 and so I won't be making any findings on CIGNA's initial decision to decline the claim.

I've first considered the policy terms and conditions, as these form the basis of Mr V's employer's group contract with CIGNA.

The policy refers to medical care outside the UK. It says:

'Your plan is designed to primarily cover you for medical care received in the United Kingdom. If you go abroad on business or on holiday, your benefits continue for emergencies only, up to the level of your UK benefits cover for up to 90 days in any one year of insurance...

Please note that overseas cover under this plan is limited. You should take out an appropriate level of travel insurance before travelling abroad. This will offer more comprehensive cover for medical costs outside the United Kingdom than this plan can provide.'

Section 3.3 of the contract explains CIGNA's cover for treatment abroad further. I've set out what I think are the relevant terms below:

'We cover eligible treatment in emergency situations only. If you claim for this you must also send us proof of how long you spent abroad which should be no more than a total of 90 days in any one year of insurance (or longer if we agree in writing). If any terms in the policy only relate to the United Kingdom, we'll use those we believe are the closest in meaning to the foreign term.'

For the purposes of this benefit "Emergency" is defined as: treatment which is medically necessary to prevent the immediate and significant effect of illnesses, injuries or conditions which if left untreated could result in a significant deterioration in health. Only medical treatment through a specialist and hospitalisation that starts within 24 hours of the emergency event will be covered.'

This section of the policy also includes a list of things CIGNA has chosen to exclude from cover. This list includes the following:

'Treatment which has started in the United Kingdom and requires continuation while abroad will not be covered as this is not considered an emergency.'

In my view, CIGNA has clearly set out in the policy terms that it will only cover treatment abroad in emergency situations. It doesn't consider that the medical report Mr V has provided indicates that he required surgery as an emergency. So I've carefully considered the available evidence to decide whether I think this was a fair conclusion for CIGNA to draw.

Mr V has provided a medical report from his treating doctor. This diagnosed Mr V with *'large left-sided L5/S1 extruded disc herniation with inferior migration.'* The doctor said that Mr V:

'has been complaining for two months of progressive low back pain and severe, radiating pain in the lower extremity. At the time of presentation, he reported associated numbness and weakness in his left lower extremity. His ability to ambulate and perform usual activities was impaired.'

'He had failed a full range of conservative treatment options...the patient wishes for definitive treatment to return to work and daily activities.'

The doctor's letter indicates that Mr V was in pain and that conservative management techniques hadn't worked. CIGNA says that Mr V contacted it for authorisation of physiotherapy and osteopathic treatment for back pain in August, September and November 2020 - before he'd travelled abroad. While it's clear Mr V had been in pain for some months before his operation and I sympathise with his situation; it does seem that Mr V had sought treatment for his back pain and radiating pain prior to leaving the UK. And so I don't think it was unreasonable for CIGNA to conclude that Mr V's treatment for back pain had started in the UK.

I can understand why Mr V considers that he needed surgery as an emergency. He says he couldn't walk and had concerns about long-term spinal damage. I'm also mindful that Covid-19 may have had an impact on how surgeries were prioritised at the time.

But I don't think it was unfair for CIGNA to decide that Mr V hadn't needed surgery as an emergency. I say that because, by the doctor's account, Mr V wished for 'definitive treatment' so he could return to work and daily activities. The doctor hasn't indicated that they felt Mr V needed the surgery as an emergency, or that there was a risk of him suffering paralysis or severe spinal damage if surgery didn't take place as a matter of urgency. Instead, I think it was reasonable for CIGNA to rely on the contemporaneous evidence to reach the conclusion that Mr V wanted the surgery as an elective procedure to provide a definitive cure for ongoing symptoms. And so it follows that I don't find CIGNA treated Mr V unfairly when it turned down his claim.

Mr V is also unhappy with CIGNA's significant delay in assessing the new evidence and providing its response. CIGNA has accepted the delay was unacceptable and apologised for its error. I do appreciate that it must have been frustrating for Mr V when CIGNA didn't move things along or keep him updated. I also accept he was likely put to time and trouble in having to chase things up. However, we're not the industry regulator and we have no power to fine or punish the businesses we cover. And, in the circumstances, I think that CIGNA's apology for the unnecessary delays Mr V experienced is enough to put things right.

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 V to accept or reject my decision before 23 October 2023.

Lisa Barham
Ombudsman