

The complaint

The estate of Miss S is unhappy with Great Lakes Insurance SE's (GL) decision to decline Miss S's claim and unwind her policy.

Although this complaint has been brought by Miss S's estate, there will be times that I need to refer to Miss S directly, given it's related to actions she took personally.

What happened

The background to this complaint was set out as part of my provisional findings. A copy can be provided upon request.

Initially, I explained GL should not have unwound the late Miss S's policy. I wasn't persuaded that the late Miss S had deliberately or recklessly misrepresented her medical history in an attempt to gain insurance cover. I was persuaded Miss S had carelessly answered the health screening questions, or, in other words, the misrepresentation wasn't intentional. And so, I said GL should reinstate her policy and reassess the claim in line with its terms.

In doing so, GL still declined the late Miss S's claim, saying it wouldn't have provided cover for pre-existing medical conditions. It highlighted that Miss S suffered with other health issues related to respiratory problems. And so, I needed to decide whether GL's position on the claim outcome was fair.

In my last provisional decision, I decided I was not intending to uphold the late Miss S's complaint. I explained that, on balance, I was persuaded the treatment Miss S received whilst on holiday was most likely attributed to her on-going and well-documented respiratory problems. And that this wasn't covered by her policy because there was no cover provided for pre-existing medical conditions.

Since my last provisional decision, both parties have provided responses. GL accepted those findings, but the estate of the late Miss S didn't. In summary, the estate said the late Miss S was suffering from an injury to her sacrum. It suggested this could have been a likely source of the sepsis infection, rather than her long-term breathing difficulties and historic chest infections. The estate also made other arguments about medication prescribed to the late Miss S and whether it was medically necessary, given these were repeated prescriptions issued by phone. And so, it's now for me to make a final decision on whether GL has declined the late Miss S's claim fairly.

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, I think GL declined the late Miss S's claim fairly. I know this is likely to come as a disappointment to the estate of the late Miss S but I'm satisfied GL declined the claim fairly as the policy didn't cover pre-existing medical conditions. I'm also persuaded that, on

balance, the late Miss S was suffering from medical conditions caused by her pre-existing illnesses and this isn't covered by the policy. I'll explain why.

GL explained its policy doesn't provide cover for pre-existing medical conditions that were undiagnosed. I'm satisfied that's the case because it's listed within the policy terms.

"We are unable to provide cover for any pre-existing medical condition(s) where you have an undiagnosed medical condition, or a condition where you are currently on a waiting list, undergoing treatment, or tests or, where you are awaiting the results of any tests. There are some instances we may be able to provide cover for pre-existing conditions if you are awaiting surgery"

In further discussions, GL confirmed its position that it wouldn't have covered any pre-existing conditions for the late Miss S because had it known her full medical history, she would've exceeded its appetite for the risk to insure her for any claims related to any of her pre-existing medical conditions.

The test in this case is whether GL declined the claim fairly, as defined in the insurance conduct of business sourcebook (ICOBS) which says insurers must not decline a claim unfairly.

The reason I think GL has fulfilled its responsibility under this term is because it's relied on the available medical evidence to make its decision to decline the late Miss S's claim. The medical evidence is persuasive in that it shows the late Miss S was admitted to hospital having suffered with breathing difficulties. Sadly, Miss S had a history of repeated chest infections and was prescribed medications like anti-biotics and inhalers to help treat and manage her symptoms.

So, I'm satisfied there's a link between Miss S's admission to hospital and her pre-existing health issues. Whilst in hospital, the late Miss S was admitted to the intensive care unit (ICU) as she became more unwell. The late Miss S suffered with and was treated for multiple conditions whilst in the ICU, as I'd previously explained, I'm satisfied with GL's position and the conclusion it reached here. GL said Miss S suffered with sepsis and multiple organ failure which was likely caused by an infection in her lungs.

Miss S had suffered with this previously, and so, on balance I'm satisfied it's interpreted the available medical evidence fairly. GL said that because Miss S had previously suffered with these respiratory problems, it's regarded as a pre-existing condition – which isn't covered by the policy.

I wanted to acknowledge the arguments made by the estate of the late Miss S, in particular, the suggestion that Miss S could have contracted sepsis from a sacral injury she suffered. I understand the connection it's made here, but for the purposes of my final decision, I'm less persuaded by it because I've not seen any persuasive medical evidence which would support that view.

I'm not saying it's impossible – but that I find it less persuasive when compared to the other contemporaneous medical evidence. All of which shows the late Miss S suffered repeated respiratory problems, like chest infections, and that she was admitted to hospital and treated for the same type of problem. I think the connection made by GL that the late Miss S's sepsis began as an infection in her lungs is a reasonable one. And without any persuasive medical evidence by a suitably qualified professional to challenge this, I'm satisfied that GL has declined the late Miss S's claim fairly and so there's nothing more for it to do on that element of this complaint.

My final decision

For the reasons I've explained, I'm not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Miss S to accept or reject my decision before 17 July 2023.

Scott Slade
Ombudsman