

## **The complaint**

Mr H has complained that Admiral Insurance (Gibraltar) Limited has unfairly settled his claim.

## **What happened**

Mr H took out a travel insurance policy with Admiral online. He cancelled his holiday due to a medical problem and made a claim.

Admiral said Mr H didn't provide full and accurate information when asked about pre-existing medical conditions. It treated this as a careless qualifying misrepresentation and proportionately settled his claim.

Mr H brought his complaint to us and our investigator thought it shouldn't be upheld as he thought Admiral had acted fairly.

Mr H didn't agree with the investigator as he said his GP had misrepresented his medical history and he had answered questions truthfully about any conditions within the last two years.

And so the case has been passed to me for a final decision.

## **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.

The relevant law in this case is The Consumer Insurance (Disclosure and Representations) Act 2012 (CIDRA). 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 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.

Admiral thinks Mr H failed to take reasonable care not to make a misrepresentation when he failed to declare his heart condition.

I've looked at the questions asked and I don't think Mr H took reasonable care when answering the question as it asks if he had 'ever' suffered from a heart problem. Had Mr H declared his medical history accurately, Admiral would have charged an additional premium. Admiral has provided a re-screening with the correct information Mr H should have declared

at the time he bought the policy, to show how much extra it would have charged.

This means I'm satisfied that Mr H's misrepresentation was a qualifying one.

Admiral has treated Mr H's misrepresentation as careless which produces the most favourable result for Mr H. I've looked at the actions Admiral can take in accordance with CIDRA and settling the claim on a proportionate basis is the fair and reasonable outcome to this complaint.

Mr H says Admiral's decision is based on incorrect information provided by his GP. He says his heart condition was treated in 2019 and does not go back to 2003 as noted by his GP. I can see Mr H sought to challenge this and provided additional information to Admiral which it reviewed. Admiral has shown and confirmed that it still would have charged the higher premium based on one episode. So I am satisfied that it has taken his correct medical history into account when assessing his claim.

Mr H also says he had accurately declared his two-year medical history when he bought the policy. But there is an additional separate question which asks if Mr H has 'ever' been diagnosed with or treated for a heart or other specified conditions. On the application, Mr H had ticked 'yes' and declared other conditions but hadn't declared his heart problem from 2019. Had he done so, an additional premium would have been payable.

Finally, Mr H isn't happy with the errors Admiral made and the length of time it took to deal with his claim. I've seen that Admiral issued a cheque to Mr H for £70 compensation plus a further cheque for £50 compensation for delays, which I consider is reasonable. I don't think the delays in assessing the claim had a long-lasting impact and I'm satisfied that the overall claim decision is correct.

### **My final decision**

For the reasons set out above, I don't uphold Mr H's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 29 August 2023.

Shamaila Hussain  
**Ombudsman**