

## The complaint

Mr S has complained that Pinnacle refused to settle in full a claim on his pet insurance policy.

## What happened

In September 2022 Mr S took out a pet insurance policy with Pinnacle for his dog. The policy had an annual limit of £2,000 for each condition covered by the policy.

Mr S claimed on the policy after his dog, whom I'll call P, had surgery for Brachycephalic Obstructive Airway Syndrome (BOAS) on 19 December 2022. Pinnacle accepted the claim.

Later in December P was treated for aspiration pneumonia. When Mr S claimed for that, Pinnacle said this illness was a complication of the BOAS surgery and the maximum it would pay for treatment of this and the BOAS treatment was £2,000. That left Mr S to cover the difference.

Mr S thought that Pinnacle should treat the claim for aspiration pneumonia as a separate condition as his vet had provided evidence that the aspiration pneumonia was unlikely to have been caused by the BOAS surgery.

As Pinnacle didn't change its decision, Mr S brought his complaint to the Financial Ombudsman Service. I issued a provisional decision explaining why I wasn't minded to uphold the complaint. An extract from my provisional findings is set out below:

*"Mr S's policy has a maximum benefit limit of £2,000 per condition per year. The policy definition of "Condition" includes "Related Conditions" which are defined as follows:*

*"a number of illnesses, accidental injuries or symptoms [which] are :*

- (a) diagnosed as one illness, accidental injury, or*
- (b) caused by, relate to, or result from another illness, accidental injury or symptom".*

*The issue for me to decide is whether the aspiration pneumonia arose from the BOAS condition.*

*Mr S's vet has explained what the two conditions are. She said BOAS "is the term used to describe the cluster of anatomic abnormalities seen in brachycephalic breeds that contribute to dysfunction of the upper airway whereas aspirant pneumonia is the inflammation of the lungs."*

*According to the PDSA website one of the symptoms of BOAS is regurgitation or vomiting caused by pressure created in the abdomen from the dog struggling to breathe. Pinnacle's vet said:*

*"Regurgitation is a well-known part of brachycephalic obstructive airway disease, with the condition seen as both an airway and gastrointestinal condition now. The negative pressure associated with BOAS and dogs struggling to breathe induces regurgitation and equally the*

*regurgitation causes inflammation of the soft tissue of the upper airway, which narrows the airways further."*

*Pinnacle's vet has referred me to a paper<sup>1</sup> reporting that in a study of dogs who'd undergone BOAS surgery post-operative complications included vomiting and regurgitation in 18% of cases and aspiration pneumonia in 11%.*

*According to the PDSA website dogs can suffer from aspiration pneumonia when they inhale fluids and/or foreign bodies into their lungs. It says this can be caused by a dog vomiting or regurgitating gastric acid from the stomach.*

*After the BOAS surgery on 19 December 2022 P was seen to be hypersalivating, so she was hospitalised overnight. On 20 December the vet reported:*

*"All vitals okay overnight, prevomax given 21.00pm as she kept retching and coughing up phlegm, syringe used as a suction to remove phlegm. Chest a little crackly but reduced by the morning. Continuation of nebuliser overnight with bisolvon."*

*On 22 December Mr S told the vet P wasn't eating or drinking. The vet noted the following: "...slight crackle on lungs bilaterally.*

*Concerned re aspirant pneumonia beginning. Advised hosp for the day with IV antibiotics and supportive care to see how she responds...Advised overnight hospitalisation to continue antibiotics to combat the pneumonia..."*

*On 28 December Mr S told the vet P was being sick and regurgitating. The vet noted:*

*"Advised needs feeding tube and supportive treatment for Gastroesophageal reflux disease likely induced due to anaesthetic – brachy dogs more susceptible to such issues."*

*Given that it seems to be established in the veterinary field that aspiration pneumonia is a recognised complication of BOAS surgery and in this case the vet was concerned about aspiration pneumonia only three days after surgery, on balance I think Pinnacle has shown it's more likely than not that the aspiration pneumonia P suffered from was related to the BOAS condition.*

*I know Mr S will be disappointed with this outcome. And I do appreciate how stressful he has found this matter. But after taking into account P's medical history and the veterinary evidence I'm satisfied Pinnacle has acted fairly in treating the BOAS and aspiration pneumonia as related conditions. So this means the policy limit of £2,000 should apply to both conditions. As a result I don't propose to ask Pinnacle to do anything more."*

*In summary Mr S made the following points:*

- P had surgery for BOAS and surgery is not a condition or illness.
- Pinnacle's vet had never examined P, so her diagnosis was less persuasive.
- The paper I'd referred to was produced in 2016 and was based on only 55 brachycephalic dogs which is very low. In comparison Mr S said there are over 2 million brachycephalic dogs in the UK. The paper didn't discuss P's breed in particular. Mr S questioned the accuracy of the statistics in the paper. The paper went on to say that "*aspiration pneumonia has not been identified as a postoperative complication in more recent studies.*"
- His vet was only concerned that aspiration pneumonia might be starting on 22 December. It wasn't until 28 December that aspiration pneumonia was diagnosed and treated.

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<sup>1</sup> <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4982570/>

- It is not established in the veterinary field that aspiration pneumonia is a recognized complication of BOAS surgery.

### **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.

If I understand Mr S correctly, he is saying that if P's aspiration pneumonia resulted from surgery, that is different from the condition of BOAS. But I think if it hadn't been for the condition of BOAS, P wouldn't have needed surgery and subsequently developed aspiration pneumonia, and so it was fair for Pinnacle to say that the aspiration pneumonia was related to the condition of BOAS.

I appreciate that Pinnacle's vet has not examined P. However I understand she is an experienced vet who has observed and performed BOAS surgery. She has based her assessment on an analysis of the information provided by Mr S's vet and her clinical knowledge of the condition. She has referred me to a number of papers which support her assertion that aspiration pneumonia has been identified as a post-operative complication in more recent studies than the paper I referred to in my provisional findings. However, I accept that there may well be conflicting findings on this.

At the end of the day, however, it is not the various academic papers available online which have persuaded me but in coming to the conclusion that BOAS and aspiration pneumonia are likely to be related conditions, I have been more influenced by the timeline of what happened to P after surgery. This was as follows:

- a. Post operatively – hypersalivation
  - b. Overnight after surgery – retching and coughing up phlegm. Chest crackly.
  - c. Day after surgery – reduced crackles but still present.
  - d. Two days after surgery – dog not eaten and not right.
  - e. Three days after surgery – severe inspiratory effort, nasal discharge and crackles on lung.
- Vet noted: '*concerned aspiration pneumonia beginning*'.

It appears that there is no point here at which P could be said to be normal post-operatively particularly with regard to the chest and it was only three days later that the vet first became concerned about the possibility of aspirant pneumonia although I appreciate that wasn't actually diagnosed until six days later.

In addition one of the vets who examined P referred to P having "*gastroesophageal reflux disease likely induced due to anaesthetic – brachy dogs more susceptible to such issues*".

This statement seems to link the surgery for BOAS to the reflux and regurgitation which is in turn linked to aspiration pneumonia.

I sympathise with Mr S for the stressful time he's had with his dog's health and the cost of the treatment. But on balance I don't think Pinnacle has treated him unfairly in limiting the amount he can claim for his dog's treatment.

### **My final decision**

For the reasons set out above, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 8 January 2024.

Elizabeth Grant  
**Ombudsman**