DRN-4250665

The complaint

Mrs M complains about HDi Insurance Company (Europe) Limited (HDi) declining a claim under her pet insurance policy for treatment of her dog.

References to HDi include their agents who administer the policy.

What happened

Mrs M had a pet insurance policy with HDi covering her dog, which she took out in January 2016 (when the dog was four months old). In June 2016 the dog had a histiocytoma[1] on a hind leg, which was removed (for which Mrs M made a claim that HDi accepted).

However, in November 2022 the dog was diagnosed with a second histiocytoma in the same area. This was also removed through treatment. Mrs M made a claim for its removal (£547).

However, HDi declined the claim, saying the policy terms and conditions (for the level of cover taken out by Mrs M) meant that cover for any one condition was limited to a maximum of 12 months after it first occurred (or the maximum amount of benefit under the policy had been reached). So, as both the 2016 and 2022 treatments were for the same diagnosis (histiocytoma) then under the policy terms, HDi treated them as the same condition. This meant the second claim wouldn't be covered.

Mrs M contacted HDi to discuss the decline of her claim but remained unhappy and challenged it. She thought the policy wording was ambiguous and should have been clearer. She thought the second incidence of histiocytoma was coincidental and that the dog developed the same condition for a second time. As six years had passed since the first incident, she thought the second claim should be covered as it wasn't a recurring condition (it was a separate incident). She also provided an opinion from her vet that while the diagnosis was the same, the two incidences weren't related and there had been no recurrence between the first incidence and the second incidence.

HDi treated this as a complaint but didn't uphold it. In their final response they said review of the clinical history confirmed the start date of the dog's histiocytoma was June 2016. As Mrs M's policy was for a 12-month period cover was limited to 12 months (or the financial limit for the condition, whichever came first). So, the latest date the histiocytoma would be covered was June 2017. HDi referred to the policy terms and conditions in respect of applicable benefits under the policy. So, HDi confirmed their view the claim had been declined correctly in line with the policy terms and conditions.

Mrs M then complained to this service, unhappy at HDi's decline of her claim. She'd been affected financially by having to pay for the cost of treatment. She wanted HDi to pay for the cost (less the policy excess of £99) or make a contribution. She also wanted HDi to make it clear to a policyholder on renewal of a policy (following a claim for a condition) they would no longer pay for treatment of a condition. She thought HDi should review their approach to

[1] Histiocytomas are common, largely benign, cutaneous (skin) neoplasms of dogs. While they occur in dogs of all ages, their incidence is significantly lower for dogs over three years of age.

‘once in a lifetime episode of curative treatment’ so as not to preclude a further episode not being covered (after a reasonable passage of time).

Our investigator upheld the complaint, concluding HDi hadn’t acted fairly and reasonably in declining the claim. He thought, based on the six-year gap between the two treatments and the opinion of Mrs M’s vet, the second incidence of histiocytoma was separate to the first and they weren’t linked. Also, the vet’s comments that histiocytomas are usually found in dogs under three years of age. So, it wasn’t fair for HDi to decline the claim based on the 12-month limit of treatment for a condition under the policy terms and conditions. To put things right, the investigator thought HDi should review and pay the claim in full (up to the policy limits). They should also pay Mrs M £250 compensation for the trouble and upset to Mrs M by not accepting the claim.

HDi disagreed with the investigator’s conclusions, and requested an ombudsman review the complaint. In disagreeing, they referred to a published article about histiocytic diseases in dogs indicating the likelihood dropped significantly after three years of age and recurrence of the condition (at a new site) was extremely low. While they agreed with the opinion of Mrs M’s vet that the two incidences of histiocytoma were unrelated, they both had the same diagnostic classification (as both were diagnosed as histiocytomas). HDi also referred to the policy definition of the term ‘condition’, including reference to an illness having the same diagnostic classification or resulting from the same disease.

HDi also noted the claim form for the second histiocytoma indicated the vet said ‘yes’ to the question about whether the dog had received treatment [for the condition claimed for, or any related conditions] previously (mention was made of the histiocytoma treatment in 2016). HDi said this was an acknowledgement that the second treatment was a related diagnosis/condition – even if not a related incidence.

In my findings, taking the policy wording on the benefit limit (for the cover level taken out by Mrs M) together with the definition of *“Condition”*, then I concluded it meant if the same condition occurred twice, and the gap between them was more than 12 months, then the second incidence fell outside the 12-month limit and so wasn’t covered. I thought that was the position in this case, as the *“diagnostic classification”* referred to in the policy definition was the same for both incidences (histiocytoma).

I noted that while Mrs M (and her vet) said the two conditions were unrelated (and HDi didn’t disagree), that wasn’t the determining factor given the policy wording and – critically – the definition of *“Condition”*. The definition also included the phrase *“regardless of the number of incidents or areas of your Pet’s body affected”.* This would also cover the fact that there were two incidences of histiocytoma. While they were six years apart, this wasn’t part of the definition. Some policies included a period after which a condition – should it recur – was treated as a separate, new condition and therefore covered. But that wasn’t the case here.

So, I concluded HDi acted in line with the policy terms and conditions (including definitions) in declining the second claim.
Because I reached different conclusions to those of the investigator, I issued a provisional decision to provide both parties with the opportunity to consider matters further. This is set out below.

What I’ve provisionally decided – and why

My role here is to decide whether HDi have acted fairly towards Mrs M.

The key issue in Mrs M’s complaint is whether HDi acted fairly in declining the claim for the second histiocytoma, based on the policy terms and conditions (for the level of cover taken

out by Mrs M) that states cover for any condition will cease after 12 months. Mrs M, with her vet's opinion, says the two incidences weren't connected, given the six-year gap between the two.

I've considered both views carefully, including the relevant terms and conditions of the policy (particularly those referred to by HDi in their decline of the claim and their final response) together with the supporting information and evidence, including the opinion of Mrs M's vet.

Having done so, I've concluded HDI have acted in line with the policy terms and conditions. So, they acted fairly and reasonably in declining the second claim. I know this will be disappointing to Mrs M, so I'll set out why I've come to this conclusion.

In their final response (and response to our investigator's view), HDi refer to the policy terms and conditions excluding cover for a condition after 12 months, as set out in the policy document:

> *"For Our Accident and Illness Essential policy the Benefit Limit only applies per Condition for up to 12 months after the onset of the Condition. Cover for any Condition will cease after either 12 months or once the maximum Benefit Limit has been reached, whichever is the sooner. For our Accident and Illness Extra the Benefit Limit only applies per year."*

Similar wording is also contained in the Policy Schedule issued when the policy was taken out (and at subsequent renewals). This refers to: "…Once the period of 12 months has passed…the Condition will then be excluded from cover meaning no further claims relating to that Condition will be paid."

Given HDi (in their response to our investigator's view) referred to the policy definition of "Condition", I've also looked at this in the policy document. It defines "Condition" as:

> *"Any injury sustained during, or resulting from, a single Accident or any manifestation of an illness having the same diagnostic classification or resulting from the same disease process regardless of the number of incidents or areas of your Pet's body affected."*

While not mentioned by HDi, there's a separate definition of the terms "Recurring Condition" which states:

> *"…the reappearance of a Condition, Clinical Sign or symptom of an illness after a period of remission."*

Looking at the latter definition, I don't think the term would apply to a condition (even of the same diagnostic classification) unless the reappearance was linked to the initial incidence of the condition. In this instance, given the vet's opinion (with which HDi agree) the two incidences of histiocytoma aren't linked or related, then I don't think that's the case. However, taking the policy wording on the benefit limit (for the Accident and Illness Essential policy – the cover level taken out by Mrs M) together with the definition of "Condition", then I think it means that if the same condition occurs twice, and the gap between them is more than 12 months, then the second incidence falls outside the 12-month limit and therefore isn't covered. That's the position here, as the "diagnostic classification" referred to in the policy definition is the same for both incidences (histiocytoma).

While Mrs M (and her vet) say the two conditions are unrelated (and HDi don't disagree), that isn't the determining factor given the policy wording and – critically – the definition of "Condition". The definition also includes the phrase "regardless of the number of incidents or

areas of your Pet's body affected". This would also cover the fact that there were two incidences of histiocytoma. While they were six years apart, this isn't part of the definition. Some policies include a period after which a condition – should it recur – is treated as a separate, new condition and therefore covered. But that's not the case here.

While I've concluded HDi acted in line with the policy terms and conditions (including definitions) in declining the second claim, I've also considered Ms M's point that the policy wording was ambiguous and should have been clearer. I don't agree, as I think reading the terms and conditions, including the definitions, make it clear – for the level of cover Mrs M chose when she took out the policy – that a condition would only be covered for 12 months. And that a condition included ones with the same diagnostic classification. And this was included in the policy schedules and policy documents issued when the policy was taken out (and subsequently at renewals of the policy).

My provisional decision

For the reasons set out above, my provisional decision is that I don't uphold Mrs M's complaint.

Mrs M responded to say she noted the provisional decision conclusion meant the diagnostic classification being the same was the more important factor – more than the two incidents being unrelated (and it was agreed there were two separate events). And there was a significant time gap between the two incidents. She also didn't think the 12-month policy limit (for the cover she'd taken out) made a difference to the reasoning that diagnostic classification was more important than incidences being separate and unrelated.
HDi didn't respond by the deadline requested for comments.

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.

My role here is to decide whether HDi have acted fairly towards Mrs M.

I've considered the points raised by Mrs M in her response. But they don't change my provisional conclusions. As I set out in the provisional decision, while it's accepted the two incidences weren't related and occurred after a significant gap, the policy wording and – critically – the 12-month limit under the level of cover taken out by Mrs M mean it's the diagnostic classifications of the two incidences that are the determining factor. And the gap between them, if it's more than 12 months.

So, my final decision remains the same, for the reasons set out in my provisional decision.

My final decision

For the reasons set out above, my final decision is that I don't uphold Mrs M's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 25 August 2023.

Paul King
Ombudsman