

The complaint

Mr E complains that AXA Health Limited (AXA) wrongly sent personal information about him to a health specialist, and that this resulted in Mr E being taken to court by the specialist. He wants AXA to compensate him for this.

What happened

Mr E has had a policy with AXA for many years that covers some, but not all, of any private medical care he has. When Mr E needed treatment, AXA agreed to pay for the cost of his surgery, but not any associated consultation fees. That was in line with Mr E's policy terms and conditions.

The specialist billed AXA for both the surgery and consultation fees. AXA paid for the surgery and told the consultant it wouldn't pay for the associated consultation fees and that these were Mr E's responsibility.

Mr E didn't pay the outstanding fees for a number of reasons and the specialist took him to court, claiming just under £300. Mr E says the claim was dismissed, but that if AXA hadn't shared his personal information with the specialist the case would never have been brought by the specialist. He says AXA breached his data protection rights.

When Mr E complained, AXA said it had only shared necessary information with the specialist when telling him what it had or hadn't paid for and that any outstanding amounts were for Mr E to cover.

Mr E says this is unfair. He says he never gave AXA permission to share information about him to the specialist and only because it did that was he subjected to the distress and inconvenience of defending himself in a court.

He asked us to review his complaint. Our investigator didn't think AXA had done anything wrong, but Mr E disagrees so I've been asked to decide this complaint.

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 crux of this complaint is whether AXA breached data protection provisions by sharing some information about Mr E that subsequently led to him being taken to court. Mr E has given us a significant amount of additional information – such as why the case was dismissed by the court, or what the specialist might have promised or advertised in the way of fees. This information doesn't directly impact the main complaint, so although I have looked at all the information Mr E sent I'm only going to comment on points that affect my decision.

In summary, Mr E knew that AXA wouldn't pay for all the consultations provided by the specialist, and didn't object to this. The specialist, however, seems to have believed that

AXA would cover the cost of the consultations. He submitted invoices to AXA that included the cost of these. AXA responded to say that it would (or had) paid some of the costs – but that others weren't covered by the policy and were Mr E's responsibility.

Mr E believes that sharing this information (in particular the amounts subtracted from the overall cost to reflect the deductions for certain consultations) was done without his consent and that breaches his rights under data protection legislation. AXA said it provides this sort of information routinely when assessing and paying claims. It says it only shares information where it can do so lawfully and that was the case here.

I have to agree with that. The policy Mr E has says, in summary, that AXA will hold information and use it to process claims and that this includes sharing information with the providers of any treatment. I'm satisfied that sharing information about how much AXA will pay towards a bill is part of processing a claim. I can't see any other information in the statement AXA sent the specialist that breached data protection guidelines. For example Mr E's name and policy number are things the specialist would have already known, given that Mr E would have had to provide that information before treatment. It follows that I do not think AXA did anything wrong here.

Whilst I can see Mr E was upset that AXA said the remaining costs were for him to meet. I can't say that this was an intrinsic part of the specialist taking him to court. Common sense would suggest that if some parts of a claim weren't met by an insurer, then the remainder would be the responsibility of the person making the claim – in this case Mr E, who both received the treatment and made the claim. Nor do I think that telling the specialist an amount that would *not* be met led directly to the specialist taking legal action against Mr E. That information would have been apparent to the specialist even if only the amount paid by AXA was provided, given the specialist would know the total billed.

I'm sorry Mr E had to through the upset of dealing with a court case, but I can't conclude that AXAs actions led directly or indirectly to this. That was a matter solely between Mr E and the specialist.

My final decision

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E to accept or reject my decision before 3 April 2024.

Susan Peters
Ombudsman