

## **The complaint**

Mr D complains that AWP P&C SA declined his travel insurance cancellation claim. My references to AWP include its agents.

## **What happened**

Mr D took out a travel insurance policy through his bank which began in June 2018 and renewed annually. AWP is the insurer of the travel insurance element of the policy.

In October 2021 Mr D booked a trip abroad. The trip was due to begin in February 2022 but just after Mr D had been due to go he contacted AWP to make a claim for cancellation of the trip as he was waiting for heart surgery.

AWP declined the claim. In summary it said there was no cover for the claim under the policy terms because:

- Mr D's medical information showed that in February 2019 he'd been diagnosed with 'floppiness to the tip of his mitral valve' (mitral valve prolapse) and had been on clopidogrel (antiplatelet medication which prevents platelets from forming a blood clot) for the condition since then.
- Mr D hadn't told it about the mitral valve condition or medication as required by the policy terms and in the annual statement of eligibility that was sent to him. It had also reminded Mr D of the need to declare medical conditions in 2021 when he'd made a claim for a different medical condition.
- Mr D's GP's evidence was that part of the surgery which caused the trip cancellation was for mitral valve repair.

AWP also noted that Mr D had been prescribed various medications including for raised blood pressure and had other medical conditions, but he hadn't declared any.

AWP accepted there'd been some delay in it assessing the claim and paid Mr D £80 compensation as a goodwill gesture.

Mr D complained to us that AWP unfairly declined the claim. In summary he said:

- The main cause of his surgery was a coronary bypass for narrowed arteries and the mitral valve repair could have waited.
- In 2019 when the mitral valve was detected the cardiologist didn't think the mitral valve issue was a concern and said it wasn't medically detectable.
- He was taking clopidogrel for his eye condition, not the mitral valve. And the other medication he took was to reduce risk of disease.
- AWP referred to him making annual declarations about his health but he'd not been asked to sign a declaration.

Our investigator said AWP fairly declined the claim as Mr D hadn't answered the policy medical questions as he should have done.

Mr D disagreed and wanted an ombudsman's decision. He added that there was no evidence of mitral valve leakage in 2019, that was found in 2022. He didn't think it fair for AWP to say that the minimal floppiness in the mitral valve found in 2019 was a medical condition.

During our investigation AWP told us that if Mr D had told it about his mitral valve prolapse it would have covered him for an additional premium and it would also have increased the premium for the blood pressure and cholesterol medication he should have told it about.

Before I made this decision I asked AWP to provide me with some more information around the policy renewal and premiums Mr D would have had to pay. AWP didn't respond.

### **What I provisionally decided – and why**

I made a provisional decision explaining why I was intending to uphold the complaint. I said:

'I've considered all the points Mr D has made but I won't address all his points in my findings.

I'll focus on the reasons why I've made my decision and the key points which I think are relevant to the outcome of this complaint.

The relevant regulator's rules say that insurers must handle claims promptly and fairly and they mustn't turn down claims unreasonably.

I think AWP unreasonably declined the claim. I'll explain why.

### The policy terms

The policy covers trip cancellation due to Mr D's illness, subject to the policy terms. But the policy specifically excludes a cancellation claim arising from or in connection with:

*'a pre-existing medical condition or an associated condition, unless the pre-existing medical condition has been declared to and accepted by the insurer'.*

The policy definition of 'pre-existing medical condition' is:

*'when, at the time of booking the trip or opening the account, beneficiaries are unable to comply with the Medical Statements on page 8 of this Guide'.*

The Medical Statement on page 8 says:

*'Important conditions relating to health*

*You can call the insurer on...to talk about your medical circumstances or if you need to declare a medical condition for cover.*

*At the time of applying for (the policy) or before you book a trip, you must call the insurer to tell them about any medical conditions you or any other beneficiary have. The insurer will tell you whether or not the benefits of the Travel Insurance Policy are available to you at no charge; whether an endorsement to the Travel Insurance Policy can be purchased for an additional premium to cover your medical condition;*

*or, if the insurer cannot cover your medical condition at all. The insurer will write to you to confirm what they tell you over the phone.*

*Unless declared to the insurer and cover is accepted in writing, you or any other beneficiary will not be covered for any claims arising as a direct or indirect result of an existing medical condition if you or they answer YES to any of the following questions:*

*1. Are you or any other beneficiary receiving, or are waiting to receive, inpatient or outpatient treatment?*

*2. Within the last 2 years, have you or any other beneficiary:*

*a) been prescribed medication, received medical treatment or consulted a general practitioner (GP)?*

*b) attended or been due to attend a hospital or clinic as an inpatient or an outpatient?*

*c) ever been diagnosed with or treated for any cancerous, respiratory, heart or circulatory conditions (problems with blood flow, including high blood pressure, strokes and high cholesterol)?*

*3. Have you or any other beneficiary been given a terminal prognosis?*

*4. Are you or any other beneficiary awaiting the results of any tests or investigations, whether a condition has been diagnosed or not?*

*Note that if you do not contact the insurer in this way you may not have any benefits available to you if you make a claim. If the insurer is unable to cover your medical condition(s), then they will not pay claims that are related to that condition'.*

The policy also says:

*'Changes in your health*

*If your health changes before you book a trip or you travel, whichever is later (including medical conditions that are undiagnosed or awaiting investigation) you must tell the insurer about these changes. This is required whether a previous endorsement has been made or not to the Travel Insurance Policy for any of your medical condition(s)'.*

So the policy doesn't provide cover for any pre-existing conditions, as defined by the policy, unless they have been declared by Mr D and accepted by AWP. And the policy terms require Mr D to tell AWP about any change of health before he books a trip.

### *The medical evidence*

I've considered the available medical evidence to decide if I think AWP reasonably considered that the claim was directly or indirectly a result of an existing medical condition.

There are two medical certificates, the first dated 22 February 2022 and the second dated 18 October 2022. Both certificates say the same for Questions 2 and 3.

Question 2 asked the GP to *'state the precise nature of the medical condition...that gives*

*rise to the claim*'. Mr D's GP response was *'mitral valve repair and coronary bypass surgery'*.

Question 3 asked *'please advise whether the patient has suffered from, been treated for or been diagnosed at any time with any medical condition directly or indirectly related to the condition in Q2'*. Mr D's GP response was *'Tiny floppiness tip mitral valve'* with the onset of symptoms being 2019.

So although Mr D said his mitral valve repair wasn't the main reason for his surgery, from the GP's evidence I think AWP reasonably considered it was one of the reasons his trip was cancelled. And while there's no evidence that Mr D had a leaking mitral valve before he booked the trip in October 2021, from the GP's evidence AWP reasonably considered that the floppy mitral valve found in 2019 was related to the mitral valve repair that required surgery in 2022 which was part of the reason Mr D's trip was cancelled.

There's other medical evidence which I've summarised below.

Mr D's neurologist's letter of 23 January 2019 says Mr D has vision problems in one eye. The letter notes that Mr D is under the care of a consultant cardiologist and another consultant and has *'significant vascular risk factors'*. It also notes that Mr D was taking medication for type 2 diabetes and hypertension and he was advised to take aspirin then to change to clopidogrel. Tests for Mr D were arranged.

Mr D's consultant cardiologist's letter of 12 February 2019 says Mr D had an echocardiogram and that he had a *'tiny bit of floppiness in tip of the mitral valve which was minimal and not detectable'*. and that *'It is right to continue with the clopidogrel, as per when I saw you last month'*.

In October 2020 Mr D saw the consultant neurologist again for similar vision problems in his other eye. The letter from those consultations notes that Mr D had, and was due to have, various investigations and that his medications included clopidogrel, a statin and blood pressure medication and other new medication.

The medical certificates completed by Mr D's GP asks under question 2 with the heading details of medical condition causing the *claim* *'please list the current medication being prescribed for this condition'*. In the certificate dated 22 February 2022 the GP's response lists various medication Mr D is taking including clopidogrel.

Mr D says his GP wrongly completed the section as the GP put his medications which were for other conditions. The amended medical certificate dated 18 October 2022 from the GP says in response to the *question* *'please list the current medication being prescribed for this condition'* that there is *'no specific medication prescribed for this condition. Recommended operation'*.

I don't think the GP has given clear information about what, if any, medication was given for the floppiness of mitral valve tip, as his response of 18 October 2022 related to the leaking mitral valve repair and coronary bypass surgery.

### My conclusions

Mr D says he's not been asked to make an annual medical disclosure. AWP says he was sent an annual eligibility declaration. AWP's given no evidence that the declaration was sent to Mr D. But the policy terms are clear that Mr D won't be covered for any claims arising as a direct or indirect result of an existing medical condition if at the time the trip was booked he would answer 'yes' to any of the questions I've detailed above.

From the medical evidence I've seen I think Mr D should have reasonably answered 'yes' to questions 2 (a) (b) and (c) as within the two year period before he booked the trip in October 2021 he had various medical issues, tests and medication.

AWP say if Mr D had told it about the mitral valve prolapse it would have covered him for an extra premium.

But I don't think the matters Mr D should have reasonably answered yes to related to his mitral valve prolapse, which is the condition that related to one of the medical conditions which caused his cancellation claim.

I say that because Mr D had the test which showed the mitral valve prolapse in February 2019, outside the two year period from October 2021. And although question 2(c) asks whether Mr D has ever (my emphasis) been diagnosed with a heart condition I think it was reasonable for Mr D to consider that he hadn't been told he had a heart condition. The consultant's letter of February 2019 supports that Mr D was told he had a *'tiny bit of floppiness in tip of the mitral valve'* which was *'minimal and not detectable'*. Given the language used and information given by the consultant I think it was reasonable for Mr D to believe he didn't have a heart condition due to that matter.

Although I think Mr D should have reasonably answered 'yes' to the questions at 2 (a) and (c) as he was taking clopidogrel and medication for his blood pressure and cholesterol I don't think the medical evidence showed that any of those medications were prescribed or related to the mitral valve prolapse. So I don't think it would fair for AWP to decline the claim because Mr D didn't tell it about that medication.

I don't think AWP fairly declined the claim on the basis that Mr D should have answered 'yes' to the above questions about the mitral valve prolapse.

AWP should reassess the claim in line with the remaining policy terms and conditions'.

### **Responses to my provisional decision**

Mr D said he had no comments.

AWP didn't agree with my provisional decision. It provided some of the information I'd requested before I made my provisional decision. In summary, AWP said Mr D didn't pay a premium or fee for the policy and the policy wasn't a packaged account benefit, rather it's an extra that clients can opt-into. Mr D would have been sent an annual reminder of eligibility requirements which tells him he needs to declare his conditions each October. Mr D had never made any medical declarations. It didn't currently have a retrospective quotation for the policy price for the impact of the medications prescribed to Mr D.

AWP also made comments on my provisional decision. In summary it said :

- It wasn't reasonable for Mr D to consider that his floppy mitral valve wasn't a heart condition.
- It wasn't reasonable for Mr D to consider he'd never been diagnosed with or treated for any 'respiratory, heart or circulatory conditions'. I'd referred to him having been prescribed medication (treatment) for his blood pressure.
- I'd said the policy is clear that Mr D wouldn't be covered for claims arising as a direct or indirect result of an existing medical condition if he would have answered yes to

the medical questions and that he should have answered yes to some of the questions asked.

- I'd said that within the two year period before the trip was booked Mr D had various medical issues, tests and medication none of which had been declared.
- For such claims it relied on the medical information provided and Mr D's GP highlighted the link between conditions.
- It had correctly declined the claim under the policy terms.

### **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.

I've considered AWP's response to my provisional decision and reconsidered all the other evidence and I'm still satisfied AWP unreasonably declined the claim. I'll explain why.

The information AWP's now provided about the policy set up is irrelevant to the key issue about what's a fair outcome to the complaint because I don't think a proportionate payment of the claim is appropriate. That have may have been fair if I thought Mr D should have reasonably declared his floppy mitral valve to the questions he was asked and AWP would have covered him for an extra premium, which it says it would have done.

But the important point is that because of the information the consultant gave to Mr D - that he had a *'tiny bit of floppiness in tip of the mitral valve'* which was *'minimal and not detectable'* - I think it was reasonable for Mr D to believe he didn't have a heart condition. So it was reasonable for him not to declare to AWP that he had a floppy mitral valve when asked if he had a heart condition.

As I've explained above, from the medical evidence I've seen I think Mr D should have reasonably answered 'yes' to questions 2 (a) (b) and (c) set out above, as within the two year period before he booked the trip in October 2021 he had various medical issues, tests and medication. But for the reasons above I don't think the matters Mr D should have reasonably answered yes to related to his floppy mitral valve.

As I've also said, AWP reasonably considered that Mr D's GP said there was link between the floppy mitral valve found in 2019 and the mitral valve repair in 2022, which was part of the reason Mr D's trip was cancelled. But, due to the consultant's advice, I think Mr D reasonably didn't tell AWP about the floppy mitral valve. So I think AWP couldn't fairly decline the claim on the basis that the two conditions were related.

Mr D did have medication for his blood pressure. But even though I think he should have told AWP about taking that medication, for the reasons I've given above, I don't think the medical evidence shows that the medication related to Mr D's floppy mitral valve. AWP has provided no further evidence to persuade me that his blood pressure or other medication did relate to his floppy mitral valve. So I think AWP couldn't fairly decline the claim because Mr D didn't tell it about that medication.

It's not clear if AWP considers that the policy terms mean it can decline the claim because Mr D should have answered yes to questions about conditions/treatment that are unrelated to the condition/s which caused the claim. But if it does I don't think that would be reasonable. For AWP to reasonably decline the claim it needs to show that Mr D should

reasonably have declared his floppy mitral valve condition or treatment/medication related to that condition and for the reasons above I don't think AWP has shown that.

Overall for the reasons I've given in my provisional findings and these findings I don't think AWP fairly and reasonably declined the claim, it should put things right as I've detailed below.

### **Putting things right**

AWP must reassess the claim in line with the remaining policy terms and conditions.

### **My final decision**

I uphold the complaint.

I require AWP P&C SA to reassess the claim in line with the remaining policy terms and conditions.

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

Nicola Sisk  
**Ombudsman**