

## **The complaint**

Mr C has complained that BUPA Insurance Limited declined a claim he made under his employer's group medical insurance policy.

## **What happened**

Mr C claimed for rehabilitation benefit. BUPA declined that claim – it said that it wasn't eligible under the policy which excluded:

*Treatment for or arising:*

- *directly or indirectly, from the deliberate, reckless (including where you have displayed a blatant disregard for your personal safety or acted in a manner inconsistent with medical advice), harmful and/or hazardous use of any substance including alcohol, drugs and/or medicines; and*
- *in any event, from the illegal use of any such substance*

Our investigator didn't conclude that BUPA had done anything wrong. Mr C appealed. He felt that the exclusion clause was unclear, and its application was unfair.

## **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'm aware I've summarised the background to this complaint and haven't included some sensitive history. But I have carefully considered all the representations made including Mr C's detailed response to our investigator's view, for which I'm grateful.

Having done so, and although I recognise that Mr C will be very disappointed by my decision, I agree with the conclusion reached by our investigator for the following reasons:

- The relevant regulator's rules say that insurers mustn't turn down claims unreasonably. So I've considered, amongst other things, the law, the terms of the insurance contract and the available medical evidence, to decide whether I think BUPA declined Mr C's claim fairly.
- I have to take the Equality Act 2010 into account when deciding this complaint – given that it's relevant law. Ultimately, however, I have to decide this complaint based on what's fair and reasonable. So, if Mr C believes that there is a potential violation of the Equality Act by BUPA, and wants a determination on that issue, then he'll need to go to Court. However, I can consider whether BUPA has acted in a fair and reasonable manner in the circumstances, and this is what I've done.
- I haven't disregarded the background that led to this addiction and the trauma that has followed it. Mr C says the denial of his claim has had a severe impact on his

mental health and the treatment is necessary for his wellbeing. I accept this is so - it is not in dispute that Mr C requires treatment for his methamphetamine addiction. But BUPA isn't obliged to offer cover excluded by Mr C's policy terms. Even if I were to accept that Mr C's drug taking wasn't deliberate or reckless, I'm satisfied that BUPA is able to show the treatment Mr C requires is excluded, not least because it arises from the harmful and/or hazardous use of drugs. Further it is not suggested that his addiction stems from drugs legally prescribed.

- Mr C says that ambiguous terms in insurance contracts should be interpreted against the party that drafted the term. I agree. But I don't find that there is any ambiguity in the exclusion quoted above. Nor do I accept that the exclusion is 'buried away'. Mr C's health plan is a necessarily long document given the breadth of cover it provides. I'm satisfied that both the rehabilitation cover and the exclusion relevant here are clearly set out in plain English.
- Mr C feels that there is inconsistency in BUPA's application of the exclusion clause as it paid for Mr C's initial consultation. I haven't explored the reasons BUPA paid for that consultation, as it didn't form part of this complaint. But I don't find that the fact BUPA paid for an earlier consultation precluded it from concluding that the exclusion applied to subsequent treatment.
- In the circumstances I don't find that BUPA have treated Mr C unfairly, contrary to his policy terms or to law. Mr C says that the purpose of his policy is to provide assistance in times of need and in unforeseen circumstances. Indeed, it may do so but BUPA is not obliged to provide cover for treatment that falls outside that offered by his policy terms. Mr C would like BUPA to apologise to him, and I can see that in its final response BUPA expressed sympathy for providing disappointing news. But given that I don't find any error on BUPA's part, there is no basis for me to require it to take any action or apologise further.

### **My final decision**

Despite my natural sympathy for Mr C's predicament, for the reasons given above I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 8 December 2023.

Lindsey Woloski  
**Ombudsman**