DRN-3363756

The complaint

Miss B complains that AWP P&C SA has turned down a cancellation claim she made on a travel insurance policy.

Miss B's represented by Mr B.

What happened

In January 2019, Miss B booked a holiday abroad. She was due to travel between 24 February and 9 March 2020. She took out an annual travel insurance policy alongside her booking, which was due to renew on 16 January 2020.

Subsequently, in December 2019, Miss B was invited to an NHS mammogram as part of its free national screening service. Her appointment took place on 14 January 2020. The travel insurance policy renewed as planned on 16 January 2020. On the same day, the NHS sent Miss B a further letter inviting her for further testing a few days later. Unfortunately, on 22 January 2020, Miss B was diagnosed with breast cancer and needed to start urgent treatment. So Miss B had to cancel her trip and made a claim on her travel insurance policy for the costs associated with cancellation.

AWP turned down Miss B's claim. It said that Miss B's policy specifically excluded cover for pre-existing medical conditions. It considered that as Miss B had undergone a mammogram on 14 January 2020, she'd been waiting for test results at the point her policy renewed two days later. It stated that she hadn't gone through medical screening at renewal to declare the mammogram and it hadn't agreed cover. So it concluded that Miss B's illness was a pre-existing condition which was therefore excluded by the policy terms.

Miss B was unhappy with AWP's decision and so Mr B asked us to look into her complaint.

Despite repeated requests for AWP's business file, it didn't provide us with this information. So our investigator assessed the complaint based on the information Mr B had sent us on Miss B's behalf. She didn't think it had been fair for AWP to turn down Miss B's claim. She was satisfied that Miss B had been invited for a routine screening – there was no evidence to suggest the mammogram had been booked because of any identified medical issue. Therefore, she didn't think Miss B needed to declare this to AWP. And she didn't think Miss B could've known that the follow-up tests would result in her ultimate diagnosis. The investigator also thought AWP's handling of the claim had caused Miss B additional distress at an already upsetting time. Overall, she recommended that AWP should pay Miss B's claim, together with £150 compensation. She later let AWP know that she thought interest should be added to the claims settlement at an annual rate of 8% simple from the date of claim until the date of payment.

AWP didn't respond to our assessment and so the complaint's been passed to me to decide.

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.

Having done so, I don't think it was fair for AWP to turn down Miss B's claim and I'll explain why.

The relevant regulator's rules say that insurers must handle claims promptly and fairly. And they mustn't turn down claims unreasonably. So I've considered, amongst other things, the terms of Miss B's policy and the available medical evidence, to decide whether AWP treated Miss B fairly.

I've first considered the policy terms and conditions, as these form the basis of Miss B's contract with AWP. The cancellation section of the policy does cover cancellation due a policyholder's severe illness. But this section also excludes claims if a policyholder doesn't comply with AWP's 'health declaration and health exclusions', which are set out on pages 13 and 14 of the policy. So I've next considered the health declaration and health exclusions which AWP has set out. The policy says:

'If you make a claim arising from a medical condition that has not been declared and accepted by us, it is unlikely that your claim will be paid.

It is very important that you read the following and declare any existing medical conditions to us.

1 You will not be covered for any directly or indirectly related claims (see note at the end of this section) arising from the following if in the 12 months before taking out this insurance or booking your journey (whichever is later), you

a have been prescribed medication,
b have received treatment or attended a medical practitioner for any medical condition,
c have attended a hospital or a clinic as an out-patient or in-patient,
d have been referred for tests, investigations, treatment, surgery or are awaiting results
e have been diagnosed as having a terminal illness

Unless you have declared any existing medical conditions to us and we have confirmed cover in writing.'

In this case, AWP has concluded that as Miss B was waiting for the results of her mammogram when the policy renewed, she was waiting for test results and should therefore have declared this to its screening line. I've thought carefully about this. On a strict interpretation of the policy terms, Miss B's mammogram *was* a test and she hadn't received the results of it at the point the policy renewed. So I've gone on to consider whether it was fair and reasonable for AWP to conclude that Mis B's circumstances fell within the scope of this clause.

Like the investigator, I've looked closely at the contents of the letter the NHS breast screening service sent Miss B on 16 December 2019. I've set out what I think are the key sentences below:
'*Welcome to NHS breast screening. We would like to invite you for your free mammograms…Screening aims to find breast cancer early when successful treatment is more likely…*

To help you decide whether to come for screening please read the enclosed leaflet.'

In my view, the contents of this letter supports Miss B's testimony – that this was a routine NHS screening to which she'd been *invited*, rather than a referral for a mammogram

following a specific concern about Miss B's health. I've also placed significant weight on the medical certificate completed by Miss B's GP. This states that the onset date of Miss B's symptoms was 22 January 2020 – the date of her cancer diagnosis. And the GP stated that Miss B hadn't been undergoing investigations or waiting for test results on the date the policy was issued.

As such then, the available medical evidence doesn't suggest that Miss B had previously suffered any potential symptoms of breast cancer. And there's no indication that the GP had referred her for a mammogram or any other investigation into any existing symptom. In fact, the medical evidence tends to suggest that Miss B *wasn't* suffering from any identifiable symptoms up until her date of diagnosis. On this basis, I don't think Miss B ought reasonably to have known or thought that AWP would want to know about a routine screening she'd been invited to. I say that because it seems Miss B understood this to be a standard, routine check. And it appears she had little to no medical reason to believe a serious finding might result from the screening. This means I think it was reasonable for Miss B to conclude that she didn't fall within the scope of the health declaration and therefore didn't need to tell AWP about the mammogram on 14 January 2020.

I accept that the NHS sent a follow-up letter to Miss B, dated 16 January 2020, inviting her for further testing. And I acknowledge that this was the same date that the policy renewed. But I see no reason to doubt Miss B's testimony that she didn't receive this letter until 17 January 2020, taking into account the postal service. So I don't think she'd have likely known about the more specific follow-up she'd been invited to at the point of renewal. And therefore I don't think she could've been expected to tell AWP about something she wasn't aware of.

Even if I were to take the view that Miss B did receive the second NHS letter before the policy renewed though, I still wouldn't think it was fair for AWP to turn down this claim. I say that because the letter says:

'Some women who come for breast screening need further tests before we can give them a screening result. This happens to about 4 in every 100 women. Most women who come to an assessment clinic do not have breast cancer.'

Given the letter suggests that most women who need further assessment following screening don't have breast cancer, I'm not persuaded Miss B would've considered it likely that a serious diagnosis likely could result from the assessment. And so I still wouldn't have reasonably expected her to contact AWP's screening line at this point.

Overall, I think the overall medical evidence supports that Miss B wasn't aware that she was suffering from a medical condition until 22 January 2020 – eight days after the policy had renewed. And as I've set out above, I don't think she could have reasonably known or ought to have known that AWP would want to know about a routine screening, which hadn't been prompted by any existing symptoms. This means I don't find it was fair and reasonable for AWP to treat Miss B's routine mammogram as a pre-existing medical condition or to have expected her to disclose this test to it. Therefore, I don't think it was fair and reasonable for AWP to turn down Miss B's cancellation claim.

It's also clear that AWP's handling of this claim caused Miss B additional distress and upset at a time when she was already dealing with a serious and worrying diagnosis. In this case, I don't think it was reasonable for AWP to have reached the claims decision it did or that the medical evidence supported its position. And I consider that this led to Miss B suffering unnecessary frustration and anxiety. So I agree with the investigator that it's appropriate for AWP to pay Miss B compensation in recognition of the trouble and upset it caused her and I'm satisfied £150 is a fair amount on the facts of this case.

My final decision

For the reasons I've given above, my final decision is that I uphold this complaint.

I direct AWP P&C SA to settle Miss B's claim, in line with the remaining terms and conditions of the policy and any applicable excesses. It must add interest to the settlement at an annual rate of 8% simple from the date of claim until the date of payment. If AWP considers it needs to deduct income tax from the interest, it should provide Miss B with appropriate documentation for HMRC purposes.

I also direct AWP to pay Miss B compensation of £150.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss B to accept or reject my decision before 17 May 2022.

Lisa Barham
Ombudsman