

The complaint

Ms A has complained that Casualty and General Insurance Company (Europe) Ltd (CGI) has rejected her claim for veterinary treatment for her dog.

What happened

Ms A has a dog that I'll refer to as "M" which has been insured by CGI since 27 March 2021.

In May 2021, M was diagnosed with a cruciate injury. This required surgery which cost £3,200. When Ms A claimed for this on her policy with CGI her claim was rejected on the ground that the nature of the condition that required treatment was a pre-existing condition and was therefore excluded by her policy.

CGI obtained M's medical history from both her current vet and her previous vet from when Ms A and M lived abroad.

Her previous vet provided the following information:

- in January 2018 M was brought in with right forelimb lameness. Radiographs showed arthritis in her elbows.
- in July 2019 she was again brought in with elbow pain and was given anti-inflammatory medication.
- In April 2020 M was brought in as she was showing signs of stiffness in the mornings. Examination suggested bilateral hind leg stiffness. No anterior drawer was noted and no medial swelling of the stifles. It is recorded that her patellas were slightly loose. Further investigation and radiographs under sedation were recommended if the symptoms continued.
- In May 2020 there continued to be forelimb lameness. Radiographs showed both elbows had mild osteoarthritis and degenerative joint disease changes. The hind quarter stiffness had resolved.

M's current vet provided the following information:

- On 24 April 2021, M was brought in for lameness on her hind limbs. She showed reduced mobility in her hips, particularly the left. Arthritis suspected. X-ray recommended.
- On 4 May 2021 was still quite lame on her left hind leg. X-rays taken of hips and left hind leg. A cranial drawer test was positive and a full cranial cruciate ligament (CCL) rupture was suspected.

M then underwent surgery for a near complete (95%) CCL rupture. There was no evidence of meniscal injury. This cost £3,200 which Ms A claimed from CGI.

In rejecting Ms A's claim, CGI referred to the terms of Ms A's policy which defines a Pre-existing condition as:

“any diagnosed or undiagnosed Condition and/or Associated Condition which has happened or has shown Clinical Signs or Symptoms of existing in any form before the Policy Start Date or within the Waiting Period.”

The following definitions are also given in the policy:

“Clinical signs” means:

“Any observable changes in Your pet’s normal healthy state; condition; appearance; bodily functions and observed by You or Your Vet either visually; diagnostically; or otherwise”

“Symptoms” means:

“any change in Your pet’s normal healthy state, conduct or appearance”

Having considered M’s clinical history, CGI is of the view that it confirms that M displayed signs and symptoms of left hind lameness and confirmed osteoarthritis prior to the inception of the policy on 27 March 2021. It says these amount to a Pre-existing condition which is excluded from cover.

CGI says that when setting up the policy for M, Ms A didn’t disclose any Pre-existing condition for the hindlimb lameness or elbow osteoarthritis although it was discussed with M’s previous vet during the consultation in January 2018, July 2019, April 2020 and May 2020. Had she done so, CGI says it would’ve applied endorsements to the policy excluding cover for all claims relating to stifles, patellas, elbows, degenerative disease and other associated conditions.

Ms A has provided letters from M’s current vet and her previous vet both of whom confirm that the previous symptoms are not connected with the injury that required M to undergo CCL surgery.

M’s previous vet has confirmed that her lameness occurred and was resolved abroad in 2020 and stayed resolved. He says that the cruciate problem came later and is different to the previous lameness. He says that if he’d noted a cruciate problem, it would’ve been addressed then as M was fully insured.

M’s current vet has stated that she had noted M’s history from her previous vet and that he hadn’t identified any cruciate injury at that time. She also stated that the cruciate injury was first diagnosed in her clinic after Ms A had taken out a policy with CGI. She stated that it was her medical opinion that:

“this injury only occurred at this time judging by the radiographs and subsequent lack of degenerative changes in the stifle on radiographs that would be present if this were an ongoing chronic issue”.

Ms A wasn’t satisfied with CGI’s rejection of her claim and brought her complaint to this service.

Our investigator consulted information about cruciate ligament injuries and noted that M appeared to have been displaying some of the common symptoms of these prior to her policy being taken out, such as limping, stiffness getting up and down, and lameness. She was satisfied that M presented with physical signs and symptoms of cruciate ligament disease before she was seen by her current vet in April 2021 although this was undiagnosed. She noted that CGI’s definition of Pre-existing conditions simply requires there to have been signs of the disease observed in the past. She didn’t see any evidence that M’s cruciate

problem was in fact an acute injury, suffered when she was playing ball, as Ms A had explained.

Our investigator's conclusion was that Pre-existing injuries includes any undiagnosed conditions and merely requires there to have been signs or symptoms of the condition in the past. Her view was that M had presented with symptoms of cruciate ligament disease before her policy started. CGI had therefore applied the terms of Ms A's policy fairly and hadn't acted unreasonably in rejecting Ms A's claim.

Ms A didn't agree with our investigator's view. She argued that M sustained a cruciate injury, which should be distinguished from a condition, and M's injury wasn't related to her previous lameness. She comments that symptoms of cruciate injury are also common in many other conditions and are not only evidence of a cruciate problem. She has asked that an ombudsman review her complaint.

As my view of this complaint differed from that of our investigator, I issued a provisional decision. Ms A and CGI were invited to provide any further comments they wished me to take into consideration by 1 June 2022. On 1 June, CGI told our investigator that it was obtaining a vet report, and this would be sent in the week commencing 6 June. On 9 June our investigator told CGI that if nothing had been received from it by 13 June, I might proceed to issue my final decision based on the information I then had.

Having received no further information from CGI, and Ms A's having accepted my provisional decision, I'm now issuing my final decision.

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 upholding Ms A's complaint and I'll give my reasons for doing so.

M's current vet, in her email of 3 November 2021, has referred to M having a cruciate injury, and subsequent repair surgery. Her email goes on to say (my emphasis underlined):

"Before examining M initially, we received her history from her veterinarian in [other country] and became aware of her forelimb lameness and associated arthritis. There was a mention of hindlimb lameness in one consult in 2019 but this was an acute issue. In 2020 she presented with hindlimb stiffness but according to vet there was no anterior drawer present which is an important diagnostic test for cruciate injury and no swelling at the stifle meaning that it was stable i.e. there was no evidence of cruciate injury at this time. It is also mentioned in the history in May 2020 that the hindlimb lameness had resolved.

M was fully insured in [other country] so if there was any suspicion of cruciate damage prior to moving to [current home] the vet would have recommended intervention at this time or at least noted it in her history.

The cruciate injury was first diagnosed in our clinic after the [A's] had taken out a policy with you. It is my medical opinion that this injury only occurred at this time judging by the radiographs and subsequent lack of degenerative changes in the stifle on radiographs that would be present if this were an ongoing chronic issue."

M's previous vet has also stated (my emphasis underlined):

"I examined M on the 30/4/2020 with the complaint of a stiff left hind limb. My finding was that both hind legs were a bit stiff and that there was no indication whatsoever that the stifles were involved. There was no anterior drawer present and no medial buttressing. The patellar findings were of no significance either. She responded to anti-inflammatories and Gabapentin and at her next visit on the 15/5/2020 the hind limb issue was resolved.

I am confident that there was no cruciate disease present at the abovementioned visits."

The treatment Ms A is claiming for is surgery for a CCL rupture. I therefore need to consider whether M's previous medical history provides "clinical signs" or "symptoms" of the condition being claimed for, whether previously diagnosed or undiagnosed, which would make it a Pre-existing condition.

I'm not persuaded that the symptoms of limping, stiffness when getting up, and lameness are exclusively "clinical signs" or "symptoms" of cruciate ligament disease. They could, for example, indicate arthritis. This was discounted by M's previous vet having undertaken the appropriate diagnostic drawer test. I consider it likely that if he had identified a cruciate problem it would've been addressed at the time as M was fully insured. And M's current vet has expressly stated that M sustained her CCL rupture as an injury occurring after her policy was taken out and not as the consequence of a pre-existing condition.

I therefore have the clinical findings of two vets with specific knowledge of M, both of whom had treated her. Taken together, these provide persuasive evidence to me that there was no cruciate disease or injury present in 2020, whether diagnosed or undiagnosed, and that M's surgery was to address a cruciate injury that only occurred after M's policy had been taken out and which had not previously displayed clinical signs or symptoms.

My view is that this was not therefore a Pre-existing condition, and that CGI has unfairly rejected Ms A's claim.

I'm therefore upholding Ms A's complaint and I require CGI to settle her claim in accordance with the other terms and conditions of her policy.

My final decision

For the reasons I've given above, I'm upholding Ms A's complaint and I require Casualty and General Insurance Company (Europe) Ltd to settle her claim in accordance with the other terms and conditions of her policy.

I also require Casualty and General Insurance Company (Europe) Ltd to pay interest on the sum payable to Ms A at the simple rate of 8% a year from the date Ms A made her claim to the date payment is made to her.

If Casualty and General Insurance Company (Europe) Ltd considers that it's required by HM Revenue & Customs to take off income tax from that interest, it should tell Ms A how much it's taken off. It should also give Ms A a certificate showing this if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms A to accept or reject my decision before 13 July 2022.

Nigel Bremner

Ombudsman