

The complaint

Mrs and Mr N complain about Mapfre Asistencia, Compania Internacional De Seguros y Reaseguros, S.A.'s (Mapfre) settlement of their travel insurance claim and about its service. My references to Mapfre include its agents.

What happened

Mrs and Mr N were due to go on holiday abroad from 15 to 22 March 2019 but had to cancel due to Mrs N's back pain. They had a travel insurance policy, insured by Mapfre which they had renewed by phone. They claimed on the policy for the cost of the holiday and for a night's accommodation near a UK airport.

Mapfre paid some but not all of the costs claimed. It said:

- The policy didn't cover the Air Passenger Duty (APD) or ATOL fees charged with the booking so it hadn't paid those costs.
- It only paid 90% of the holiday costs because Mrs and Mr N should have cancelled sooner and if they had done so they would have received a 10% refund from the holiday provider.
- Mrs N's medical history was misrepresented when the policy was renewed. She didn't tell it about her back pain and if she'd done so it would have charged an extra premium. Mapfre said the premium Mrs and Mr N had paid was 83% of what they should have paid so it was only paying 83% of the costs covered.
- It had deduced an excess of £60 per person.

Mrs and Mr N complained to us, they said:

- They'd answer the questions they were asked at the policy renewal truthfully. Anyway they had subsequently done a dummy application on the insurer's website and there had been no additional premium if they had declared Mrs N's back pain.
- They initially hoped to minimise their losses and rebook their holiday for a later date, which would only incur an administration fee. But Mrs N's consultant then made clear he couldn't give a timeframe for when Mrs N would be able to travel.
- They thought it was unfair for Mapfre to charge two policy excesses when the claim was only due to Mrs N's medical issue.
- Mapfre took too long to deal with the claim and had caused them a lot of stress and upset.

As Mapfre had sent us an incomplete file our investigator asked Mapfre several times for further information, which we didn't receive. On the available evidence our investigator recommended Mapfre pay the full costs claimed plus interest but he said it had fairly deducted the two excesses. He also said Mapfre should pay Mrs and Mr N £100 for their distress and inconvenience caused by its poor service.

Mapfre sent us a screen shot which it said would have shown a 'medical charge' if Mrs N had declared a medical condition in the renewal call. It said it would send the policy documents and policy renewal phone call.

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.

Mrs and Mr N don't have the policy documents. We've asked Mapfre several times to provide the policy documents and the policy renewal phone call where it says Mrs N was asked medical questions. At the time of making this decision I haven't received that evidence. I'm satisfied we've given Mapfre reasonable time to provide that information and I think it's fair for me to make my decision on the evidence I have.

The relevant insurance industry rules say that insurers should act honestly, fairly and professionally in accordance with the best interests of their customers. And that insurers should handle claims promptly and fairly and shouldn't unreasonably reject a claim.

I think Mapfre's settlement of the claim and its service wasn't fair and reasonable. I'll explain why.

I haven't received the policy documents and Mapfre hasn't shown that under the policy terms it can deduct the APD and ATOL fees from the claim. I think it's reasonable for Mapfre to pay those costs.

The cancellation invoice from the holiday provider is dated 2 March 2019. The cancellation information shows that as the cancellation was within 14 days of the planned start of the holiday no refund was due. If Mrs and Mr N had cancelled within 28 to 15 days from the planned start date the provider would have refunded 10%.

The medical certificate from Mrs N's GP says she was first advised to cancel the holiday on 21 February 2019, which is nine days before they cancelled. Mapfre's letter to Mrs and Mr N said it allowed three days for policyholders to cancel a trip once it becomes known they need to do so. If they had cancelled within three days the provider should have refunded the 10%. But I've not seen the policy document to show cancellation within three days is required by the policy terms. So I think the issue is whether Mrs and Mr N cancelled in a reasonable timescale. Mapfre didn't respond to our investigator's comments on this issue. I'm persuaded by what Mrs and Mr N say about wanting to rebook a holiday, which would have minimised their lost costs, until they knew that wasn't possible. In the circumstances I think they cancelled the holiday in a reasonable timescale. So Mapfre should reasonably pay the full holiday costs claimed and not deduct the 10%.

There are some circumstances, in line with the Consumer Insurance (Disclosure and Representations) Act 2012, where I may say that Mapfre could fairly only pay a proportion of a claim if Mrs N hadn't told it about her back problem. But I haven't seen any evidence from Mapfre to show that at the policy renewal Mrs N was asked clear questions about her health that she failed to take reasonable care in answering. So I've no basis to say Mapfre fairly applied the proportional payment. On the evidence I have Mapfre should pay the balance of claim so that it pays 100% of the costs.

However, I think Mapfre did fairly deduct two excesses. Although I've not seen the policy documents I think it's highly likely that the policy says the excess is payable per claim per person. It doesn't matter that the claim is only due to Mrs N's ill-health. She and Mr N are claiming for both their costs and it's fair for Mapfre to apply an excess for both of them.

Mapfre also didn't comment on our investigator's recommendation that it pay £100 to Mrs and Mr N for their distress and inconvenience for its delay and handling of their claim. I think that's a reasonable amount in the circumstances.

Putting things right

Mapfre must pay the balance of the claim so that it pays the full costs Mrs and Mr N claimed (less the two excesses already deducted), plus interest as I've detailed below. It must also pay Mrs and Mr N £100 for their distress and inconvenience due to its poor service.

My final decision

I partly uphold this complaint.

I require Mapfre Asistencia, Compania Internacional De Seguros y Reaseguros, S.A. to pay Mrs and Mr N:

- The balance of the claim so that it pays the full costs Mrs and Mr N claimed (less the two excesses already deducted). Interest* should be added to the balance at 8% simple a year from the date of the claim to the date of settlement of the balance, and
- £100 for their distress and inconvenience due to its poor service.

*If Mapfre Asistencia, Compania Internacional De Seguros y Reaseguros, S.A considers that it's required by HM Revenue & Customs to take off income tax from that interest it should tell Mrs and Mr N how much it's taken off. It should also give Mrs and Mr N a certificate showing this if they ask for one, so they can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs N and Mr N to accept or reject my decision before 5 August 2022.

Nicola Sisk
Ombudsman