

The complaint

Mr C complains that Vitality Health Limited (Vitality) has unfairly refused to pay for a medical treatment he's had. He wants Vitality to pay his claim and some compensation for what he's been through.

What happened

Mr C has a medical insurance policy with Vitality. It's designed to cover the cost of private medical care in certain circumstances.

Mr C was in pain, and a consultant recommended an injection into his spine to try to control the pain and return him to his normal state of health. Two injections were carried out – in June? And September 2021. Both were paid for by Vitality. Some time later the consultant recommended a third injection, but Vitality said it wouldn't cover the cost as it believed Mr C was suffering from a chronic condition, and treatment of this wasn't covered by Mr C's policy. It did say it would consider any comments Mr C's consultant might make.

Mr C got his consultant to explain why the third injection was recommended, but Vitality still wouldn't meet the claim. Eventually Mr C paid for the procedure himself, and later complained to Vitality about the way he'd been treated. Vitality still wouldn't meet the claim, so Mr C asked us to look at the complaint.

Our investigator thought Vitality should meet the claim. He looked at the definition of a chronic condition but didn't think Mr C's condition fell into this category, so he didn't think it was fair for Vitality to refuse to meet the claim. He recommended Vitality meet the claim and add interest to make up for Mr C having to use his own money for the treatment. Vitality argued that Mr C's condition is chronic, and sent in some guidelines from the National Institute for Health and Care Excellence (NICE) to support the way it approaches claims like Mr C's. Our investigator didn't change his mind, and as Vitality disagrees with his conclusions I've been asked to decide this complaint.

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 going to uphold this complaint. I'll explain why.

Vitality is required to interpret the terms and conditions in its policies fairly when deciding if it should meet a claim. I don't think it's done that here.

The terms and conditions in Mr C's policy say that Vitality need not meet a claim if the claim is for the treatment of a chronic condition. In summary, it defines "chronic" as an illness, disease or injury that has one or more of the following characteristics:

- Needs ongoing or long term monitoring or tests

- Is for ongoing or long term relief of symptoms
- Requires rehabilitation
- Continues indefinitely
- Has no known cure
- Comes back or is likely to come back

I've thought about whether Mr C's condition – as described by his consultant – fits this definition. I don't think it does. His entire course of treatment took place within a six month period, and his consultant was clear that the third injection was to be Mr C's last before more drastic treatment – that is surgery – was to be considered. After the third injection Mr C tells us he is no longer under the care of the consultant, and his condition isn't being monitored or treated going forwards. I think that suggests Mr C has been returned to the state of health he was in before he started treatment. There's also no suggestion that Mr C's condition will or is likely to return.

Taking everything into consideration I don't think Mr C's condition was chronic and so it's reasonable to expect Vitality to pay for the third injection.

Vitality says it sent us an excerpt from the relevant guidelines about how to treat Mr C's condition – and suggested his treatment didn't comply with this. I've read the excerpt but I can't see that it says that the number of treatments should be limited. I'm also persuaded by the report sent by Mr C's consultant, that the last injection was necessary. Mr C's consultant treats patient with conditions like Mr C's regularly and explains clearly why a final injection is required, so I think it's fair to rely on his report..

Vitality says its own guidelines say injections like these won't be paid for unless they are more than six months apart. But there's nothing in the terms and conditions that mentions a timescale for deciding if a condition is chronic or acute. If Vitality wants to implement such a timescale I'd expect it to include this in the terms and conditions to avoid confusion going forwards. However, that doesn't affect this particular decision. Vitality also says it made a mistake when it agreed to pay for the second injection. It might well have done that but I haven't been asked to consider the circumstances surrounding that payment. So I don't think whether or not Vitality made an error at an earlier point affects how I reach a decision about the third injection.

Putting things right

Mr C had to use his own money to pay for treatment, when Vitality should have covered this. So it's fair that Vitality puts that right by meeting Mr C's claim. It should do that by refunding to him the amount he paid for the treatment. It should also add simple interest at the statutory rate of 8% interest per annum. It should add this interest from the date Mr C paid for treatment up to the date it meets the claim. Vitality may have to comply with HMRC regulations and deduct tax from the interest before paying Mr C. If it does that Vitality must give Mr C a tax deduction certificate if he asks for one.

I think this is a fair way to compensate Mr C for the loss of use of his money and the trouble he's been put to.

My final decision

My decision is that I uphold this complaint. Vitality Health Limited should now meet Mr C's

claim as described above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 7 December 2022.

Susan Peters
Ombudsman