

## **The complaint**

Mr D complains about how Mapfre Asistencia, Compania Internacional De Seguros y Reaseguros, S.A. dealt with a claim against his travel insurance policy. Reference to Mapfre includes its agents.

## **What happened**

The details of this complaint are well known to both parties, so I won't repeat them again here in full. In summary, Mr D has a travel insurance policy underwritten by Mapfre. During a trip, Mr D injured his ankle. He sought medical treatment and made a claim against his policy.

Mapfre made enquiries about Mr D's fitness to fly, which I'll refer to in more detail below. I understand that Mr D returned home on 23 October 2020, on a flight arranged by Mapfre.

Mr D is unhappy about the assistance Mapfre gave him whilst abroad and its handling of his claim. He complains that Mapfre tried to force him to fly against medical advice and threatened to cancel his policy if he didn't fly home. Mr D wants compensation of £5,000 for the poor service he received.

During the course of Mr D's complaint with this service, Mapfre offered compensation of £200. That wasn't acceptable to Mr D.

One of our investigators looked at what had happened. She thought that compensation of £350 was fair in this case.

Mapfre agreed with the investigator. Mr D didn't think that compensation of £350 was sufficient. He said that Mapfre was prepared to leave him in pain and made threats about cancelling his policy if he missed a medical appointment or didn't fly against medical advice. Mr D said that Mapfre's actions caused him an incredible amount of stress. He said that Mapfre didn't supply him with additional aid when he said that he couldn't manage with crutches. And he thought that it was unreasonable for Mapfre to rely on his wife to assist him as they were travelling with their infant son. Mr D said that there was no car seat for his son for the taxi home from the UK airport.

Mr D asked that an ombudsman consider his complaint, so it was passed to me to decide.

## **My provisional decision**

On 11 July 2022, I sent the parties my provisional decision in this case. I indicated that I intended to uphold the complaint. I said:

*"It's clear and quite understandable that Mr D has strong feelings about this matter. He's provided detailed submissions to support the complaint. I've read through all this carefully and taken it all into consideration when making my decision. I trust that Mr D will not take as*

a discourtesy that I concentrate on what I think are the central issues in the case. Mapfre hasn't provided this service with its complete file in relation to this claim and complaint but it has provided a document showing the advice it received from its medical adviser and enquiries Mapfre made in response to that. I've proceeded on the basis of the information that's available.

#### the relevant policy terms and conditions

The starting point is the terms and conditions of the policy, the relevant parts of which say as follows:

#### **Emergency and Medical Service**

[...]

In the event of **Your Bodily Injury** or Illness which may lead to in-patient hospital treatment or before any arrangements are made for repatriation or in the event of **Curtailment** necessitating **Your** early return to **Your Home Area** **You** must contact the Emergency Assistance Service. The service is available to **You** and operates 24 hours a day, 365 days a year for advice, assistance, making arrangements for hospital admission, repatriation and authorisation of medical expenses. If this is not possible because the condition requires immediate emergency treatment **You** must contact the Emergency Assistance Service as soon as possible.

Private medical treatment is not covered unless authorised specifically by the Emergency Assistance Service.

#### **Medical Assistance Abroad**

The Emergency Assistance Service has the medical expertise, contacts and facilities to help should **You** be injured in an accident or fall ill. The Emergency Assistance Service will also arrange transport to **Your Home Area** when this is considered to be medically necessary or when **You** have notice of serious illness or death of a **Close Relative** at home.

#### **Payment for Medical Treatment Abroad**

If **You** are admitted to a hospital/clinic while abroad, the Emergency Assistance Service will arrange for medical expenses covered by the policy to be paid direct to the hospital/clinic. To take advantage of this benefit someone must contact the Emergency Assistance Service for **You** as soon as possible."

#### **"Section B: Emergency Medical and Other Expenses**

##### **What is Covered**

**We** will pay **You**, up to the amount shown in the **Policy Schedule**, for the following expenses which are necessarily incurred as a result of **You** suffering unforeseen **Bodily Injury**, illness, disease and/or compulsory quarantine or complications as a direct result of pregnancy:

1. Emergency medical, surgical, hospital, ambulance and nursing fees and charges incurred outside of **Your Home Area**.

[...]

4. Reasonable additional transport (economy class) or accommodation expenses incurred, up to the standard of **Your** original booking, if it is medically necessary for **You** to stay beyond **Your** scheduled return date. This includes, with the prior authorisation of the Emergency Assistance Service, reasonable additional transport or accommodation expenses for a friend, **Travelling Companion** or **Close Relative** to remain with **You** or travel to **You** from **Your Home Area** or escort **You** and additional travel expenses to return **You** to **Your Home** if **You** are unable to use the return ticket.

5. With the prior authorisation of the Emergency Assistance Service, the additional costs incurred in the use of air transport or other suitable means, including qualified attendants, to repatriate **You** to **Your Home** if it is medically necessary. Repatriation expenses will be in respect only of the identical class of travel utilised on the outward journey unless the Emergency Assistance Service agree otherwise.

### **Special Conditions Relating to Claims**

1. You must give notice immediately to the Emergency Assistance Service of any **Bodily Injury** or illness which necessitates **Your** admittance to hospital as an inpatient or before any arrangements are made for **Your** repatriation.
2. In the event of **Your Bodily Injury** or illness **We** reserve the right to relocate **You** from one hospital to another and arrange for **Your** repatriation to **Your Home Area** at any time during the **Trip**. **We** will do this if in the opinion of the **Medical Practitioner** in attendance or the Emergency Assistance Service **You** can be moved safely and/or travel safely to **Your Home Area** to continue treatment.

### **What is Not Covered**

[...]

k) Expenses incurred as a result of **Your** decision not to be repatriated after the date when in the opinion of the Emergency Assistance Service it is safe to do so.”

has the claim been handled fairly and reasonably?

The relevant rules and industry guidance say that Mapfre has a responsibility to handle claims promptly and fairly and it shouldn't reject a claim unreasonably. I don't think that Mapfre treated Mr D fairly and reasonably in this case. I say that because:

- The medical report dated 6 October 2020 from Dr B said that Mr D was unfit to fly from 6 October 2020 to 17 November 2020. Mapfre sought another opinion. I think it was entitled to do that. I don't think that Mapfre was at fault in arranging for Mr D to see a doctor about his fitness to fly. That's what we'd expect an insurer to do in the circumstances that arose here. I don't think that Mapfre was obliged to simply accept the medical report dated 6 October 2020.
- The medical certificate dated 12 October 2020 from Dr C said that Mr D would be fit to fly on 19 October 2020 and required a nurse escort, business class seat and wheelchair cabin seat and certain medication to prevent deep vein thrombosis (DVT). Mapfre consulted its medical adviser then queried matters with Dr C. It said that the medication for DVT wasn't licensed for preventative use during flights, Mr D didn't need monitoring and was able to navigate stairs with crutches. Mapfre thought Dr C was taking an overly cautious approach, so it arranged for Mr D to see Dr Y.
- Dr Y's report dated 12 October 2020 didn't mention Mr D's fitness to fly but recommended that Mr D's treatment continue for another four weeks and partial weight bearing with crutches. I understand that Mapfre sent Dr Y's report to the airline in order to obtain clearance for unescorted travel in business class, which the airline gave. On 13 October 2020, Mapfre told Mr D that there was a return flight on 16 October 2020 and that he'd have wheelchair assistance and a business class seat but no medical escort, as it wasn't medically necessary.
- On 15 October 2020, Mapfre contacted Dr C's hospital and said:

“I EXPECT HIM TO BE CLEARED FOR TRAVEL.

IF YOUR DOCTORS FEEL HE IS NOT FIT TO FLY, THEN WE NEED DETAILED RATIONALE WHY - THEN (sic) SIMPLY SAYING HE IS AT RISK OF A DVT IS UNACCEPTABLE (ESPECIALLY AS HE HAS BEEN CLEARED FOR TRAVEL BY EMIRATES). [...]"

- *Mapfre arranged Mr D's repatriation without reference to all of the requirements mentioned by Dr C. Whilst it arranged a business class seat for Mr D, it didn't arrange for a nurse or any other escort. I think Mapfre arranged Mr D's repatriation without proper regard to the additional help he required in accordance with the report of the doctor who had examined him. It's clear that Mapfre took a different view about Mr D's fitness to fly and what he needed to return home safely. But Mapfre's medical adviser hadn't examined Mr D. I think that Mapfre treated Mr D unfairly in disregarding the medical reports from the doctors who had examined him.*
- *There's reference in Mapfre's notes to the difficulties in arranging a nurse escort because of entry requirements. Dr C said that a non-medical escort could assist Mr D to walk during the flight. Based on what I've seen, I don't think that Mapfre explained to Mr D why it took a different view than the doctors who had examined him. And it's not clear to me why Mapfre didn't arrange for a non-medical escort.*
- *I don't think it's persuasive to say that the airline cleared Mr D for travel, as I understand that it did so after sight of one of three available medical reports, which didn't mention Mr D's fitness to fly. And the airline didn't examine Mr D. The airline were relying on the information Mapfre had provided but I don't think this is a sufficiently persuasive reason for Mapfre to have not arranged the repatriation in line with the Dr C's recommendations.*
- *Mapfre's action in arranging Mr D's repatriation in the way that it did caused Mr D distress and inconvenience as he wasn't adequately accompanied on his return flight and had difficulty moving around the aircraft. And this was a flight of several hours. I think it was reasonable for Mr D to seek to have his wife sit near him on the plane, as Mapfre didn't make any other assistance available to him. I think that Mapfre should compensate Mr D for the additional cost he incurred in upgrading his wife's seat to business class. As Mr D has been kept out of the use of that money, Mapfre should also pay interest on that sum.*
- *Mr D says Mapfre put pressure on him to return to the UK on 16 October 2020 and said that if he refused to fly on that date, it would withdraw cover. Mr D's policy excludes cover for expenses incurred as a result of his decision not to be repatriated after the date when, in the opinion of the emergency assistance service, it's safe to do so. But, in the particular circumstances here, I think Mapfre treated Mr D unfairly in saying that it would withdraw cover if he didn't take a flight on 16 October 2020. That's because the medical evidence didn't support Mapfre's conclusion that Mr D was fit to fly on that date, and it didn't clearly explain to him why it took a different view. I haven't seen persuasive evidence which explains why Mapfre disagreed with Dr C's recommendations and didn't follow Dr Y's recommendation or ask Dr Y for more information about fitness to fly. Mapfre's actions caused Mr D distress and inconvenience as he was understandably worried about flying against medical advice and it was no doubt distressing to contemplate that his cover would be withdrawn.*
- *I don't think that Mapfre was at fault in declining to cover Mr D's consultation with a doctor for a second opinion. Mr D's policy covers emergency medical fees, not fees for non-urgent treatment.*

- *I've listened to the recording of the phone call Mr D has provided between him and Mapfre. The recording starts some time into the call. Mapfre was trying to tell Mr D that it wouldn't cover the cost of his further consultation with an orthopaedic specialist. Mr D was clearly frustrated, and the call became confrontational. I think Mapfre was trying to convey important information to Mr D. I don't think I can conclude from the recording that all of Mr D's calls with Mapfre were poorly handled by it.*
- *Mapfre arranged for a taxi for Mr D and his family to travel to the airport and from the UK airport to his home. Based on what I've seen, and Mr D's testimony, it didn't order a car seat for Mr D's infant son. I don't think Mapfre put Mr D's son at risk as it was open to Mr D to order another taxi and car seat. But this was no doubt a frustrating and upsetting matter.*
- *I've thought carefully about the level of compensation for Mr D's distress and inconvenience in this case. In all the circumstances, I think that compensation of £500 is fair. In reaching that view, I've taken into account the nature, extent and duration of Mr D's distress and inconvenience caused by Mapfre's errors I've referred to above."*

### **Responses to my provisional decision**

Both Mapfre and Mr D accepted my provisional 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.

As neither Mr D nor Mapfre have made any substantive comment on my provisional decision, I see no reason to depart from the conclusions I reached. So, for the reasons and to the extent I've explained, I think that Mapfre treated Mr D unfairly and unreasonably in its handling of his claim against his travel insurance policy.

### **Putting things right**

In order to put things right, Mapfre should:

- reimburse Mr D for the cost he incurred in upgrading his wife's return flight to business class and pay interest on that sum at the simple rate of 8% per year from the date he made his claim to the date it makes the payment and
- pay Mr D compensation of £500 in relation to his distress and inconvenience.

### **My final decision**

My final decision is that I uphold Mr D's complaint. Mapfre Asistencia, Compania Internacional De Seguros y Reaseguros, S.A. should take the steps I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 24 August 2022.

Louise Povey  
**Ombudsman**