

The complaint

Mr P is unhappy that Union Reiseversicherung AG hasn't settled a claim he made on his travel insurance policy.

What happened

In 2017 Mr P was involved in two separate accidents which led to him receiving hospital treatment in the USA. Mr P successfully claimed on his travel insurance policy.

URV refused to settle two of the invoices for the medical expenses in full. The first invoice was for \$233,765.03 and the other was for \$8,993.89. URV paid a total of around \$29,500 towards the invoices but wouldn't pay any more. They said the cost of treatment was inflated and so they'd made a payment based on the cost rates published annually by US Congress. Mr P has been chased by a debt collector for the balance.

The Financial Ombudsman Service considered a complaint made by Mr P in 2020. Our investigator concluded that URV should have the opportunity to negotiate with the debt collector but made it clear that this should be meaningful negotiation. Mr P and URV accepted the investigator's findings.

Mr P referred a further complaint to our service in May 2022. In summary, he said the matter still wasn't resolved and URV should settle the bill. URV maintained that the bill was inflated. So, our investigator looked into what had happened since URV and Mr P had accepted his opinion.

The investigator upheld Mr P's complaint and directed URV to settle the invoices. He didn't think URV were taking into account Mr P's interests and that there had been limited correspondence with the debt collector since December 2020. Nor was he persuaded it was reasonable for URV to use the US congressional rates as a fair baseline for the settlement.

URV didn't agree and asked an ombudsman to review the complaint. They shared some data from the hospital which they said, in summary, demonstrated the payment they'd made was fair. So, the case has 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.

The Financial Conduct Authority's Dispute Resolution Rules (DISP) set out how the Ombudsman Service can make awards.

DISP 3.7.1R says that where a complaint is determined in favour of a complainant the ombudsman's determination may include a direction to the respondent, which in this case is URV.

DISP 3.7.11R provides that a direction may require the respondent, here URV, to take such steps in relation to the complainant as the ombudsman considers just and appropriate whether or not a court could order those steps to be taken.

The policy terms say URV can:

Take over and deal with, in your name, the defence/settlement of any claim made under the policy.

In effect, this means that URV has the right to take over the conduct of a claim - defending or settling it in the name of Mr P. But, that's not an unqualified right.

Legally, in situations where URV's interests conflict with Mr P, URV has an overarching responsibility to act in good faith, having regard to Mr P's interests as well as their own.

URV isn't entitled to act arbitrarily in the way it goes about declining to pay the full amount of the invoice and contesting the outstanding amount. In deciding whether - and how - to defend a claim against Mr P, URV is required to base their decisions on the circumstances of Mr P's individual case.

The applicable regulations lead to a similar conclusion. The Financial Conduct Authority (FCA) Handbook sets out a number of Principles for Businesses, which URV must follow, including:

Principle 6 - A firm must pay due regard to the interests of its customers and treat them fairly

Principle 8 - A firm must manage conflicts of interest fairly, both between itself and its customers and between a customer and another client.

The relevant regulations also include ICOBS 8.1.1R which says:

An insurer must:

- (1) handle claims promptly and fairly;*
- (2) provide reasonable guidance to help a policyholder make a claim and appropriate information on its progress*
- (3) not unreasonably reject a claim (including by terminating or avoiding a policy); and*
- (4) settle claims promptly once settlement terms are agreed.*

The Regulatory Guide, published by the FCA, entitled '*The Responsibilities of Providers and Distributors for the Fair Treatment of Customers*' (RPPD) includes the Regulator's guidance on what the combination of Principles for Businesses ("the Principles") and the detailed rules require respectively of providers and distributors of financial services in certain circumstances to treat customers fairly. The RPPD explains that firms should consider the impact of their action, or inaction, on the customer throughout the life-cycle of the provision of the service.

I'll now explain what this means for Mr P's complaint.

In September 2020 our investigator concluded it would be reasonable to give URV an opportunity to meaningfully negotiate with the third parties involved to resolve the outstanding balance. He explained to URV that if they didn't carry out meaningful negotiation then the Financial Ombudsman Service may take a different view about how to put things

right for Mr P. He also highlighted that it was URV's responsibility to take active steps to resolve the situation.

I'm directing URV to settle the claim in full because:

- The information URV has provided shows that there was some exchange of emails between October and December 2020. The final email indicates that the hospital was willing to provide a 10% discount but that payment would need to be made by the end of that month. URV didn't dispute our investigator's findings on that point and it's not provided any evidence of further correspondence.
- Based on the evidence that's available to me there's been very limited steps taken to resolve this matter. And between December 2020 and May 2022, when Mr P complained again to the Financial Ombudsman Service, there's no evidence of any action having been taken.
- I don't think URV has entered into meaningful negotiation or taken enough proactive steps to bring this matter to a close. In reaching that conclusion I bear in mind the outstanding balance is over \$200,000 and the claim dates back to 2017.
- URV has provided some limited data related to the hospital where Mr P was treated which, they suggest, demonstrates the bill is inflated. But they've not provided any persuasive or compelling evidence as to why this data establishes a credible benchmark for the cost of Mr P's treatment. So, I don't think URV has demonstrated that this is a reasonable starting point for settling the invoice or that it is persuasive evidence of overcharging by the hospital.
- Given that the claim dates back to October 2017 it means that almost five years has passed since Mr P first sought medical treatment. So, when an impasse was reached in December 2020 I think URV could have done more. They had a range of options which include, but aren't limited to, settling the matter via the courts, involving an expert or seeking alternative dispute resolution. Based on the evidence available to me, none of those options have been explored.
- The worry of resolving this significant outstanding bill has weighed heavily on Mr P's mind since then. He's explained this has impacted his mental health and his relationship with family members. He's also said that it's caused him a lot of worry and anxiety.
- I don't think URV have treated Mr P fairly and considered his interests as well as their own. I think Mr P had could reasonably have expected URV to settle his medical bills within a reasonable time frame and, again, that hasn't happened.

Putting things right

URV need to put things right by settling the two outstanding invoices in full.

My final decision

I'm upholding this complaint and Union Reiseversicherung AG to put things right in the way I've outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 16 January 2023.

Anna Wilshaw
Ombudsman