

## **The complaint**

Miss H is unhappy Vitality Health Limited declined cover for treatment under her private medical insurance policy.

## **What happened**

In September 2019 Miss H was diagnosed with severe PMT (Pre-Menstrual Tension) by her consultant. Over the next two years they exhausted all treatments of Hormone Replacement Therapy (HRT). Eventually the consultant concluded a hysterectomy was the only option to cure her condition because she will no longer have a menstrual cycle.

Vitality said the surgery wouldn't be covered because it wasn't to treat an acute disease, illness or injury. They explained her plan would only cover the procedure if there was a condition of Miss H's uterus which the surgery would cure. They said her PMT symptoms could be treated medically.

Miss H disagreed. She said her consultant wouldn't have referred her for surgery if it wasn't the only option. She explained that she'd been having regular therapy to try and deal with her PMT condition as her mental health had really suffered and she'd struggled to cope with all the treatments they'd tried. She told Vitality that without the therapy she'd received, she may not still be here. She reiterated that in the consultant's professional opinion, the only option left was a hysterectomy to relieve her of such debilitating symptoms and low mental health.

Vitality continued to decline cover, so Miss H self funded the procedure, and the surgery went ahead.

Miss H referred the matter to this service. She said the surgery has been life changing and her condition is cured. She is symptom free and no longer has any physical pain or mental health problems. So she thinks it's unfair Vitality are still refusing to cover the treatment.

Our investigator looked at what had happened and said he didn't think Vitality had acted fairly so he upheld the complaint. He said the medical evidence showed the procedure was medically necessary to treat an acute medical condition of severe PMT.

Vitality didn't agree. In summary they said:

- There was a discrepancy with the symptoms reported in the consultant's letters
- The surgery isn't to cure a condition, it is so that HRT can be given which will merely alleviate the member's symptoms, not provide a cure.

So now 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.

Having done so, I don't think Vitality have treated Miss H fairly. I'll explain why.

Miss H was diagnosed with severe PMT by a consultant gynaecologist. She is a lead urogynaecologist, so I think it's reasonable to give significant weight to her medical opinion and suggested treatment plan. The consultant confirmed Miss H's condition provided a severely compromised quality of life and that she'd been trying and receiving treatment for two years, but it hadn't improved. On that basis, I think it's unfair Vitality didn't consider Miss H's severe PMT to be an acute condition.

Vitality argue the surgery was to allow Miss H to have ongoing medication, rather than provide a cure. But I don't think it's as clear cut as that. Taken all the evidence in the round, I'm persuaded that although the procedure enabled Miss H to continue HRT – the overall purpose of this all was to cure her severe condition of PMT and the associated mental health symptoms she was experiencing. According to Miss H, the surgery has done this - she is now pain and symptom free for the long term. So, I think it's unreasonable for Vitality to say this type of treatment isn't covered.

The policy documents explains:

*The overall intention of this plan is to provide you with cover for access to prompt private medical care for acute conditions and to meet the eligible costs of treatment provided by a consultant for these acute conditions. Acute conditions often have a rapid onset and respond quickly to treatment. There should not be a need for prolonged care once recovery is complete.*

Miss H's surgery was part of a treatment plan by her consultant for severe PMT. And the evidence shows there wasn't a need for prolonged care after the surgery. So in line with the term set out above, I don't think Vitality fairly considered Miss H's claim.

I understand Vitality's concerns that the surgery wasn't to treat a condition of the womb or ovaries, so in essence it was the removal of healthy tissue which isn't covered by the policy. However, as I'm persuaded the surgery was to treat an acute condition (being severe PMT), I don't think it's fair to apply this exclusion to the circumstances in this case.

I'm also mindful that Miss H has been consistent in her submissions that due to the associated mental health symptoms of her condition, she believes the surgery saved her life. Vitality's notes indicate Miss H explained to them at the time she was suffering acute symptoms, so bad she was a danger to herself. So I'm further persuaded the surgery was medically necessary and I'm pleased to see it provided a cure to a debilitating condition.

I note Vitality's comments about the inconsistency in the consultants notes around Miss H's symptoms. But I disagree there is a discrepancy. The evidence shows the settled symptoms were due to Miss H's medication at the time, and we know that was only temporary treatment.

Miss H has consistently argued that since the surgery her condition has been cured – she is symptom free with no physical pain and or mental health problems. Taking account of her detailed submissions alongside the supporting medical evidence from her consultant, I'm persuaded the surgery was to cure Miss H's PMT and associated mental health symptoms. So on balance, I think it's fair and reasonable in the circumstances of this case for the treatment to be covered.

### **Putting things right**

Vitality Health Limited needs to put things right by paying:

- Miss H's claim for this surgery, subject to any excess payment

- 8% simple interest per annum, until the settlement date
- £200 compensation for the distress and inconvenience Miss H suffered whilst trying to obtain cover from Vitality.

**My final decision**

I'm upholding this complaint against Vitality Health Limited and direct them to put things right in the way I've outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss H and Mr N to accept or reject my decision before 17 March 2023.

Georgina Gill  
**Ombudsman**