

## **The complaint**

Mrs S complains about Casualty & General Insurance Company (Europe) Ltd (CGI) and their decision to decline the second claim she made on her pet insurance policy, after her first claim for the same condition had been accepted.

## **What happened**

On 24 March 2022, Mrs S purchased a pet insurance policy, underwritten by CGI, for her puppy, who I'll refer to as "Y". This insurance policy had a 14-day wait period, which ended on 7 April.

On 9 April, Y was taken to the vet (V) as he was falling over and struggling to get up after a few bouts of sickness over the previous days. Y was treated by V and a claim was submitted to CGI for the costs of this treatment. CGI accepted this claim, covering the cost of the treatment.

Unfortunately, a few weeks later, Y suffered a suspected fit. So, V treated Y for this, and they recommended a scan and further investigations, which Mrs S agreed to. Again, the costs of this treatment were submitted to CGI as a second claim. But on this occasion CGI declined the claim, as they felt Y was displaying symptoms within the 14-day wait period of the policy and so, they felt the condition was pre-existing. Mrs S was unhappy about this, so she raised a complaint.

Mrs S was unhappy with CGI's decision to decline her second claim, after the first had been accepted and paid. Mrs S didn't think it was fair for CGI to do this, when the second claim was for follow on treatment for the same issue that was accepted as part of the first claim. So, Mrs S wanted CGI to accept the second claim and cover its full costs.

CGI responded to the complaint and didn't uphold it. They explained the first claim had been paid in error, when it shouldn't have been. They thought, based on V's notes, that Y had been displaying symptoms of his condition during the 14-day wait period of the policy and so, they thought they'd acted fairly when declining the second claim because of this. They didn't think their error in paying the first claim should impact this decision. So, they didn't think the second claim should be paid and they applied an endorsement excluding any further claims for follow on treatment relating to the same condition. Mrs S remained unhappy with this response, so she referred her complaint to us.

Our investigator looked into the complaint and upheld it. They thought CGI's decision to accept Mrs S' first claim would've reassured her that a second claim for further treatment would also be covered. And, they didn't think it was fair for CGI to rely on a vet note stating Y had been sick once during the waiting period as enough to show Y was suffering related symptoms within the waiting period. So, our investigator thought CGI should pay Mrs S' claim in line with the policy terms and conditions. And, they thought CGI should pay Mrs S £100 to recognise the distress and inconvenience she'd been caused.

Mrs S accepted this recommendation. But CGI didn't. They maintained their position, and re-emphasised expert opinion that suggested the vomiting they thought occurred during the

wait period was a likely symptom of the resultant condition. So, they thought they had acted fairly when declining the second claim, accepting the first claim had been paid in error. And because of this, they didn't think the second claim, nor compensation, should be paid to Mrs S. As CGI didn't agree, the complaint has been passed to me for a 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.

Having done so, I'm upholding the complaint for broadly the same reasons as the investigator. I've focused my comments on what I think is relevant. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome.

Before I explain why I've reached my decision, I think it'd be useful for me to explain how I've considered the complaint. It's important to note it's not my role to re-underwrite the claim and so, I don't intend to do so. Instead, I've considered CGI's decision to decline the claim and firstly, thought about whether I think they acted in line with the terms and conditions of the policy when doing so. And, if I think they have, I've then considered whether I think it was fair of them to do so. And in this situation, I don't think it was.

I'm aware both Mrs S and CGI have significantly different opinions on whether Y's condition first presented symptoms within the 14-day waiting period. I've seen the terms and conditions of the policy Mrs S holds, which I think makes it reasonably clear that any claim made within or relating to the waiting period would be excluded and so, declined.

In this case, the waiting period ended on 7 April 2022. And CGI have pointed to V's notes of the consultation dated 9 April, where it states that Mrs S confirmed Y had vomited "*once a few days ago*". So, CGI believe a few days ago falls within the waiting period.

I've also seen CGI's detailed reasoning stipulating why they, and their in-house vet, believe this vomiting was likely to be a symptom linked to the resultant symptoms and conditions Y has been treated for after. And having thought about this, I can understand why CGI believe the vomiting was a linked symptom. And I think it's likely this vomiting did occur within the wait period. So, I do think CGI acted in line with the policy terms and conditions when deciding to decline the second claim.

But crucially, I must also be satisfied that CGI acted fairly when deciding to decline the second claim. And I don't think they were.

This is because they paid Mrs S' first claim, when they were already in receipt of the vet notes detailing the consultation on 9 April 2021. In fact, the claim they paid covered the costs of this consultation. Had CGI acted fairly, I think they would have declined the first claim at this point and made Mrs S aware that any further treatment costs would be excluded due to the exclusion they've later applied to the second claim.

But they didn't do this. And I think by accepting the first claim, they created an expectation for Mrs S that any further costs, including both investigation and treatment, would be covered. So, when Y's health worsened, and Mrs S' vet suggested further tests and investigation work to see whether a full diagnosis could be provided, Mrs S took the decision to proceed under the impression this would be at no cost to herself. Considering the significant cost of this, I think it's plausible that Mrs S may have taken a different course of

action, had she been made reasonably aware that Y's treatment wouldn't be covered under the policy she had taken out.

So, while I accept CGI's decision to accept and pay the first claim may have been an internal mistake, I think this is a crucial aspect to this complaint. And I think by accepting this claim, it created an expectation to Mrs S' that impacted her future judgement on further treatment. So, even though I accept CGI's rationale regarding why they believe Y presented symptoms within the waiting period, I don't think it's fair for CGI to decline Mrs S' second claim on this occasion.

### **Putting things right**

As I think CGI acted unfairly, I've then thought about what I think CGI should do to put things right. Any award or direction I make is intended to place Mrs S back in the position she would've been in, had CGI acted fairly in the first instance.

As I've explained, I think CGI set a precedent when they accepted the first claim, in full sight of V's notes from the first consultation. So, I think if they had acted fairly, they would've continued to accept Mrs S' second claim, as it was for a continuation of treatment following on from the first claim. And so, this is what I think they should do.

I also think CGI should compensate Mrs S for the inconvenience and upset she will have felt while trying to obtain payment for the second claim. I recognise this stress will have worsened an already stressful time due to the ill-health of Y. Our investigator recommended CGI pay Mrs £100 to recognise this upset and I think this recommendation is a fair one that falls in line with what I would've directed, had it not already been made. So, I think CGI should pay Mrs S an additional £100.

I also note that CGI have placed an endorsement on Mrs S' policy to exclude any further treatment costs associated to the claims already submitted. As I understand CGI's rationale regarding the symptoms originally presenting within the wait period, I think CGI have acted fairly by placing this endorsement and I think they would be fair to rely on this endorsement for any future, additional claims not including the two already made.

### **My final decision**

For the reasons outlined above, I uphold Mrs S' complaint about Casualty & General Insurance Company (Europe) Ltd and I direct them to take the following action:

- Accept and pay Mrs S' second claim, in line with the terms and conditions of the policy she holds; and
- Pay Mrs S £100 to recognise the upset she's been caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S to accept or reject my decision before 15 November 2022.

Josh Haskey  
**Ombudsman**