

The complaint

Ms B complains because Aviva Insurance Limited has refused to pay a claim under her private medical insurance policy.

What happened

Ms B holds a private medical insurance policy, provided by Aviva. The policy was underwritten on a 'continued medical exclusions' basis and Ms B's policy schedule with Aviva says the following:

'Medical Exclusions

Any recognised related conditions or complications including any recognised complications of treatment(s) arising from:

...

Dizzy spells.'

In October 2021, Ms B made a claim under her policy with Aviva for investigations into dizzy spells. Aviva said the claim wasn't covered because of the above exclusion on Ms B's policy.

Ms B complained to Aviva and provided further medical evidence. Aviva reviewed the evidence but maintained its decision to decline the claim. Unhappy, Ms B brought the matter to the attention of our service.

One of our Investigators looked into what had happened and said she didn't think Aviva's decision to decline the claim was incorrect. Ms B didn't agree with our Investigator's conclusions, so the complaint was referred to me.

I made my provisional decision about Ms B's complaint in August 2022. In it, I said:

'Industry rules set out by the regulator (the Financial Conduct Authority) say that insurers must handle claims fairly and shouldn't unreasonably reject a claim. I've taken these rules into account when making my provisional decision about Ms B's complaint.

Our Investigator, in reaching her findings, quoted the exclusion relating to dizzy spells which applied to a previous private medical insurance policy held by Ms B with a different insurer. That exclusion isn't relevant to Ms B's claim. What is relevant is the exclusion which I've quoted above, which applies to Ms B's contract with Aviva under which she made this claim. The exclusion under Ms B's policy with Aviva means that no cover is provided for any conditions or complications arising from dizzy spells (amongst other things). The medical evidence (namely, the letter from Ms B's consultant who I'll refer to as 'Dr N', dated 27 October 2021) says that Ms B was seen for 'a sudden onset dizzy spell'. Dr N went on to say he was 'not certain as to the cause of these dizzy spells' and, therefore, recommended further investigations. Ms B was subsequently diagnosed with moderate cerebrovascular disease.

I appreciate that Ms B's dizzy spells were a symptom of the condition she was ultimately diagnosed with, rather than being a condition in themselves. But, on a strict application of the relevant policy exclusion, I don't think Ms B's claim is covered.

However, my remit is to decide what I think is fair and reasonable in all the circumstances of a case. And, I don't think that a strict application of the relevant policy exclusion to Ms B's claim results in a fair and reasonable outcome in the circumstances.

I've considered the purpose and intention of the relevant policy exclusion applied by Aviva. I think this is to limit Aviva's exposure to risk by excluding claims relating to any of Ms B's pre-existing medical conditions – including dizzy spells. But, based on the medical evidence available to me, I don't think this claim did relate to Ms B's pre-existing dizzy spells.

Aviva doesn't appear to have requested Ms B's medical records, made any enquiries about or given any consideration to the previous investigations that Ms B underwent for dizzy spells which led to the application of the exclusion of Ms B's policy. So, I've considered the medical evidence which has been provided by Ms B on this point.

Dr N's letter dated 27 October 2021 says that Ms B's:

'past history includes 2 episodes where she had unconscious spells but these were investigated thoroughly and were put down to simple faints at the time.'

A medical certificate from Ms B's GP dated 6 December 2021 says:

'I understand [Ms B] had an exclusion on her insurance policy for dizzy spells following a fainting episode which was well investigated by a consultant cardiologist in 2018. It is of [sic] my opinion that this episode was entirely unrelated to her recent diagnosis...'

A letter from another consultant (who I'll call 'Dr D') dated 5 January 2022 says:

'...when I first met you in 2006 you had some funny episodes after eating ... where you actually fainted and you had another episode ... and a third one afterwards.

We investigated you thoroughly with echocardiography and Holter monitoring. Your echocardiogram showed a normal heart. The Holter monitor showed just a few ectopic beats which are of no significance. When I reviewed you in 2018 you had no more of these funny episodes.

...

'...dizziness is not a diagnosis it is a symptom. In my opinion there is absolutely no connection between what happened to you 15 years ago and the stroke for which [Dr N] is treating you now. In my view this is a completely separate and new phenomenon.'

I think this medical evidence is persuasive in concluding that Ms B's previous dizzy spells in 2006 and/or 2018 were unrelated to the stroke which Ms B was diagnosed with in 2021. I don't think the intention of the exclusion on Ms B's policy was to exclude cover for strokes.

So, I currently think it would be fair and reasonable for Aviva to accept Ms B's claim.'

Ms B accepted my provisional findings and said she had nothing further to add. Aviva replied and commented on a number of issues – including the basis on which its policies with

continued medical exclusions work, and information set out in a letter written by Dr N dated 21 November 2021. However, Aviva said it appreciated why I intended to uphold Ms B's complaint and that it would fully comply with any such 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.

I've taken into account the additional points raised by Aviva but, as Aviva has acknowledged, there is no medical evidence linking Ms B's stroke to her previous fainting episodes and dizzy spells.

I therefore see no reason to change my provisional decision.

Putting things right

Aviva Insurance Limited needs to put things right by accepting Ms B's claim.

Aviva Insurance Limited should add interest to Ms B's claim payment at 8% simple per annum from the date of her claim until the date the settlement is paid¹.

My final decision

My final decision is that I uphold Ms B's complaint and I direct Aviva Insurance Limited to put things right in the way I've outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms B to accept or reject my decision before 21 October 2022.

Leah Nagle
Ombudsman

¹ If Aviva Insurance Limited considers that it's required by HM Revenue & Customs to take off income tax from that interest it should tell Ms B how much it has taken off. It should also give Ms B a certificate showing this if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.