

The complaint

Mr M complains about the way AXA PPP Healthcare Limited handled a claim he made on a private medical insurance policy.

What happened

In December 2020, Mr M was added to his employer's private medical insurance policy. The policy should've been set-up on 'medical history disregarded' terms. But AXA didn't check this with the employer's broker and the policy was wrongly set-up on moratorium terms.

A short time later, Mr M made a claim on his policy for anxiety caused by the Covid-19 pandemic. AXA assessed the claim in line with its moratorium terms. It turned down Mr M's claim. That's because it said he'd experienced symptoms of anxiety in the five years before the policy began, which was specifically excluded by the terms of the moratorium.

Mr M was unhappy with AXA's decision and he appealed. But AXA maintained its position.

In October 2021, Mr M got back in touch with AXA. He'd spoken to his employer, which had told him that his policy should've been set-up on medical history disregarded terms. AXA accepted it had made an error; accepted Mr M's claim for therapy and paid Mr M £500 compensation for the upset its mistake had caused him.

Mr M didn't think AXA's offer of compensation went far enough. In brief, he said that after the claim had been declined, he'd suffered constant, severe panic attacks; he'd felt suicidal and he wasn't able to eat much. So he asked us to look into his complaint.

Our investigator recommended that AXA should increase its total award of compensation to £1250 (less the amount it had already paid). He considered evidence Mr M's psychologist had provided which explained that earlier therapy intervention may have reduced the severity of Mr M's symptoms. And that earlier intervention may have prevented some of Mr M's checking behaviours becoming entrenched. He felt AXA's actions had caused Mr M substantial distress and worry over a sustained period of time.

AXA made a new offer of compensation of £4000. It said this broadly represented £100 for each week where its administrative error had caused the authorisation of Mr M's claim to be delayed. It also said that to date, it had paid for 50 therapy sessions.

Mr M turned down AXA's new offer. He said the pain and discomfort he'd suffered for around 10 months had nearly led him to attempt suicide. He felt this could easily have been avoided had treatment been authorised immediately. And therefore, he felt compensation of tens of thousands should be paid for medical negligence.

The complaint's 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, whilst I'm sorry to disappoint Mr M, I think AXA's offer to pay a total of £4000 compensation is fair and reasonable in all the circumstances and I'll explain why.

First, I'd like to thank Mr M for his detailed submissions to us. It's clear that he's been through a very difficult and distressing time and he's provided us with very personal information about his health. I do hope that he is now on the road to recovery.

The relevant regulator's rules say that insurers must handle claims promptly and fairly. And that they mustn't turn down claims unreasonably. In this case, AXA accepts that it failed to handle Mr M's claim promptly or fairly and it's clear that it turned down his claim unreasonably. Not only did it fail to check the relevant underwriting terms with the broker when Mr M was added to his employer's policy, it compounded its error when it turned down the claim. And Mr M first complained about AXA's claims decision in April 2021 – which gave AXA a chance to notice and rectify its mistake within a few months. However, it failed to do so – it simply maintained its position. This meant Mr M's treatment wasn't authorised for a further six months.

Given AXA acknowledges its mistakes, I now need to consider what it needs to do to put things right. It's clear from all Mr M has told us that he suffered very upsetting symptoms and he told us that he reached an 'all-time low'. I don't doubt how distressing this situation was for Mr M and indeed, for those around him. And I need to think about whether AXA's errors caused Mr M any harm or pain and suffering.

Mr M's psychologist has provided us with evidence in the form of a letter. This letter explains that following the decline of the claim, Mr M had sought therapy on the NHS. But due to long waiting times, he was unable to access NHS treatment. The letter goes on to explain the impact the psychologist considers the delay in authorising treatment likely had on Mr M. I've set out what I think are the key paragraphs of that letter below:

'Considering the impact of the delay in accessing therapy on his level of symptoms, it is difficult to determine the extent to which the delay may have contributed to ongoing health anxiety symptoms given that Mr M was undergoing several health investigations during the months when he was unable to access therapy sessions, which may have contributed to a re-emergence of health anxiety independently. However, it is possible that earlier intervention may have reduced the severity of Mr M's symptoms that he was experiencing when we resumed therapy in November 2021.

Moreover, earlier intervention may have prevented the extent to which Mr M's negative thinking about his health and checking behaviours had become significantly entrenched. Given that his symptoms persisted for several months without intervention, it is also possible that this may have increased Mr M's sense of hopelessness about his situation, thereby perpetuating low mood and reduced social activities, which in turn meant he focused more on his physical health symptoms.

Once therapy sessions began in November 2021, Mr M was able to engage in regular therapy sessions, predominantly using Eye Movement Desensitization Reprocessing (EMDR). Since that time, his health anxiety symptoms have reduced and he has been more able to focus on his interpersonal relationships which he had not been able to do for a large part of the last few years during the pandemic due to his health anxiety.'

It's clear the psychologist couldn't be exact about the level of harm the delay in accessing treatment caused Mr M, as he was already undergoing investigations which may independently have caused him to suffer recurring health anxiety. But what's also clear is

that earlier therapeutic intervention may have reduced the seriousness of Mr M's symptoms between December 2020 and November 2021. Effectively then, if the claim had been authorised earlier, it seems these symptoms could've been reduced far earlier. I think too that the evidence suggests that earlier authorisation of the claim may have prevented the extent to which Mr M's negative thinking had become entrenched, as well as potentially reducing his sense of hopelessness. It seems to me then that there is detailed clinical evidence which points to AXA's mistake causing Mr M sustained distress and harm over a 10-month period.

AXA has now offered to pay Mr M total compensation of £4000. I've explained above how it's reached this award – broadly, it considers its initial mistake caused the acceptance of Mr M's claim to be delayed by about 40 weeks. So it's offered £100 compensation for each week of delay. I appreciate this isn't a perfect solution or calculation. I understand that it's very difficult to quantify what fair compensation should be, because each person experiences things differently and a person's distress and inconvenience is inherently subjective. I don't think though it would be fair to measure compensation here by what the cost of Mr M's treatment was to AXA.

In my view, a total award of £4000 compensation is fair and reasonable. This is a significant amount of money and it takes account of the prolonged impact of AXA's mistake on Mr M during the relevant period. I think it fairly reflects the fact that AXA's errors caused Mr M significant distress, upset and worry over a 10-month period. I'm also satisfied that its errors did adversely affect Mr M's health. And by his own account, Mr M's own activities of daily life were seriously negatively impacted during this period. I've also borne in mind our published guidance on awards for distress and inconvenience, which can be found on our website. I'm satisfied that a total award of £4000 is in line with awards made by my colleagues in similar circumstances.

I appreciate Mr M feels he's overpaid for his policy. It might be helpful if I explain that moratorium underwriting is cheaper than the type of cover Mr M actually holds. So Mr M didn't overpay premiums. I understand AXA has resolved the premium issue directly with Mr M's employer. If Mr M later finds his tax position has been adversely affected as a result, this is something he can firstly raise with his employer and then potentially make a new complaint to AXA about any financial loss he identifies.

Overall, having considered all of the evidence, I find that AXA's offer of £4000 total compensation (less any compensation amounts AXA has already paid) is fair and reasonable in all the circumstances.

My final decision

For the reasons I've given above, my final decision is that AXA has made a fair offer of compensation.

I direct AXA PPP Healthcare Limited to pay Mr M £4000 compensation (less any compensation amounts it's already paid).

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 1 February 2023.

Lisa Barham
Ombudsman