

The complaint

Miss B has complained that AXA PPP Healthcare Limited ('AXA') unfairly declined her claim.

What happened

Miss B bought a private medical insurance policy with AXA on 1 February 2021. She called AXA on 9 February 2021 to ask for cognitive behavioural therapy (CBT). But AXA declined the claim as it said Miss B was being treated for a pre-existing condition which was excluded under the terms of the moratorium.

Miss B complained but AXA maintained its decline. So she referred her complaint to this Service.

Our investigator looked into the complaint and found that AXA treated Miss B unfairly. She recommended that AXA should reconsider Miss B's claim and pay £250 compensation for the distress caused by its actions.

AXA disagreed and in summary, made the following comments:

- Miss B's treating specialist contradicted her original report and changed her plan from treating anxiety to treating depression only.
- It hasn't received all of Miss B's medical records from either the GP or the treating specialist.

And so the case has been passed to me for a final 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 issued my provisional decision on 26 October 2022 which I've set out below in full:

"The relevant rules and industry guidelines say an insurer should handle claims promptly and fairly and shouldn't unreasonably reject a claim.

The policy confirms key things membership doesn't cover including:

"Treatment of medical conditions you had, or had symptoms of, before you joined."

The policy defines pre-existing conditions as follows:

"A pre-existing condition is any disease, illness or injury that:

- *You have received medication, advice or treatment for in the five years before the start date of your cover, or*

- You have experienced symptoms of in the five years before the start of your cover;

whether or not the condition was diagnosed.”

Miss B claimed for mental health issues which she says are new and symptoms she has never experienced before. But AXA has said Miss B had symptoms of her illness before 1 February 2021 based on her initial telephone call to AXA and the report from the specialist in April 2021 which confirmed Miss B would need to be treated for anxiety.

I've summarised the key timeline and evidence below.

April 2019 – GP records note Miss B was generally anxious and would contact her private medical insurer for CBT.

September 2019 – Miss B's GP records show her anxiety was improving with CBT, she'd had 12 sessions and was due to have 6 more.

November 2019 – Miss B was referred to a psychologist for likely anxiety.

March 2020 – Miss B asked her GP for medication for anxiety. Her notes show she was stressed with overwork.

February 2021 – Miss B made a claim for low mood and depression which was triggered by work related stress and lockdown. Her symptoms included feeling negative and down.

April 2021 – cognitive behavioural psychotherapist met with Miss B and wrote a letter to confirm Miss B's problems were consistent with depression, generalised anxiety disorder and aspects of low self-esteem. Miss B wanted to manage her anxiety, negative emotion, resolve negative beliefs, manage low mood, eliminate need to be perfect, manage worrying thoughts, learn strategies to manage stress, increase self-confidence and improve poor sleep hygiene.

AXA said it thought Miss B's symptoms were present before 1 February 2021 and so the claim wouldn't be covered. But it also asked her GP and specialist for records from her CBT sessions in 2019. Both the GP and the specialist said they didn't have any records from those sessions.

I asked Miss B whether she had those records or if she could ask for a copy from her previous insurer. She said she could ask for them if it would help her claim.

Having considered everything above, I don't think AXA unfairly declined the claim. I think it was reasonable for AXA to look further into Miss B's symptoms. And AXA is entitled to request and review medical evidence to determine whether Miss B's symptoms were new or pre-existing. A diagnosis of depression after the start date of the policy doesn't necessarily mean the symptoms weren't present before the start date. And AXA is entitled to review and investigate this especially as the specialist's report dated April 2021 mentions both depression and anxiety.

Miss B's previous CBT reports should paint a clearer picture of what Miss B was treated for. If there is medical evidence available from her previous insurer, I would expect her to request and provide this to AXA for it to fully consider her claim.

Customer service issues

Our investigator recommended £250 compensation to Miss B as a result of service issues and particularly a phone call which took place in May 2021. Our investigator said the adviser was unsympathetic and should have passed Miss B to the mental health team as requested rather than repeating that Miss B's claim wasn't covered. I've listened to the phone call in question and I disagree that the adviser was unsympathetic. The adviser explained to Miss B that the mental health team wouldn't be able to change the decision. When Miss B became upset, the adviser apologised immediately and passed Miss B through. So I think the apology was sufficient. I think the adviser was simply trying to explain what the policy limits were and managing expectations.

However, AXA did tell Miss B that it would listen to this call and investigate her concerns about being shouted at but didn't address this in its final response letter.

Our investigator also said AXA gave Miss B the impression that her claim would be covered. I agree that the adviser during the call of 23 March 2021 could have been clearer and gave the impression that Miss B's claim would be covered. So when Miss B was later told her claim wasn't covered, this would have come as a shock and disappointment to Miss B.

Taking both of the above issues together, I agree some compensation for distress is due to Miss B as a result of the failure to respond to her concerns about the phone call and also for the disappointment Miss B felt when she was told her claim wasn't covered. This could have been avoided if the adviser had been clearer on the 23 March 2021 and explained that further treatment after the initial appointment would be considered and wasn't guaranteed. So I think £100 compensation is appropriate taking into account that these issues weren't long standing or repeated.

In summary, I don't think AXA's actions in declining the claim have been unfair or unreasonable. It is entitled to rely on all the information available to it. If Miss B is able to provide her previous CBT reports to AXA, I would expect it to review these as part of its usual process. And for its service failures, I think it should pay Miss B £100 compensation."

Since issuing my provisional decision, Miss B has provided some further medical evidence to AXA. AXA has made further submissions about the medical evidence to me and says it still hasn't been provided with all of the relevant evidence. And even if it reassesses the claim, that doesn't necessarily mean it will accept it.

As my provisional decision said, it is up to Miss B to provide the evidence to AXA and for AXA to assess it in line with its usual process. That would also mean AXA providing appropriate guidance and information about what else it would like to see. And if it still doesn't think the claim is covered, then it should explain this to Miss B. If Miss B is unhappy about any further decline, that would be subject to a new complaint.

Based on the information which was available to AXA at the point Miss B referred her complaint to this Service, I don't think it unfairly declined her claim. However, I do think there were some customer service failings for which I think £100 compensation is fair and reasonable in all the circumstances. And so I don't see any reason to depart from my provisional findings which I adopt as my final decision.

My final decision

For the reasons set out above, I uphold this complaint and direct AXA PPP Healthcare Limited to pay Miss B £100 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss B to accept or reject my decision before 28 December 2022.

Shamaila Hussain
Ombudsman