

The complaint

Mr M complains because Great Lakes Insurance SE ('Great Lakes') hasn't paid a claim for a cancelled holiday under his travel insurance policy.

All references to Great Lakes include the agents it has appointed to handle claims on its behalf.

What happened

In March 2021, Mr M booked holiday accommodation in the UK online and bought a single trip travel insurance policy provided by Great Lakes at the same time.

Unfortunately, Mr M's father, who was also due to go on the trip, was diagnosed with cancer in May 2021. Mr M therefore cancelled the holiday and made a claim under his policy with Great Lakes. Mr M's father, very sadly, subsequently passed away.

Great Lakes said Mr M's claim wasn't covered because his father didn't comply with the 'Health Conditions' set out in the policy at the time it was purchased. Mr M disputed this, and Great Lakes then requested his father's medical records. Great Lakes later declined the claim again for similar reasons.

Unhappy, Mr M complained to Great Lakes before bringing the matter to the attention of our service. One of our investigators looked into what had happened and said she thought Great Lakes should pay Mr M's claim. She said she didn't think the sales process for the policy had been clear in setting out that pre-existing medical conditions weren't covered.

As a resolution couldn't be reached, Mr M's complaint was referred to me. I made my provisional decision in January 2023. In it, I said:

'I'm very sorry to hear about the sad circumstances which led to this complaint, and I'd like to offer Mr M and his family my sincere condolences for their loss.

I don't agree with the findings our investigator reached but I intend to uphold Mr M's complaint for other reasons. I'll explain why.

Great Lakes is the underwriter of this insurance and, therefore, is the business responsible for deciding whether a claim is covered under the policy terms and conditions. But Great Lakes didn't sell this policy. Instead, the policy was sold by an intermediary who is a separate and distinct business to Great Lakes. Great Lakes therefore isn't responsible for the sales process which Mr M followed when he bought the insurance. In this provisional decision, I'm only considering the activities which Great Lakes, as the insurer, is responsible for – i.e., the decision to decline Mr M's claim.

Industry rules set out by the regulator say insurers must handle claims fairly and shouldn't unreasonably reject a claim. I've taken these rules into account when making my provisional decision.

The terms and conditions of Mr M's policy say:

'Health Conditions

You must be able to comply with the following conditions to have the full protection of **your** policy.

...

If **you** are traveling within the **United Kingdom**

You are not required to declare **your** medical conditions. However, to be covered for any medical conditions **you** have or have had, **you** must be able to answer NO to questions 1 to 4 ...

...

4. Are **you** receiving or awaiting treatment for any **bodily injury**, illness or disease as a hospital day case or inpatient.'

Great Lakes says Mr M's father didn't comply with this health condition as he'd first sought medical attention for the illness which led to the claim in January 2021, before the policy was purchased. Great Lakes later said Mr M's father didn't comply with the health condition because he was referred to a plastic surgeon for further investigations in February 2021, which was also before the policy was purchased.

Mr M acknowledges that his father had been referred to a plastic surgeon when he bought the policy in March 2021 but says this referral was for tests/investigations – not for treatment – and that the 'Health Conditions' set out in the policy wording only mention 'treatment'. Great Lakes says it would deem being referred for investigations to be 'the exact same as awaiting treatment'.

I understand that Great Lakes may not wish to provide cover under this policy for someone who is awaiting investigations into a suspected illness. If that's the case, I'd expect Great Lakes to clearly set this out in its policy wording. I note Great Lakes has made provision for this in the 'Health Conditions' relating to non-UK travel. But the 'Health Conditions' in relation to UK travel under Mr M's policy don't refer to either 'investigations' or to general referrals to a specialist. Instead, the 'Health Conditions' for UK travel refer only to 'treatment'.

I've considered the dictionary definitions of the words 'investigation' and 'treatment', as well as what I consider to be the ordinary, everyday meaning of the words. I've also taken into account the fact that Great Lakes has chosen to mention 'tests', 'investigation' and 'referral', in addition to 'treatment' under the policy 'Health Conditions' for non-UK travel. Overall, I'm not persuaded that it's fair to conclude that the words 'investigation' and 'treatment' can be used interchangeably or that a reasonable consumer would consider these words to have the same meaning.

The medical certificate completed by Mr M's father's GP says that Mr M was first seen, and referred to a plastic surgeon, in January 2021. But this medical certificate doesn't contain any evidence to suggest that Mr M's father was awaiting treatment in March 2021. The medical records which Great Lakes subsequently requested and reviewed note a referral to a plastic surgeon in February 2021. However, these medical records contain no further details of any consultations which took place before the policy was purchased. The entries on the medical records which Great Lakes has mentioned relating to a scan, a biopsy and a diagnosis were all made after this policy had already been taken out and, so, aren't relevant

to whether I think Mr M's father complied with the relevant policy 'Health Conditions' at the time the policy was sold. Overall, I've seen no medical evidence which persuades me that Mr M's father was awaiting treatment for an illness (or a suspected illness) in March 2021.

This means I'm satisfied that Mr M accurately answered 'no' to the relevant 'Health Conditions' when buying his policy. I therefore think his claim is covered under the terms and conditions of his insurance contract with Great Lakes, and I don't think Great Lakes acted fairly or reasonably by declining his claim.

I understand that Great Lakes has also referred to the following exclusion under Section 1 of Mr M's policy when declining the claim:

'What is not covered

...

2. Anything arising directly or indirectly from:

...

*b) circumstances known to **you** before **you** booked **your trip** or purchased this insurance which could reasonably have been expected to lead to cancellation of the **trip**.'*

For the avoidance of doubt, based on the particular circumstances of this claim including the timeline of events that unfolded surrounding Mr M's father's diagnosis, I don't think it's fair or reasonable for Great Lakes to rely on this exclusion to turn down Mr M's claim.

I understand Mr M experienced distress and inconvenience because Great Lakes declined his claim at what was already a very upsetting time. But I'm satisfied that my provisional direction for Great Lakes to pay this claim provides a fair and reasonable resolution to Mr M's complaint. I also note that Mr M says he had to chase Great Lakes for a final response to his complaint but, based on the evidence I've seen, Great Lakes provided a final response to Mr M within the relevant timeframe set out by the regulator.'

So, I said my provisional decision was that I intended to uphold Mr M's complaint and direct Great Lakes to pay his claim together with interest.

Mr M accepted my provisional decision and said he had nothing further to add. Great Lakes didn't respond.

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.

As neither party has provided any new evidence nor made any additional submissions, I see no reason to change my provisional findings.

Putting things right

Great Lakes Insurance SE needs to put things right by paying Mr M's claim, subject to the remaining policy terms and conditions including any applicable excesses and/or policy limits.

Great Lakes Insurance SE should add interest to the settlement at 8% simple per annum

from the date of the claim until the date the payment is made¹.

My final decision

I'm upholding Mr M's complaint against Great Lake Insurance SE, and I direct it to put things right in the way I've outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 7 March 2023.

Leah Nagle
Ombudsman

¹ If Great Lakes Insurance SE considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr M how much it has taken off. It should also give Mr M a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.