

The complaint

Mrs A and Mr R complain that Euroins AD has unfairly declined the medical expenses claim they made under their travel insurance policy.

Any reference to Euroins also includes its agents.

What happened

Mrs A and Mr R took out an annual multi trip travel insurance policy in March 2022. This policy was insured through Euroins.

In June 2022, Mrs A and Mr R were on holiday abroad when Mrs A became unwell and needed to visit the hospital. She was suffering from a migraine, with nausea and vomiting. She received treatment, including fluids, anti-sickness medication and antibiotics, and was discharged following an overnight stay. Upon her return to the UK, she made a claim for the costs she incurred.

Euroins declined the claim. It said the hospital report stated Mrs A had a history of migraines and was taking medication for the condition. Euroins said this pre-existing condition hadn't been declared when taking out the policy and therefore it wasn't covered. Unhappy with this, Mrs A complained to Euroins. She said migraines were a symptom of another condition which she had declared and had been accepted by Euroins when taking out the policy. But she also made the point that she was suffering from an infection when in hospital for which they gave her antibiotics – these are not used in the treatment of migraines. So, she thought her claim should be paid.

Euroins didn't alter its stance and Mrs A decided to bring her complaint to us. Our investigator looked into the matter. She found that by saying Mrs A didn't declare her condition when taking out the policy, Euroins was indicating Mrs A had misrepresented the facts. But our investigator thought that Mrs A had answered the questions posed by Euroins to the best of her knowledge and had taken reasonable care. So, she said that Euroins couldn't use this to decline the claim. She recommended it pay the claim, with interest, along with £150 compensation for the trouble and upset caused to Mrs A and Mr R for the worry of the financial impact of having to cover a large credit card bill.

Mrs A and Mr R agreed with the investigator's opinion, but Euroins didn't respond. In the circumstances, the matter has 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.

The relevant rules and industry guidelines say that insurers must handle claims fairly and shouldn't unreasonably reject a claim. I've taken these rules into account when deciding what I think is fair and reasonable in the circumstances of Mrs A and Mr R's complaint.

Euroins has declined the claim on the basis the hospital report states Mrs A was admitted suffering from a migraine and that she had suffered from migraines for some time. Euroins said she didn't declare this as a pre-existing condition when taking out the cover and conditions not declared aren't covered by the policy. This means Euroins consider that Mrs A misrepresented the facts surrounding her pre-existing medical conditions when taking out the policy.

When a consumer takes out insurance, they'll typically be asked questions about themselves (and anyone else who is to be insured under the policy) as well as the risks they want to insure. The insurer then uses that information to weigh up whether it wishes to cover those risks and how much it will charge for doing so.

The Consumer Insurance (Disclosure and Representations) Act 2012 (CIDRA) places a duty on consumers to take reasonable care not to make a misrepresentation when entering an insurance contract. They must provide the insurer with accurate information to allow it to assess the risk. If they don't, there are some circumstances in which an insurer may be able to avoid the insurance contract – but that's only if there's been a qualifying misrepresentation. In the absence of this, and where the consumer has taken reasonable care not to make a misrepresentation then the insurer can't take any action at all, even if they were provided with the wrong information.

Mrs A believes that her migraines are a symptom of another condition which she suffers from. She has provided information which refers to her condition and how headaches can be a symptom. So, she says this shows that the migraines are related. This information has been made available to Euroins for it to consider but no response has been received. I also note that Euroins didn't request any medical evidence from Mrs A's GP in order to see if her migraines were a separate issue – even though it would have had the opportunity to do so. As no dispute has been received from Euroins, it would appear that it has accepted the link between migraines and Mrs A's declared condition.

Under CIDRA, I must first decide whether Mrs A took reasonable care. This can involve several considerations including whether the questions she was asked at the time of taking out the policy were sufficiently clear and whether she answered those accurately, carefully and to the best of her knowledge.

Euroins has not provided information relating to the questions Mrs A was asked when declaring her pre-existing conditions. However, the policy certificate details the medical condition that Mrs A declared along with two questions and the answers that were given. The first asks which type of the disease Mrs A has (the condition has graded levels of disease), and the second question asks how many unplanned hospital admissions happened in the previous 12 months.

I think the questions are clear and I haven't been provided any evidence to show that Mrs A hasn't answered them accurately. Euroins doesn't appear to have asked about the symptoms of this condition as part of the declaration process. I'm therefore satisfied Mrs A took reasonable care when answering the questions posed. In the circumstances, I'm not persuaded that Mrs A has misrepresented the facts when declaring her pre-existing conditions and therefore the decision to decline the claim isn't fair and reasonable.

As a result of Euroins declining the claim, Mrs A and Mr R told us that they were worried about how they would be able to pay for Mrs A's medical treatment. They had made the payment on a credit card, thinking they would get the money back following the claim. I'm aware this isn't an insignificant sum and I'm sure that this would have been a very worrying and difficult time for them. I don't think that Euroins has handled this appropriately. Our investigator recommended Euroins make a payment of £150 to Mrs A and Mr R for the

trouble and upset caused. Euroins hasn't provided any comment as to why this shouldn't be paid, so I see no reason to change this.

Putting things right

Euroins needs to pay the claim, on the basis that Mrs A has correctly declared her pre-existing conditions, in line with the relevant policy limits and making deductions for any excess that may be due.

It should also pay 8% simple interest on the settlement amount, calculated from one month after the claim was logged until the date of settlement.

Euroins also needs to pay Mrs A and Mr R the sum of £150 for the trouble and upset caused.

My final decision

For the reasons mentioned, I uphold this complaint.

I direct Euroins AD to put things right as detailed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs A and Mr R to accept or reject my decision before 12 July 2023.

Jenny Giles
Ombudsman