

## **The complaint**

Mr Y has complained that CIGNA Europe Insurance Company SA-NV ('CIGNA') has unfairly declined a claim and removed his child from the policy.

He is also unhappy about delays and the customer service he received.

## **What happened**

Mr Y has a private medical insurance policy underwritten by CIGNA which he took out in 2021 to cover himself and his two children.

Mr Y made a claim but CIGNA said Mr Y had answered the question it asked about his child's medical history incorrectly. And it considered this to be a deliberate or reckless qualifying misrepresentation, which entitled it to decline the claim and remove the child from the policy.

Mr Y brought his complaint to the Financial Ombudsman Service but our investigator didn't think it should be upheld in relation to the misrepresentation. However he did think CIGNA had failed to properly remedy the poor customer service and recommended £100 compensation for this.

Mr Y disagreed and in summary, has said he did not deliberately mislead CIGNA and has asked for an Ombudsman's decision.

And so the case 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.

Having done so, I agree this complaint should be upheld, in part. I'll explain why.

Firstly, I will deal with the misrepresentation.

The relevant law in this case is The Consumer Insurance (Disclosure and Representations) Act 2012 (CIDRA). This requires consumers to take reasonable care not to make a misrepresentation when taking out a consumer insurance contract (a policy). The standard of care is that of a reasonable consumer.

And if a consumer fails to do this, the insurer has certain remedies provided the misrepresentation is - what CIDRA describes as - a qualifying misrepresentation. For it to be a qualifying misrepresentation the insurer has to show it would have offered the policy on different terms or not at all if the consumer hadn't made the misrepresentation.

CIDRA sets out a number of considerations for deciding whether the consumer failed to take reasonable care. And the remedy available to the insurer under CIDRA depends on whether the qualifying misrepresentation was deliberate or reckless, or careless.

CIGNA thinks Mr Y failed to take reasonable care not to make a misrepresentation when he didn't disclose that his child had been receiving sessions with a therapist.

I've looked at the questions Mr Y was asked about whether his child had ever had symptoms of or treatment for a list of conditions including any mental health condition. I don't think Mr Y took reasonable care as he should have told CIGNA about his child's appointments and therapy sessions.

CIGNA has provided evidence from its underwriting criteria to show that it wouldn't have covered Mr Y's child had he answered the question correctly.

This means I'm satisfied Mr Y's misrepresentation was a qualifying one.

CIGNA has said Mr Y's misrepresentation was deliberate or reckless because the question was clear and his child's appointments were recent enough. Additionally, Mr Y was also asked whether there were any current or past medical problems not already mentioned and also whether there were any illnesses, conditions or symptoms not already mentioned. Mr Y answered 'no'.

I agree that Mr Y's misrepresentation was deliberate or reckless due to the same reasons. If he was unsure, he could have disclosed the information and asked CIGNA for guidance.

As I'm satisfied Mr Y's misrepresentation should be treated as deliberate or reckless, I've looked at the actions CIGNA can take in accordance with CIDRA. It is entitled to decline a claim and void a policy so I am satisfied the actions CIGNA has taken are in line with the remedies detailed in CIDRA.

I will now turn to the customer service and delays.

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

CIGNA accepts Mr Y had to speak to multiple advisers and there was a delay in progressing his claim. I am pleased to see that CIGNA apologised but I agree with our investigator that compensation is appropriate due to the frustration and inconvenience caused to Mr Y in having to repeat himself. I think £100 is appropriate taking into consideration the delay of about a month. The issue wasn't long lasting and didn't have any lasting detrimental effect so I don't think a higher award is justified.

### **My final decision**

For the reasons set out above, I partially uphold this complaint and direct CIGNA Europe Insurance Company SA-NV to pay Mr Y £100 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr Y to accept or reject my decision before 26 October 2023.

Shamaila Hussain  
**Ombudsman**