

The complaint

X has complained that Pinnacle Insurance plc (Pinnacle) has declined her claim for medical treatment for her pet dog on the ground that the treatment was for a condition that was present during the 14 days following policy inception and was therefore excluded.

What happened

X insured her dog, who I'll refer to as "N", with Pinnacle on 30 June 2022. N had previously been insured under another policy which covered N until 14 July 2022 so there was a 14 day overlap in cover. The new policy with Pinnacle was subject to a 14-day exclusion period which ended on 13 July 2022.

Between 10 August 2022 and 8 December 2022 N was treated for a melanoma in her right hind toe. X submitted a claim to Pinnacle on 23 December 2022 for the cost of N's treatment.

Pinnacle reviewed N's previous medical history and noted that on 30 June 2022 N had been treated by her vet for a torn claw with subsequent infection of the nail bed.

On 14 July 2022 the vet reported that N's toe was healing well, but she injured it again whilst at the surgery.

On 10 August 2022 N attended the vet for a blood test for her thyroid. She'd also traumatised her toe again and it was taking longer to heal. She was noted to have had a weight loss and to have an enlarged lymph node. These were symptoms that hadn't been seen previously. Further investigation led to a diagnosis of melanoma.

Pinnacle rejected X's claim. It relies upon the following policy term and definition:

"We will not pay for:

3. the cost of any treatment for any illness which occurs or shows symptoms within 14 days of the start date;"

"Illness means physical disease, sickness, abnormality, infection or failure which is not caused by an accidental injury. This includes any symptoms, whether or not diagnosed."

X argues that the symptoms of N's melanoma weren't present during the 14-day exclusion period and that neither she nor N's vet were aware of the potential for N's toe trauma in June to be attributable to a melanoma. She says that had she known this, she wouldn't have switched insurers as she was conscious of the consequences of doing that for any pre-existing conditions.

N's vet has provided the following professional opinion:

"We cannot definitively state at what stage the melanoma originated. It may have been present from the very start back in June 2022, but it may not have originated until July 2022 or August 2022. We have no way to prove that the melanoma was or was not present in June 2022. What we do know is that it was not suspected to be neoplasia at

this time by the consulting vet. It was suspected to be a traumatic injury and not something that would require further investigation or ongoing care.”

Pinnacle’s vet maintains that the two conditions are linked, summed up as follows:

“Overall the timeline of events here where the nail injury seen less than 6 weeks before a diagnosis of a melanoma with no period where the nail injury healed between the two points, and the bony changes seen on radiography due to a non-bone neoplasm showing evidence of chronicity is enough to relate the two conditions. Melanomas frequently present as a broken, sore nail, and so the initial presentation fits with an early stage melanoma.”

Pinnacle’s declining of X’s claim has caused her significant financial problems and stress as N’s medication is expensive and requires regular boosters which X is concerned she will be unable to afford and which will influence ongoing decisions about the provision of care for N. X brought her complaint to this service. She’d like Pinnacle to pay her claim and to accept that the symptoms of melanoma did not present themselves during the 14-day exclusion period.

Our investigator considered that N had shown symptoms of melanoma within 14 days of the policy start date even though at that stage this hadn’t been diagnosed. His view therefore was that Pinnacle had acted in line with the policy terms and conditions.

In response to our investigator’s view, X obtained a report from a veterinary consultant in oncology. Her professional opinion was that there was no evidence of melanoma on 30 June, and she provided a number of grounds for reaching this conclusion. X also made further submissions.

As our investigator didn’t consider that he should change his view, X’s complaint has been referred to me as an ombudsman for a final decision from this service.

I issued a provisional decision upholding X’s complaint in response to which I received responses from X and Pinnacle which I’ll refer to below.

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, and having re-assessed the available evidence, I’m maintaining my original view as expressed in my provisional decision, and I’ll explain why.

In my provisional decision I expressed my view as follows:

“The treatment for which X is claiming is the treatment for the melanoma with which N was diagnosed in August 2022. This treatment will be ongoing.

I’ve considered the exclusion upon which Pinnacle relies to decline X’s claim – that it won’t pay for the cost of any treatment for any illness which occurs or shows symptoms within 14 days of the policy start date. As the policy start date was 30 June 2022, that therefore means at any time before 13 July 2022.

I’ve considered the report provided by Pinnacle’s vet which expresses the view that a non-healing wound, ease of injury and a close timeline of changes to the bone are indicative of

an underlying disease process – an early indicator of melanoma during the 14-day exclusion period.

I've also considered the opinion of N's treating vet and two reports from a specialist vet oncologist. These arrive at different conclusions to that of Pinnacle's vet as to the connection between the nail trauma for which N received treatment on 30 June 2022 and the melanoma that was diagnosed on 10 August 2022.

They disagree that the nail injury indicates a sign of melanoma. They are of the view that the diagnosis of melanoma, made outside the exclusion period, is a separate condition. They accept that melanoma can present in a broken nail, but that in this case the tumour would need to have been more advanced than it was considered to be at that time. There were also other factors such as N's hypothyroidism that could've been responsible for the slow healing of the injury to N's toes.

I've also taken account of what X has said about her state of knowledge as at 30 June 2022. I'm satisfied as to her concern at that time to ensure that N was fully insured in the knowledge that there would be potential consequences of switching policies should any condition be regarded as pre-existing. I'm satisfied that neither X nor N's treating vet had any suspicions in June 2022 that N's nail trauma might be a symptom of a melanoma.

My provisional conclusion is that Pinnacle has acted unfairly in rejecting X's claim on the ground that the melanoma with which N was diagnosed and for which treatment started in August 2022 and for which X is claiming, showed symptoms during the first 14 days of X taking out her policy.

In summary, I've reached that conclusion for the following reasons:

1. The balance of evidence indicates that N presented on 30 June 2022 with an injury, not an illness. There were no symptoms of melanoma during the 14-day exclusion period. Any symptoms of an illness shown, such as a delay in wound healing, did not manifest themselves until after the 14-day exclusion period. The exclusion period therefore doesn't apply.
2. N's treating vet had no concerns about N's nail trauma being anything other than that and not a symptom of an illness that would only later be diagnosed. The vet didn't consider that any further treatment was necessary.
3. N's specialist oncology vet also agreed that the nail injury was not evidence of early melanoma. The symptoms of nail injury were different to those that led to the diagnosis of melanoma some weeks later.
4. X was unaware any symptoms that could lead to a subsequent diagnosis of melanoma. Neither she nor N's vet had any concerns about any claims for future treatment for N being prejudiced by her nail injury. "

In response to my provisional decision, Pinnacle provided further comment from its vet included within which were extracts from various publications. I've looked at these and taken into account the vet's confirmation of her earlier opinion. I've also reviewed again the evidence provided by N's vet and oncology consultant.

As I am not a vet, I'm not qualified to comment on the medical evidence. I have to approach this case on the basis of what is fair and reasonable, bearing in mind that it's for Pinnacle to prove on the balance of probabilities that the policy exclusion upon which it relies, namely for *"the cost of any treatment for any illness which occurs or shows symptoms within 14 days of the start date"*, applies in this case.

I don't consider that Pinnacle has satisfied that test. I consider that the balance of evidence supports the view that N had no symptoms of melanoma present in June 2022. In the absence of symptoms there is no evidence of any illness.

On 14 July 2022 the evidence was that N's nail was "healing well". On 21 July his nailbed was "looking great". There was no evidence noted of swelling consistent with melanoma. The diagnosis of nailbed melanoma wasn't made until 22 August 2022.

I don't consider it reasonable for Pinnacle to rely on the possibility that the melanoma was present prior to 14 July when there were no symptoms present at that time to support that conclusion, even if early-stage melanomas may be difficult to diagnose.

My final decision

For the reasons I've given above, I'm upholding X's complaint.

I require Pinnacle Insurance plc:

1. to meet X's claim subject to any other terms and conditions of her policy.
2. to pay X interest on any sum paid to her at the simple rate of 8% from the date of her claim until payment is made to her.

If Pinnacle Insurance plc considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell X how much it's taken off. It should also give her a tax deduction certificate if she asks for one so she can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask X to accept or reject my decision before 27 September 2023.

Nigel Bremner
Ombudsman