

The complaint

Mrs N complains about Casualty & General Insurance Company (Europe) Ltd (CG) declining a claim under her pet insurance policy for treatment of her dog.

References to CG include their agents who administer the policy.

What happened

Mrs N had a pet insurance policy with CG covering her dog, taken out in February 2021. In October 2022 Mrs N's dog became ill with stomach problems. She took the dog to a vet who, after several visits, blood tests, scans and x-rays, diagnosed the dog as having ingested some sort of toxin. This led to the dog's stomach to become inflamed, leading to internal bleeding and potential stomach ulceration.

Mrs N made a claim for the cost of treatment of her dog. However, CG said they wouldn't accept the claim, as review of the dog's clinical history indicated it had been seen by a vet in the past (visits in 2014, 2015 and 2019) for an upset stomach causing diarrhoea. CG said had they been aware of the history when Mrs N took out the policy, they would have applied an exclusion relating to the dog's digestive system (from February 2021). As the condition claimed for would have fallen within the exclusion, they wouldn't accept the claim.

Mrs N was unhappy about CG's decline of her claim, as she didn't think the previous history indicated a pre-existing condition. When she'd taken out her policy, she'd answered no to the question about whether her dog had a pre-existing condition, as she thought an occasional upset stomach wasn't a pre-existing condition. Mrs N raised this point with CG, but they replied to refer to the policy definition of a pre-existing condition, confirming their decline of the claim. Mrs N's vet also disagreed with CG that there was a pre-existing condition, providing a report to this effect.

Mrs N then complained to this service. Together with the opinion of her vet, she disputed her dog had an upset stomach and at no time had sickness or diarrhoea. She'd paid the vet bills for treatment of her dog, totalling some £3,000 (but she accepted her policy provided cover to a maximum of £1,000 and because of the age of her dog, there was a co-payment proportion). She wanted CG to accept her claim under the terms of the policy.

As Mrs N hadn't first raised a complaint with CG, our investigator asked them to consider the issues raised by Mrs N. CG didn't uphold the complaint. In their final response they said when Mrs N took out her policy, the terms and conditions provided to her said pre-existing conditions (or where there were clinical signs of existence) wouldn't be covered. CG referred to information in the Insurance Product Information Document (IPID) and the *Policy Definitions, Veterinary Fees and General Exclusions* sections of the policy which stated pre-existing conditions weren't covered.

CG also referred to the clinical history of the dog, with instances of diarrhoea in previous years, going back to 2014. They also referred to a visit to the vet in May 2022 and then the visits in October and November 2022 (for which the claim had been made). CG said the clinical notes indicated the dog had displayed the same clinical signs and symptoms of

vomiting and diarrhoea both before the policy was taken out and in October and November 2022. CG also noted Mrs N had been made aware that pre-existing conditions wouldn't be covered when she took out the policy. So, CG confirmed their decline of the claim.

Our investigator upheld Mrs N's complaint, concluding CG hadn't acted fairly in declining the claim. The vet had confirmed the issue with the dog wasn't one of digestion but was due to ingestion of toxin. So it was unrelated to the previous issues. It was reasonable for Mrs N to think the previous issues were isolated incidents and not symptoms of an underlying condition. To put things right, the investigator thought CG should settle the claim in line with the remaining terms and conditions of the policy and (if settled) add interest to the claim.

CG disagreed with the investigator's conclusions. In disagreeing, they referred to the dog's previous clinical history and said the vet's working diagnosis of haemorrhagic gastroenteritis was a condition affecting the digestive system (and noted the vet had said the dog had shown signs of colitis prior to the policy inception). They also referred to the policy definition of an associated condition, which they said indicated the claim was for treatment of one [pre-existing] condition, so they'd correctly declined the claim as a pre-existing condition.

As CG disagreed with the investigator's view, the complaint has been passed to me to review.

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.

My role here is to decide whether CG have acted fairly towards Mrs N.

The key issue in Mrs N's complaint is whether CG acted fairly in declining her claim for treatment of her dog. CG's view (as set out in their final response) is that the clinical history indicates previous consultations that – had they been aware of them at the time Mrs N took out her policy – would have led them to apply an exclusion to the policy from February 2021. The exclusion would have included the condition claimed for in October 2022, so they correctly declined the claim. Mrs N's view is that the previous visits weren't related to the condition in October 2022, supported by the view of her vet. So, it was reasonable for her to think the dog didn't have a pre-existing condition.

I've considered both views carefully, including the relevant terms and conditions of the policy (particularly those referred to by CG in their final response) together with the supporting information and evidence, including Mrs N's vet's opinion and the clinical history of Mrs N's dog. In their final response, CG refer to the following statement in the IPID:

“What is not insured?

Any claim for Illness or Accidental Injury that relates to a Pre-existing Condition

In confirming their decline of the claim, CG referred to the following definition of a pre-existing condition:

“...any diagnosed or undiagnosed Condition and/or Associated Condition which has happened or has shown Clinical Signs or Symptoms of existing in any form before the Policy Start Date or within the Waiting Period.”

Similar wording appears under the *Veterinary Fees* heading, where there's a sub-heading *What is not insured?*

CG also refer to the *General Exclusions* section of the policy that includes the following:

“As with all insurance policies, there are exclusions and conditions that apply to Your coverage. We have listed below the exclusions that apply to all sections of Your Policy coverage.

The following exclusions apply to the whole of this Policy. We will not pay claims for any of the following reasons:

- If we are made aware of any Pre-existing Conditions at the time of a claim, these Pre-existing Conditions will not be covered, and We reserve the right to add a relevant endorsement(s) to your Policy in respect of these Pre-existing Conditions.”*

I've then considered the question of whether the dog did have a pre-existing condition, or previous episodes that indicated a pre-existing condition. In declining the claim, CG refer to the following three visits to the vet recorded in the clinical notes:

“17/7/2014 - Owner constantly changing food to keep [dog] eating. V+ froth this morning And stools softer, slightly gurgly tummy.

15/12/2015 – Diarrhoea all weekend, now blood in it.

23/4/2019 – Off food 1 week, Or D+ getting worse now and orange tint.”

I've also looked at the extracts from the clinical notes in May 2022 and October and November 2022, referred to by CG in their final response.

I've also considered Mrs N's vet's opinion. Their statement says:

“...The current claim for [dog's name] is not an issue of digestion, it is a working diagnosis of haemorrhagic gastroenteritis secondary to ingestion of an unknown toxin/irritant. The previous episodes...were due [to] changing of diet, and colitis signs. The episode has involved gastric bleeding and we are treating the associated complications of this.”

As Mrs N's vet examined the dog and provided a professional view based on their examination and treatment, then I'm more persuaded by their view the previous episodes weren't related to the current issue and so the latter didn't indicate a pre-existing condition.

I've also considered the general principle, where an insurer relies on an exclusion, the onus is on them to show it's reasonable to apply it. Taking all these points into account, I'm not persuaded CG have shown enough to apply the exclusion for a pre-existing condition in the circumstances of this case. So, I've concluded CG acted unfairly to apply the exclusion to decline Mrs N's claim (or saying they would have applied the exclusion from February 2021).

While CG referred in their final response to the decline of the claim on the grounds that the dog had a pre-existing condition, in their response to our investigator's view they referred to policy terms and conditions, specifically the definitions of the term *Associated Condition*. Given the definition, they consider the previous incidences of vomiting and diarrhoea to be associated conditions. As cover wasn't provided for associated conditions (or pre-existing conditions) they maintain they acted correctly to decline the claims.

While the claims weren't originally declined (nor in their final response) on the grounds of associated conditions, I have considered what CG have now said. They refer to the following definition of *Associated Condition*:

"Associated Condition means a Condition that is either a recurring illness and/or Accidental Injury or Lump; or related to a previous Illness and/or Accidental Injury or Lump; or caused by a previous Illness and/or Accidental Injury or Lump...any Treatment for an Associated Condition will be considered as one Condition, regardless of when the Treatment occurred."

I've considered these definitions in the context of the circumstances of this case. Looking at the wording of the definition of *Associated Condition* I don't believe the incidences in this case would reasonably be held to fall within the definition. I say this because the incidences weren't accidental injury (or a lump). And the incidences in the clinical notes before the policy was taken out occurred between 2014 and 2019, being some seven and two years respectively before the policy was taken out. Which doesn't indicate a recurring illness (rather than isolated incidents at infrequent intervals). Nor were they – given the vet's opinion – related to the previous incidences.

So, I've concluded CG can't reasonably apply (even retrospectively) the *Associated Condition* exclusion to decline the claims.

Given these conclusions, I also think it was reasonable for Mrs N to think her dog didn't have a pre-existing condition when she took out the policy, so it wasn't unreasonable of her to have answered 'no' to the question about whether her dog had a pre-existing condition.

Given these conclusions, I've thought about what CG need to do to put things right. As I don't think they can rely on the exclusion for pre-existing conditions, they should settle the claim in line with the remaining terms and conditions of the policy, including any limits on the costs of treatment and any policy excess (as appropriate).

If CG settle the claim, they should also pay interest at a rate of 8% simple on the amount accepted, from the date Mrs N paid the vet's bill, to the date they settle the claim.

My final decision

For the reasons set out above, my final decision is that I uphold Mrs N's complaint. I require Casualty & General Insurance Company (Europe) Ltd to:

- Settle Mrs N's claim in line with the remaining terms and conditions of the policy, including any limits on the costs of treatment and any policy excess (as appropriate).

If Casualty & General Insurance Company (Europe) Ltd settle the claim, they should also pay interest at a rate of 8% simple on the amount settled, from the date Mrs N paid the vet's bill to the date they settle the claim.

If Casualty & General Insurance Company (Europe) Ltd consider they're required by HM Revenue & Customs to deduct income tax from that interest, they should tell Mrs N how much they've taken off. They should also give Mrs N a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

Your text here

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs N to accept or reject my decision before 2 November 2023.

Paul King
Ombudsman