

## **The complaint**

Ms C complains that BUPA Insurance Limited (trading as BUPA Global) declined further cover for treatment by her therapist.

## **What happened**

The details of this complaint are well known to both parties, so I won't repeat them again here in full. In summary, Ms C is a member of a group private medical insurance scheme. She was diagnosed with depression and prescribed cognitive behaviour therapy (CBT). Ms C began CBT with Ms H and BUPA paid several claims in relation to that treatment.

In early December 2022, Ms C submitted a claim to BUPA for CBT provided by Ms H. On 20 December 2022, BUPA declined Ms C's claim. It said that Ms H wasn't a recognised medical practitioner covered by Ms C's membership. Ms C queried that decision and in early January 2023, BUPA authorised Ms C's December claim as an exception and said that it wouldn't authorise future claims for treatment by Ms H. It said that it wasn't able to determine that Ms H is a qualified psychologist accredited by the British Psychology Society or a registered psychotherapist.

Ms C complained to BUPA about its decision. BUPA maintained its position in relation to Ms C's claim. It said that it only covers treatment by a registered psychologist, a registered psychotherapist, or a psychiatrist. BUPA said that Ms H is registered to practice cognitive behaviour therapy in the UK and has a degree in clinical neuropsychology but there's no indication that she is registered in the UK as a psychologist. It said that it expects all therapist to be registered with the Health and Care Professions Council (HCPC) and Ms H isn't registered with HCPC. BUPA said that it had led Ms C to believe that it would continue to cover claims and paid Ms C compensation of £100 in relation to that.

Ms C didn't think that was fair and pursued her complaint. She says that BUPA paid previous claims following treatment by Ms H. Ms C says that BUPA refuses to say what qualifications Ms H is missing. She says that BUPA is insisting that she use a therapist from its own network, even though the policy promises to cover providers outside its network. Ms C says that Ms H has the same qualification as the therapists in BUPA's network. She wants BUPA to consider the information it has about Ms H's qualifications and authorise the claim.

Ms C also wants compensation for the delay in treatment. She says that she didn't have CBT from December 2022 to late April 2023 because of BUPA's inconsistent and slow response. She changed to another treatment provider but would have continued treatment with Ms H but for BUPA's decision in relation to her claim.

One of our investigators looked at what had happened. He didn't think that BUPA had acted unfairly here. The investigator said that BUPA declined Ms C's claim fairly and in line with the membership terms. He thought that compensation of £100 was fair in relation to service issues.

Ms C didn't agree with the investigator. She queried whether psychotherapists must be registered with HCPC. There was further correspondence, but the investigator didn't change his view. Ms C asked that an ombudsman consider her complaint, so it was passed to me to decide.

### **My provisional decision**

On 29 August 2023, I sent both parties my provisional decision in this case in which I indicated that I intended to uphold the complaint. I said:

#### *'the relevant membership terms*

*Ms C's cover includes payment of consultants', psychologists', and psychotherapists' fees for mental health treatment. The membership guide defines a psychologist and psychotherapist as:*

*'A person who is legally qualified and is permitted to practise as such in the country where the **treatment** is received.'*

*The membership guide defines a therapist as:*

*'A physiotherapist, occupational **therapist**, orthoptist, dietician or speech **therapist** who is legally qualified and is permitted to practice as such in the country where the **treatment** is received.'*

#### *has BUPA acted unfairly or unreasonably?*

*The relevant rules and industry guidance say that BUPA has a responsibility to handle claims promptly and fairly and it shouldn't reject a claim unreasonably. I intend to uphold Ms C's complaint because I don't think that BUPA treated her fairly or reasonably in declining her claim. I say that because:*

- Insurance policies aren't designed to cover every eventuality or situation. An insurer will decide what risks it's willing to cover and set these out in the terms and conditions. The onus is on the consumer to show that the claim falls under one of the agreed areas of cover within the policy.*
- I think there's been confusion in this case about terminology and accreditation of mental health treatment providers. Ms H isn't a therapist, as defined in BUPA's membership terms, which I've set out above. Ms C's membership terms provide cover for mental health treatment by a consultant, psychologist or psychotherapist who is legally qualified and permitted to practise in the UK. Ms H isn't a consultant. The question for me to decide is whether BUPA acted unfairly or unreasonably in declining Ms C's claim on the basis that Ms H isn't legally qualified and permitted to practise in the UK as a psychologist or psychotherapist.*
- The terms 'psychologist' and 'psychotherapist' are not protected titles. So, treatment providers using those titles don't need to be registered by HCPC. HCPC does regulate nine protected titles for psychologists: practitioner; registered; clinical; forensic; counselling; health; educational; occupational and sport and exercise. Ms H says that she isn't a clinical or counselling psychologist, so isn't registered with HCPC.*

- *Ms H says that she is registered as a CBT therapist with the British Association for Behavioural and Cognitive Psychotherapies (BABCP). That's a voluntary register. She says that she's also registered as an eye movement desensitisation and reprocessing therapy (EMDR) practitioner with EMDR Europe, the professional association of national EMDR associations.*
- *As 'psychologist' and 'psychotherapist' aren't protected titles, based on what I've seen, Ms H is qualified and permitted to practice as a psychologist or psychotherapist in the UK.*
- *I've thought about BUPA's reference in the membership terms to 'legally qualified'. There's no legal qualification required to use the title 'psychologist' or 'psychotherapist'. BUPA may have wished to limit cover for psychologists and psychotherapists to those registered with statutory regulators or certain professional bodies. But that's not set out in the membership terms.*
- *In any event, in the particular circumstances here, I don't think that it was fair and reasonable for BUPA to decline Ms C's claim mid treatment. It had previously authorised Ms C's treatment with Ms H and I don't think that it was fair and reasonable for BUPA to take a different view part way through treatment when nothing had changed.*
- *I don't think that BUPA acted fairly and reasonably in declining Ms C's claim in this case. Whilst BUPA covered Ms C's treatment with Ms H, its decision to decline future claims caused delay and discontinuity in Ms C's care whilst she was unwell and required treatment. Ms C was put to the trouble of finding a new treatment provider part way through her therapy. That caused Ms C distress and inconvenience. Considering everything, I think fair compensation in relation to that is £400 in addition to the compensation of £100 BUPA has already paid.'*

### **Responses to my provisional decision**

Both Ms C and BUPA accepted my provisional decision.

### **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.

Neither Ms C nor BUPA has provided any fresh information or evidence in response to my provisional decision. I therefore find no basis on which to depart from my earlier conclusions. For the reasons I've explained, I don't think that BUPA acted fairly or reasonably in declining Ms C's claim.

### **Putting things right**

In order to put things right, BUPA should pay Ms C compensation of £400 in relation to her distress and inconvenience in addition to the compensation of £100 it has already paid.

### **My final decision**

My final decision is that I uphold this complaint. BUPA Insurance Limited should take the step I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms C to accept or

reject my decision before 16 October 2023.

Louise Povey  
**Ombudsman**