

The complaint

The estate of Mrs A has complained about BUPA Insurance Limited's ('Bupa's') refusal to pay some NHS cash benefit under the late Mrs A's private medical insurance cover.

The estate is represented by Mr A.

What happened

Mrs A held private medical insurance cover with Bupa. This paid NHS cash benefit for NHS in-patient treatment of £100 a night (up to 50 nights a year).

Mrs A was admitted to an NHS accident & emergency (A&E) department on three separate occasions. On each of those occasions, she was transferred to a general NHS ward where she remained until being discharged.

A claim was made for NHS cash benefit, and Bupa paid this for the nights Mrs A had been admitted as an in-patient. However, it refused to pay benefit for the nights where Mrs A had stayed in A&E. Unhappy with this, Mr A brought a complaint to this Service on behalf of Mrs A's estate.

Our investigator ultimately recommended the complaint be partly upheld. She thought Mr A had provided evidence to support that Mrs A had remained in A&E for one night due to a lack of beds on the general ward. She therefore recommended that Bupa pay NHS cash benefit for one further night, plus interest.

Neither party accepted our investigator's findings, and so the matter has been passed to me for a 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.

The policy says:

'We pay NHS cash benefit for each night you receive in-patient treatment provided to you free under the NHS. We only pay NHS cash benefit if your treatment would otherwise have been covered for private in-patient treatment under your benefits.'

And

'We do not pay for any treatment, including immediate care received during a visit to an NHS or private accident and emergency department...'

Bupa has already accepted that for each in-patient stay, Mrs A's treatment would otherwise have been covered for private in-patient treatment (as NHS cash benefit has been paid for

each admission). I therefore don't need to consider this point, and will only consider whether Bupa should pay NHS cash benefit for the nights that Mrs A spent in A&E.

I'll consider each of these in turn.

27 October

Mrs A was admitted to A&E on 27 October. She then moved to a general ward on 29 October and was discharged from hospital on 30 October.

Bupa paid NHS cash benefit for two nights (28 October and 29 October). It refused to pay for 27 October as Mrs A had stayed in A&E that night. Although I understand that Mrs A remained in A&E overnight on 28 October, I see that Bupa has paid NHS cash benefit for 28 October, so I only need to consider 27 October.

Information from the hospital says that October and November are two of their busiest months where delays are long, creating extreme bed pressures/reduced discharges within the trust. They confirmed that was the case when Mrs A was under their care in A&E, and she had to wait over 24 hours for a bed to become available.

Later information from the hospital confirmed that Mrs A spent so long in A&E because there wasn't a bed for her on the ward, despite the indication for admission being identified on 27 October.

Bupa says this information doesn't explain what treatment was provided, nor why Mrs A was admitted to A&E. However, the hospital discharge summary makes it clear that Mrs A had attended A&E with a dislocated hip, and that she later had surgery for this.

I agree with our investigator that the evidence from the hospital supports that Mrs A would have been moved to a general ward and admitted as an in-patient on 27 October, if not for the hospital delays in allocating a bed. That being the case, I find that Bupa should pay NHS cash benefit for 27 October on a fair and reasonable basis.

2 November

Mrs A was admitted to A&E (at a different hospital to the 27 October and 13 November admissions) on 2 November. She then moved to a surgical ward on 3 November and was discharged from hospital on 6 November.

Bupa paid NHS cash benefit for three nights (3 – 5 November). It has refused to pay for 2 November as Mrs A had stayed in A&E that night.

I've read a letter provided by the hospital. This says that Mrs A arrived by ambulance on 2 November, she was triaged and had x-rays and bloods taken in the evening. She was then waiting for a surgical review with a doctor. The surgical review took place on 3 November, and it was confirmed the hospital were waiting for a surgical bed/theatre slot. Mrs A was then admitted to the surgical ward later that morning.

The evidence doesn't show that Mrs A was ready to be moved from A&E on 2 November, and that this didn't happen because of delays at the hospital.

Mr A thinks it is clear from the hospital timeline that Mrs A was waiting for a bed. However, that was in the early hours of 3 November, and not the night of 2 November.

I therefore don't require Bupa to pay NHS cash benefit for 2 November, as Mrs A wasn't admitted as an in-patient until 3 November.

13 November

Mrs A was admitted to A&E on 13 November. She then moved to the general ward on 14 November and was discharged from hospital on 18 November.

Bupa paid NHS cash benefit for five nights (13 – 17 November). It's not clear why Bupa paid NHS cash benefit for Mrs A's overnight stay in A&E for 13 November and not for the earlier dates. However, I don't agree with Mr A that Bupa has set a precedent here, and should automatically pay for Mrs A's A&E stays of 27 October and 2 November because of this. Bupa may well have paid for 13 November in error. However, as this has been paid, I don't need to consider this further.

Representative costs

Mr A says he wants Bupa to pay an additional £200 to recognise the cost of his time that he has spent on the matter.

First of all, we don't usually award compensation for time spent on making a complaint or gathering evidence to support that complaint. But in any event, we can only award compensation to eligible complainants, and as a representative of an estate, Mr A isn't an eligible complainant according to our rules. That means we can't take into account any inconvenience caused to Mr A when representing Mrs A's estate.

My final decision

My final decision is that I partly uphold this complaint. I require BUPA Insurance Limited to pay NHS cash benefit for 27 October. Interest* should be added at the rate of 8% simple per annum calculated one month after the claim was made to the date of settlement.

* If Bupa considers that it's required by HM Revenue & Customs to take off income tax from that interest, it should tell the estate of Mrs A how much it's taken off. It should also give the estate of Mrs A a certificate showing this if they ask for one, so they can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Mrs A to accept or reject my decision before 15 November 2023.

Chantelle Hurn-Ryan
Ombudsman