

## **The complaint**

Mrs P is unhappy with the way in which Admiral Insurance (Gibraltar) Limited handled a claim made on her travel insurance policy, the medical assistance provided whilst she was abroad and its decision to only pay a proportion of expenses incurred.

All references to Admiral include its claim handlers and medical assistance team.

## **What happened**

Mrs P had the benefit of a travel insurance policy, underwritten by Admiral ('the policy'). Whilst abroad, at the end of 2022, Mrs P became ill and required emergency medical attention. She contacted Admiral for assistance.

Mrs P is unhappy with the overall service she received from Admiral including a lack of communication, unnecessary delays and failing to promptly inform her that she could provide Admiral with an indemnity should it later be determined that it wasn't responsible for all, or any costs incurred.

As a result, Mrs P says she was kept waiting longer than necessary for medical tests to be carried out. Not only did this mean she was left in an uncomfortable position for longer than was necessary, but she also says she was kept in hospital for longer than was needed. Mrs P is also unhappy that she had to pay for medical costs up front and that Admiral has only agreed to cover 73% of her costs on the basis that she didn't declare treatment she'd had for cancer at the time of renewing the policy.

In its final response letter Admiral accepted that it had incurred technical difficulties during the period Mrs P was first admitted to hospital. It apologised for difficulties she had calling Admiral and offered £25 compensation. However, Admiral didn't uphold her other concerns. Mrs P complained to the Financial Ombudsman Service. Our investigator looked into what happened and concluded that Admiral had acted fairly by only agreeing to cover 73% of her claim. However, she recommended Admiral increase compensation from £25 to £150 for impact its service failings had on her.

Admiral agreed with our investigator's recommendation. Mrs P didn't. So, I was passed this complaint to decide. I issued my provisional decision explaining in more detail why I intended to partially uphold Mrs P's complaint. An extract of which is set out below.

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At the outset, in relation to the claim made by Mrs P, I confirm that I've only considered whether Admiral has fairly and reasonably concluded to pay 73% of the costs claimed. I'm aware that Mrs P also disagreed with the total costs that Admiral said were being charged by the treating hospital and the total amount it said Mrs P still owed. However, that's been investigated as a separate complaint.

Proportionately settling the claim

When considering whether Admiral has acted fairly and reasonably, I've taken into account The Consumer Insurance (Disclosure and Representations) Act 2012 (CIDRA) which I think is relevant in this particular case.

CIDRA requires consumers to take reasonable care not to make a misrepresentation when taking out – or renewing - a consumer insurance contract (such as a travel insurance 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 (so in this case, Admiral) 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.

It's Admiral's position that when renewing the policy Mrs P failed to take reasonable care not to make a misrepresentation. So, it only agreed to cover 73% of the claimed costs. For the reasons set out below, think Admiral's decision to only cover a percentage of the claim is fair and reasonable in the circumstances of this case.

It isn't disputed that Mrs P was diagnosed with cancer in mid-2020 and subsequently received treatment for it.

Shortly before the policy was due to renew in November 2022, Admiral sent Mrs P her policy documentation. That included the schedule of insurance. It says:

This policy schedule provides important details about your policy. It must be read along with the Guide to your Admiral Travel Insurance cover.

Please check this document carefully and if anything is incorrect, call us.

It then details the insured person as Mrs P and lists four pre-existing medical conditions. I think it's relevant that cancer isn't one of the four conditions listed.

Further down the same page it says:

Before you travel

If you have a new medical condition or change in health you need to tell us about, or you want to amend or discuss your cover, please call us on....

So, I'm satisfied when renewing the policy, Mrs P wasn't asked any specific questions about her health or medical history. However, under CIDRA, if a consumer fails to comply with an insurer's request to confirm or amend information previously given by the consumer, this can still amount to a qualifying misrepresentation.

I'm satisfied that as cancer wasn't mentioned as a pre-existing medical condition and it was a condition which had developed since first making her medical declaration, Mrs P ought to have contacted Admiral to inform them that she needed to add to the pre-existing medical conditions listed on the policy schedule (and the medical declaration which accompanied it) when renewing the policy.

Whilst the claim was being considered, Admiral's contact notes reflect that Mrs P explained that she did call Admiral around the time the time of the policy renewal date a couple of

years earlier, in November 2020, to declare cancer. She recalls that Admiral's representative who she'd spoken to advised her that she didn't need to declare cancer; just that she had surgery.

Our investigator asked Admiral for any call recordings from around this time, but Admiral said that they're no longer available. However, within Admiral's contact notes, there's an entry dated 24 January 2023 reflecting that they had searched for calls at that time, and there were only two records of Mrs P contacting it since she'd been diagnosed with cancer: once in November 2020 and in July 2021. It's reflected medical issues weren't discussed in either call as they related to not being able to access documents and not being able to log into the online portal.

It's possible that there were other calls made by Mrs P to Admiral from around that time which weren't located. But on the balance of probabilities, I'm not persuaded that Mrs P did contact Admiral to declare her cancer in 2020 but was told that she didn't need to. One of the questions which form part of the medical declaration reflects:

Have you or anyone in your party ever been diagnosed with or treated for any of the following: -any heart or respiratory condition? -any circulatory condition (problems with blood flow, including strokes, high blood pressure and cholesterol? – any liver condition? – any cancerous condition?

So, if Mrs P had called to tell it about her cancer, I think it's unlikely that she would have been told that she didn't need to declare it.

Further Mrs P hasn't been wholly consistent in her account of what happened in November 2020. The contact notes also reflect that she told Admiral whilst her claim was being considered that when calling to declare cancer, she was asked to pay a small premium increase.

I'm also conscious that the question I've highlighted above is answered 'yes' in the medical declaration form sent with the policy schedule (and other policy documents). I'm satisfied that this answer was given previously in response to having a heart or respiratory condition, which forms part of a list of conditions Mrs P was asked about in the same question; not because she'd been diagnosed and received treatment for cancer.

So, I'm satisfied that Admiral has fairly concluded that Mrs P didn't disclose cancer when the policy renewed as she should have. And I'm satisfied that Admiral has fairly concluded that she made a qualifying disclosure as she acted carelessly.

Admiral says had Mrs P declared cancer, it would have still offered to renew the policy, but Mrs P would have paid more for the annual premium. Admiral has provided evidence showing how it's reached that conclusion. I'm satisfied that Admiral has accurately rescreened Mrs P's medical conditions by accurately answering the follow up questions she would've been asked if she'd declared cancer. And this resulted in a higher weighting being applied to the premium resulting in the increase in premium.

I'm satisfied Mrs P only paid around 73% of the correct premium. And I don't think Admiral has acted unfairly by offering to proportionately settle the costs its accepted to cover as part of Mrs P's claim.

The service received by Admiral

Admiral has a regulatory obligation to treat customers fairly. And it must handle insurance claims fairly and promptly.

Mrs P is unhappy that Admiral initially delayed authorising treatment and providing a guarantee of payment to the treating medical facility. As a result, she says she was initially left in an uncomfortable position for longer than necessary, with a cannula fitted in each arm and she couldn't move her arms.

Shortly after contacting Admiral, Mrs P was sent an email explaining that it needs to confirm what she's being treated for, and some checks might be needed to ensure that cover was in place under the policy. She was also told that the medical facility may require her to pay for treatment up front whilst any initial checks were ongoing.

Once the medical report was received, there was mention of Mrs P's cancer two years ago. So, I don't think it was unreasonable for Admiral to want to obtain Mrs P's GP records before verifying cover. And I'm satisfied that it obtained Mrs P's consent to contact her GP promptly after receiving the treating facility's medical report.

Unfortunately, due to the time of year, there were initial delays getting the GP records and I don't think it would be fair and reasonable to hold Admiral responsible for this in this case. Whilst it awaited the GP records, Admiral did offer to cover an angiogram Mrs P required on an indemnity basis and sent the medical facility a guarantee of payment to cover the cost of this test. I don't think that was unreasonable in the circumstances and reflected the urgency of the situation Mrs P found herself in.

I don't think Admiral acted unreasonably by not subsequently providing a guarantee of payment for the entirety of medical costs incurred to enable Mrs P to be discharged. I know that meant Mrs P had to pay some medical bills so that she could be discharged. But I think it was reasonable in this case for Admiral to wait until it had received and considered the GP records.

However, the contact notes reflect that the GP surgery contacted Admiral on 4 January 2023 to say that the consent form it had sent was blurry and I'm persuaded that Admiral took a number of days to follow this up with a clearer version of the form. I think that's too long in this case. I'm satisfied this delay caused Mrs P some distress and inconvenience as I can see she chased Admiral for an update on 8 January 2023 about whether it had heard back from the GP surgery as she was anxious to know what was happening about payment to the medical facility.

The records were received around 10 January 2023 and Admiral promptly updated Mrs P. I'm satisfied that the GP records were promptly reviewed and medical conditions that hadn't been declared were re-screened and decision taken to only cover 73% of the claim. I'm satisfied that Mrs P was promptly notified of this decision.

In its final response letter dated February 2023, Admiral has offered Mrs P £25 compensation. It says it experienced technical issues which impacted the service Mrs P received. This resulted in increased waiting times and phone lines being shut, on occasion. However, I don't think £25 is a fair reflection of the distress and inconvenience Mrs P experienced overall as result of some delays caused by Admiral. This was a worrying time for Mrs P, and she was kept waiting longer than reasonably needed to know whether she'd be reimbursed for the costs she'd incurred. I'm satisfied that these unnecessary delays would have exacerbated an already difficult time for her over several days. I'm satisfied compensation in the sum of £150 is a fairer reflection of the distress and inconvenience she experienced.

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I invited both parties to provide any further information for me to consider. Admiral had nothing further to add and accepted my provisional decision. Mrs P explained that she didn't agree with my provisional findings but accepted the 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.

As neither party has provided any new information for me to consider, I see no reason to depart from my provisional decision.

For this reason, and for reasons set out in my provisional decision (an extract of which appears above and forms part of my final decision), I partially uphold Mrs P's complaint.

### **Putting things right**

I direct Admiral to pay Mrs P £150 compensation for distress and inconvenience (less the sum of £25 it offered Mrs P in its final response letter dated February 2023 if this has already been paid).

### **My final decision**

I partially uphold this complaint and direct Admiral Insurance (Gibraltar) Limited to put things right as set out above.

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

David Curtis-Johnson  
**Ombudsman**