

## **The complaint**

Mr and Mrs H complain that Chaucer Insurance Company Designated Activity Company has unfairly declined their claim under their travel insurance policy.

## **What happened**

In October 2021, Mr and Mrs H booked a trip abroad, departing on 13 June 2022. They took out a single trip travel insurance policy on 6 June 2022 – this was underwritten by Chaucer.

Unfortunately, Mr and Mrs H's young son was admitted to hospital with chest problems the day after the policy was purchased and the advice received was that he wouldn't be fit to travel. Several days later their son received a diagnosis. Mr and Mrs H cancelled the trip and made a claim to Chaucer for the non-refundable parts of the booking.

Chaucer declined the claim. It said that as Mr and Mrs H's son had suffered from repetitive chest issues prior to this date, the condition was already known about at the time the policy was purchased. Chaucer referred to the policy term which states it doesn't provide cover for *"any medical condition you are aware of but for which you have not had a diagnosis"*.

Mr and Mrs H complained to Chaucer about this decision. They said that the previous chest problems their son had suffered with had been described as common colds and so there wasn't a medical condition in existence. Chaucer didn't alter its stance on the claim. Unhappy with this outcome, Mr and Mrs H brought their complaint to this service.

Our investigator looked into the matter and upheld the complaint. He said that, based on the medical questions asked at the time of taking the policy, he didn't think it was made clear that Mr and Mrs H would have been required to declare any cold their son had suffered from. And he also didn't think that common colds should be considered as a medical condition. As the policy was purchased the day before the hospital admittance, he found that it was unfair for Chaucer to decline the claim. He recommended Chaucer pay the claim and also pay £200 compensation for delays and poor service received by Mr and Mrs H before Chaucer declined the claim.

Chaucer disagreed with the investigator's view. It said that the questions asked at the point of sale weren't relevant in this case. It said Mr and Mrs H didn't take out the policy when they booked their holiday but waited until a day before their son's admittance to hospital to take out insurance. So, Chaucer believed it was their son's medical condition which led them to take out the cover at that time – it says Mr and Mrs H should have reasonably known about this prior to taking out the policy. And known events are excluded. As no agreement could be reached the matter has been passed to me to decide.

## **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 relevant rules and industry guidelines say that insurers must handle claims fairly and shouldn't unreasonably reject a claim. I've taken these rules into account when deciding what I think is fair and reasonable in the circumstances of Mr and Mrs H's complaint.

#### *Medical evidence*

When Mr and Mrs H submitted their claim to Chaucer, they included a medical certificate signed by a senior children's nurse. This detailed the consultation date as 8 June 2022 and diagnosis date as 11 June 2022. It noted the cancellation of the trip as becoming necessary from 8 June 2022. It referred to previous history from March 2022 of "*chest issues and delayed development from lots of common colds only*". Mr and Mrs H also supplied the hospital discharge letter showing that their son didn't leave hospital until 18 June 2002, which was after they were due to start their trip.

Chaucer asked for a medical certificate to be completed by Mr and Mrs H's GP. A letter was provided from the GP which stated that it was an unplanned emergency hospital admission. Chaucer said it needed the medical certificate completed instead. This was obtained and the GP confirmed that the admittance to hospital took place on 7 June 2022. On the form it stated that there was no previous history and that the cancellation of the holiday couldn't have been anticipated prior to admission to the hospital.

#### *The policy terms and conditions*

When the claim was declined by Chaucer, it said that the condition was known about prior to taking out the insurance, as Mr and Mrs H's son had suffered from repetitive chest issues. Chaucer referred to the following policy condition:

*At the time of taking out this policy, we are unable to provide any cover for:*

- Any existing medical condition unless you have complied with the 'Disclosure of your medical conditions' on page 15 and have accurately declared your medical condition(s) to TravelTime and TravelTime have agreed in writing to cover you. You can declare your medical conditions using our online medical screening facility via our website - [www.traveltimeinsurance.co.uk](http://www.traveltimeinsurance.co.uk) or you can call us on 0345 548 2122.*
- Any circumstances if you have received a terminal prognosis.*
- Any medical condition you are aware of but for which you have not had a diagnosis.*

The policy includes a definition of an 'existing medical condition' which is as follows:

*Existing medical condition(s) - means any serious or ongoing or recurring medical condition which has been previously diagnosed or been investigated or treated in anyway, at any time prior to travel, even if this condition is currently considered to be stable and under control.*

Following our investigator's view, Chaucer also referred to the following general exclusion within the policy:

#### **GENERAL EXCLUSIONS APPLICABLE TO THE WHOLE POLICY**

*We will not cover the following;*

- 3. Any claim relating to an incident which you were aware of at the time you purchased this insurance and which could reasonably be expected to lead to a claim.*

*Has the claim been declined fairly?*

### *Misrepresentation*

The policy is clear in stating that medical conditions that were in existence prior to taking out the policy need to be declared. If pre-existing medical conditions are not disclosed appropriately, we need to consider if the policy holder has misrepresented their circumstances.

The Consumer Insurance (Disclosure and Representations) Act 2012 (otherwise known as “CIDRA”) provides a clear approach on how such cases involving qualifying misrepresentation should be considered. However, based on the medical evidence provided, I’m not persuaded that there is enough to say that there was a qualifying misrepresentation when taking the policy. I’ll explain why.

When taking out the policy, the question was asked “*does anyone in your party have a pre-existing condition, or is on a waiting list for treatment or investigation?*”. Mr and Mrs H answered ‘no’ to this question. The two medical certificates completed, along with the letter from the GP, all indicate that the only known treatment that Mr and Mrs H’s son had received prior to the policy being taken out was for common colds and he wasn’t on a waiting list for treatment or investigation. I don’t think it reasonable to expect Mr and Mrs H to have thought that these common colds would be considered as a pre-existing medical condition which would need to be declared. So, I don’t think Mr and Mrs H have misrepresented their son’s medical condition at the time of purchase.

### *Known events*

Chaucer has said that Mr and Mrs H didn’t take out the policy at the time of booking the holiday but waited until a day prior to their son being admitted into hospital. It says it’s likely that it was their son’s illness which was the reason for Mr and Mrs H purchasing the policy at that time. Chaucer has said it was a known event, or one Mr and Mrs H would have been reasonably have been aware of – and known events are excluded under the policy.

I’ve thought about this point very carefully. But having looked at the medical information supplied, I cannot agree that there is evidence to support a conclusion that it’s likely Mr and Mrs H took out the policy in the knowledge that their son’s condition may lead to a claim. The medical certificates and letters supplied all state that this was an emergency admission to hospital the day after the policy was purchased and that cancellation of the trip could not have been anticipated prior to the admission. So, I don’t think it is reasonable for Chaucer to decline the claim using that exclusion based on the medical evidence available.

If Chaucer believed that there was link to these common colds which meant the likely cancellation of the trip was known about prior to the purchase of the trip, I would have expected it to have requested the GP or hospital notes from those previous admissions. But despite having the claim under review for over eight months, it didn’t request any such evidence. Given the length of time which Chaucer has already had to request all the relevant medical evidence and fully investigate the circumstances leading up to this claim, I don’t think it would be fair or reasonable to allow it a further opportunity to now request the GP and/or hospital notes. Chaucer has had more than what I’d consider to be a reasonable length of time to request this information. I’m satisfied that, on a fair and reasonable basis and based on the very specific facts of this individual case, the claim should now be paid.

Throughout this period, Chaucer made multiple requests for information which Mr and Mrs H responded to, only to then be asked for further details. And it was this delay that initially led Mr and Mrs H to complain. I can appreciate how frustrating this must have been for them.

Our investigator recommended that Chaucer make a payment of £200 as compensation for this service. I think this is a reasonable sum taking into account the situation.

### **Putting things right**

Chaucer needs to do the following;

- Pay Mr and Mrs H for the unused proportion of their trip costs in relation to their claim for cancellation, taking into account any policy excess that may be due and any other policy limits applicable.
- Pay simple interest on the claim payment at the rate of 8% a year, payable from one month after the claim was submitted until the date the payment is made. If Chaucer considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr and Mrs H how much it's taken off. It should also give Mr and Mrs H a tax deduction certificate if they asks/ask for one, so they can reclaim the tax from HM Revenue & Customs if appropriate.
- Pay £200 compensation to Mr and Mrs H for the delays in handling the claim.

### **My final decision**

For the reasons stated, I uphold this complaint. I direct Chaucer Insurance Company Designated Activity Company to put things right as detailed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H and Mr H to accept or reject my decision before 27 February 2024.

Jenny Giles  
**Ombudsman**