

## **The complaint**

Mr and Mrs B are unhappy that Great Lakes Insurance UK Limited excluded cover for all Mr B's pre-existing medical conditions from their travel insurance policy, after Mr and Mrs B contacted it during the policy year to declare a change in Mr B's health.

## **What happened**

Mr and Mrs B had the benefit of a yearly, multi-trip, travel insurance, underwritten by Great Lakes, which was renewed in the spring of 2023 ('the policy'). They declared pre-existing medical conditions and they're reflected on the certificate of insurance, including 'anal fissure' in respect of Mr B.

In June 2023, Mr and Mrs B amended the medical declaration for Mr B. They declared that Mr B was awaiting a procedure to treat his anal fissure.

Subsequently, Great Lakes presented the following options to Mr and Mrs B:

- To cancel the policy and receive a pro-rata refund of the premium paid.
- To travel in the knowledge that all Mr B's pre-existing medical conditions and/or anything directly or indirectly medically related to these conditions wouldn't be covered by the policy.

Great Lakes ended up excluding Mr B's pre-existing medical conditions from the policy and issued a pro-rata refund of around £680.

Mr and Mrs B say they had two holidays booked by this stage and managed to buy a separate travel insurance policy to cover Mr B's pre-existing medical conditions at a cost of almost £1,300 ('the additional policy').

Unhappy with the options presented by Great Lakes, Mr and Mrs B complained. And when Great Lakes maintained that it had acted correctly and in line with the terms and conditions of the policy, Mr and Mrs B brought a complaint to the Financial Ombudsman Service.

Our investigator looked into what happened and upheld the complaint. He recommended Great Lakes to pay the difference in the premium refund Mr and Mrs B received from Great Lakes for the policy and the premium paid for the additional policy together with 8% simple interest on the difference and £150 compensation for distress and inconvenience.

Mr and Mrs B accepted this recommendation. Great Lakes didn't and provided further comments. Those comments didn't change our investigator's view and this complaint was passed to me to consider everything afresh 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.

Great Lakes has a regulatory obligation to treat its customers fairly.

### **The relevant policy terms and conditions**

Information about the health declaration is set out on page 3 of the policy terms and conditions. It says:

Pre-existing medical conditions will not be covered unless they have ALL been declared, and accepted by us in writing. You must therefore ensure that you answer all questions about yourself and anyone else insured under your policy fully, honestly, and to the best of your knowledge, as failure to answer our questions accurately may affect the cover we provide and our ability to pay your claim. Please see page 4 for what you must do if you have a change to your health after purchasing your policy.

We are unable to provide cover for any pre-existing medical condition(s) where you have an undiagnosed medical condition, or a condition where you are currently on a waiting list, undergoing treatment, or tests or, where you are awaiting the results of any tests. There are some instances we may be able to provide cover for pre-existing conditions if you are awaiting a procedure, (please see the Medical Declaration section on page 8 for more details).

Page 8 says under the heading “medical declaration”:

The insurance will also NOT cover you for any of your pre-existing medical conditions whether diagnosed or not, if you...are awaiting any medical procedure...

Page 4 sets out what to do if there are changes to health after buying the policy. It says:

If after you purchase your policy, or before booking any new trips, any of the following happens:

- you are diagnosed with a new medical condition
- your doctor, or consultant changes your prescribed medication
- you receive inpatient medical treatment
- you are now awaiting a diagnosis, investigation, test results or medical treatment

then you must contact...Customer Services. A member of the team will ask you specific questions about your medical condition(s).

This may result in an additional premium to allow cover to continue, to add additional Terms and Conditions to your policy or to exclude cover for the newly diagnosed condition or for the condition that has undergone significant change.

If we are unable to continue to provide cover, or if you do not wish to pay the additional premium you will be entitled to make a claim under Section 1 (Cancellation) for costs which cannot be recovered elsewhere for trips booked prior to the change in health.

Alternatively, you will be entitled to cancel your policy, in which case, we will refund a proportionate amount of your premium.

The definition of pre-existing medical condition under the policy includes:

any past or current medical condition that has given rise to symptoms, or for which any form of treatment, or prescribed medication, medical consultation, investigation, or follow-up/check-up, has been required, or received, during the 2 years prior to the commencement of cover under this policy and/or prior to any trip...

### **Have Great Lakes acted fairly and reasonably?**

In its final response letter dated June 2023, Great Lakes accepts that when renewing the policy in 2023 Mr and Mrs B declared that Mr B “had been referred to a specialist for his anal fissure but stated he was not awaiting surgery or procedure; just discussing treatment options”.

Based on information I’ve been provided by both parties, I’ve seen nothing to persuade me that this was incorrect information. And based on this declaration, I’m satisfied Great Lakes accepted cover for Mr B’s anal fissure as it’s reflected as being covered on the certificate of insurance (along with other medical conditions declared).

Also based on the information I’ve been provided, I’ve got no reason to doubt that Mr B saw a consultant in June 2023 and it was decided that Mr B would then undergo a medical procedure.

I’m satisfied Mr and Mrs B promptly declared this planned medical procedure to Great Lakes.

Under the terms of the policy, I’m satisfied that in response to being told that Mr B was awaiting a procedure (and because the procedure wasn’t one of those listed as excepted under the terms of the policy on page 8), Great Lakes said it wouldn’t now cover any pre-existing medical conditions declared in respect of Mr B.

And although it provided Mr and Mrs B with two options in response to the information, as set out in the policy terms and conditions of the policy, I think it acted unfairly by not offering a third option given that Mr and Mrs B had two holidays booked at the time of making the amendment to Mr B’s medical declaration in June 2023.

Generally, in such circumstances (and as detailed in the terms and conditions of the policy), I’d expect an insurer to offer to cover the cost of cancelling any pre-booked trip(s) that would’ve otherwise been taken during the period of cover, even if the new medical evidence or declaration doesn’t necessarily prevent the consumer from going on holiday. That didn’t happen here.

I don’t know what Mr and Mrs B would’ve done had they been given this option. It’s possible that they would’ve cancelled both trips and made a claim for cancellation on the policy. Alternatively, they could’ve proceeded as they did by sourcing an alternative travel insurance policy to cover Mr B’s pre-existing medical conditions.

But ultimately, I don’t think it matters in this case what they would’ve done had Great Lakes given Mr and Mrs B the option of covering two cancellation claims. That’s because I’m satisfied that the cost of buying alternative insurance was less than Great Lakes would’ve covered in the event of successful cancellation claims being made under the policy. I’m satisfied that by not making a cancellation claim on the policy - and instead choosing to take out alternative cover - effectively reduced Great Lakes’ exposure to loss in this case.

So, I think it would be fair and reasonable for it to cover the difference between the premium refund Mr and Mrs B received from Great Lakes when removing Mr B’s pre-existing medical

conditions from cover and the premium paid for the alternative policy. I understand that's around £580.

When making this finding I've considered all points raised by Great Lakes including what it says about Mr and Mrs B not having a pre-booked trip at the time it declared a change in health and amended the medical declaration.

I'm satisfied that in this case Mr and Mrs B appropriately declared a change in health for Mr B in June 2023. That's when he was advised of the procedure that would be carried out.

Mr and Mrs B have told the Financial Ombudsman Service that they'd booked two holidays for the summer of 2023 in January 2023 and February 2023. I've got no reason to doubt what they say about that and accept this.

In response to our investigator's view, Great Lakes have said that it didn't give Mr and Mrs B the option of cancelling and making a claim on the policy because Mr and Mrs B were aware of reoccurrence/symptoms of the anal fissure at the time of booking the holiday in early 2023.

That was before the policy renewed in 2023 but I'm not persuaded that being aware of a reoccurrence of issues with his anal fissure needed to be disclosed to Great Lakes at that time.

Under the policy terms, Mr and Mrs B are required to declare a change in health before booking any new trips – and that includes when they've been diagnosed with a new condition or are now awaiting a diagnosis, investigation, test results or medical treatment.

Mr B had been referred by his GP to see a consultant about potential treatment options for his anal fissure at the point of booking the two trips. This was in respect of a flare up of a longstanding issue.

In the circumstances of this case, I don't think a flare up and seeking advice on possible treatment options at that stage should reasonably have been declared as a change of health in line with the policy terms. I don't think he was awaiting investigation or medical treatment.

Further, and in the alternative, I don't think it would be fair and reasonable to conclude in the circumstances of this case that a flare up of his symptoms amounted to a significant change of health that needed to be disclosed. I don't think a reasonable consumer would've reasonably realised there was a significant change in his circumstances which might impact their holiday plans and that they reasonably ought to have told Great Lakes about it then.

I'm satisfied Mr and Mrs B have been put to unnecessary distress and inconvenience by the way in which Great Lakes dealt with Mr B's declaration about a change in health. Mr and Mrs B weren't given all options they reasonably ought to have been. I'm satisfied this prevented them from making an informed choice about what to do at the time and I think this would've been upsetting and confusing. I think £150 compensation fairly reflects this impact.

### **Putting things right**

Provided that Mr and Mrs B can produce documentary evidence to Great Lakes of the premium paid for the alternative policy, I direct Great Lakes to pay Mr and Mrs B:

- A. the difference between what the additional policy cost and the premium refund they received from Great Lakes after Mr B's pre-existing conditions were excluded from the policy.

B. simple interest on the amount set out in A. above at a rate of 8% per year\* from the date on which Mr and Mrs B received a proportionate refund of the premium paid for the policy and the date on which the payment set out in A. is made.

C. £150 compensation.

\* If Great Lakes considers it's required by HM Revenue & Customs to take off income tax from any interest paid, it should tell Mr and Mrs B how much it's taken off. It should also give them a certificate showing this if they ask for one. That way they can reclaim the tax from HM Revenue & Customs, if appropriate.

### **My final decision**

I uphold Mr and Mrs B's complaint to the extent set out above. I direct Great Lakes Insurance UK Limited to put thing right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs B accept or reject my decision before 1 March 2024.

David Curtis-Johnson  
**Ombudsman**