

The complaint

Ms E complains about the decision by Pinnacle Insurance Plc to retrospectively apply exclusions to her pet insurance policy, and turn down a claim.

What happened

In May 2023, Ms E took out the policy to cover her dog. She made a claim after her dog ate a soft toy and needed medical treatment.

Pinnacle reviewed the claim. It noted that before Ms E had taken out the policy, her dog had eaten soft objects and had also received treatment for a urinary infection. Pinnacle thought Ms E ought to have disclosed this information when taking out the policy. It applied two retrospective exclusions to the policy (one for foreign bodies, and one for urinary problems), and turned down the claim. Unhappy with this, Ms E brought a complaint to this Service.

Our investigator recommended the complaint be upheld in part. She thought Ms E hadn't misrepresented information in respect of foreign objects, but did accept that Ms E ought to have declared her dog's previous urinary infection. The investigator recommended that Pinnacle remove the exclusion for foreign bodies and pay the claim, plus interest.

I issued a provisional decision on 4 January 2024. Here's what I said:

'As this complaint concerns misrepresentation, I've considered the matter in accordance with the principles set out under the Consumer Insurance (Disclosure and Representations) Act 2012 ('CIDRA'). This requires consumers to take reasonable care not to make a misrepresentation when taking out a consumer insurance contract.

I've considered the questions Ms E was asked when taking out the policy.

'Has [the dog] ever shown any signs of illness or injury?'

Ms E answered 'no' to this.

Pinnacle has recently told us that next to this question there was an information tip to click on, and this would have given Ms E more detail about what was meant by the question. This said:

'A pre-existing medical condition is an illness, injury or symptom your pet has ever suffered from or is suffering from before you take out this policy. This would include one-off or ongoing conditions/symptoms and accidental injuries. As well as any discussions with your vet or other professionals about their health or behaviour. Even if treatment wasn't needed or you were told it was nothing to worry about.'

I've looked at Ms E's dog's medical history. I see that Ms E took her dog to the vet after it ate soft objects in 2021 and 2022. Then in early 2023, Ms E told the vet her dog was having urinary symptoms. So I agree with Pinnacle that Ms E ought to have answered yes to the question (for both issues). It therefore follows that there was misrepresentation.

If Ms E had answered yes to the question, the website makes it clear that the policy doesn't cover pre-existing conditions. The website also says it may ask the applicant for more information about the pre-existing condition/s and will contact the vet for the pet's medical history. Once that information had been reviewed, it would let the applicant know if there were any conditions it couldn't cover.

Pinnacle has confirmed that if it had known that Ms E's dog had previously eaten soft objects, it would have applied an exclusion for foreign bodies. And if it had known about her dog's previous urinary symptoms, it would have applied an exclusion for urinary problems. I'm satisfied that means the misrepresentation was qualifying for the purposes of CIDRA.

Pinnacle has categorised the misrepresentation as careless rather than deliberate or reckless, which I think was reasonable.

Under CIDRA, if a qualifying misrepresentation is careless, the remedy available to Pinnacle is based on what it would have done if Ms E had told it the relevant information. As Pinnacle would have still entered into the contract but applied the two exclusions, that means it can apply them retrospectively.

As Ms E's claim falls under the exclusion for foreign bodies, I find that it was fair for Pinnacle to turn down her claim.'

I asked both parties for any further comments they wanted to make before I made a final decision.

Ms E responded with the following main points:

- She made an honest mistake which any person could make.
- The internet definition of a pre-existing condition is along the lines of a health condition that exists before taking out insurance.
- She did not think her dog's urinary problems would be considered a pre-existing condition.
- She did not disclose that her dog had previously eaten soft objects as the dog had recovered from those instances a year or so previously.
- Her dog was in perfect health when she took out the policy.
- She thinks Pinnacle's question made it seem as though it wanted to know about current existing conditions, rather than previous problems.

Pinnacle didn't provide any further comments.

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.

Having done so, I remain of the opinion expressed in my provisional decision. I'll explain why.

An insurer is entitled to ask questions about a pet's medical history before offering cover. That is so it can assess the risk that the pet presents to it. I see nothing wrong with this.

Ms E thinks the question asked by Pinnacle made it seem as though it wanted to know about current existing conditions. However, I'm satisfied that by reading the question and

explanation in combination, it was clear that Pinnacle wanted to know about any conditions, injuries or symptoms that her dog was suffering from or had ever suffered from.

I've already explained in my provisional decision that I think Ms E ought to have disclosed her dog's previous urinary problems, and visits to the vet after eating soft objects. I appreciate that Ms E simply made a mistake when completing the application - there's been no suggestion that she was attempting to mislead Pinnacle on purpose. It's for that reason that I think it was appropriate for Pinnacle to categorise the misrepresentation as careless.

That means that Pinnacle was entitled to take the action it would have done if it had known the relevant information, and this was to exclude the two problems. So I remain satisfied it was appropriate for Pinnacle to turn down the claim, as this fell under the foreign bodies exclusion.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms E to accept or reject my decision before 19 February 2024.

Chantelle Hurn-Ryan
Ombudsman