

The complaint

Mr C has complained that Wakam unfairly declined a claim on his pet insurance policy.

What happened

Mr C moved to the UK in March 2023 with his dog whom I'll refer to as B. Before travelling, B was certified as in good health and free from cardiopulmonary diseases.

Mr C took out a policy with Wakam to cover B from 1 April for costs of up to £3,000.

On 2 May B was seen by a vet because of abdominal pain and difficulty urinating. The vet couldn't examine him without sedation.

On 11 May Mr C made an appointment with a different vet because B had a painful abdomen and difficulty breathing. Later that day he contacted Wakam to discuss increasing the level of cover. Wakam said the only option was to cancel the existing policy and take out a new one. So that's what Mr C did with effect from the following day. Wakam says its call handler told Mr C that B wouldn't be covered for conditions starting before 12 May 2023.

On 12 May B was seen by the vet. The dog was panting and breathing heavily. Again, the vet was unable to examine B without sedation.

B was next seen by the vet on 24 May. The vet drained a lot of fluid from his pleural cavity while B was under sedation. She referred B to a specialist.

On 26 May B was seen by the specialist who diagnosed idiopathic chylothorax. A lot more fluid was drained from his pleural cavity. Sadly, on 27 May B was put to sleep.

Mr C made a claim to Wakam for the cost of treatment which was almost £6,000. Wakam declined the claim. It said the policy didn't cover pre-existing conditions and it thought B had been suffering from chylothorax before 12 May.

As Wakam didn't change its decision, Mr C brought a complaint to this service. Our Investigator didn't recommend that the complaint be upheld. She thought B was showing signs and symptoms of chylothorax prior to the start of the new policy.

As Mr C didn't agree, the matter has been referred to me.

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.

Because Wakam doesn't offer customers the opportunity to upgrade their cover, I can understand why Mr C opted to buy a new policy for his dog after he became aware of the cost of veterinary treatment in the UK. But that meant any conditions B was suffering from at the point of changeover would be classed as pre-existing and not covered going forward.

This is not in itself unfair as there's no duty on the insurer to cover anything in the new policy which was ongoing while the customer had a previous policy with it.

I'm satisfied Wakam explained this to Mr C when he enquired about getting more cover. I'm also satisfied that the new policy made this clear. Mr C's policy says it doesn't cover pre-existing conditions and defines a pre-existing condition as *"anything your pet has had treatment, medication or advice for in the 24 months before your policy starts. We consider advice to include anything a vet has observed and recorded in your pet's clinical history."*

I need to decide whether it was fair and reasonable for Wakam to rely on this exclusion to decline the claim. This service has a longstanding approach when considering complaints regarding pre-existing conditions. We consider it fair and reasonable for a business to decline a claim on the basis of a pre-existing condition only where the consumer had reasonable knowledge of something that could at some point give rise to a claim.

B was found to be suffering from chylothorax. My understanding is that this is a serious condition where fluid from the lymphatic system leaks into the space around the lungs and causes breathing difficulties. A common symptom of this condition is breathlessness.

Mr C has provided evidence from his vet that B was unlikely to have been suffering from chylothorax before the policy started on 12 May. The vet said:

"As chylothorax progresses very quickly, I cannot say with confidence that chylothorax/pleural effusion were responsible for his clinical signs in late April/early May. Chylothorax is not a painful condition and chylothorax does not irritate the pleural cavity, so it is unlikely that would explain why his abdomen was tender and why he was reluctant to climb stairs. If he had a significant enough chylothorax at that stage to cause tachypnoea and discomfort, it is unlikely he would have survived the 11 days between consultations."

On the other hand, our Investigator wrote to the specialist vet's practice and asked how long a dog was likely to live with chylothorax. They responded as follows:

"This would depend on the cause of the chylothorax and treatment choices. In the case of lymphoma causing chylothorax, lifespan is considerably reduced. For idiopathic chylothorax then surgery may be curative and they can live a normal life. Sadly a lot of dogs die from this disease due to financial restrictions rather than a medical deterioration."

I note that B was diagnosed with idiopathic chylothorax.

Our Investigator also asked whether chylothorax could develop slowly. The answer was:

"Potentially, but the way chylothorax manifests itself is by preventing the lungs from expanding, leading to breathlessness and increased work of breathing consistently. Most patients do not present for investigations until they reach this stage."

Where, as in this case, there is conflicting evidence, I have to base my decision on what I think is more likely to have happened based on all the evidence that is available.

B was unwell from at least 2 May when Mr C thought the dog had a painful abdomen.

On 11 May Mr C told his new vet that B had difficulty breathing. The vet recommended that B be examined as soon as possible and offered an appointment that day which Mr C didn't take up. The vet also gave Mr C details of the emergency out of hours vet in case B needed treatment before the appointment which Mr C made for the following day. I deduce from this that the vet thought B's condition might be very serious.

On 24 May in the note for the specialist Mr C's vet wrote that B had a one month "*history of tachypnoea and lethargy*". I understand tachypnoea to be unusually fast breathing.

B hasn't been diagnosed with anything else which might have caused his abdominal pain and breathing. His health began to deteriorate from 2 May. As he was fit and well before he had recently travelled to the UK, I think it was reasonable for Wakam to conclude that the symptoms which were noted before 12 May were all linked to the subsequent diagnosis of chylothorax.

I also think it's reasonable to assume that before he took the new policy, Mr C knew B was suffering from something which might give rise to a claim under the policy as that was the day he went to the vet in person to make an appointment. Given this, I am persuaded it is fair and reasonable for Wakam to rely on the pre-existing exclusion to decline the claim in this instance.

I appreciate Mr C's distress at finding he wasn't covered for vet's fees after suffering the very sad loss of a beloved pet. But based on the evidence above I can't see that Wakam has treated him unfairly or unreasonably.

My final decision

For the reasons set out above, I do not uphold this complaint.

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

Elizabeth Grant
Ombudsman