

The complaint

The estate of Mr S complains about the way Astrenska Insurance Limited handled a medical assistance claim Mr S' family made on a travel insurance policy.

Mr S' estate is represented by Miss S and Mr B. All references to Astrenska include the actions of the agents acting on its behalf.

What happened

The background to this complaint is well-known to both parties. So I've simply set out a summary of what I think are the key events.

Mr S was on holiday abroad in July 2022. Unfortunately, he suffered a stroke and was admitted to a public hospital on 4 July 2022. Mr S' family contacted Astrenska's medical assistance team to make a claim on his behalf. Mr S was placed in a quarantine ward for a 10-day period due to Covid-19.

While Mr S was in hospital, his family were in regular contact with Astrenska. They queried whether he could be moved to a private hospital for treatment, as they had concerns about the public hospital. As Astrenska was reassured that the public hospital was of a good standard, it didn't think there was a medical reason to transfer Mr S to a private facility.

Astrenska was in regular contact with the treating hospital to understand Mr S' condition. Mr S' family continued to have concerns about Mr S' health, as they were worried that he was deteriorating. These concerns were raised with Astrenska.

Mr S was due to be discharged from the quarantine ward on 14 July 2022 and the treating hospital concluded that he was fit to travel. However, neither Mr S' family nor Astrenska agreed. Instead, both parties sought to have Mr S transferred to a private hospital. Astrenska contacted the private hospital to make arrangements and was told that the private hospital was unable to receive him.

On the same day, Mr S' family arranged for him to be transferred to the private hospital. But as Mr S required intensive care treatment, he had to be moved again to another private hospital. Sadly, Mr S suffered from an embolism and he passed away a short time later.

Astrenska arranged for Mr S' repatriation and it appears to have settled Mr S' family's claim. However, Mr S' family were very unhappy with the way Astrenska had handled Mr S' claim. In brief, they felt that Astrenska ought to have arranged for Mr S to be transferred to a private hospital more swiftly; they felt the public hospital had neglected Mr S and provided him with poor care; and that had Astrenska moved Mr S more swiftly, he may have recovered. So his estate asked us to look into this complaint.

Our investigator didn't think Astrenska had handled Mr S' claim unfairly. She thought it had regularly and appropriately asked the treating hospital for updates on Mr S' condition and that it had been reasonable for it to rely on the information it was being given. And as Mr S had been in isolation until 14 July 2022, she didn't think Astrenska was in a position to move

Mr S any earlier. She was also persuaded that Astrenska had been actively seeking to transfer Mr S on 14 July 2022, but unfortunately, the private hospital had informed the team that there was no bed available. Overall, she thought Astrenska had handled Mr S' medical expenses claim in an appropriate way.

Miss S and Mr B disagreed and I've summarised their response. They felt the treating, public hospital had been negligent, but that Astrenska had refused to provide support or take proactive steps to maximise Mr S' chances of making a recovery. They considered that if Astrenska had listened to their concerns, it would have made arrangements to transfer Mr S in advance of 14 July 2022 and sent a medical professional to assess his condition. They believed that Astrenska had dismissed their concerns both about the care Mr S had received and the public hospital. They said they'd made several early requests for Mr S to be moved which Astrenska had ignored. They considered that Astrenska had been complicit in Mr S' death.

The complaint's 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.

Having done so, whilst I'm very sorry to disappoint Miss S and Mr B, I've decided not to uphold this complaint and I'll explain why.

First, I'd like to offer my sincere condolences to Miss S, Mr B and Mr S' family for their loss. It's clear that they've been through a deeply distressing situation and they've told us about the impact this had on Mr S' family and on his late wife, who I understand has also sadly passed away. This was understandably a very worrying and upsetting time for them all. I've considered their complaint with sympathy.

I'd also like to reassure Miss S and Mr B that while I've summarised the background to this complaint and their detailed submissions to us, I've carefully considered all they've said and sent to us. In this decision though, I haven't commented on each point that's been raised and nor do our rules require me to. Instead, I've focused on what I think are the key issues.

The relevant regulator's principles say that insurers must act in the best interests of their customers and treat them fairly. And the regulator's rules say that insurers must handle claims promptly and fairly. I've taken these rules into account, amongst other things, when deciding whether I think Astrenska treated Mr S fairly.

It's important I make clear our role. We're not medical experts and it isn't for me to make a clinical finding on the medical care Mr S received either from the treating hospital or the private hospitals. Neither was Astrenska itself responsible for any of the medical treatment Mr S was given by the treating hospitals – its role was to deal with the medical assistance claim. So, I need to think about whether Astrenska acted in line with the policy terms and whether I think it handled the claim reasonably.

I've first considered the policy terms and conditions, as these form the basis of the contract between Mr S and Astrenska. The medical expenses section of the policy says:

'This section provides insurance for emergency medical and associated costs not covered by the National Health Service or any reciprocal health agreement. This is not private medical insurance.'

In my view, the contract terms make it clear that the policy isn't designed to act as a private medical insurance policy or provide policyholders with private medical care. This isn't an unusual term in travel insurance policies. Generally, travel insurers require a policyholder to undergo treatment in a public facility unless private treatment is deemed to be clinically necessary.

Having listened to the calls between Miss S, Mr B and Astrenska while Mr S was in hospital, I accept that from early on in Mr S' admission, Mr S' family sought to have him moved to a private facility. However, in the calls of 7 July 2022, while Miss S expressed a wish for Mr S to be transferred, this was largely because of the hospital environment and locality. She told Astrenska that she didn't have concerns about the medical staff treating Mr S. Nonetheless, Astrenska emailed its local agent to establish the standard of the hospital and whether it could provide Mr S with the appropriate care. I think this was a fair step for Astrenska to take. The local agent responded to Astrenska on 8 July 2022 as follows:

'We would like to inform you that the standard of this hospital is good and fully able to cope with the patient's treatment requirements, despite being located in a poor area of town, which does not reflect at all in the care provided to the patients.'

The local agent (and Astrenska) requested regular updates on Mr S' condition from the treating hospital. It provided medical reports which didn't indicate either that Mr S' condition required private treatment or that it was unable to provide the care Mr S needed. I don't think it was unfair or unreasonable for Astrenska to rely on the treating hospital's reports, as the medical staff had had the opportunity to assess and treat Mr S at first hand. I don't find there was anything in the medical reports which ought to have put Astrenska on notice that Mr S might have needed private care. I appreciate Mr B had concerns about the impact of the public hospital on Mr S' mental health. But I don't think this was clinically indicated in the medical information the treating hospital sent Astrenska. And, as such, I don't think Astrenska acted unfairly when it concluded that Mr S could remain in the public hospital for treatment.

I'd add too that given Mr S had been admitted to a quarantine ward until 14 July 2022, due to Covid-19, Astrenska simply wasn't in a position to move him before this date. It's clear that during Mr S' admission, his family had concerns about the care Mr S was receiving and that his condition was potentially deteriorating. But given strict quarantine rules, it appears there was little Astrenska could do. It did contact its local agents to query the care Mr S was receiving, given the concerns Mr S' family raised, and I think this was an appropriate response in the circumstances. In my experience, it would be very unusual for an insurer to send its own medic to a treating hospital to carry out an assessment of a patient, as it would usually assess a claim based on the reports of the treating doctors. And given Mr S was in isolation, it seems unlikely a third-party medic would have been allowed to examine Mr S in any event. Based on the evidence available to Astrenska from the treating hospital, I don't think its decision not to appoint a doctor to carry out an in-person assessment of Mr S was unreasonable.

Miss S and Mr B feel strongly that Astrenska ought to have begun transfer arrangements for Mr S ahead of 14 July 2022 and I've considered this carefully. But, as I've said, the medical evidence from the public hospital didn't indicate that Mr S' health had significantly deteriorated nor that he would require intensive care. In fact, the public hospital suggested that Mr S could be discharged. I've explained above why I don't think Astrenska acted unreasonably by relying on the reports of the treating doctors and that remains the case here too. Even if it had attempted to make transfer arrangements earlier though, it isn't at all clear that the private hospital would have had the clinical capacity or bed space to take Mr S after his discharge on 14 July 2022. Nor that it would have been in a position to provide Mr S with the care he needed.

What I can see is that Astrenska took prompt and reasonable steps to arrange for Mr S to be transferred to a private facility for further care. This included checking with the private hospital whether it had a bed for Mr S. In my view, this was an appropriate step to take, to ensure that Mr S would be able to be admitted to the relevant facility. It's unfortunate that the private hospital informed Astrenska that it didn't have a bed for Mr S at that point and that it couldn't admit him. As such, I don't think Astrenska was in a position to move forwards with a transfer.

Once Mr S' family arranged a private transfer, Astrenska continued to be given updates and continued to contact Mr B about the situation. But I don't think it can fairly be held responsible for the family's decision to move Mr S without a confirmed receiving bed. Nor do I think Astrenska can reasonably be held responsible for the fact that the first private hospital couldn't provide Mr S with intensive care treatment and that therefore, he needed to be moved again.

This was a very sad situation and I can entirely understand why Miss S, Mr B and Mr S' family had real concerns about the care Mr S received from the public hospital. But I don't find that Astrenska acted unfairly or unreasonably by relying on the reports it was provided by the medical experts who were caring for Mr S. I think it took appropriate action to establish that the treating hospital could provide Mr S with the care he needed and it doesn't seem there was any clinical evidence to suggest how serious Mr S' condition was. And given the quarantine restrictions, I don't think Astrenska could have moved Mr S any earlier than it planned to. It seems to me that Astrenska did what it could to provide helpful and meaningful assistance to Mr S and his family, in a supportive and respectful way.

So overall, despite my real and natural sympathy for Mr S' family, I don't think Astrenska handled this claim unfairly or unreasonably. So I make no award.

My final decision

For the reasons I've given above, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Mr S to accept or reject my decision before 7 May 2024.

Lisa Barham
Ombudsman