

## **The complaint**

Mr and Mrs H complain that AWP P&C SA declined their claim against their travel insurance policy. Reference to AWP includes its agents.

## **What happened**

The details of this complaint are well known to both parties, so I won't repeat them again here in full. In summary, in 2016, Mr and Mrs H had travel insurance as a benefit of a current account. That policy was underwritten by another insurer.

In September 2021, Mr H's current account provider wrote to Mr H and told him that on 20 November 2021, his existing travel insurance policy would be cancelled and immediately replaced by a travel insurance policy underwritten by AWP. The letter said that there'd be no break in cover but there would be some changes that may affect cover. I'll refer to that letter in more detail below.

In August 2022, Mr and Mrs H booked a trip with intended departure and return dates of 5 January 2023 and 20 January 2023 respectively. In December 2022, Mr H was diagnosed with chronic urinary retention. He received treatment for that and was also told that he'd need an operation on his prostate. Mr and Mrs H cancelled their trip.

In January 2023, Mr and Mrs H made a claim against their policy in relation to the cancellation of their trip. Initially, AWP agreed to settle Mr and Mrs H's claim but in mid-February 2023 it sought further information from Mr H's GP.

Mr H's GP said that in September 2015, Mr H was diagnosed with an enlarged prostate and in November 2022 he developed acute urinary retention, which commonly occurs following a diagnosis of an enlarged prostate.

AWP declined Mr and Mrs H's claim. It referred to the policy term which said that the policy doesn't automatically include cover for pre-existing medical conditions. AWP said that Mr H hadn't renewed his medical screening on the health check date. Mr and Mrs H didn't think that was fair and pursued their complaint.

Mr and Mrs H say that when they first had travel insurance as a benefit of a current account they told the previous insurer about Mr H's pre-existing medical condition – benign prostate enlargement. They say that the previous insurer said that it would be covered without any additional payment.

Mr and Mrs H say that they didn't receive any correspondence about a health check date or the policy wording when AWP became the underwriter of their travel insurance policy in 2021. They say that they assumed the cover would remain the same as it was with the previous insurer. Mr H didn't consider that he'd had a medical upgrade with the previous insurer, as it didn't ask for any payment. He says that there was no change in his health until November 2022. Mr and Mrs H want AWP to settle their claim.

In response to Mr and Mrs H's complaint, AWP said that it had declined Mr and Mrs H's claim correctly and in accordance with the terms and conditions of the policy. It said that Mr H's bank sent him a letter telling him to contact AWP and to refer to the general exclusions and terms and conditions to ensure they were aware of the changes. AWP said that it needs to screen all medical conditions.

One of our investigators looked at what had happened. She didn't think that AWP had acted fairly and reasonably in declining Mr and Mrs H's claim. That was because the letter sent to Mr H in September 2021 hadn't drawn to Mr and Mrs H's attention important information to the effect that all pre-existing medical conditions are excluded unless declared and agreed by AWP. The investigator accepted what Mr and Mrs H said about not receiving documents about a health check date. She said that it was fair and reasonable for AWP to reassess Mr and Mrs H's claim.

Mr and Mrs H agreed with the investigator. AWP didn't respond. As there was no agreement between the parties, the complaint was 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 terms and conditions

The starting point is the terms and conditions of the policy, the relevant part of which says as follows:

#### ***'Health declaration and health exclusions***

***Your policy does not automatically include cover for pre-existing medical conditions. Before you travel, please take a good look at the medical screening questions below. To make sure your policy is not affected for any trip, you must declare all pre-existing medical conditions when:***

- *First opening your Halifax Ultimate Reward Current Account*
- *Renewing your medical screening declaration on the health check date.*
- *There are any changes in your health, or prescribed medication between making your declaration and booking a trip.*

***You must also tell us about any pre-existing medical conditions affecting the health of the people travelling – you, your family or a person added to the policy as an upgrade'***

**'Pre-existing medical condition'** is defined as:

***'Any disease, illness or injury for which you have experienced symptoms, consulted a doctor or been diagnosed with before opening your Halifax Ultimate Reward Current Account or when renewing your medical screening declaration on the health check date.'***

The **'health check date'** is defined as:

- *'The date shown on your renewal invitation.*

- *Before booking a **trip**, if **your** health has changed (your **pre-existing medical condition** has deteriorated, **your** dosage or number of prescribed medications has increased or **you** have developed a new medical condition).*

### **‘Section 1 – Cancellation or curtailment**

[...]

#### **What is not covered:**

[...]

- *Any claim as a result of a **pre-existing medical condition**, that exists either at the time **you** open the Halifax Ultimate Reward Current Account or at the time of booking **your** trip (unless terms were agreed in writing by **us**).*

has AWP acted unfairly or unreasonably?

The relevant rules and industry guidance say that AWP has a responsibility to handle claims promptly and fairly and it shouldn't reject a claim unreasonably. I uphold this complaint and I'll explain why:

- AWP became the underwriter of Mr and Mrs H's travel policy in November 2021. It isn't bound by any terms and conditions offered by a previous insurer. An insurer will decide what risks it's willing to cover and set these out in the terms and conditions of the policy document. In general terms, insurers can decide what risks they wish to cover.
- I've looked carefully at the letter Mr H received from the bank in September 2021. The first page of that letter says, *'There is no break in the insurance, but there will be some changes that may affect the cover'*. The *'Summary of the key changes and some of the new benefits'* document enclosed with that letter says that changes in health before booking a trip must be reported to AWP. Mr H's health hadn't changed before he booked the trip in August 2022, so I can see why he wasn't prompted by that.
- Page four of the *'Guide to Changes'* document and the first page of the Insurance Product Information Document enclosed with the letter of September 2021 say that all pre-existing medical conditions are excluded unless declared and agreed with AWP. This is relevant to Mr and Mrs H and is an important difference in their cover. On balance, I don't think it was brought to Mr and Mrs H's attention sufficiently. That's because it was amongst several pages of information and there was nothing to draw their particular attention to it. Mr and Mrs H would have to cross reference several sections in different documents in order to become aware of AWP's requirements in their particular circumstances.
- Even if I reached a different conclusion about that I don't think it would alter the outcome in this case. That's because we asked AWP to complete retrospective medical screening with Mr H in order to establish whether, or on what terms, it would have offered cover if Mr H had completed medical screening before Mr and Mrs H booked their trip. AWP says that it would have covered Mr H's conditions without charging an additional premium. It says that it would have asked Mr H to contact it if there were any change in his health or medication before booking a trip.
- So, AWP would have offered Mr and Mrs H cover on initial screening and as there was no change in Mr H's health before they booked the trip in August 2022, there was nothing further for Mr H to report at that time.

- Considering everything, I think it's fair and reasonable for AWP to deal with Mr and Mrs H's claim, taking into account what I've said above and the remaining terms and conditions of the policy. It should also pay interest on any settlement.

### **Putting things right**

In order to put things right, AWP should:

- Deal with Mr and Mrs H's claim, taking into account what I've said above and the remaining terms and conditions of the policy.
- Pay interest on any settlement amount at the simple rate of 8% per year, from the date of the claim to the date of payment.

### **My final decision**

My final decision is that I uphold this complaint. AWP P&C SA should now take the steps I've set out 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 19 March 2024.

Louise Povey

**Ombudsman**