

The complaint

Mrs M complains about AXA PPP Healthcare Limited's calculation of the applicable No Claims Discount (NCD) at annual renewal of her personal private medical insurance policy.

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.

Mrs M holds a personal private medical insurance policy which renews on 1 August of each year. At the 2021 policy renewal, Mrs M's NCD was at the maximum level of 65%. In April May and June 2022, Mrs M made claims on the policy, which were paid by AXA. In June 2022, a few weeks before renewal was due, AXA issued Mrs M's 2022-23 renewal documents. Due to the claims Mrs M had made earlier that year, her NCD had dropped by three levels.

On 13 July 2022, Mrs M contacted AXA to check whether undergoing surgery during the remainder of the policy year would affect her NCD at the 2023-24 renewal. AXA told Mrs M it wouldn't. Mrs M underwent surgery the following day and AXA went on to settle the associated costs. Mrs M didn't make any claims during the 2022-23 policy year.

However, when Mrs M received her 2023-24 renewal documents, she noted that her NCD had dropped a further three levels. In brief, AXA said this was because the policy terms stated that an NCD was calculated up to three months before renewal and that if claims were made in the three months prior to renewal, they might not affect an NCD until the following renewal. But it acknowledged that it had given Mrs M incorrect information in July 2022 and so it sent her a £50 cheque as compensation.

Mrs M was unhappy with AXA's decision and she asked us to look into her complaint. In summary, she felt AXA's policy wording indicated that if no claims were made during a policy year, an NCD would increase. She considered that as all of her claims were made and paid during the 2021-22 policy year, the impact on her NCD should have been limited to the three level reduction applied for the 2022-23 policy year.

Our investigator didn't think Mrs M's complaint should be upheld. He was satisfied that the policy terms made it sufficiently clear that if claims were made and/or paid in the three months prior to renewal, then a policyholder's NCD might be affected at the following year's renewal. And he felt the £50 compensation AXA had already offered Mrs M was fair in the circumstances.

Mrs M disagreed. Briefly, she maintained that as all of her claims had been made during the 2021-22 policy year, her NCD should only have been reduced once, by three levels, at the August 2022 renewal. She didn't agree that £50 was fair compensation for the misinformation she'd been given in July 2022. Mrs M said that she'd believed the information she'd been given about the NCD at that point to be correct. But given what AXA now says, Mrs M states that if she'd been given the right information in July 2022, she'd have paid privately for the surgery and therefore, her NCD wouldn't have been adversely impacted.

Mrs M also had concerns that the compensation of £50 would be treated as a claim and would therefore act to reduce her NCD at following renewals.

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 sorry to disappoint Mrs M, I think AXA has already settled Mrs M's complaint fairly and I'll explain why.

First, I'd like to reassure Mrs M that while I've summarised the background to her complaint and her submissions to us, I've carefully considered all that's been said and sent. In this decision though, I haven't commented on each point that's been made 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 financial businesses must pay due regards to the interests of their customers and treat them fairly. And that financial businesses must communicate with their customers in a way that is clear, fair and not misleading. I've taken those principles into account, amongst other things, when deciding whether or not I think AXA has treated Mrs M fairly.

I've first considered the policy terms and conditions, as these form the basis of the contract between Mrs M and AXA. Pages 37 and 38 of the policy which applied at the time of Mrs M's treatment explain how the NCD works. The policy says:

'If you don't make a claim, your no claims discount gives you a discount on your annual subscription. The discount builds every year that you don't claim, up to a maximum of 65%'

It then goes on to explain when and how the NCD is calculated and states:

'When do you work out the discount for next year?

We work out your discount up to three months before your renewal date.

This means that if you make a claim in the three months before your renewal, this may not affect your discount until the following year's renewal.

Do you date claims from when I receive treatment or from when you pay the claim?

When working out your discount, we use the date we paid a claim, regardless of when you received the treatment.

So if you received treatment on 1 January and we paid for it on 14 January, the date of your claim would be 14 January.'

In my view, the policy terms make it sufficiently clear that AXA calculates an NCD ahead of renewal and up to three months before the renewal date. I'm also satisfied that it makes it clear that if a claim is made in the three months before an impending renewal date, an NCD may not be affected until next year's renewal. I don't think the policy suggests that if all claims are made and paid within one policy year - irrespective of whether an NCD has already been calculated at the point claims are made and paid - then an NCD will only be affected once. Nor do I think that the use of the word 'may' rather than 'will' within the clause

above creates any ambiguity in the policy terms. If a policyholder submitted an ineligible claim during the relevant period, for example, there would be no resulting impact on their NCD at the following renewal.

I'd add too that I agree with our investigator that calculating the applicable NCD and issuing renewal paperwork some weeks prior to renewal isn't unusual. That's because it gives policyholders an opportunity to consider the renewal offer; a chance to discuss terms with AXA/other insurers and make a decision whether or not to renew. Nor do I think it would be fair or reasonable to expect AXA to effectively waive its contractual right to apply a reduction in an NCD when a claim has been paid simply because an NCD was calculated and renewal documents were issued ahead of the claim being made. Instead, the policy terms provide it with an opportunity to apply the NCD at the following renewal.

In this case, AXA paid for treatment which appears to have been for Mrs M's knee in April and May 2022 and for cataract treatment which was paid in July 2022. As Mrs M's cataract treatment appears to have been settled after the NCD had been calculated and the renewal documentation had been issued, I find AXA was fairly entitled to rely on its policy terms and apply the NCD reduction for these claims at policy renewal in 2023-24.

Based on all I've seen; I don't think AXA has treated Mrs M unfairly or singled her out in any way.

It's clear that in July 2022, AXA did wrongly tell Mrs M that her cataract treatment wouldn't affect her 2023-24 NCD. I don't doubt how disappointing it was for Mrs M when she learned she'd been given the wrong information. And I note Mrs M says if she'd been correctly advised, she'd have paid for her treatment herself. However, I don't think I could fairly find this caused Mrs M to lose out. After all, the policy terms state:

'If you pay for your treatment yourself or have it on the NHS, this will not affect your discount level. So if your treatment only costs a small amount when you come to renew your membership, you can choose to pay us back for any claims we have paid during the previous year. We will then recalculate your no claims discount and subscription.

You have 30 days from after the date of your renewal to when you can pay us back.'

This ability to repay the costs of private treatment and effect a recalculation of the NCD is also set out on the renewal documentation Mrs M was issued ahead of the 2023-24 renewal.

Mrs M complained to AXA about the NCD reduction in July 2023 – prior to the renewal date. So it seems to me that she did have the option to repay the costs of the surgery if she'd wished to and accordingly have had her NCD recalculated. Equally, she wasn't bound to renew with AXA – she could have sought alternative cover elsewhere if she was unhappy with the premium AXA had quoted for cover.

As such then, I find that the £50 compensation AXA has already paid Mrs M is fair and reasonable in all the circumstances to reflect the impact of its mistake. I note Mrs M says she hasn't received AXA's cheque. AXA should now cancel and reissue the cheque or pay the compensation via other means. I appreciate Mrs M has concerns that the payment will affect her future NCD, as it's been recorded on her claim record. As the investigator said, compensation awards aren't claims payments and I wouldn't reasonably expect compensation for a consumer's trouble and upset to affect the price they pay for their cover going forwards. If, at renewal, Mrs M finds that her NCD has been directly affected by the compensation payment, she may make a new complaint to AXA about that issue.

Overall, whilst I sympathise with Mrs M's position, I think AXA has treated her fairly and has

already settled her complaint in a reasonable way.

My final decision

For the reasons I've given above, my final decision is that AXA has already settled Mrs M's complaint fairly.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 20 May 2024.

Lisa Barham
Ombudsman