

The complaint

Mr H has complained that BUPA Insurance Limited declined his claim for an MRI.

What happened

The background to this matter is well known to the parties so I won't repeat it in detail here. In summary BUPA authorised a second MRI for Mr H three months after the first which followed a diagnosis of myocarditis. However, BUPA then called Mr H two weeks after the authorisation to advise him that it wasn't in fact covered by his policy as the MRI was for monitoring. Mr H cancelled the private MRI. Unfortunately, two weeks later he had a heart attack. BUPA has now apologised. It accepts that it should have funded the second MRI scan. It has offered Mr H £500 in compensation.

Our investigator felt this offer was fair. Mr H appealed. He felt that the offer failed to address the expenses that he had incurred and the overall impact on his life going forward. He submitted a letter in support from his cardiologist.

BUPA did not consider this changed the offer it had made.

As no agreement was reached the matter was passed to me. I issued a provisional decision saying as follows:

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. I'm aware I've summarised the background to this complaint - no discourtesy is intended by this. Instead, I've focused on what I find is the key issue here. Our rules allow me to take this approach. It simply reflects the informal nature of our service as a free alternative to the courts. If there's something I haven't mentioned, it isn't because I've ignored it. I've reviewed the complete file and for the following reasons I'm minded to uphold this complaint and award greater compensation than that offered at present. I'll explain why.

- Firstly there is no doubt that the cancellation of his appointment caused Mr H distress and inconvenience. BUPA accepts that his policy should have provided cover for the second MRI and has offered compensation. I agree with BUPA that compensation is due. Mr H was let down by BUPA at a time when he needed to use his policy. Instead, he needed to arrange an appointment via the NHS. This took some time and hadn't happened by the time Mr H suffered a heart attack.*
- Mr H believes that had he undergone the second MRI, his subsequent heart attack may have been prevented. I accept that had Mr H had the second MRI he, and his medical advisers, would have been aware of condition of his heart following the earlier diagnosis. It may be that he would have been advised to desist from exercise, which it seems triggered the event that Mr H subsequently experienced.*
- His cardiologist has written: Ultimately, it is likely that the apical left ventricular thrombus formed some time after his initial diagnosis of myocarditis in October 2023. I suspect that this thrombus then dislodged and embolised into the LAD causing a*

heart attack and subsequent cardiac arrest. Importantly, the planned interval cardiac MRI scan at 3 months after diagnosis of myocarditis would have been useful as it may well have identified the LV apical thrombus leading to appropriate medical therapy with anticoagulation earlier. This may have prevented his emergency presentation with a heart attack and cardiac arrest due to this thrombus embolisation into the LAD. Moreover, if there was evidence of LV thrombus on an interval cardiac MRI scan it would have changed our advice regarding his exercise regime given that he participates in martial arts.

- BUPA considered this but said that it couldn't accept responsibility for something 'with the benefit of hindsight' and consultant speculation. It said that there was no way to assess when the condition progressed to the point intervention was needed. And it felt that if Mr H had been deemed fit to return to sports without having the further MRI it can't definitively be said that BUPA contributed to Mr H's health deteriorating. I do accept that there is nothing concrete to show what would have happened had the second MRI taken place. It is clear that this may have identified an issue, as explained by the cardiologist. But to be fair it may not have done.*
- Nevertheless there was an error here and I understand why Mr H feels aggrieved. It is not possible to conclude with any certainty that the error would have led to a different outcome for Mr H, but he is clearly left with the feeling that this was a possibility. And this is understandable as Mr H's cardiologist accepts that had the MRI gone ahead this may well have identified the thrombus – leading to different medical therapy and advice with regard to the sports he undertook.*
- So whilst I agree that compensation is due I find that the sum offered is low. Of course, it is almost impossible to put Mr H in the position he would have been in had the MRI taken place, not least because no one can know with any certainty what may have happened. But I find there is a possibility advice/treatment might have been different, as indicated above. Having considered this, together with the inconvenience and disappointment Mr H suffered when told BUPA him it wouldn't fund the MRI, I'm minded to conclude that £1500 is merited in the circumstances.*
- I note that BUPA has indicated that there might be further benefits available to Mr H under his policy – it is open to Mr H to contact BUPA directly in this regard.*

I invited the parties to submit any further comments or evidence but advised that unless that information changed my mind, my final decision was likely to be along the same lines.

Mr H made the point that when BUPA contacted him to inform him that the second MRI wouldn't be funded, it cancelled the appointment directly with the MRI department which prevented him from self-funding the scan.

He also added a further statement from his cardiologist. In summary the cardiologist said although it was technically correct that the repeat MRI may not have predicted a heart attack, it was deliberately meant to be in 3 months time to assess the recovery of the heart from the initial myocarditis. Doing it sooner would have defeated the purpose. He pointed out that it is also normal that Mr H should have been feeling well in this intervening period. The cardiologist agreed that if the MRI had been performed it may well have shown the clot in the left ventricle and as such Mr H would have been started on treatment to minimise this as much as possible. But he added that the repeat MRI may not have shown warning signs for a heart attack. But it may have done.

Mr H felt that no lessons had been learned by BUPA. He was fearful that BUPA trained its staff to reject claims if there was any doubt. He said that BUPA only finally admitted that the

scan should have happened when his complaint was escalated to this Service.

Mr H said that he had hoped for a higher financial outcome. He said that he would forever have an emotional and financial reminder of this life changing experience.

BUPA didn't respond.

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'm not persuaded to change my provisional findings, I'll explain why.

Firstly, I wholly accept the cardiologist's further comments. But this accords with my finding that the MRI might have shown the clot, but might not have done. That is key here.

I recognise that Mr H feels very strongly about this matter, and I understand why he may have felt, rightly, that he shouldn't need self-fund an MRI. I apologise for writing that Mr H cancelled the MRI – I accept his point that BUPA cancelled it. But I don't find that by cancelling his appointment BUPA prevented Mr H from making a new appointment and self-funding.

There is no doubt that this has been a traumatic experience for Mr H, and I do appreciate why. I can't say whether lessons have been learned by BUPA, but my experience is that it takes any failings found seriously. I find that Mr H's fear that BUPA trains its staff to reject claims is unfounded. I recognise that Mr H may have formed this impression from his own claim journey, but my experience from independently determining complaints is that is that the opposite is true. Nevertheless, looking at the specific circumstances of this complaint there clearly was a mistake here, which had a significant impact on Mr H. I'm pleased to note that BUPA accepts this, has apologised and offered compensation.

I understand that Mr H hoped for a higher financial outcome, but for the reason explained in my provisional findings I find that £1500 is fair compensation. This is because it is impossible to know with any certainty what would have happened had Mr H had the MRI scan. But given that there was a possibility the outcome might have been different, I felt that £1500 was fair. I'm sorry to disappoint Mr H but having considered his further representations with care, I'm not persuaded to depart from my provisional findings, which I adopt here.

My final decision

My final decision is that I require BUPA Insurance Limited to pay Mr H £1500 in compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 29 April 2024.

Lindsey Woloski
Ombudsman