

## **The complaint**

Mr and Mrs P complain that AXA PPP Healthcare Limited has turned down a claim they made on a 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.

Mr and Mrs P hold a personal private medical insurance policy, which renews on 1 August of each year. Mr and Mrs P's policy includes a 'six-week safety net' option. This means that if the NHS is able to provide hospital treatment a policyholder needs within six weeks of when that treatment should take place, then they'll need to use the NHS.

In 2021, Mrs P was unfortunately diagnosed with cancer. As a result of the Covid-19 pandemic and the resulting impact on the NHS, AXA made a commercial decision to relax the six-week rule. This meant Mrs P was able to undergo cancer treatment privately. She remained under medical observation during a period of remission.

Subsequently, in May 2023, AXA decided to reinstate the six-week rule.

Mr P contacted AXA in July 2023 to obtain authorisation for Mrs P to attend an outpatient appointment. During the call, AXA told Mr P that the six-week rule had been reapplied. It said Mr and Mrs P should stay in touch with AXA if any treatment was needed so that AXA could check whether that treatment could be provided on the NHS within six weeks.

Unfortunately, in October 2023, Mrs P's cancer recurred and her oncologist recommended a private course of treatment. However, AXA said Mrs P's local NHS hospital could provide the treatment she needed within the six-week period. So it concluded private treatment wouldn't be covered. It asked Mrs P's consultant to refer Mrs P back to the NHS for treatment to take place.

Mr and Mrs P were unhappy with AXA's decision and they asked us to look into their complaint. They felt that as AXA had previously waived the six-week rule, it had set a precedent and therefore, Mrs P's treatment should still be covered privately. They also considered that AXA should have drawn the reinstatement of the six-week rule to their attention.

Our investigator didn't think Mr and Mrs P's complaint should be upheld. She was satisfied that Mr and Mrs P had chosen to take out the 'six-week safety net' option and that this was clearly explained in the policy. She felt AXA had correctly explained to Mr P, ahead of the 2023 policy renewal, that the six-week rule had been reinstated. And she thought it had made it clear to Mr and Mrs P that private treatment wouldn't be covered before Mrs P began private treatment. So she didn't think AXA had treated Mr and Mrs P unfairly.

Mr and Mrs P disagreed. In summary, they felt AXA should have highlighted the reapplication of the six-week rule to them in May 2023, so that they could make any

necessary changes to their cover ahead of renewal. They said their GP had told them a referral to the NHS could take between four and six weeks and that this couldn't be guaranteed. Given the seriousness of Mrs P's condition and the potential impact of any delay in her undergoing treatment, they'd chosen to pay privately for her first chemotherapy treatment in October 2023.

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 Mr and Mrs P, I don't think that AXA has treated them unfairly and I'll explain why.

First, I'd like to say how sorry I was to read about the recurrence of Mrs P's illness and I appreciate what a worrying and upsetting time this must have been for Mr and Mrs P. I was pleased to note Mr P's recent update that Mrs P's course of treatment appears to have been successful.

The relevant regulator's rules say that insurers must handle claims promptly and fairly. And that they mustn't turn down claims unreasonably. I've taken those rules into account, along with other relevant considerations - such as the policy terms and industry rules and guidance (amongst other things) - when deciding whether I think AXA handled Mrs P's claim fairly.

I've first considered the policy terms and conditions, as these form the basis of the contract between Mr and Mrs P and AXA. It's clear, from Mr and Mrs P's membership certificate, that the 'six-week safety net' option formed part of the terms of their policy. Page eight of the contract terms sets out a table which lists the main things the policy doesn't cover. This includes the following:

*'Treatment that the NHS can give you within six weeks of when you need it ...*

*As you have chosen the Six Week Safety Net, if the NHS can give you the hospital treatment you need within six weeks of when you need it, you'll need to use the NHS.'*

Page 21 says:

*'Does my Six Week Safety Net mean there are types of treatment that are never covered?*

*Yes. You are not able to claim for...the following:*

- Urgent or emergency treatment because the NHS will cover this quickly.'*

In my view, the policy terms and documentation make it sufficiently clear that AXA won't cover hospital treatment (including for the treatment of cancer), if the NHS can provide that treatment within a six-week period. If the NHS isn't able to provide treatment within this timeframe, AXA will pay for private treatment.

As a result of the Covid-19 pandemic and the resulting impact on the ability of the NHS to provide treatment within a six-week period, AXA made a commercial decision to relax the six-week rule. So when Mrs P was diagnosed with cancer, AXA covered the cost of her treatment privately. However, I don't think that AXA's response to the operational challenges faced by the NHS as a result of the pandemic means that it's now required to waive the six-

week rule indefinitely. The inclusion of the six-week safety net in Mr and Mrs P's policy means that they pay AXA a lower premium for cover. So I don't agree that AXA's bound to continue to pay for Mrs P's treatment privately if the NHS is able to provide any treatment she needs within six weeks, even though I can entirely understand why Mrs P may prefer to remain with the private oncologist who'd previously treated her.

I appreciate Mr and Mrs P feel AXA ought to have let them know that it had decided to reinstate the six-week rule when it made the decision to do so in May 2023 and I've thought about this carefully. But, having listened to the relevant calls between Mr P and AXA, on 17 July 2023 – around two weeks before the policy renewal was due – AXA's call handler clearly explained to Mr P that the six-week rule had been reinstated. And they made it clear that before undergoing any treatment, Mr and Mrs P should check whether it could be carried-out within six weeks on the NHS. So, taking together the clarity of the policy documents, along with the clear verbal information they were given ahead of renewal, I think they ought to have been reasonably aware that AXA had reinstated the six-week rule. And therefore, I think it was open to them to look into removing the six-week safety net at the 2023 renewal if they'd wished to do so.

And I'm also satisfied that AXA made it clear enough to Mr and Mrs P that private treatment wouldn't be covered and that it had asked Mrs P's oncologist to refer her back to the NHS for treatment *before* they decided to pay for private chemotherapy. I'm also persuaded that AXA explained to Mr P that Mrs P wouldn't need to see her GP again for a referral – that she would be slotted back into the NHS for the treatment it had been identified she needed. So I don't think there's enough evidence to show that Mrs P wouldn't have been able to begin the treatment she needed within the six-week period.

Overall, I sympathise with Mr and Mrs P's position because, as I've said, I can entirely understand why they wanted Mrs P to continue treatment with a specialist and at a hospital she already knew. But I don't think it was unfair for AXA to conclude that given the local NHS hospital appeared to be able to provide Mrs P with the treatment she needed within the six-week period, she wasn't covered for private treatment. So whilst I'm sorry to disappoint Mr and Mrs P, I don't think it was unfair or unreasonable for AXA to turn down their claim.

### **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 Mr P and Mrs P to accept or reject my decision before 16 May 2024.

Lisa Barham  
**Ombudsman**