

## **The complaint**

X complains that Vitality Health Limited (hereafter “Vitality”) unfairly declined to cover her eye surgery.

## **What happened**

As both sides are familiar with the background of this complaint the following is only a brief summary of what happened.

X has access to a private medical insurance policy with Vitality. In 2023 she made a claim on it for a corneal transplant, but Vitality declined that claim and explained the consultant due to carry out X’s procedure wasn’t recognised by it. I’ll call that consultant, “consultant A”.

X complained about Vitality’s decline, but it was maintained so X brought her complaint to this service and one of our investigators looked at what had happened.

Our investigator didn’t think Vitality had declined the claim unreasonably. They said it wasn’t eligible in view of the policy’s terms and conditions, and Vitality had explained why it wouldn’t cover treatment under consultant A when X had first registered the claim.

Our investigator also said X had undergone the same procedure on her other eye with consultant A earlier that year, and Vitality had advised it wouldn’t be able to cover it then too. They also said Vitality had provided X with a list of consultants that were recognised by it, and that while they understood why X had chosen to go ahead with consultant A Vitality wasn’t required to cover her costs of doing so.

X disagreed with our investigator’s opinion and asked for her complaint to be decided by an ombudsman. When doing so X said she’d like her costs covered in line with what would have been paid for an approved consultant. She said other consultants couldn’t offer her the surgery she needed, and she had cover in place to ensure she had medical care in a timely manner.

X also said she’d chosen to proceed with consultant A whilst hoping to appeal Vitality’s decline because the tissue needed for her surgery had already been ordered. That Vitality had provided no support for her visual impairment and its actions were discriminatory. And that Vitality had only wanted to save costs and had let her down.

So, as no agreement was reached the matter 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.

X has set out her position at length and I thank her for taking the time to do so. Before I set out my findings I want to highlight that I’ll not be addressing each and every point raised. I have considered everything, but this decision will focus on those matters I consider central to the outcome of this complaint and for the following reasons I’ll not be upholding it:

- Vitality had a responsibility to not decline this claim unreasonably.
- As was detailed throughout this policy's terms and conditions, cover for treatment provided by an unrecognised consultant was not available:

- Page 14 was titled “*Your benefits explained*” and set out:

**“Consultant’s fees**

*The **consultant** you choose must be recognised by VitalityHealth and eligible under your plan. To ensure this is the case, you must always get authorisation for your **treatment** from us in advance.”*

- Pages 30 – 32 were titled “*Exclusions – what’s not covered*” and said:

**“Treatments, tests and appliances**

*...any **treatment** provided by, or undertaken whilst under the care of, a consultant, therapist, or complementary medicine practitioner or other clinician who is not recognised by us for the treatment being provided.”*

- And page 47 was titled “*Definitions*” and further explained:

**“CONSULTANT**

*A medical or dental practitioner recognised by us.”*

- It is not disputed that consultant A wasn’t recognised by Vitality. X has put forward a number of arguments about why consultant A should have been recognised by it. Namely referencing consultant A’s ability to carry out more complex procedures, having greater expertise, and being a training director. While I appreciate this view, it’s generally fair for an insurer to decide who they recognise to treat their policy holders.

Here, Vitality decided consultant A was not someone it wanted to recognise. And in view of the relevant terms and conditions I’m satisfied it correctly explained why that meant X’s claim was not eligible for cover.

- X says she chose to go ahead with surgery under consultant A and appeal Vitality’s decision instead because corneal tissue had already been ordered for her, her symptoms were deteriorating, and it was impacting her position at work.

Going ahead whilst hoping for a change in Vitality’s stance was of course X’s choice to make. I can empathise with the position X found herself in, but I must bear in mind that she had been told her claim under consultant A would not be covered. I am also mindful that X had previously claimed for treatment under consultant A as part of a separate claim for the same surgery on her other eye, and Vitality had told her consultant A wasn’t recognised by it at that time too.

- X says other consultants were not able to carry out her procedure and has provided a letter from a consultant ophthalmologist which explains why they’d chosen to refer her to consultant A.

This letter explains there was a general shortage of corneal tissue in the UK at the time, and X didn’t meet the criteria for a transplant either privately or via the NHS

without losing her sight or waiting longer. It says the medical facility where consultant A worked had a tissue licence to import material from abroad. That consultant A was known to be the best corneal specialist, and that another consultant wouldn't have been able to carry out the procedure due to the tissue shortage noted above.

Again, although I appreciate the position being put forward here, I don't think a UK tissue shortage and X not otherwise being eligible for treatment would be a reason for Vitality to cover this claim. Treatment provided by a consultant that isn't recognised by Vitality is specifically excluded from this policy. And I'm not persuaded that an ability to be treated by an unrecognised consultant who was able to work around the UK shortage and resulting eligibility criteria would be a fair or reasonable reason for me to direct an insurer to depart from its policy terms.

- I'm sorry to hear that X feels discriminated against but having looked at all the evidence I think Vitality acted both fairly and reasonably. The cover available through this policy excluded treatment provided by or undertaken whilst under the care of an unrecognised consultant. X's surgery under consultant A was never authorised by Vitality, and it had advised her from the outset that it wouldn't be able to cover her claim under that individual too.

So, although I am sorry to further disappoint, for all of the reasons given above I don't think Vitality declined this claim unreasonably and as such I will not be interfering with its position.

### **My final decision**

My final decision is that I do not uphold this complaint against Vitality Health Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask X to accept or reject my decision before 3 June 2024.

Jade Alexander  
**Ombudsman**