

The complaint

Mrs O complains about how AXA PPP Healthcare Limited handled her claim against a group private medical insurance policy.

What happened

In summary, in 2017 Mrs O was diagnosed with breast cancer and had a mastectomy, immediate reconstruction with an implant expander and radiotherapy treatment. Her previous insurer covered that claim. Subsequently, Mrs O became a member of a group, private medical insurance policy underwritten by AXA.

Mrs O's implant became distorted and painful. In June 2023 Mrs O contacted AXA in relation to treatment for further reconstruction surgery. AXA told Mrs O it wouldn't generally cover further reconstruction surgery but one of its nurses would call her back. The following day, AXA asked Mrs O whether her breast implant was damaged by her previous radiotherapy treatment. Mrs O said she didn't know and wanted a consultation to find out more. AXA told Mrs O it usually covers treatment following radiotherapy damage within five years. AXA authorised a consultation with a consultant plastic, aesthetic and reconstructive surgeon.

In early August 2023, Mrs O's consultant said her implant had failed due to capsular contracture, the likelihood of which is greatly increased by radiotherapy. She recommended reconstruction surgery. The consultant set out various reconstruction options and Mrs O wanted a DIEP reconstruction, which is a type of free tissue transfer reconstruction.

In early September 2023, Mrs O told AXA reconstruction surgery was booked for November 2023. AXA asked Mrs O for her clinic letters, which she gave to AXA in early October 2023. AXA responded on the same day and told Mrs O it couldn't open those documents. Mrs O asked AXA to contact the consultant's secretary, which AXA duly did. AXA didn't receive a response from Mrs O's consultant's office. On 23 October 2023, Mrs O sent AXA the clinic letters in a format it could access.

On 6 November 2023, AXA declined the claim. It said Mrs O's policy doesn't cover secondary reconstruction or revisions of previous reconstruction surgery, although an implant exchange within five years of completion of radiotherapy may be covered.

Mrs O says AXA should have declined her claim at the outset, as it had the relevant information to do so. That would have enabled her to seek NHS treatment earlier. Mrs O says she's been put through unnecessary consultations and investigations. She wants AXA to cover her surgery, to apologise and confirm this won't happen to others. Mrs O also wants compensation for her upset and stress.

In response to Mrs O's complaint, AXA said it didn't have all the information it needed to make a decision in June 2023 but accepted there was some delay in its handling of the claim.

One of our Investigators looked at what had happened. She thought AXA declined Mrs O's claim fairly, in accordance with the policy terms. The Investigator said AXA didn't have sufficient information to assess Mrs O's claim until 23 October 2023. She said there was a delay between 23 October 2023 and 6 November 2023, when AXA declined Mrs O's claim. The Investigator said that was outside AXA's usual time frame. She recommended AXA pay Mrs O compensation of £100 in relation to its delay in handling her claim.

AXA accepted the Investigator's recommendation. Mrs O didn't agree with the Investigator. She said AXA knew at the outset her claim was outside its five year limit for reconstruction following radiotherapy and it didn't cover the reconstruction she wanted. Mrs O says AXA could have told her that in June 2023 and its failure to do so is causing ongoing delay in her treatment. She asked that an Ombudsman consider her complaint, so it 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.

I've taken into account the law, regulation and good practice. Above all, I've considered what's fair and reasonable. The relevant rules and industry guidance say AXA should deal with claims promptly and fairly, and must act to deliver good outcomes for retail customers.

It's common ground Mrs O's policy doesn't cover further reconstruction surgery in the circumstances that arose here. I don't think AXA acted unfairly or unreasonably in relying on the terms of the policy to decline Mrs O's claim. It noted the reasons Mrs O gave for not seeking further reconstruction surgery earlier, but I don't think it was obliged to authorise further reconstruction surgery in this case.

I need to decide whether AXA treated Mrs O fairly and reasonably in its handling of her claim. Mrs O says AXA should have declined her claim when she first contacted it in June 2023. I've thought about this carefully.

I don't think AXA had all the information it needed in June 2023 in order to assess Mrs O's claim fully. That's because Mrs O referred to earlier reconstruction as '*temporary reconstruction*' and she didn't know how she wanted to proceed or whether her current problems were caused by radiotherapy.

I don't think AXA treated Mrs O unfairly or unreasonably in authorising a consultation with a consultant. A consultation would lead to further information about Mrs O's current position, its cause and recommended treatment. That information would assist AXA in coming to its decision about Mrs O's claim. I appreciate Mrs O says she was put through an unnecessary consultation, scan and tests but I think it was fair and reasonable for AXA to proceed in the way that it did.

When Mrs O first contacted AXA, it told her if she'd already had reconstruction, it wouldn't cover any further reconstruction. And AXA told Mrs O it usually covers treatment within five years of damage caused by radiotherapy. I think AXA gave Mrs O sufficient information to enable her to become aware that it was by no means certain it would authorise further reconstruction surgery. I don't think AXA was at fault in authorising a consultation that would lead to further and better information about Mrs O's history, current position and future treatment.

I've looked at the chronology of Mrs O's claim. There was a short delay on AXA's part. On 23 October 2023, AXA had the information it needed to assess Mrs O's claim, but it didn't tell Mrs O the outcome of her claim until 6 November 2023.

There were earlier delays in Mrs O's claim which were not due to AXA's handling of it. For example, Mrs O saw the consultant on 8 August 2023, but didn't contact AXA about the results of the consultation until 5 September 2023, when AXA asked Mrs O for the clinic letter. The next contact from Mrs O was on 9 October 2023, when AXA said it couldn't access the password protected document she'd sent that day. Mrs O re-sent the document in a form AXA could access on 23 October 2023.

I do appreciate that Mrs O has found this matter distressing. But, for the reasons I've explained, I don't think AXA was at fault in failing to decline Mrs O's claim at the outset. Whilst there was some delay in AXA dealing with the claim, I don't think AXA was responsible for all the delay that occurred.

There's no basis on which I can fairly direct AXA to cover Mrs O's claim. In all the circumstances here, I think compensation of £100 is fair and reasonable. In reaching that view I've taken into account the nature, extent and duration of Mrs O's distress and inconvenience caused by AXA's part in the delay of her claim.

Mrs O has also asked for an apology. AXA apologised for its part in the delay of Mrs O's claim in its final response to her of 8 November 2023. I think that's sufficient, and I don't direct AXA to apologise again.

Putting things right

In order to put things right, AXA should pay Mrs O compensation of £100 in relation to her distress and inconvenience.

My final decision

My final decision is that I uphold this complaint in part. AXA PPP Healthcare Limited should now take the step I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs O to accept or reject my decision before 9 October 2024.

Louise Povey
Ombudsman