

The complaint

Mrs H has complained that Casualty & General Insurance Company (Europe) Ltd (CGICE) has rejected a claim she made on her pet insurance policy on the ground that the claim was for a pre-existing condition and therefore excluded from cover.

I have previously issued a provisional decision in this case in response to which I received further comments from CGICE which I'll refer to below.

What happened

Mrs H took out an insurance policy with CGICE for her dog, who I'll refer to as "M", on 1 September 2021. At that time M had arthritis, which Mrs H declared to CGICE.

Mrs H's policy contained the following terms:

"Veterinary Fees

What is not insured?

- Any claim for Illness or Accidental Injury that relates to a Pre-existing Condition*
- Any claim for Illness or Accidental Injury that showed Clinical Signs or Symptoms before Your Policy Start Date or within the Waiting Period*
- Any claim where You have failed to disclose Your pet's full medical history: or where Your pet has suffered from a Condition, whether or not Treatment was received; and You failed to disclose this information to Us at inception of Your Policy, and if it had been disclosed to Us, We would have applied an endorsement to Your Policy in respect of that Condition.*

Pre-Existing Condition Means any diagnosed or undiagnosed Condition and/or Associated Condition which has happened or has shown Clinical Signs or Symptoms of existing in any form before the Policy Start Date or within the Waiting Period."

On 4 August 2021, before Mrs H took out the policy, she took M to the vet for a blood test as part of an assessment of his medication for arthritis (Carprox). It was noted that his liver values were significantly raised which according to M's vet is a side effect of the arthritis medication he was currently on. A change in medication was suggested but Mrs H was happy to continue with the Carprox as it was helping M. Mrs H took out her policy the following month.

On 25 May 2022 M was taken to the vet again for a check of his prescription. He was considered to be "generally fit and well" although he'd lost some weight. The vet advised another blood test because of his previous raised liver enzyme levels. The result of the test was that M's liver enzymes were still raised which the vet considered was "potentially worrying", and so advised a liver scan to rule out a tumour. Mrs H decided not to pursue that at that time.

On 11 November 2022, M was taken back to the vet as his eating was not normal. Further investigation was discussed, and Mrs H opted to monitor his condition over the weekend with the possibility of a further blood test and ultrasound scan the following week.

A further visit to the vet took place on 5 December 2022 as M was still not right and had vomited and was panting a lot. Blood tests were recommended again but Mrs H opted for symptomatic treatment.

Blood tests were repeated on 17 March 2023 when M was taken to the vet again for vomiting. The tests confirmed that M had borderline anaemia, neutrophilia and monocytosis with increased liver enzymes. Treatment for possible gastritis was proposed and his Carprox was stopped.

Following a phone call with the vet on 29 March 2023, it was noted that M was still not eating well and was still vomiting. The vet considered that M's issues should have been sorted out if the problem was simply medication induced gastritis. Further investigation was advised.

A scan was performed on 31 March 2023 which showed that M's spleen and liver were covered in nodules and bulges. A tissue sample was taken of the mass lesions and free fluid and sent for testing with a poor prognosis anticipated. Mrs H opted for M to be treated symptomatically with euthanasia should this not work. Sadly, that option was how M's treatment came to an end.

CGICE rejected Mrs H's claim for M's veterinary and euthanasia fees in the first instance on the grounds of M's clinical notes showing that M's liver tumour was the result of the ongoing steroid use to treat his osteoarthritis despite the vet's suggestion in 2021 that this medication should be changed. This medication continued until October 2022.

CGICE therefore initially maintained that the cancer which led to M being euthanised was associated with his increased enzyme levels which it said were attributable to the ongoing steroid medication he was being given to treat his osteoarthritis. The liver mass was therefore "associated" with a condition he had before policy inception and so is excluded by the policy.

M's vet has said that liver enzymes can be raised for many reasons, and not all are significant or long lasting. M could not have survived so long with liver cancer and it was just as likely that it was splenic cancer that spread to the liver as the other way around.

Mrs H didn't accept CGICE's rejection of her claim and brought her complaint to this service.

Our investigator's view was that M's vet hadn't explained why the period in which M had raised liver enzymes wasn't linked or associated with the subsequent liver mass illness. There didn't appear to him to be any evidence to suggest the liver mass wasn't caused by or associated to the raised liver enzymes and there was nothing in M's medical history to support the liver mass being caused by something else. His view was that CGICE had not been unfair in rejecting Mrs H's claim.

Mrs H didn't agree with our investigator's view and asked that her complaint be referred to an ombudsman for a final decision.

I issued a provisional decision upholding Mrs H's claim in so far as it related to treatment of M's tumour and his subsequent euthanasia, but not upholding it in so far as it related to treatment of M's arthritis and raised liver enzyme levels. This was on the basis that M's vet had explained why the period in which M had raised liver enzyme levels wasn't linked or associated with his subsequent cancer diagnosis.

I found this evidence persuasive that Mrs H's claim, in so far as it related to treatment of M's tumour and his subsequent euthanasia, did not relate to a pre-existing condition and was therefore excluded by the policy.

In response to my provisional decision, I was provided with a view from CGICE's in-house vet that was different to the original view provided in that it said that M's medication was not responsible for his increased enzyme levels. He summarised this view as follows:

"In summary, [M] had a liver tumour to which the onset can be traced back to a blood test 1 month prior to the insurance being taken out, of which the policy holder would have been aware of. I don't not believe the medication he was on would have caused this (see again study below) and the only cause, knowing what we know at diagnosis of the liver tumour, would be a liver tumour."

Mrs H's vet did not provide any further information.

Taking the view of CGICE's vet into consideration, I'm now providing a final decision.

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 the conclusion expressed in my provisional decision.

In reaching my final decision, I have to consider the relevant terms of Mrs H's policy, which I have quoted above, and whether CGICE has acted fairly and reasonably in adopting the position that M either had cancer in August 2021 or that the cancer from which he succumbed was attributable to his pre-existing raised liver enzyme levels. If either of these is the case, then it is not unreasonable for it to apply the exclusion.

As our investigator has correctly said, our role is to look at the evidence provided by both parties to reach an outcome based on the evidence that's most persuasive.

There is evidence that from August 2021, before the policy was taken out, M had raised liver enzyme levels. M's vet has said that raised liver enzyme levels can be indicative of cancer. But they can also be indicative of liver dysfunction from a number of other causes including certain medication.

CGICE's vet has now said that M's medication is unlikely to have caused M to have raised liver enzyme levels, and that the raised enzyme levels were caused by a tumour. So because the raised liver enzyme levels were identified before Mrs H took out the policy, treatment for any condition associated with it i.e. a tumour, would be subject to the policy exclusion.

M's cancer wasn't identified until March 2023. In his vet's professional opinion, if M had liver cancer in 2021 and this was the cause of his raised liver enzyme levels at that time, he would not have lived until March 2023.

I continue to consider M's vet to be persuasive in concluding that M's tumour was not present in August 2021 because had it been M wouldn't have lived until March 2023. CGICE's vet hasn't commented on this assessment. According to M's vet, there are a number of factors that can caused raised liver enzyme levels. CGICE's vet hasn't stated that the only cause can be a tumour.

My final conclusion is therefore that although M died of liver and spleen cancer, there is insufficient evidence that this was present in 2021 or that it was caused by the raised liver enzyme levels that were pre-existing at policy inception. There is therefore insufficient evidence in August 2021 of a pre-existing condition as defined in the policy.

My view is supported by the comment of M's vet, in response to our investigator's view, that:

"The most common scenario in these cases are for a malignant splenic growth to have metastasised to the liver. The time over which the liver enzymes were elevated are in my opinion too long to fit this scenario or even a primary liver tumour scenario."

However I do consider that as M displayed raised liver enzyme levels before the policy began, it would be reasonable for CGICE to regard this as a pre-existing condition and therefore not covered by the policy.

My final decision is therefore to uphold Mrs H's claim in so far as it relates to treatment of M's tumour and his subsequent euthanasia, but not to uphold it in so far as it relates to treatment of M's arthritis and raised liver enzyme levels. This will require an apportionment of the fees of M's vet.

My final decision

For the reasons I've given above, I'm partially upholding Mrs H's complaint.

I require Casualty & General Insurance Company (Europe) Ltd to settle Mrs H's claim for an amount assessed by her vet to relate to treatment of her pet M's tumour and euthanasia. Any amount charged by her vet for treatment of M's arthritis or liver enzyme levels before a tumour diagnosis are excluded.

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

Nigel Bremner
Ombudsman