

## The complaint

Mr W complains that AWP P&C S.A has turned down his private medical insurance claim.

Any reference to AWP includes its agents.

## What happened

Mr W held private medical insurance cover with AWP through his employer. He contacted AWP in September 2023 as he needed a procedure, and AWP authorised this.

The procedure was arranged for 16 November 2023. However, Mr W left his employment before this. His employer's broker contacted AWP to ask that it remove him from cover. This was actioned by AWP on 31 October 2023.

On 15 November 2023, the hospital called AWP to check Mr W had authorisation for the surgery, and this was confirmed by AWP. The procedure therefore went ahead the next day. However, AWP then refused to pay the claim as it said Mr W hadn't been covered under the policy when the procedure took place.

Unhappy with AWP's decision, Mr W brought a complaint to this service.

Our investigator ultimately recommended the complaint be upheld in part. She didn't think AWP should pay the claim, as Mr W hadn't been covered under the policy at the time of the procedure. However, she thought AWP had given the impression that the procedure would be covered, and so recommended that it pay Mr W £100 compensation for this.

I issued a provisional decision on 19 July 2024. Here's what I said:

*'I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.'*

*The policy says:*

*'Your cover will end if:*

*...*

- we or the policyholder decide you can no longer be covered under the group scheme.*

*...*

*We will not pay the costs of any further treatment you receive after the date your cover ends even if:*

- the claim had already started before your cover ended;*
- you are in the middle of a course of treatment; or*
- we have already been told about, and authorised, further treatment.'*

*On 29 September 2023, AWP authorised the procedure. It confirmed it would cover the eligible hospital costs in full, as well as a maximum amount of £200 for the specialist's fee, and £189 for the anaesthetist. The authorisation letter then said:*

*'What the authorisation code covers*

*This claim has been authorised for the treatment listed above only – if there is any change to the treatment plan, you must let us know beforehand as further information may be needed before we can reconfirm cover.*

*Your policy must remain in force at the time of treatment and the premiums fully paid to date.*

*All payments made by us will be made in line with the policy cover described on your certificate of insurance that applies at that time.'*

*Under the terms of the policy, strictly speaking, the claim isn't covered. That's because Mr W's cover had ended under the policy when he had the procedure.*

*Mr W says he wasn't aware that his cover under the policy had ended when it did. However, I think this is a matter between him and his employer. It wasn't AWP's responsibility to have told him this.*

*Having said that, it's apparent that AWP made an error. I haven't been provided with the call of 15 November 2023 that took place between AWP and the hospital, but AWP says that its agent did confirm authorisation on this date. AWP accepts that it made an error here.*

*If I thought Mr W would have gone ahead with the procedure privately regardless of whether or not he had cover, then I probably would have agreed with our investigator that a modest amount of compensation would have been appropriate here. However, from what Mr W has said, I don't think he would have had the procedure privately if he'd known he needed to pay for it.*

*It seems to me that both parties should take some responsibility for what happened. Given that Mr W was aware his employment had ended, it doesn't seem unreasonable to have expected him to have checked with AWP that he still had cover for his upcoming procedure. Particularly since the authorisation letter from AWP said the claim had been authorised but his policy must remain in force and premiums paid. If Mr W had contacted AWP to check this, it could have explained he didn't have cover and he could have cancelled the private procedure and gone through the NHS.*

*However, as I've said, AWP did make an error when it wrongly confirmed authorisation to the hospital on 15 November 2023. Although AWP didn't give Mr W this wrong information directly, the hospital has confirmed that if the authorisation hadn't been given, the procedure wouldn't have gone ahead the next day. Unfortunately, AWP only told the hospital the procedure wasn't authorised after it had taken place.*

*I appreciate these are unusual circumstances, but all things considered, I think a reasonable outcome would be for AWP to pay 50% of the costs in line with the remaining policy terms.*

*I understand the hospital told Mr W the charges would be around £6,000. This was apparently an error and the charges have now been reduced to around £1,500. Whilst I appreciate Mr W has found this upsetting, this error wasn't caused by AWP.*

*Mr W has been caused distress by AWP's refusal to pay his claim, though as I've said, I think both parties contributed to the situation. The additional compensation I'm intending to award has been reduced to reflect that I think Mr W should bear some responsibility for what happened. Though I think AWP's failure to locate the call with the hospital until only recently has also caused Mr W unnecessary worry. Taking everything into account, I intend to require AWP to pay Mr W £150 compensation.'*

I asked both parties to provide me with any further comments they wished to make before I made a final decision.

Mr W responded to say the hospital had cleared his fee due to errors they made. Therefore, he only had to pay the surgeon and anaesthetist, for a combined amount of £389.

AWP responded to say that, in principle, it accepted that the approach of split liability may be a fair way to resolve the complaint. However, it thought a 75/25 split would be more reasonable, with Mr W paying 75%. AWP confirmed it was willing to pay the £150 compensation.

### **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.

AWP thinks it would be unfair for me to require it to take equal share of the blame. It says that's for two reasons. The first being that Mr W knew he had left his employment, and this ought to have prompted him to check if he could continue to use the policy. The second being that the authorisation code given in September 2023 was for a procedure to take place on 2 November 2023, and so arguably it thinks this expired when the treatment didn't take place on this date.

AWP had already made the above two points to this service, and I took them into account before making my provisional decision. As I said in my provisional findings, I accept that it would have been reasonable for Mr W to have checked if he still had cover for the procedure after his employment ended. It's for that reason that I find Mr W should also bear responsibility for what happened.

AWP told Mr W his claim was accepted, and later provided authorisation which said the procedure was due to take place on 2 November 2023. I understand from Mr W's submissions that this was a mix up, and the procedure was booked for 16 November 2023. In any event, I don't think this makes much difference to the matter. Mr W probably should have contacted AWP to let it know there had been a mix-up with the date, but I've already found that Mr W ought to have called AWP anyway after his employment ended, and if he'd done so, AWP could have confirmed that he no longer had cover. Nonetheless, the fact remains that AWP confirmed authorisation for the procedure after Mr W's cover had ended (and the 2 November 2023 date had passed), and I'm satisfied that if it hadn't done this, the procedure wouldn't have gone ahead.

I remain of the opinion that both parties should bear equal responsibility for what happened, and that AWP should therefore pay 50% of the costs.

### **My final decision**

My final decision is that I uphold this complaint. I require AWP P&C S.A. to pay 50% of the claim in line with the policy terms. If Mr W has since paid for the treatment, then AWP should reimburse him directly, and add interest at the rate of 8% simple per annum from the date he paid the invoice/s to the date of settlement.\*

I also require AWP to pay Mr W £150 compensation.\*\*

\* If AWP considers that it's required by HM Revenue & Customs to take off income tax from that interest, it should tell Mr W how much it's taken off. It should also give Mr W a certificate

showing this if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

\*\*AWP must pay the compensation within 28 days of the date on which we tell it Mr W accepts my final decision. If it pays later than this, it must also pay interest on the compensation from the deadline date for settlement to the date of payment at 8% a year simple.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 2 September 2024.

Chantelle Hurn-Ryan  
**Ombudsman**