

## **The complaint**

Mr W is unhappy that AXA PPP Healthcare Limited declined a claim made under his private health insurance policy ('the policy').

## **What happened**

The details of this complaint are well known to both parties, so I won't repeat them again here. I'll focus on giving the reasons for my 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.

That includes the points Mr W has made in response to our investigator's view, not upholding the complaint.

AXA has an obligation to handle insurance claims fairly and promptly. And it mustn't unreasonably decline a claim.

I know Mr W will be very disappointed but for the reasons set out below, I'm satisfied that AXA has acted fairly and reasonably by declining his claim for a knee replacement on the basis that he'd experienced symptoms within the three years before cover started under the policy.

The insurance policy schedule confirms that cover started at the end of April 2023 and that the policy was underwritten on a moratorium basis.

The policy terms say:

Full information on how the Moratorium method of underwriting works is shown in the section 5 'Existing medical conditions' of this Policy Book.

Section 5 explains:

We will provide cover for treatment of medical conditions that arise after you join. However, in the first two years of cover there is no cover for the treatment of pre-existing medical conditions...

And:

AXA will pay for eligible treatment of pre-existing conditions...once you have held [the policy] for at least two consecutive years and have had a consecutive two-year trouble-free period.

Pre-existing condition is defined as:

Any disease, illness or injury for which:

- You have received medication, advice or treatment; or
- You have experienced symptoms

Whether the condition has been diagnosed or not in the three years...before the start of your cover.

Mr W says the knee pain which resulted in a knee replacement being advised (for osteoarthritis) began after the policy was taken out. It isn't disputed that this was within two years of the policy starting.

So, the crux of the issue for me to decide is whether AXA has fairly and reasonably concluded that he'd experienced symptoms of osteoarthritis in his knee three years leading up to the policy starting. I'm not a medical expert but I've relied on the evidence available to me – including medical evidence – when considering this issue.

Mr W's consultant orthopaedic surgeon's letter dated October 2023 reflects that Mr W was seen in clinic that day and had a "long history of left knee pain which is now constant and severe".

Given this, and in light of the policy moratorium, I'm satisfied that it was fair and reasonable for AXA to request more information from the consultant including their full clinical records and any handwritten notes. And after the consultant confirmed that they hadn't taken handwritten notes and there was nothing further to provide, I think AXA fairly asked if they could recall when Mr W said symptoms began.

The consultant replied on 4 December 2023 that the symptoms had been "ongoing for a number of years" and "initially the symptoms were mild and he was able to cope. His arthritis has naturally progressed and so have his symptoms. Initially they were mild and intermittent, now they are constant, severe and disabling".

After AXA relied on this information to conclude that Mr W's claim wasn't eligible for cover under the policy, the consultant wrote on 7 December 2023 that Mr W's pain in his left knee began in August and previously there had been no problems of any sort.

When AXA asked the consultant why this contradicted information in his letter dated October and email dated 4 December 2023, he said he'd got mixed up with another patient in clinic. The consultant didn't answer a follow up question asking him to confirm whether there was another patient at the same clinic he saw Mr W, who'd had the same symptom history which accurately aligned with the information the consultant previously provided to AXA about Mr W. In the circumstances, I think it was reasonable for AXA to seek that confirmation.

The consultant's reference to knee pain starting in August 2023 is also different to the information contained on the form Mr W's GP completed in September 2023. This reflects symptoms started from mid-June 2023, not August 2023.

I've taken account all points made by Mr W including that if he'd had pain for a number of years, he would've claimed on his previous private medical insurance, that it's obvious that the consultant had mixed him up with another patient and there's no entry in his GP records of any consultation or treatment for knee pain prior to August 2023.

However, I'm satisfied that based on the overall information AXA has received from the consultant, it's acted fairly by relying on the contents of the letter dated October 2023 describing Mr W as having a long history of left knee pain (which was from the day of clinic)

and the initial follow up, clarifying that this was for a number of years. This is because I'd generally consider the initial evidence provided in support of a claim to be the most accurate.

I'm satisfied AXA has fairly and reasonably concluded that Mr W had experienced symptoms of osteoarthritis in his knee three years leading up to the policy starting. And so, it fairly declined the claim for a knee replacement.

It's also worth noting that the physiotherapist's notes in early 2023 describes Mr W as having knee pain for the last four years. Although there is a separate box which has been ticked reflecting his symptoms started a number of months ago, and the box hasn't been ticked next to a number of years ago, this does support that a different medical opinion has reflected that Mr W's symptoms of knee pain started within the three years before the policy began. I also note that physio referral report dated January 2023 reflects that Mr W's knee is slightly distorted and he has occasional pain, that the symptoms started gradually, there had been a gradual deterioration over a 12-month period and symptoms started over a year ago.

### **My final decision**

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 28 October 2024.

David Curtis-Johnson  
**Ombudsman**