

The complaint

Mr D complains that BUPA Insurance Limited declined his claim against his private medical insurance policy.

What happened

In summary, Mr D has been a member of BUPA for some years. The policy relevant to this complaint started on 7 August 2023. The membership certificate shows that Mr D's membership was underwritten, which means Mr D gave BUPA information about his health and medical history when he first became a member.

Mr D has a long standing diagnosis of high myopia in his left eye. In December 2023, Mr D experienced a change of vision in his left eye. He had a recurrence of myopic choroidal neovascularisation (CNV), which he'd had previously in 2013. He made a claim against his policy for treatment.

BUPA declined Mr D's claim. Mr D proceeded with the treatment and received three Lucentis intravitreal injections. Mr D complained about BUPA's decision to decline his claim. He wants BUPA to reimburse his treatment costs.

In its final response to Mr D, BUPA relied on an exclusion in the policy which says there's no cover for the temporary relief of symptoms. It also said CNV requires ongoing or long-term control or relief of symptoms, continues indefinitely and is likely to return when treatment stopped. It said Mr D's claim doesn't come within one of the exceptions to exclusion 17 which provides cover for eligible treatment for eyesight if it is needed as a result of an acute condition, such as a detached retina. I set out below the parts of the policy to which the parties have referred.

Mr D says BUPA's decision to decline his claim is clinically incorrect. He says he had unexpected acute visual distortion in his left eye and that his treatment is complete and his symptoms resolved, so the treatment wasn't for temporary relief of symptoms. Mr D says he doesn't require ongoing monitoring or further treatment.

Mr D says CNV has multiple causes, one of which is age related macular degeneration (AMD), which does require on-going monitoring and treatment. He says his primary diagnosis is high myopia – a chronic condition he's had from birth - and the acute event was CNV. He says this comes within the exception in the policy and the treatment he sought was for unexpected, acute symptoms of his chronic condition. Mr D says myopic CNV responds rapidly to intravitreal injections. Mr D says he had effective treatment in 2013 and his symptoms were resolved. In late December 2023, he had a similar change in vision, which is what led to the claim. Mr D wants BUPA to reimburse him for the cost of treatment.

One of our Investigators looked at what had happened. The Investigator didn't think BUPA had acted unfairly in declining his claim. He said the injections Mr D received didn't cure his condition but alleviated his symptoms. The Investigator said he hadn't seen any clinical letters to suggest the injections provided permanent relief. He thought it

was fair and reasonable for BUPA to say the treatment provided temporary relief and was therefore excluded in the policy. The Investigator also said that CNV appears to be a chronic, not an acute condition, so is also excluded from cover on that basis.

Mr D didn't agree with the Investigator. Essentially, Mr D said the treatment is covered by the policy as it's for an unexpected acute symptom (CNV) of a chronic condition (high myopia). He does not accept the treatment provides only temporary relief of his symptoms. BUPA said the information provided by Mr D doesn't alter its position. It said naturally occurring myopia is a chronic condition and secondary myopic CNV isn't covered because it's a recognised complication of an ineligible condition.

The Investigator considered what Mr D said but didn't think it changed the outcome of the complaint. Mr D asked that an Ombudsman consider his 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 that BUPA should deal with claims promptly and fairly and it shouldn't unreasonably reject a claim.

Insurance policies aren't designed to cover every eventuality or situation. An insurer will decide what risks it's willing to cover and set these out in the terms and conditions. The onus is on the consumer to show that the claim falls under one of the agreed areas of cover. If the event is covered in principle but is declined on the basis of an exclusion, the onus shifts to the insurer to show how that exclusion applies.

The membership terms

Subject to the terms of membership, BUPA covers treatment for acute conditions. An acute condition is defined as '*a disease, illness or injury that is likely to respond quickly to **treatment** which aims to return you to the state of health you were in immediately before suffering the disease, illness or injury, or which leads to your full recovery.*

Treatment of chronic conditions is excluded. The membership guide says as follows:

'Exclusion 6 Chronic conditions

We do not pay for treatment of chronic conditions. By this, we mean a disease, illness or injury which has at least one of the following characteristics:

- *It needs ongoing or long-term monitoring through consultations, examinations, check-ups and/or tests*
- *It needs ongoing or long-term control or relief of symptoms.*
- *It requires your rehabilitation or for you to be specially trained to cope with it*
- *It continues indefinitely*
- *It has no known cure*
- *It comes back or is likely to come back*

Exception: We pay for eligible treatment arising out of a chronic condition, or for treatment of unexpected acute symptoms of a chronic condition that flare up. However, we only pay if the treatment is likely to lead quickly to a complete recovery or to you being restored fully to your previous state of health, without you having to receive prolonged treatment. For example, we pay for treatment following a heart attack arising out of chronic heart disease. We do not pay for treatment required due to the expected deterioration or flare up of a chronic condition. This includes conditions which have a relapsing-remitting nature and require management of recurrent flare-ups, for example, inflammatory bowel disease. In such cases, the flare-ups are an expected part of the normal course of the illness and therefore we do not consider them acute complications of the disease.'

BUPA has also relied on the following exclusion:

'Exclusion 30 Temporary relief of symptoms

We do not pay for treatment, the main purpose or effect of which is to provide temporary relief of symptoms, or which is for the ongoing management of a condition. [...]

Mr D has referred to the following:

'Exclusion 17 Eyesight

We do not pay for treatment to correct your eyesight, for example, for long or short sight or failing eyesight due to ageing, including spectacles or contact lenses. [...]

Exception 1: We pay for eligible treatment for your eyesight if it is needed as a result of an injury or an acute condition, such as a detached retina. [...]

Did BUPA act unfairly or unreasonably in declining Mr D's claim?

It's not for me to reach any medical conclusion or to substitute the opinion of medical professionals with my own. Instead, I've considered the evidence available to me to decide whether I think BUPA acted fairly in declining Mr D's claim.

It's common ground that Mr D's high myopia in his left eye is a chronic condition. Based on what I've seen, I'm satisfied that myopic CNV is a recognised complication of high myopia. In reaching that view, I've relied on information from the Royal National Institute of Blind People (RNIB) https://media.rnib.org.uk/documents/Myopia_2022.docx. The RNIB document says that CNV is a known complication of pathological myopia. In addition, I've considered information from the BMJ which can be found here: <https://bmjopen.bmj.com/content/13/7/e067921>. The BMJ says pathological myopia is the second cause of CNV after neovascular age-related macular degeneration and approximately 5.2%-11.3% of pathological myopia patients develop myopic CNV.

I don't think BUPA acted unfairly or unreasonably in relying on the exclusion which says it doesn't pay for treatment required due to the expected deterioration of a chronic condition.

I note in a letter of 28 June 2024, Mr D's optometrist, Miss A, refers to "...a re-occurrence of a previous acute attack of myopic CNV in 2013". And in his letter of 23 August 2024, Mr D's consultant, Mr T, referred to the recurrence of Mr D's myopic CNV as "*acute*". I don't think BUPA treated Mr D unfairly or unreasonably in concluding that isn't definitive in deciding whether Mr D's claim was for treatment of an acute condition.

BUPA rightly points out that there's no common definition of "*acute*" in healthcare and that it can be used clinically to describe the sudden onset of an illness, or an illness of a short duration or a severe illness. The definition of acute that's relevant here is the one set out in the terms and conditions, which I've set out above. In any event, as I've said above, I think BUPA was entitled to decline Mr D's claim on the basis that it was caught by the exclusion in relation to '*...treatment required due to the expected deterioration or flare up of a **chronic condition***'.

I don't think I need to reach a finding about whether the treatment was for temporary relief of symptoms as it wouldn't alter the outcome of the case.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 8 January 2025.

Louise Povey
Ombudsman