

The complaint

Mr T complains that AXA PPP Healthcare Limited declined to pay for a diagnostic test under his private health insurance policy.

What happened

Mr T held a private health insurance policy with AXA since 17 June 2022. He was referred for some diagnostic tests on 20 February 2024 by an NHS specialist, including a SeHCAT test. As it was taking some time for these tests to be performed under the NHS, Mr T asked AXA to authorise them under his policy on 3 April 2024. AXA authorised consultations, blood tests, x-rays and scans the next day, and it gave Mr T a list of specialists to choose from on 4 April 2024.

Mr T had an appointment with the specialist on 10 April 2024. He also referred Mr T for some diagnostic tests, including a SeHCAT bile salt malabsorption study. Mr T asked AXA if all the tests were covered under his policy, and he sent AXA a copy of the specialist's report on 11 April 2024. AXA declined to cover the cost of the treatment the next day. AXA said the SeHCAT test was unproven treatment and not covered by the policy terms. AXA clarified on 22 April 2024 that the other diagnostic tests were covered by the policy – only the SeHCAT one wasn't.

Mr T disputed AXA's position. AXA issued its final response on Mr T's complaint and said that its decision to decline the claim was correct. It said the SeHCAT test wasn't conventional treatment as per the policy terms because it wasn't proven treatment in accordance with NICE (The National Institute for Health and Care Excellence) guidelines. Unhappy with this response, Mr T brought a complaint to our service.

One of our investigators looked into what had happened. Having done so, he didn't think AXA had acted unfairly or unreasonably when it declined Mr T's claim, for the reasons it did.

Mr T didn't agree with our investigator's view. He made the following points:

- Mr T referred to a decision by another ombudsman, who had decided that AXA needed to pay for treatment that was done on the NHS, even though NICE hadn't approved the procedure.
- The test wasn't for bile acid diarrhoea, it was for bile acid malabsorption. So, Mr T says the NICE guidelines referred to didn't apply in his situation, as these referred to bile acid diarrhoea. He also said "routine adoption" as per NICE guidelines wasn't relevant in his situation, as other tests had already confirmed abnormally high bile acid levels, and a specialist had assessed in line with clinical symptoms that the test was needed.
- The investigator hadn't interpreted the policy terms correctly. Mr T said that the test needed to be *either* approved by NICE *or* been proven to be effective and safe for the treatment of his condition. Mr T says it was effective and safe treatment, as set out by his specialist, as well as by the fact that he had it carried out by the NHS.

Mr T had the test carried out by the NHS in July 2024. He wants AXA to pay him what the private cost of this treatment was as compensation, as well as compensation for the distress and inconvenience caused due to the delay in being able to receive a diagnosis

As no agreement was reached, the complaint has been 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.

Industry rules set by the regulator (the Financial Conduct Authority) say insurers must handle claims fairly and shouldn't unreasonably reject a claim. I've taken these rules, and other industry guidance, into account when deciding what I think is fair and reasonable in the circumstances of Mr T's complaint.

Firstly, Mr T has referred to another decision by another ombudsman. However, previous ombudsman's decisions don't set precedent and this isn't relevant to the outcome of Mr T's complaint. Every complaint is decided based on its own merits. In this complaint, I've only considered Mr T's circumstances, including the policy terms that apply to Mr T, and the treatment he asked AXA to authorise.

The relevant policy term says the following under "3.3 > Our cover for treatment and surgery":

"We cover treatment and surgery that is conventional treatment.

[...]

We define conventional treatment as treatment that:

- *is established as best medical practice and is practiced widely within the UK; and*
- *is clinically appropriate in terms of necessity, type, frequency, extent, duration and the facility or location where the treatment is provided; and has either*
 - *been approved by NICE (The National Institute for Health and Care Excellence) as a treatment which may be used in routine practice; or*
 - *been proven to be effective and safe for the treatment of your medical condition through high-quality clinical trial evidence (full criteria available on request)."*

AXA has said the SeHCAT test isn't conventional treatment, as per the above policy term, in accordance with the following NICE guidelines (last updated in November 2021), which say:

"1.1 There is not enough evidence to recommend routine adoption of SeHCAT [...] for diagnosing bile acid diarrhoea in people with:

- *chronic diarrhoea with an unknown caused, suspected or diagnosed diarrhoea-predominant irritable bowel syndrome (IBS-D) or functional diarrhoea*
- *Crohn's disease without ileal resection who have chronic diarrhoea.*

1.2 Centre already using SeHCAT for diagnosing bile acid diarrhoea may continue to do so but must collect further data or do further research.

[...]

Despite additional research since NICE diagnostics guidance on SeHCAT in 2012, clinical evidence on SeHCAT remains limited in quantity and quality. Most studies are small and give results only for people who had a positive SeHCAT result. It is unclear how the test results are used to guide management of bile acid diarrhoea, and how well people tolerate treatment. So, it is uncertain how having a diagnosis affects clinical outcomes, particularly in the long term.”

Firstly, Mr T says the test was for bile acid malabsorption, not for bile acid diarrhoea. However, the studies done by NICE outline that bile acid malabsorption is another term for bile acid diarrhoea. I also note that Mr T was referred to the SeHCAT test by two specialists, one said this was for bile acid diarrhoea, the other said it was for bile acid malabsorption. Overall, I think these terms are used interchangeably and I'm therefore satisfied that the above NICE guidelines are relevant in Mr T's circumstances.

Mr T has also said his test wasn't "routine" as other tests had already confirmed abnormally high bile acid levels, and a specialist had assessed in line with clinical symptoms that the test was needed. However, I don't think it's relevant whether Mr T's tests were routine or not. What's relevant is whether or not the test is approved by NICE as a treatment which may be used in routine practice, as set out in Mr T's policy terms.

Mr T was under investigation for various gastrointestinal symptoms. He had two specialists recommend several diagnostic tests, one of them being the SeHCAT test. However, NICE specifically sets out that there is not enough evidence to recommend routine adoption of this for diagnosing bile acid diarrhoea. NICE further sets out that it was unclear how the test results were used to guide management of the condition, and uncertain how having a diagnosis affects clinical outcomes.

I think this guidance applies in Mr T's situation. As far as I can see, the aim was to diagnose bile acid diarrhoea/malabsorption, but the routine adoption of this test isn't recommended by NICE for this purpose.

Mr T says that his claim should be covered because the SeHCAT test had *“been proven to be effective and safe for the treatment of your medical condition through high-quality clinical trial evidence (full criteria available on request)”* as per the policy terms. He says this is because the test is carried out by the NHS, and his specialist said it was conventional treatment. However, Mr T hasn't provided any high-quality clinical trial evidence to show that this policy term has been met. And the NICE guidelines specifically say that clinical evidence on SeHCAT remains limited in quantity and quality. Overall, I don't think the reasons Mr T has given are enough to say AXA should accept his claim under this policy term.

So, I don't think AXA acted unfairly or unreasonably when it declined Mr T's claim on this basis, as his claim doesn't meet the policy term for conventional treatment.

The policy terms say that AXA may pay for unproven treatment in certain situations, including when it's been agreed by AXA as a suitable equivalent to conventional treatment. But if there's no suitable equivalent conventional treatment, there won't be any cover for the unproven treatment. I can see that Mr T's specialist has said there is no alternative test, so I think AXA acted fairly and reasonably in concluding that as there is no suitable alternative diagnostic test, there are no equivalent costs to pay under the policy.

I fully appreciate the SeHCAT test appears to be widely used by the NHS. But that doesn't mean the test is covered by the policy terms and conditions of the policy Mr T held with AXA. Having considered everything, I think AXA has declined the claim in line with the terms and conditions of the policy when it said the SeHCAT test wasn't conventional treatment, for the reasons it did. Overall, I don't think AXA treated Mr T unfairly or unreasonably in the circumstances.

My final decision

My final decision is that I don't uphold Mr T's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 15 January 2025.

Renja Anderson
Ombudsman