

The complaint

Miss C complains that Pinnacle Insurance Plc retrospectively added exclusions to her pet insurance policy in order to decline a claim.

Where I refer to Pinnacle, this includes the actions of its agents and claims handlers for which it takes responsibility.

What happened

The detailed background to this complaint is well known to both parties, so I'll only summarise the key events here.

In November 2023 Miss C took out a pet insurance policy, underwritten by Pinnacle, for her dog.

In May 2024 Miss C made a claim for the vet fees she'd incurred as a result of her dog suffering from pyometra; an infection of the uterus.

Pinnacle reviewed the claim including Miss C's dog's medical records which showed that her dog had suffered from a pseudopregnancy in September 2023.

Pinnacle said that Miss C hadn't disclosed this at the point she took out the policy and, had it known, it would've added an exclusion to the policy for any claims arising from female genital problems. It added the exclusion retrospectively and relied on it to decline the claim.

Miss C raised a complaint. But Pinnacle maintained its position, so she contacted our Service.

Our Investigator said Miss C had made a misrepresentation by not disclosing the pseudopregnancy as a pre-existing condition when she took out the policy. Because of this, Pinnacle were entitled to retrospectively take the action it would have at the start of the policy had it been given correct and complete answers to its questions.

Miss C didn't agree. She says she was asked whether her dog had suffered from an illness or injury. And as the pseudopregnancy wasn't an illness or injury, she doesn't believe she's made a misrepresentation.

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.

The remedy to turn back the clock and apply an exclusion retrospectively is set out in the Consumer Insurance (Disclosure and Representations) Act 2012 (or CIDRA). CIDRA sets a

duty on a consumer to take reasonable care not to make a misrepresentation when a contract is entered into or varied.

For a remedy to be available to Pinnacle under CIDRA, it would need to establish that Miss C failed to answer a clear question about her dog's health with reasonable care. It would also need to show that if Miss C had taken reasonable care, it would have offered a policy on different terms or not at all making the misrepresentation a qualifying one.

I understand that Miss C took out this policy online. I've reviewed the online sales process and I can see Miss C was asked the following question:

"Has [your dog] ever shown any signs of illness or injury?"

Has [your dog] ever shown any sign of injury or illness or been unwell? We need to know anything you have noticed or discussed with your vet or any other professional about [your dog]'s health or behaviour. Even if there was nothing to be concerned about and the problem was resolved quickly."

There is an information icon next to the question. When clicked on, the following information is given:

"A pre-existing medical condition is an illness, injury or symptom your pet has ever suffered from or is suffering from before you take out this policy. This would include one-off or ongoing conditions/symptoms and accidental injuries. As well as any discussions with your vet or other professionals about their health or behaviour. Even if treatment wasn't needed or you were told it was nothing to worry about."

Miss C answered "no" to the question. When doing so, the following text would've appeared in yellow:

"[Your dog]'s pre-existing conditions: This policy doesn't cover pre-existing conditions. It's important we know of any conditions and/or symptoms [your dog]'s suffering from or has suffered from in the past before you take out this policy. At the point of claim, our team will review your pet's medical records. Failure to tell us about any pre-existing conditions may affect future claims and your policy."

I've reviewed Miss C's dog's medical records, and the relevant entries are as follows:

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| <i>"1 Jul 23</i> | <i>Season just coming to an end. Discussed spaying...O worried re. cost but discussed risk of pyo and cost involved with emergency surgery."</i> |
| <i>"26 Sept 23</i> | <i>Has been licking [vulva] more since season. This past week started nesting toys...Vulva [is] swollen. Milk present from all nipples...Advised O will need to delay spay. Option of using galastop, or seeing if comes out of it naturally. O would prefer to give her time. Recc rebook for end of October/beginning of November. In the meantime reduce food, increase exercise, remove any toys that she is nesting, tidy any nests that she has made, avoid touching belly at all as will stimulate milk production...blood already taken today, opt to leave for now and run a new sample closer to the time."</i> |
| <i>"20 Oct 23</i> | <i>OR has been licking at her vulva and nesting less, but still does it...discharge from left mammary; very little amount, clear...disc options with O: can start galastop but will have to delay spay or can</i> |

monitor at home, take away toys, don't rub her belly...O went with latter option."

"30 Oct 23 Still has behavioural signs of pseudopregnancy and some milky discharge from 4 teats. O elect to cancel spay in 2d and [rebook] after next season. Discuss options of delay spay +/- meds or rebook. O aware of potential for pyometra."

Based on these records, I'm satisfied Miss C was aware that her dog had suffered from a pseudopregnancy one month prior to taking out her insurance policy.

Whilst I'm persuaded that a pseudopregnancy isn't necessarily an illness or injury, I'm satisfied the information provided alongside the question Miss C was asked is clear that Pinnacle wanted to know about *anything* that had been discussed with a vet or professional about the dog's health and behaviour. And that a pre-existing condition was considered to be any conditions or symptoms even if no treatment had been required.

It's clear from the vet notes that Miss C's dog had experienced a change to her body and behaviour, and this was discussed with the vet. The notes are lengthy and set out advice that Miss C was given on how to handle the situation.

Given that Miss C had seen the vet on three occasions for this condition and had lengthy conversations and advice about it in close proximity to taking out her insurance policy, I don't think it was reasonable for Miss C to answer "no" to the question she was asked when taking into account the information given alongside the question. So I'm persuaded she made a misrepresentation.

Pinnacle has provided us with its underwriting criteria which shows that, had it known about the pseudopregnancy, it would've added an exclusion for any claims arising from female genital problems and mammary problems from the outset of the policy. As such, this is a qualifying misrepresentation.

Because of this, under CIDRA, Pinnacle is entitled to turn back the clock and apply an exclusion retrospectively. This means the exclusion for female genital problems is added to the policy from the date it first started. And the claim Miss C subsequently made is caught by it.

I appreciate this outcome will be disappointing to Miss C. I don't underestimate the financial impact my decision will have on her. But I can't fairly say Pinnacle has done anything wrong or unfair here.

My final decision

For the reasons I've explained, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss C to accept or reject my decision before 22 November 2024.

Sheryl Sibley
Ombudsman