

The complaint

Mr M is unhappy that AXA PPP Healthcare Limited (AXA) declined the claim under his private medical insurance policy.

Mr B is the lead complainant on this complaint and is the lead policyholder. He has represented his son, Mr M, on this complaint. In this decision, I will therefore refer to Mr M and to Mr B.

What happened

Mr M has a private medical insurance policy which he joined onto in December 2020. AXA is the underwriter. The policy was set up on a moratorium basis.

Mr B contacted AXA first in 2020 regarding Mr M's condition and was told he couldn't claim due to the moratorium clause on the policy.

In September 2023, Mr B contacted AXA to raise a new claim for Mr M's condition. He said Mr M needed surgery for pectus excavatum (a condition where the front of the chest is sunken). Mr B sent information provided by Mr M's GP and on 22 September 2023, AXA confirmed it will provide cover for an initial consultation, diagnostic tests and a follow-up appointment. AXA said if any further information was needed, Mr B should keep AXA updated and it will assess the treatment going forward.

In October 2023, Mr B was provided a consultant's name who was covered under the policy. Following the consultation, surgery was booked and letters from the clinic and GP referral were requested by AXA. On 3 November 2023, AXA reviewed the information and informed Mr B that it would not be providing cover for the surgery as it was primarily being performed for cosmetic reasons. There was no evidence of a medical reason to carry out the surgery. A further letter in November 2023 was sent to AXA provided by Mr B from the consultant which said there was shortness of breath and fatigue. AXA reviewed the information again but said the surgery wasn't covered as the initial letter from the consultant didn't indicate internal organs were affecting Mr M and had no medical reasons stated for the surgery.

Mr M's surgery went ahead, and he is now claiming for the cost of the surgery.

Unhappy with AXA's response, Mr M brought his complaint to this service. Our investigator upheld it. She thought the second letter from the consultant pointed to Mr M suffering from physical symptoms such as shortness of breath and fatigue. And the consultant's letter specifically didn't say the surgery was solely cosmetic and is therefore more reliable. She

recommended AXA to settle the claim in line with the policy terms and conditions and add 8% simple interest per annum.

AXA disagreed and asked for the complaint to be passed to an ombudsman to decide. So, it was passed to me.

I issued a provisional decision on 19 September 2024 to both parties. I said the following:

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

Having done so, my intention is to not uphold the complaint. I think it was fair for AXA to decline Mr M's claim. I'll explain why.

For the avoidance of doubt, I'm not medically qualified and it therefore wouldn't be appropriate for me to make a finding on the conditions referred to here. Instead, the key issue for me to decide is whether I think AXA's decision to decline Mr M's claim was unfair or unreasonable based on the information which has been provided.

The relevant regulator's rules say that insurers must handle claims promptly and fairly. And they mustn't turn down claims unreasonably. So, I've considered, amongst other things, the terms of Mr M's policy and the available evidence to decide whether AXA handled the claim fairly.

I've first considered the policy terms, as these form the basis of Mr M's contract with AXA.

The policy defines what AXA means by 'treatment'. It says:

'Surgery or medical services (including diagnostic tests) that are needed to diagnose, relieve or cure a disease, illness or injury.'

The policy sets out the private medical cover AXA provides. It includes a section called 'Cosmetic Surgery.' This section says:

'We do not cover:

- Cosmetic treatment or cosmetic surgery; or*
- Treatment that is connected to previous cosmetic treatment or cosmetic surgery.'*

In my view, AXA's policy clearly sets out what it means by treatment and that it doesn't cover cosmetic surgery.

AXA has concluded that the surgery Mr M has claimed is for cosmetic reasons and therefore, isn't covered by the policy terms. So, I've looked very closely at the available medical evidence to decide whether I think it was fair for it to reach this decision.

The consultant's letter in October 2023 said Mr M was complaining of psychological implications of the pectus excavatum and whilst there was reduction in his physical activity, this wasn't significant. And that Mr M denied having cardiac or respiratory symptoms. The consultant goes on to state that he discussed the opportunity of repairing this, primarily for cosmetic reasons. Based on this letter, AXA declined the claim due to it being purely for cosmetic purposes.

Mr B sent a second consultant's letter in November 2023, following the decline from AXA to cover Mr M's treatment. This letter says Mr M's condition was reviewed again; his transthoracic echocardiogram was within normal limits. While he mentions the surgery providing improvements in shortness of breath and lack of stamina, he also says the surgery will be performed mainly for physiological and cosmetic improvement.

Mr B also confirmed in December 2023 that Mr M's test for lung function gave results that were in the normal range. There's also no medical evidence of any cardiac issues.

Additionally, I've considered NICE (National Institute for Health and Care Excellence) guidelines for pectus excavatum. This states that the condition is mainly a cosmetic problem although it can impair cardiac and respiratory function.

I agree that the first consultant's letter would provide the most contemporaneous information about Mr M's condition. And in this there is no mention of any symptoms described which point to cardiac or respiratory issues. Whilst I accept there is a mention of shortness of breath and lack of stamina in the second letter, this followed the decline from AXA and a second visit to the consultant. The symptoms are self-reported here and I can't agree there's a medical reason for the surgery. The first letter therefore carries more weight and to me appears to be the most plausible.

So, on balance, I think AXA has fairly declined Mr M's claim based on the exclusion for cosmetic surgery under the policy terms and conditions. AXA reviewed the medical evidence it has available and doesn't think the claim is payable. I agree that based on the evidence available, it was fair for it to reach this decision.

I appreciate the surgery has improved Mr M's well-being, confidence and that he's able to carry out physical activities. But based on the information provided, I can't reasonably make AXA responsible for the claim.

Overall, whilst I have a great deal of sympathy with Mr M's position and I appreciate living with the condition has been difficult, I think AXA has declined his claim in line with the policy terms and conditions and has done so fairly.

AXA didn't respond to my provisional decision.

Mr B responded and said the following:

- He doesn't understand why AXA allowed the claim to proceed when it knew from the start what the procedure was for.
- He doesn't understand why the first letter from the consultant is viewed as the most contemporaneous when the second letter clearly states evidence of fatigue and breathlessness.
- Mr M struggled to get out of bed on some days and the surgery wasn't just about the appearance of his chest but to be able to function as a normal teenager.
- AXA and this service has a responsibility to ensure a good customer outcome and there's been no mention of Mr M's state of mind.
- There should be some sort of compensation for the upset that's been caused, and the poor relations AXA has provided.
- He has provided an explanation of Pectus Excavatum showing an overview and the symptoms and causes.

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.

Having done so, I'm not upholding the complaint. I'll explain why.

I've carefully considered Mr B's comments. Whilst I appreciate that he has provided further comments, most of these have already been considered when reaching the provisional decision. I don't think there's anything new here that I haven't already considered.

For completeness though, I provided a summary of my reasons for not upholding the complaint.

The claims procedure with an insurer is to first request any relevant medical evidence or records and all the information required from the insured to assess a claim. AXA authorised the initial consultation, diagnostic tests and a follow-up. I can't see that it authorised any further treatment for Mr M and it informed Mr B of this.

Mr B sent all the relevant information to AXA, and it declined the claim based on the evidence that the surgery was for cosmetic reasons. A second letter from the consultant was sent by Mr B to AXA and it again declined the claim for the same reason. I haven't seen any evidence that AXA caused avoidable delays or that it didn't communicate with Mr B during this process. So, whilst I understand that it was upsetting and disappointing to have the claim declined, it's not unusual for insurers to ask for information that's necessary and relevant to ensure the claim is assessed appropriately. I also haven't seen any evidence that AXA allowed the claim to proceed except for the initial authorisation for the consultation, diagnostic tests and follow-up appointment. Or that it informed Mr B to go ahead with the surgery because it said the claim was covered.

In terms of the medical evidence, I appreciate that the condition can cause shortness of breath and fatigue. However, I haven't seen that Mr M was suffering from this to the extent that surgery was required for medical reasons. The first letter states clearly that Mr M has no medical symptoms – Mr M denied any cardiac or respiratory symptoms. And in the second letter, while the consultant mentions the surgery providing improvements in shortness of breath and lack of stamina, he also says the surgery will be performed mainly for physiological and cosmetic improvement.

The tests carried out showed Mr M's transthoracic echocardiogram was within normal limits. And the test for lung function gave results that were in the normal range.

I've considered the additional information Mr B has sent about the condition and its symptoms and causes. I understand what they state about having shortness of breath and tiredness. I've already looked at this information which is similar to that on the NICE website. Ultimately, I have to look at the available evidence and the individual circumstances of this complaint.

Overall, there's not enough evidence for me to say that surgery was required for medical reasons. I can't see that AXA informed Mr B to go ahead with the surgery but it was their decision that they went ahead and I can't make AXA responsible for this.

I've considered all of the available evidence and taking everything into account, I don't think there's sufficient evidence for me to fairly say that Mr M required surgery because of medical reasons. My role is to look at all the evidence and reach an outcome that's fair and impartial to both parties – it isn't to act as a consumer champion or to take sides.

In this case, I'm sorry to disappoint Mr B and Mr M. But I'm satisfied AXA has declined the claim in line with their policy terms and conditions and it has done so fairly and reasonably. It follows therefore that I don't require AXA to do anything further.

My final decision

For the reasons given above, I don't uphold Mr M's complaint about AXA PPP Healthcare Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 12 November 2024.

Nimisha Radia
Ombudsman