

The complaint

Mr W has complained about the way Casualty & General Insurance Company (Europe) Ltd ('CGIC') dealt with a claim he made on the pet insurance policy he has for his dog, M.

What happened

Mr W's policy with CGIC started in January 2022. In December 2023 he submitted two claims to CGIC for treatment including an operation that M had had to his left hind leg and specifically to the ligament in his knee joint.

CGIC declined both claims and said this was due to the fact that the treatment was linked to a pre-existing condition. It said that in M's medical notes it says that he suffered from lameness and occasional limping since 2018; before the policy was taken out.

Mr W didn't agree that the treatment was linked to a pre-existing condition and complained.

CGIC didn't uphold the complaint and said that its policy doesn't cover pre-existing conditions which include diagnosed or undiagnosed conditions or associated conditions which happened before the policy started. It said that from M's clinical history it appears that there were signs and symptoms of lameness in the legs prior to inception of the policy.

Mr W didn't agree and brought his complaint to us. He said that the vet who saw M told him that the condition M was treated for wasn't related to any pre-existing conditions and thought CGIC should cover the claim. He also said that he had settled the vet's bill in full.

One of our investigators reviewed the complaint and thought it should be upheld and asked CGIC to reimburse Mr W for the vet's fees that he'd paid up to the policy limit and subject to the remaining policy terms. Our investigator also thought CGIC should pay interest on the amount it pays Mr W plus £100 for the distress and inconvenience it caused him.

CGIC didn't agree and provided its own vet's evidence. The vet said that a note in the medical records from October 2020 could indicate that there was chronic cruciate ligament disease (affecting a ligament in the knee joint) present. The vet added that cruciate ligament disease is itself a chronic condition though it might present acutely (suddenly) due to long term degeneration. The vet concluded that it's not unreasonable to associate the present condition with previous clinical entries and deem it to be a pre-existing condition.

Our investigator didn't change her view. She said the medical entries noted that there were no issues with the four ligaments in October 2020 and M wasn't seen until nine months later after that entry.

CGIC provided some additional comments from its vet who said that M was also described as having an unstable patella (kneecap) in the right hind leg which would create an abnormal gait (the way the dog walks) and could lead to him placing more weight through the left hind limb contributing to chronic musculoskeletal disease. The vet concluded that the onset of symptoms can be placed prior to the policy being taken out and said that Mr W would have been aware of this.

As the matter was not resolved, 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'd like to start by saying that I was very sorry to hear that M had been unwell, but I was pleased to note that he had made a good recovery.

The policy

The policy covers treatment carried out by a vet for treating an illness or accidental injury suffered by the pet. It excludes a claim for illness or accidental injury that relates to a pre-existing condition. It also excludes any claim for illness or accidental injury that showed clinical signs or symptoms before the policy start date.

In addition to the above the policy also excludes any claim where the insured failed to disclose their pet's full medical history or where a condition or treatment wasn't disclosed upon inception of the policy and if it had been disclosed it would have applied an endorsement to the policy in respect of that condition.

The policy also excludes any claims for cruciate ligament that showed clinical signs or symptoms before the start of the policy. It also excludes any claim which is as a result of an associated condition and the maximum benefit limit has already been reached for the original condition.

An "illness" means any disease, sickness etc. not caused by an accidental injury.

An "accidental injury" is defined as a sudden, unforeseen or unintended action or event with a specific time and place which results in damage to one or more parts of the pet's body.

A "condition" is defined as an illness or accidental injury or any symptoms or clinical signs of an illness or accidental injury. An "associated condition" includes an accidental injury or recurring illness or relates to a previous illness or accidental injury or is caused by a previous illness/accidental injury.

A pre-existing condition "means a diagnosed or undiagnosed condition and/or associated condition which has happened or has shown clinical signs or symptoms of existing in any form before the policy start date or within the waiting period".

"Clinical signs" mean any observable changes to the pet's healthy state appearance.

A “symptom” is a change in the pet’s normal healthy state, conduct or appearance.

A “bilateral condition” means a medical condition that can affect body parts of which the pet has two on either side of its body and includes cruciate ligaments.

The claims

Under the policy Mr W can claim up to £4,000 per condition for vet’s fees in each and every policy period of insurance. This is subject to a £90 excess.

Mr W’s policy renewed in January 2023 and January 2024. He made two separate claims to CGIC in December 2023 for £651.39 and £3,492.10 respectively. The first claim was for the cost of x-rays and the referral and the second was included the costs for the cruciate repair operation. Both claims related to the same condition.

The expert evidence and medical records

Before the policy started:

There is a record in May 2018 of M being lame in his hind right leg and being given some medication for it. There was no pain or lameness when M was examined by the vet and the vet noted this was as a result of potential trauma.

In October 2020 there was also a note of M limping on his left front leg and holding up his right hind leg on and off. The vet also noted that M’s gait was abnormal but not consistent and noted a weakness on the right hind leg but found no obvious painful spot. The vet also noted that all four ligaments were fine and they suspected an injury to the right knee but noted the knee was stable and said it could be a pull or a sprain.

In July 2021 the vet also noted that the right knee was slightly unstable but didn’t dislocate. There was also a note that M had problems with occasional limping with different paws.

After the policy started:

There is a record in October 2023 of the left hind leg being lame for two-three days.

Less than two months later the vet noted “acute lame LH after exercise after ball.” The vet arranged a further examination. The following day M was diagnosed with a cruciate rupture on the left hind leg which required him having an operation.

Mr W provided a letter from the treating vet. The vet said that M was not seen for a left hind leg lameness issue prior to December 2023. The vet added that the veterinary surgeon who first saw M noted that the lameness was caused by an acute traumatic episode following ball play and that this indicates that the condition occurred suddenly and was not a pre-existing or ongoing condition. The vet also said that the right hind leg lameness first noted in May 2018 was not connected to the left hind lameness and there is no evidence to support that it was. The vet said they believed the left hind lameness was an entirely separate condition not linked to previous issues.

CGIC's vet said that the October 2020 note could indicate that there was chronic cruciate ligament disease which is a chronic condition though it might present acutely due to long term degeneration. The vet concluded that it's not unreasonable to associate the present condition with previous clinical entries and deem it to be a pre-existing condition.

The vet added that M was also described as having an unstable patella in the right hind leg which would create an abnormal gait and could lead to him placing more weight through the left hind limb contributing to chronic musculoskeletal disease. The vet concluded that the onset of symptoms can be placed prior to the policy being taken out and said that Mr W would have been aware of this.

In cases where we are presented with conflicting expert evidence, we have to decide which of the conflicting opinions we find to be the most persuasive. And this can be based on several factors including the detail provided in each report, the time that lapsed between the incident and the report, whether the expert examined the pet etc.

The reports we have from the two vets don't differ to a great degree in terms of the detail they contain. But one was provided by the treating vet and I think more weight can be placed on that expert opinion due to that reason. Furthermore, the treating vet said they consulted other vets who also saw M and they all agreed that the condition was unrelated to any previous incidents. By contrast, CGIC's vet's opinion has been provided (understandably) without having examined M but also seems more tentative. The vet says that the medical notes before the policy was taken out "could" indicate that there was a pre-existing condition. When I compare it to the treating vet's opinion the latter seems more certain in their conclusion i.e., that the present condition was entirely separate to any previous issues and that it was caused by an acute traumatic episode. But even if I were to accept that there was a chronic (bilateral) condition, which I don't, from the vet's notes this doesn't seem to be something Mr W would have been aware of because a chronic condition wasn't ever something that any of the treating vets mentioned in their notes.

CGIC's vet also said that the October 2020 note where M was noted as having abnormal gait could lead someone to the conclusion that M was placing more weight on his left hind leg which may have caused the injury. I have taken this into consideration but as there is no other mention, from what I have seen, in the records that M had abnormal gait I haven't put as much weight on this opinion as I have on the treating vet's. I think if this was an ongoing issue it would have been mentioned in other entries too.

Both vets have provided well-drafted and well-argued opinions but, on balance, I have found the treating vet's evidence to be more persuasive. As I said above, this is due to the fact that they treated M and also consulted other colleagues but also because they seem more certain in their conclusion.

Furthermore, for me to say that the current claim isn't covered I would have to agree that it is based on a pre-existing condition. This would mean that I would have to, on balance, decide that the cruciate ligament injury or any associated condition (or symptoms) were present before the policy started.

From what I have seen, older entries before the policy started mainly mention sprains or potential trauma as a result of M being a very active dog. I don't think it is unusual for an active dog to have such injuries especially in their early years. More importantly those injuries seem to have been treated with medication and rest and didn't seem to require further treatment or investigation. So I would consider those to be one-off events rather than an illness or condition. And I wouldn't consider them to be accidental injuries as defined under the policy as, from what I have seen, there is no record of them resulting in damage to the pet's body or that they resulted from a specific event with a specific time and place.

For the reasons above I don't think the present claim was linked to a pre-existing condition and so I think CGIC should pay the claim subject to the remaining policy terms and any policy limit and excess.

I appreciate that Mr W has said that he suffered a great deal of distress as a result of the claim being rejected. He also said that CGIC didn't take his vet's opinion into account despite the vet saying the claim wasn't related to a pre-existing condition. And he also had the inconvenience of having to settle the vet's fees in full and pay over £4,000 while waiting for the complaint to be resolved. I think the £100 awarded by our investigator is fair and reasonable and in line with awards we would make in similar circumstances.

I can't see that CGIC has placed any retrospective endorsements on Mr W's cover or that Mr W has complained about this, so I haven't considered this as part of this decision. If this is something that transpires in the future and Mr W is unhappy about it, he can make a further complaint.

My final decision

For the reasons above, I have decided to uphold this complaint. Casualty & General Insurance Company (Europe) Ltd must pay the claim subject to the remaining policy terms and any policy limits and applicable excess. As Mr W has already settled the vet's fees any settlement should be payable to him subject to him providing proof of payment.

Casualty & General Insurance Company (Europe) Ltd must pay Mr W 8% simple interest* per year on the amount it pays him from the date he paid the vet's fees to the date it pays him back.

Casualty & General Insurance Company (Europe) Ltd must also pay Mr W £100 for the distress and inconvenience it caused him.

Casualty & General Insurance Company (Europe) Ltd must pay the compensation within 28 days of the date on which we tell it Mr W accepts my final decision. If it pays later than this it must also pay interest on the compensation from the deadline date for settlement to the date of payment at 8% a year simple*.

*If Casualty & General Insurance Company (Europe) Ltd considers that it's required by HM Revenue & Customs to deduct the income tax from that interest, it should tell Mr W how much it's taken off. It should also give Mr W a tax deduction certificate if he asks for one so he can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 25 December 2024.

Anastasia Serdari
Ombudsman