

The complaint

Mr B is unhappy that Vitality Health Limited (Vitality) mis-sold his private medical insurance policy.

Mr B is being represented by his parents on this complaint, Mr B and Mrs B. For ease, I will refer to Mr B's father as Mr B1 in this decision.

What happened

Mr B's private medical insurance policy started in May 2023. He switched from Mrs B's employer's private medical insurance policy as he was being removed as a dependent due to his age. He wanted continuation of cover by switching from one policy to this one.

Mrs B contacted Vitality in April 2023 to request the continuation of cover. She said Mr B had a medical condition which he had been having treatment for under her group policy. Following telephone discussions about what they wanted, a new policy was taken out by Mr B on the underwriting basis of '*Medical History Disregarded*'. The policy was accepted also based on '*Continued Personal Medical Exclusions – internal switch*'.

Mr B contacted Vitality in March 2024 to obtain authorisation for a follow-up appointment for his medical condition. Vitality said there was no cover for monitoring a condition under the policy.

Mr B1 and Mrs B made a complaint to Vitality. Vitality didn't agree the policy was mis-sold and maintained its position.

Unhappy, Mr B1 and Mrs B brought the complaint to this service. Our investigator didn't uphold the complaint. She didn't think the policy had been mis-sold as the policy provided cover for Mr B's pre-existing medical condition which was the purpose of taking it out.

Mr B1 and Mrs B disagreed and asked for the complaint to be referred to an ombudsman. So, it's been passed to me.

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 relevant industry rules and guidance state that in an advised sale, the seller needs to make sure the policy is right for the consumer. In this case Vitality sold the policy.

The key issue I need to consider is whether Mr B was mis-sold the policy by Vitality.

It's not in dispute by either party that the cover Mr B wanted was continuation of his pre-existing medical condition.

I've listened to the sales call recordings and the information that was provided to Mr B at the time of the sale and after the sale.

The telephone discussions that took place involved going through some questions to ensure the right policy was put in place. Mr B confirmed that he was waiting for results from an MRI scan, and they didn't know what would happen after as they needed to have a discussion with the consultant. The subsequent discussions were around the hospital cover, the excesses and the policy premium. There was some back and forth about the hospital cover and the excesses that would apply and how. The premium was also discussed. Mrs B said Mr B may only have two appointments throughout the year. Once the quotations were sent to them, they had another call. Mr B1 said their biggest concern was to ensure Mr B had cover for his pre-existing medical condition and he asked how the out-patient limit, and the excess would apply to such a claim. Vitality explained this and cover was accepted.

I can see a certificate of insurance as well as the full policy document were sent to Mr B following the agreement to take out the policy. These all confirm that long-term or chronic conditions won't be covered. Mr B also had the option to cancel the policy or make any changes within 14 days of starting the policy.

Having looked at everything, there's no evidence of Mr B making Vitality aware of a follow-up consultation or that his condition was being monitored. The policy sold was to cover Mr B's pre-existing medical condition and this is what happened – I agree, this was the purpose of taking out the policy. Additionally, I note the telephone discussions were sufficiently detailed to ensure the policy met Mr B's needs. I understand that Vitality had a duty to ensure the policy met Mr B's needs, and I think in the circumstances here, I think it did. Based on the information provided to Vitality and the answers to the questions asked, I don't think the policy was mis-sold. However, Mr B also had a responsibility to provide information to help with ensuring the right policy was recommended to him. I haven't seen anything that shows Mr B made Vitality aware of his condition being potentially monitored or that it was being managed.

From the information available, Mr B was aware that his condition was being monitored. I appreciate, in hindsight, he might not have necessarily known to specifically make Vitality aware of this. But the adviser based her recommendation on what she was told. This doesn't mean the policy was mis-sold.

Mr B1 and Mrs B said the policy they were sold didn't provide cover for the one thing that Vitality was aware Mr B specifically needed cover for. I don't agree. The reason for taking out the policy was to get the continuation of cover and to cover Mr B's pre-existing medical condition. I think the policy did provide this. Mr B1 spoke to Vitality on 30 April 2024 and confirmed Mr B's condition was being monitored long-term and in his complaint letter to us, he's also said the condition was being monitored. The policy was still subject to the remaining terms and conditions, and this didn't mean that Mr B would never be covered for his condition. Whilst I appreciate monitoring of the condition isn't covered, a claim for active treatment may still have been covered. I note Mr B has now cancelled the policy.

They've also said Vitality had a responsibility to highlight the relevant terms and conditions of a health condition where the future path of treatment is uncertain. But I can't see how Vitality could have highlighted something that wasn't evidently discussed or hadn't been made aware of. It's not unusual for private medical insurance policies to exclude cover for monitoring and I wouldn't expect Vitality to have drawn specific attention to any such limitations or exclusions. The terms and conditions on page 26 of the policy document sets out exclusions which aren't covered on the policy and chronic or long-term conditions is one of them. A chronic condition is defined as one which needs, amongst other things, ongoing or long-term monitoring through consultations, examinations, check-ups, and/or tests.

Mr B1 has said in response to the investigator's findings that the Vitality sales adviser specifically said, *'I've kept the diagnostic cover separately as well in case he [Mr B] needs*

say an ultrasound scan on his neck to see if it has grown for example'. I've considered this. The discussion stemmed from whether there were any limits to follow-up appointments and whether various treatments would be regarded as one or separate claims. The adviser was answering the questions that were posed to her. I don't think this means the policy was mis-sold. I can't see that Mr B, Mr B1 or Mrs B followed up this conversation to make the adviser aware that Mr B's condition was being monitored.

Mr B1 and Mrs B said it isn't reasonable to assume a policyholder would realise the definition of a chronic condition would refer to Mr B's specific condition. This isn't a point I can comment on as it's not one that's already been considered by Vitality.

I understand Mr B will be disappointed and I have complete empathy with the situation he's found himself in. But, in the circumstances of this complaint, I'm not persuaded Vitality mis-sold the policy. I can't therefore reasonably ask Vitality to refund the premiums paid on the policy. It follows therefore that I don't require Vitality to do anything further.

My final decision

For the reasons given above, I don't uphold Mr B's complaint about Vitality Health Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 26 March 2025.

Nimisha Radia
Ombudsman