DRN-5284858

The complaint

Mr H complains that BUPA Insurance Limited declined his claim against his private medical insurance policy. He also complains about the service he received when making his claim.

What happened

In summary, Mr H has been a member of BUPA for many years. His membership renews annually in May each year.

In December 2023, Mr H contacted BUPA for authorisation for treatment for his back pain. Mr H asked BUPA to authorise treatment code A5765, which is radiofrequency denervation. BUPA declined Mr H's claim. It relied on an exclusion in relation to experimental treatment. BUPA said the recommended treatment wasn't in accordance with guidance from the National Institute for Health and Care Excellence (NICE) because Mr H hadn't had a diagnostic medial branch block before radiofrequency denervation. BUPA also relied on an exclusion about treatment for temporary relief of symptoms.

Mr H proceeded with treatment on a self-funded basis. BUPA subsequently paid, in error, Mr H's anaesthetist's invoice relating to the radiofrequency denervation. It didn't seek to recover that payment but said it wouldn't pay any other invoices for Mr H's radiofrequency denervation.

Mr H's complaints are:

- BUPA declined his claim for radiofrequency denervation.
- BUPA's attempts to speak with his treating doctor were insufficient.
- He wasn't able to speak with a manager straight away.
- BUPA's call handling was poor.
- BUPA's e-mails supportive of his claim weren't added to his file.

In response to Mr H's complaints, BUPA initially maintained its position in relation to his claim but apologised for service issues and paid Mr H compensation of £200.

One of our Investigators looked at what had happened. The Investigator didn't recommend Mr H's complaint be upheld. She said BUPA declined Mr H's claim fairly and in line with the policy's terms and conditions. Essentially, the Investigator said BUPA acted fairly in relying on NICE guidance about radiofrequency denervation only taking place after a positive response to a diagnostic medial branch block.

The Investigator didn't think BUPA had delayed its handling of Mr H's claim. She said during a phone call on 28 December 2023, BUPA offered to contact Mr H's consultant but Mr H wasn't content with that offer. She thought BUPA's service could have been better as it continued to discuss the merits of his claim after it had sent its final response and it didn't return a call. The Investigator thought the compensation of £200 it had already paid was fair and reasonable.

Mr H didn't agree with the Investigator. He doesn't agree that BUPA acted fairly in declining his claim. As there was no agreement between the parties, Mr H's complaint was passed to me to decide.

I asked BUPA some further questions about its decision to decline Mr H's claim. BUPA said the treatment should have been covered and it no longer wishes to defend its earlier position. The Investigator asked Mr H whether he was content with the steps BUPA had taken to put matters right. Mr H responded to say he'd lost confidence in BUPA.

In this decision I'm dealing with Mr H's complaints which led to BUPA's responses of 30 January 2024 and 25 March 2024. I'm aware Mr H has subsequently raised with BUPA issues around renewal of his policy. I don't deal with those issues here as they weren't part of Mr H's initial complaint to BUPA.

Mr H has also expressed concern about how BUPA handled his complaint. Our service can only consider complaints about financial services. I can't consider the additional points Mr H has made about the handling of his complaint, because it isn't a regulated activity.

My provisional decision

On 20 January 2025, I sent both parties my provisional decision in this case. I indicated I intended to uphold the complaint but as I considered the amounts BUPA had already paid are fair and reasonable, I didn't intend to direct it to pay any more. I said:

'It's clear Mr H has very strong feelings about this matter. He has provided detailed submissions to support the complaint, which I have read and considered. I'm conscious I've condensed what I don't doubt was a very worrying time into a short narrative. That reflects our service that, wherever possible, aims to be informal. I'm satisfied I've captured the essence of what happened. I trust Mr H won't take as a discourtesy the fact I focus on what I consider to be the central issue, that is, whether BUPA has done enough to put matters right.

BUPA now says in January 2024, it should have authorised Mr H's claim for treatment for his back pain. BUPA says in addition to paying the anaesthetist fee of £144, it has reimbursed Mr H's payment of £2,328 to his surgeon and paid interest of £74.70. I think the payments BUPA have made put Mr H in the position he would have been in if it had authorised the claim.

BUPA has also paid Mr H a total of £550 (£200 plus £350) in relation to his distress and inconvenience arising from its handling of his claim. BUPA acknowledge shortcomings in its call handling and correspondence with Mr H. Its initial decision to decline the claim in error caused Mr H distress and inconvenience at an already worrying time. In considering a fair level of compensation I've taken into account the nature, extent and duration of Mr H's distress and inconvenience resulting from BUPA's errors in this case. I think BUPA's payment of £550 in relation to Mr H's distress and inconvenience is fair and reasonable.

Considering everything, I think the payments BUPA has already made are fair and reasonable in this case. Whilst I uphold Mr H's complaint, I don't propose to direct BUPA to pay more than it has already paid.'

Responses to my provisional decision

BUPA accepted my provisional decision. Mr H responded to say I hadn't understood the

most important point, that is, BUPA failed to leave a message on his doctor's answering machine which would have let his doctor know that BUPA wished to discuss his procedure. Mr H says that if BUPA had been efficient and left a message for his doctor, he wouldn't have been involved in this complaint. He said he understands that BUPA thought part of the payment to him was in error. Mr H says he wants effective administration from BUPA.

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've taken into account the law, regulation and good practice. Above all, I've considered what's fair and reasonable. The relevant rules and industry guidance say BUPA should deal with claims promptly and fairly.

I'm afraid I don't agree that the complaint could have been avoided if BUPA had left a message on Mr H's doctor's answering machine. Even if BUPA had let Mr H's doctor know that it wanted to discuss the procedure it may still have decided initially, incorrectly, that the claim was excluded from cover. In any event, in its final response to Mr H, BUPA acknowledged it contributed to the delay and poor service Mr H received.

Mr H is right to say that BUPA initially said its payment of part of his claim was in error. But BUPA changed its position and said it should have authorised Mr H's claim for treatment for his back pain in January 2024.

I've looked again at the circumstances of this complaint. For the reasons I've previously explained, I remain of the view that the outcome I set out in my provisional decision is a fair and reasonable response to Mr H's complaint.

My final decision

My final decision is that I uphold Mr H's complaint. I think the amounts BUPA has already paid in relation to Mr H's loss, distress and inconvenience are fair and reasonable, so I don't direct it to pay any more.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 4 March 2025.

Louise Povey
Ombudsman