

## **The complaint**

Ms V made a claim on her Pinnacle Insurance Plc ('Pinnacle') pet insurance policy, which Pinnacle declined.

Ms V says Pinnacle treated her unfairly.

## **What happened**

Ms V took out a pet insurance policy with Pinnacle in March 2023. In December 2023 Ms V made a claim on the policy to cover investigations and treatment to her pet which were her vet concluded related to regurgitation.

Pinnacle considered the claim and said that it was not one they would be prepared to cover. They based this on the pet's clinical history which included instances of vomiting before the policy was in place. Pinnacle said that had they known about this when Ms V took out cover, they would have applied a policy exclusion in relation to gastrointestinal issues which included regurgitation. Accordingly, Pinnacle applied the exclusion and turned down the claim.

Ms V says that she didn't provide Pinnacle with misleading information when she took out the policy as she didn't consider the isolated and minor incidents of vomiting by her pet to amount to an illness or injury. As such she didn't think that these were relevant to the claim and that Pinnacle weren't entitled to apply the policy exclusion in the way that they had. Ms V acknowledged however that if her failure to disclose the incidents of vomiting did amount to a qualifying misrepresentation, Pinnacle still shouldn't be entitled to turn down the claim because regurgitation can't be said to be a gastrointestinal issue and even if this falls within Pinnacle's underwriting criteria, this was not made clear to her when she took out the insurance.

Our investigator's final view of Ms V's complaint was that it should not be upheld. Ms V does not agree for the reasons I've cited above. As such the matter has been passed to me to determine.

## **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 don't uphold Ms V's complaint. This is why.

The relevant law in this case is The Consumer Insurance (Disclosure and Representations) Act 2012 (CIDRA). This requires consumers to take reasonable care not to make a misrepresentation when taking out a consumer insurance contract (a policy). The standard of care is that of a reasonable consumer.

And if a consumer fails to do this, the insurer has certain remedies provided the misrepresentation is - what CIDRA describes as - a qualifying misrepresentation. For it to be

a qualifying misrepresentation the insurer has to show it would have offered the policy on different terms or not at all if the consumer hadn't made the misrepresentation. CIDRA sets out a number of considerations for deciding whether the consumer failed to take reasonable care. And the remedy available to the insurer under CIDRA depends on whether the qualifying misrepresentation was deliberate or reckless, or careless.

Pinnacle thinks Ms V failed to take reasonable care not to make a misrepresentation when she declared that her pet had not shown any signs of illness or injury when she took out the policy. I can see from the screenshots Pinnacle has provided that Ms V was asked a specific question in relation to this, and information was provided under the question asked of her to explain that the policy didn't cover pre existing conditions and that she declare any conditions or symptoms her pet is suffering from or has suffered from in the past before taking out cover. It also warned that at the point of a claim, Pinnacle would review Ms V's pet's clinical history and failure to tell them about any pre-existing conditions may affect future claims and her policy. So, Ms V ought to have been aware that she was under a duty to provide material evidence. And she was specifically prompted to do so when she took out the policy.

I've looked at the pet's clinical history and my judgment is that Ms V knew (or should have known) that Pinnacle would have wanted to have been told about her pet's clinical history and particularly the fact that in March 2022, her pet was recorded to have *"always had a sensitive GI since puppy, would vomit and faeces soft and sloppy, since changed to Science plan sensitivities everything has improved but still vomits 1-2 times a month hours after eating food"*. I realise Ms V says that these symptoms had nothing to do with the subsequent claim for regurgitation, but there was an obligation on her to disclose any signs or symptoms her pet had had before cover was in place. And having reviewed Pinnacle's underwriting criteria, had she done so, Pinnacle would have placed an exclusion on the policy for all gastrointestinal issues which include regurgitation, regardless of whether they were related to the earlier vomiting or as a result of some other cause.

In this case I'm satisfied that Ms V's misrepresentation was a qualifying one. Pinnacle have said Ms V's misrepresentation was careless, which means they're entitled to decline the claim and place the exclusion they would have placed on the policy from the start of it for gastrointestinal issues, including regurgitation, as they have here. I don't think Pinnacle did anything wrong by doing this and take the view they were entitled to treat Ms V's claim in this way.

I turn now to Ms V's submissions that she didn't provide Pinnacle with misleading information when she took out the policy as she didn't consider the isolated and minor incidents of vomiting to amount to an illness or injury. The question Ms V was asked when she took out the policy was *"Has (the pet) ever shown any signs of illness or injury?"* The notes under that question say:

*"This policy doesn't cover pre-existing conditions. It's important we know of any conditions and/or symptoms (your pet's) suffering from or has suffered from in the past before you take out this policy. At the point of the 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."*

Given the reference to conditions and/or symptoms, I think Pinnacle did make it clear enough that they wanted to know about the episodes of vomiting Ms V's pet had experienced. So, I'm not persuaded it was reasonable for Ms V to indicate 'no' in response to this question as she did.

Ms V has also said that if her failure to disclose the incidents of vomiting did amount to a qualifying misrepresentation, Pinnacle still shouldn't be entitled to turn down the claim because regurgitation can't be said to be a gastrointestinal issue and even if this falls within

Pinnacle's underwriting criteria, this was not made clear to her when she took out the insurance. As the investigator explained, it's not for us to determine whether regurgitation is a gastrointestinal issue as Pinnacle have with reference to their underwriting criteria. And if Ms V had disclosed the instances of vomiting Pinnacle would have placed an exclusion for all gastrointestinal issues including regurgitation. That was a decision for them and was representative of the risks they were prepared to take on. It's not for us to determine what risks a business is prepared to insure but rather whether they have administered that insurance fairly.

For the reasons I've set out above, I think Ms V did make a qualifying misrepresentation, and that Pinnacle would have applied the exclusion they have now had she answered the question asked of her accurately. And if things had gone as they should have, Pinnacle would have made that exclusion clear to her at that point. The fact that Ms V didn't answer the question asked of her accurately isn't something I think Pinnacle should be responsible for because they were unaware the exclusion applied. As such I don't think Pinnacle have failed to provide Ms V with clear information about the cover she was getting in the circumstances because they did this as soon as they were aware that an exclusion was applicable.

### **My final decision**

For the reasons set out above, I don't uphold Ms V's complaint against Pinnacle Insurance Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms V to accept or reject my decision before 28 March 2025.

Lale Hussein-Venn  
**Ombudsman**