

## **The complaint**

Ms B and Mr S are unhappy that Admiral Insurance (Gibraltar) Limited proportionately settled a claim they made on their travel insurance policy.

## **What happened**

Ms B was travelling abroad when she needed emergency medical treatment. She claimed for her medical expenses, but Admiral proportionately settled the claim. They said that Ms B hadn't declared pre-existing medical conditions when the policy was renewed. And, had she done so, they'd have charged a higher premium.

Ms B complained as she didn't think Admiral had acted fairly. She highlighted the policy had renewed and said the conditions were not significant changes in health. Admiral maintained their decision was fair and in line with the policy terms. Ms B complained to the Financial Ombudsman Service.

Our investigator looked into what happened and didn't uphold the complaint. He thought Admiral had settled the claim fairly. He thought they'd acted in line with the relevant legislation and the policy terms.

Ms B didn't agree and asked an ombudsman to review their complaint. She didn't agree Admiral had fairly calculated the revised premium. She said that once the conditions were declared they paid a higher premium, but not as high as the figure Admiral had used when considering proportionately settling the claim. So, the complaint was referred to me to make a decision.

## **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 want to say at the outset that I very sorry for the circumstances surrounding Ms B's claim for medical expenses. I have a lot of empathy for the circumstances she's described which I can appreciate were incredibly distressing for both Ms B and Mr S.

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.

Admiral thinks Ms B failed to take reasonable care not to make a misrepresentation when she failed to declare pre-existing medical conditions at the point she renewed her insurance.

When the policy was taken out in August 2022 Ms B didn't declare any pre-existing medical conditions. When the policy renewed the following year Ms B was sent documentation which included her original medical declaration. It also included information which said:

#### Your Medical Declaration

If any of the answers on your Medical Declaration have changed since last year you must let us know. This includes:

- Changes in your health, medication or admissions to hospital
- Diagnosis of any new medical conditions or awaiting a new medical diagnosis
- Being placed on a waiting list for further tests/investigations and/or treatment
- A positive diagnosis for Covid-19 where the insured was prescribed medication, received treatment or had a consultation with a doctor or hospital specialist in the past two years.

Failing to declare this or giving incorrect details could lead to your policy being declared void and/or any claim being declined.

Ms B didn't notify Admiral of any changes to her health. I think she ought to have done as the medical evidence indicates that since she'd taken out the original policy she was prescribed medication and had received support with anxiety from her GP. I think this can reasonably be considered to be a change to her health or medication and/or diagnoses of new conditions.

Admiral has provided evidence of their underwriting criteria which demonstrates that had Ms B declared this information they would have offered a policy, but at a higher premium. This means I'm satisfied Ms B's misrepresentation was a qualifying one. Admiral has considered the claim on the basis that Ms B's misrepresentation was careless. I agree that Ms B's misrepresentation was careless rather than deliberate or reckless as I don't think she intentionally withheld this information from Admiral.

As I'm satisfied Ms B's misrepresentation should be treated as careless I've looked at the actions Admiral can take in accordance with CIDRA. Where a claim has been made, and they would have charged more for the policy, they can settle the claim proportionately.

I've thought about Ms B's representations that Admiral has unfairly inflated the price of the updated premiums. However, having considered the available evidence I'm not persuaded that is the case. A number of factors influence the price of the premium and I'm satisfied based on the evidence I've seen, that Admiral has calculated the proportionate settlement fairly and reasonably. That information is commercially sensitive and so can't be shared with Ms B. However, I hope it reassures her to know that someone independent has reviewed the information.

Taking all of the above into account I'm not upholding this complaint as I'm satisfied the proportionate settlement is fair and reasonable.

**My final decision**

I'm not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms B and Mr S to accept or reject my decision before 20 April 2025.

Anna Wilshaw  
**Ombudsman**