

The complaint

Mr L complains about a claim he made on his private medical insurance policy with Vitality Health Limited.

What happened

Briefly, Mr L had a business healthcare plan with Vitality. In late August 2024 he made a claim for ankle surgery which Vitality went on to pre-authorise. Mr L was scheduled to have his surgery at a facility I'll call "hospital X" on 10 November 2024. Any reference to hospital X includes its medical practitioners too.

On 1 November 2024, hospital X emailed Vitality regarding the above pre-authorisation and said a call back from the previous day hadn't been forthcoming. Hospital X contacted Vitality again on 7 November 2024, and Vitality confirmed the procedure had been pre-authorised.

However, on 8 November, hospital X told Vitality it was unaware there was an existing fee arrangement in place. It asked Vitality for a copy and said it was interested in the arrangement's termination period.

Mr L was also in contact with Vitality during that time. He explained hospital X had told him it wouldn't be able to go ahead with his treatment until its fees were agreed as its charges were more than what Vitality had authorised to cover. And, on 8 November 2024, he told Vitality that hospital X had cancelled his surgery.

Mr L complained that Vitality hadn't done enough to help resolve the fee disparity issues. He raised concerns about an excess Vitality said he was liable to pay towards an invoice for his pre-operative assessment too. And he chose to cancel his policy.

Vitality responded to Mr L's complaint in two final response letters.

The first said Vitality had offered fees based on the agreed tariff in place with hospital X. It said it was for hospital X to approach Vitality to initiate any renegotiations, and the primary issue lay with hospital X's decision to cancel Mr L's surgery as it was dissatisfied with the fees Vitality had offered. The letter concluded Vitality wasn't at fault for what had happened but said it would reimburse the cost Mr L had incurred for completing its claim information request form.

The second explained an excess did apply to Mr L's policy. It acknowledged some initial confusion had been caused over the invoice as hospital X had cited the wrong date on it, and it advised Vitality would pay Mr L's excess as a gesture of goodwill.

When Mr L approached this service, our investigator determined it was appropriate to deal with both final response letters under the same reference.

Our investigator didn't uphold Mr L's complaint. They agreed that the responsibility for initiating renegotiations on the fee arrangement lied with hospital X, not Vitality. And they said Vitality had fulfilled its obligations. They also thought Vitality had fairly reimbursed some

of the costs Mr L had incurred. And they signposted Mr L to other bodies he could approach were he to remain unhappy with the actions of hospital X.

Mr L strongly disagreed with our investigator's opinion. He said Vitality hadn't delivered on what was stated in his policy, there'd been a breach of contract, and our position effectively gave Vitality a free hand which was contrary to law. Mr L said the least he was now entitled to was a refund of premiums, plus interest and compensation.

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.

Like the investigator before me I too think it is appropriate for the issues addressed in both final response letters to be considered under this single complaint reference.

I was sorry to learn of Mr L's experience and understand his frustration. It is, however, important for me to explain that I won't address each point that has been made. Instead, I will focus on those matters I consider central to the outcome of this complaint and for the reasons I'll now explain I will not be upholding it.

- Vitality had a responsibility to handle Mr L's claim both promptly and fairly and not reject it unreasonably.
- Vitality says it was for hospital X to initiate any renegotiation of fees, and I don't think that position is unreasonable. Vitality had a fee arrangement in place with hospital X. It pre-authorised treatment in line with that arrangement, and the fee disparity issues only came to light when hospital X raised the matter.

The available evidence suggests that hospital X changed where it accommodated its private patients in 2014. Vitality says it wasn't informed of any need to update the fee structure or contact details at that time. That may be why hospital X was unaware of the fee arrangement when it scheduled Mr L's surgery. But even if it was, I don't think the passage of time or one side's lack of awareness invalidates the arrangement that was in place.

- Mr L says the ability to use hospital X was a major factor in him purchasing the policy and it wasn't available to him when he needed to have surgery there. He also thinks Vitality had an obligation to make sure hospital X was available to him, the party responsible for renegotiating fees was irrelevant to him as the patient and, ultimately, he had a contract with Vitality.

Mr L does appear to have been caught somewhat in the middle here and I sympathise with that. I also understand why it was important for him to be able to use hospital X. But I must bear in mind that Vitality wasn't responsible for the actual provision of his treatment. Its role was to pay for eligible claims, and the terms and conditions of Mr L's policy had explained:

"Our liability under this plan is limited to paying for treatment or services in respect of eligible claims under this plan. The choice of provider of the treatment or services ("provider") for which you are claiming under this plan is your responsibility..."

We will not be held liable to you or any insured dependent for any loss, harm, or damage of any description resulting from lack of availability or from a defect in the quality of any treatment or service offered or provided by such provider..."

Had Mr L's policy remained in place, I would have expected Vitality to work with him to try and find an alternative facility. But Mr L cancelled his policy so this isn't something I now need to consider. Whilst I genuinely empathise with the position Mr L found himself in, I'm not persuaded it would be fair of me to hold Vitality responsible for his surgery at hospital X not going ahead.

- There does appear to have been a period of one week where Vitality did not respond to hospital X's communications. Mr L believes there were much longer delays, but I haven't seen any contemporaneous evidence to demonstrate that.

Whilst I don't consider a week to be a significant delay here, even if Vitality had responded to hospital X earlier, I am not persuaded it automatically follows that new increased fees would have been agreed, and Mr L's surgery would have subsequently gone ahead as scheduled.

I say that because there was a significant gap in what hospital X intended to charge for Mr L's procedure and what Vitality had said it would cover (£2895 versus £1060 for the surgeon's fees as an example). I also say that because hospital X had made enquiries into the cancellation period of that agreement, and because it made the decision to cancel the surgery.

- Mr L thinks our findings ultimately mean his contract with Vitality wasn't a legal one and he should be due a refund of premiums, plus interest and compensation. I don't think the findings I've made mean his contract with Vitality wasn't a legal one and I will not be directing Vitality to refund premiums. But I do recognise why Mr L would be disappointed with these findings.

Having said that, I do think it was fair of Vitality to refund the costs Mr L had incurred by completing its claim information request form and pay his excess as a gesture of goodwill, given the disappointing situation Mr L found himself in through no fault of his own.

- Unfortunately, the money Mr L says he is still owed by hospital X is not something this service can involve itself in, but I am pleased to see Mr L has already been signposted to other bodies that may be able to help.

I realise Mr L will be further disappointed by the above but having looked at all the evidence I am satisfied Vitality handled this claim both promptly and fairly. I don't think it acted contrary to law or regulation either, and for all the reasons given I will not be upholding this complaint.

My final decision

My final decision is that I do not uphold this complaint against Vitality Health Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 1 October 2025.

Jade Alexander
Ombudsman