

The complaint

Mr and Mrs W complain because Inter Partner Assistance SA ('IPA') hasn't paid a claim under their travel insurance policy.

All references to IPA include the agents appointed to handle claims on its behalf.

What happened

Mr and Mrs W were insured under a 'gold' travel insurance policy, provided by IPA.

Mrs W unfortunately became ill on the outward leg of a trip abroad to commemorate a late relative. Mrs W remained ill for the duration of her holiday and missed sporting events, which were the main purpose of the trip. She was confined to her hotel room and was unable to enjoy her business class flights.

Mrs W made a claim with IPA for her medical treatment and other costs. IPA said the claim wasn't covered because Mr W, on behalf of Mrs W, hadn't told it about certain aspects of Mrs W's medical history and, if he had, it would never have sold this policy. IPA voided the cover and returned the premiums paid to Mr and Mrs W.

Unhappy, Mr and Mrs W brought their complaint to the attention of our service. One of our investigators looked into what had happened and said she didn't think IPA acted unfairly or unreasonably in the circumstances.

Mr and Mrs W didn't agree with our investigator's opinion, so the complaint has been referred to me to make a decision, as the final stage in our process.

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'm sorry to hear about the circumstances surrounding this trip, and I understand Mr and Mrs W experienced additional worry when they were abroad. This was clearly a difficult time. But, when making an independent and impartial decision, I need to be fair to both parties involved.

Mr W was asked questions about his and Mrs W's previous medical history when he bought this policy. This means the principles set out in the Consumer Insurance (Disclosure and Representations) Act 2012 ('CIDRA') are relevant and I'm satisfied it's fair and reasonable to apply these principles to the circumstances of Mr and Mrs W's complaint.

CIDRA requires consumers to take reasonable care not to make a misrepresentation when taking out an insurance policy. The standard of care required is that of a reasonable consumer. If a consumer fails to do this, the insurer has certain remedies provided the misrepresentation is – what CIDRA describes as – a qualifying one. For the misrepresentation to be a qualifying one, the insurer must 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 a 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.

When buying this policy in July 2023, Mr W answered 'no' to the following question:

'Within the last 2 years has anyone you wish to insure on this policy suffered any medical condition (medical or psychological disease, sickness, condition, illness or injury) that has required prescribed medication (including repeat prescriptions) or treatment including surgery tests or investigations?'

I'm satisfied this question was clear and specific. I think the wording used set out in a direct and easily understandable way what information IPA wanted to know, and this included any medical conditions which the prospective policyholder had received prescription medication or treatment for in the last two years, regardless of whether these were pregnancy related and/or whether they were already resolved.

I don't agree with Mr and Mrs W's submissions that the question was unrealistic and/or disproportionate. Such medical questions are standard across the travel insurance industry and form the basis upon which most of the travel insurance market operates. IPA is entitled to decide what medical information it wants to know before it offers a particular insurance policy and there was an obligation on Mr W to accurately answer the question he was asked.

The medical information which I've seen shows that Mrs W was prescribed medication for haemorrhoids, mood disorder and suicidal thoughts in the 2 years prior to purchasing this policy. I think the question asked when the policy was sold ought to have prompted a reasonable consumer that these were things which IPA wanted to know about. So, I think Mr W should reasonably have declared these medical conditions to IPA, and I don't think he took reasonable care when answering the question asked. I've taken into account the content of the letter from Mrs W's GP dated April 2024, but this doesn't change my view that the question which IPA asked wasn't accurately answered.

If Mr W had answered 'yes' to the above question, further medical screening questions would have been asked. The clarity of these questions isn't relevant to the outcome of Mr and Mrs W's complaint because they were never displayed to them as a result of answering 'no' to the initial question. But, for the avoidance of doubt, I don't think the further medical questions were unclear either. While one of the additional questions listed eight medical conditions, other questions go on to refer to *any* medical condition, so I'm satisfied it was clear that the eight medical conditions were not an exhaustive list. I note Mrs W's comments that a particular medication couldn't have been declared, but it was medical conditions which IPA was asking to be told about rather than specific medications.

I'm satisfied, if Mr W hadn't misrepresented the answer to the question he was asked, IPA would have acted differently. This means the misrepresentation was a qualifying one and IPA is entitled to rely on the relevant remedy set out under CIDRA. The remedies apply regardless of whether the medical conditions which have been misrepresented are related to the medical condition which is ultimately claimed for.

I accept Mr W didn't intentionally withhold information from IPA. So, his misrepresentation wasn't deliberate or reckless, and IPA has treated it as careless. The remedy for careless misrepresentation under CIDRA in circumstances where the insurer wouldn't have entered into the contract at all is for the insurer to avoid the contract, refuse the claim and return the premium. This is what IPA has done and, overall, I don't think this is an unfair or unreasonable position for IPA to take.

IPA would never have sold Mr and Mrs W *this* policy. The fact that IPA may have sold Mr and Mrs W a different 'select' branded policy (even if this would have been approximately the same price) doesn't mean it would be fair or reasonable to direct IPA to disregard the qualifying misrepresentation in this case. CIDRA is designed to protect insurers and consumers from such qualifying misrepresentations and the risk which IPA was covering under this particular policy didn't include Mrs W's pre-existing medical conditions. I've taken into account Mr and Mrs W's comments about general insurance practices, but I don't think it would be fair or reasonable to now require IPA to retrospectively provide cover for a risk which it didn't agree to accept when the policy was purchased.

As a final point, I should also say that I wouldn't expect some of the costs which Mr and Mrs W are claiming for to have been covered under their policy anyway. Travel insurance policies don't cover loss of enjoyment and I wouldn't generally expect an insurer to reimburse a policyholder for transport and accommodation costs which were actually used.

I appreciate my decision will come as a disappointment to Mr and Mrs W. I understand they feel strongly about what happened, this was a special trip for them, and they are concerned about the implications of unpaid medical bills. But, for the reasons I've explained, I won't be directing IPA to do anything more.

My final decision

My final decision is that I don't uphold Mr and Mrs W's complaint.

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

Leah Nagle
Ombudsman