DRN-5774194

The complaint

Mr and Mrs S have complained that Admiral Insurance (Gibraltar) Limited hasn't paid out the full amount on a claim they made on a travel insurance policy.

What happened

Mrs S took out the annual policy on 18 February 2024.

They were due to go on a trip in October 2024 but unfortunately Mrs S became unwell and was unable to travel. She therefore cancelled the trip and made a claim on the policy.

Upon reviewing the information provided for the claim, Admiral identified that Mrs T hadn't declared a medical condition. It therefore undertook a retrospective screening to determine what it would have done had it known about this condition at the point of sale.

The outcome was the Admiral would still have provided cover. However, the premium would have been £61.58, instead of the £42.26 that was actually quoted and paid. As the sum paid by Mr and Mrs T was only 68.63% of what they should have paid, Admiral said it would only pay out that proportion of the claim amount.

Our investigator thought that Admiral had acted fairly in reducing the claim amount in this way. Mrs S disagrees and so the complaint has been passed to me for 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've carefully considered the obligations placed on Admiral by the Financial Conduct Authority (FCA). Its 'Insurance: Conduct of Business Sourcebook' (ICOBS) includes the requirement for Admiral to handle claims promptly and fairly, and to not unreasonably decline a claim.

Looking at the policy terms, they define a 'pre-existing condition' as:

'Any medical condition that you, an insured person or any person your trip depends on had at any time before you took out or renewed your policy, or you booked your trip, whichever is later.'

It further defines 'Medical condition' as:

'Any disease, illness or injury that you or any insured person has.'

Mrs S has suggested that this clause is potentially in breach of the Consumer Rights Act 2015. However, I do not consider the clause to be ambiguous. On balance, I'm satisfied that Admiral clearly sets out its definition of what a medical condition is for the purposes of cover.

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

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.

When she took out the policy, she was asked about any medical conditions they'd had in the last two years. Admiral used this information to decide whether or not to insure Mr and Mrs S and if so, on what terms. Admiral says that Mrs S didn't correctly answer all of the questions she was asked during the screening process. This means the principles set out in CIDRA are relevant. So I consider it's fair and reasonable to apply these principles to the circumstances of Mrs S's claim.

Firstly, when considering whether a consumer has taken reasonable care, I need to consider how clear and specific the questions they were asked were. Mrs S was asked the following:

'Have you or anyone in your party been prescribed medication, received treatment or had a consultation with a doctor or hospital specialist for any medical condition in the past 2 years?'

Mrs S answered 'No' to this question. She'd been taking medication for osteoporosis since March 2021. However, if I understand her correctly, she's sayings that, as a layperson, she didn't want to rely on her own judgement to answer this question. So, she instead consulted the NHS website.

She says that Admiral accepts that 'medical condition' is not an all-embracing term. Her rationale for this is that the next question asked during the application process is:

'Have you or anyone in your party ever been diagnosed with or treated for any of the following:

- any heart or respiratory condition?

-any circulatory condition (problems with blood flow, including strokes, high blood pressure and cholesterol)?

-any liver condition? -any cancerous condition?'

Therefore, in her view, if these conditions were caught under the definition of 'medical condition' they'd be no need to ask for their specific disclosure.

I'm afraid Mrs S has misunderstood the basis of these questions. The first question asks for details of medical conditions in the last two years. Additionally, the second question asks the applicant to disclose any listed conditions that they have ever had – so not just confined to the last two years. So, I'm not persuaded that the conditions listed in the second question fall outside of the definition of 'medical condition'.

From the evidence I've seen, Admiral has declined the claim on the basis that osteoporosis is: '*a bone disease that develops when bone mineral density and bone mass decreases, or when the quality or structure of the bone changes.'*

Upon consulting the NHS website, Mrs S found that it describes osteoporosis as a 'health condition' as opposed to a 'medical condition'.

I'm not persuaded that the NHS's reference to osteoporosis as a 'health condition' distinguishes it or excludes it from also being a 'medical condition'. 'Health condition' is a broad term that can encompass disease, illness or injury, as set out in the policy terms. I note the NHS website doesn't tend to routinely use the term 'medical condition'. As the information isn't specific enough to rule out that osteoporosis isn't also a 'medical condition', I'm not persuaded that Mrs S was able to rely on this information to then answer 'No' to the question. Other internet searches would have confirmed that osteoporosis is also considered to be a disease and illness.

Our investigator had suggested that, in taking reasonable care, Mrs S could have contacted Admiral for clarification about whether she needed to declare her condition. Her response was that she couldn't do that because she took the policy out online, on a Sunday, and so Admiral's helplines weren't available. I'm not persuaded that the timing of the application absolves Mrs S of her obligation to take reasonable care. If she'd thought that calling Admiral was the only way to clarify matters, then she could have abandoned the purchase at that time. Alternatively, she could have completed the purchase and then contacted Admiral afterwards to make any necessary amendments. Or, as suggested above, she could have carried on her internet search to further narrow down the broad reference on the NHS website.

I've thought very carefully about what Mrs S has said and I understand her reasoning. However, based on the available evidence, I consider that she should have disclosed her osteoporosis. I'm therefore satisfied that she did make a qualifying misrepresentation under CIDRA. So Admiral is entitled to apply the relevant remedy available to it under the Act. It concluded that Mrs S's misrepresentation was careless, rather than deliberate or reckless. I consider this was a reasonable conclusion for it to reach. I don't think she intended to mislead Admiral, but she didn't take enough care to ensure she answered its questions correctly.

CIDRA says, in cases of careless misrepresentation, that an insurer is entitled to apply cover as if it had all of the information it wanted to know at the outset. If it would still have offered cover, but charged a higher premium, then it may settle the claim proportionately, in line with the premium it would have charged. And if it would never have offered cover at all, it's entitled to cancel the policy from the start and refund the premium.

In this case, that means that it has settled 68.63% of the value of the claim. In the circumstances, I consider that Admiral has acted fairly, in line with the relevant legislation.

So, whilst I know it will be disappointing for Mr and Mrs S, I'm unable to conclude that Admiral has done anything wrong. It follows that I do not uphold the complaint.

My final decision

For the reasons set out above, I do not uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S and Mrs S to accept or reject my decision before 13 October 2025.

Carole Clark
Ombudsman