DRN-5798526

The complaint

Ms B and Mr W have complained that Inter Partner Assistance SA (IPA) declined a claim they made on an annual travel insurance policy.

As it is Mr W leading on the complaint, for ease, I will mostly just be referring to him in this decision.

What happened

The policy was taken out on 6 March 2024.

Whilst on a trip abroad in September 2024, their son unfortunately became unwell and had to be hospitalised. Mr W therefore made a claim on the policy.

IPA declined the claim on the basis that their son's pre-existing medical conditions (PEMCs) hadn't been declared at the point of purchase. It said that, had they been, it wouldn't have agreed to provide this cover. However, it offered to cancel the policy and refund the premiums that had been paid.

Our investigator thought that IPA had acted reasonably in declining the claim. However, she thought that it had unnecessarily delayed in refunding the premiums. She therefore recommended that it should add 8% simply interest at the time that the refund is made.

Mr W disagrees with the investigator's opinion 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 IPA by the Financial Conduct Authority (FCA). Its 'Insurance: Conduct of Business Sourcebook' (ICOBS) includes the requirement for IPA to handle claims promptly and fairly, and to not unreasonably decline a claim.

The 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.

IPA has provided evidence of the online sales journey. I'm satisfied that if an applicant had declared a PEMC, they wouldn't have been offered this particular policy.

IPA thinks that Mr W failed to take reasonable care not to make a misrepresentation when taking out the policy. When considering whether someone has taken reasonable care, I need to consider how clear and specific the questions asked were.

I've seen a copy of the relevant online webpage. Under 'Medical details', it asks:

'Do any of the travellers have, or have any of the travellers had any pre-existing medical conditions or is anyone on a waiting list for treatment or investigation?

A pre-existing medical condition is a condition or injury that you've been diagnosed with and have had or are currently receiving treatment for. Examples include high blood pressure, diabetes, anxiety and broken bones. We'll ask for more details about them later.

You must let us know the medical history of everyone on this policy to make sure you've got the right cover for the trip.

It may not always cost more to cover your medical conditions. The insurer may not pay for any medical treatments your claim for or costs to get home, if it's for something you did not tell us about.'

Mr W answered 'No' to this question.

He was then presented with a 'Declaration' section, where one of the questions he was asked was:

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

He also answered 'No' to this question.

Had he answered 'Yes' he would have been unable to complete the purchase of this policy. Instead, he would have been referred back to a list of other policies and likely been offered an alternative policy that did cover PEMCs.

Their son's medical records show that he was taken to A&E in October 2023 (so five months prior to buying the policy) due to bronchiolitis. He'd also had medication in January 2024 for an upper respiratory infection, and medication in January and February 2024 for eczema.

Mr W says a letter from the hospital doctor confirms that bronchiolitis isn't a medical condition. However, the letter just says that it isn't a chronic condition.

Whilst Mr W may not have thought of the bronchiolitis as a 'condition' when answering the first question, there's still the matter of the later declaration question. That asks about 'sickness' or 'illness' and I consider that the wording is clear. I think Mr W would have considered his son to be suffering from a sickness or illness when he took him to A&E – he's said himself that bronchiolitis is a common childhood illness. And he was taken to A&E because he had symptoms that needed investigating and treating. The discharge letter records the treatment as being complete. Therefore, Mr W should have answered 'Yes' to this question.

Additionally, the declaration question asks if anyone has been prescribed medication in the last two years. Given that his son had received medication in January and February 2024, he should again have answered 'Yes' to this question.

Mr W says the upper respiratory infection and the eczema are irrelevant as they do not relate to the condition his son was hospitalised for during the trip. However, the matter at hand is what would IPA have done if he'd correctly answered 'Yes' to either of the above questions.

I don't think Mr W intended to mislead IPA. But he didn't take enough care to ensure he answered the questions correctly. As he didn't take reasonable care, this is a qualifying misrepresentation under CIDRA and so IPA is entitled to apply the relevant remedy available to it under the Act.

CIDRA says that an insurer is entitled to apply cover as if it had all of the information it wanted to know at the outset. Based on the underwriting evidence provided by IPA, I'm satisfied that it would not have offered the policy if Mr W had declared his son's medical history.

I am very sympathetic to Ms B and Mr W's situation. Their son became ill whilst abroad which must have been a difficult and stressful experience, and they are out of pocket as a result. However, I'm unable to conclude that IPA has done anything wrong. It correctly declined the claim, in line with relevant legislation. It follows that I'd don't uphold the complaint in relation to the claim declination.

However, I do agree with our investigator that IPA should have refunded the premium amount at the time that it declined the claim, so it should now add 8% simple interest to that amount from the date the claim was declined until the date it is refunded.

If IPA considers that it's required by HM Revenues & Customs to deduct income tax from that interest, it should tell them how much it's taken off. It should also give them a tax deduction certificate if they ask for one so they can reclaim the tax from HMRC if appropriate.

My final decision

For the reasons I've explained, my decision is that I do not uphold the complaint in relation to the claim being declined. However, Inter Partner Assistance SA should refund the premiums now and add interest to that amount as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms B and Mr W to accept or reject my decision before 7 October 2025.

Carole Clark
Ombudsman