DRN-5839382

The complaint

Ms L complains because Inter Partner Assistance SA ('IPA') hasn't paid a cancellation claim under her travel insurance policy.

All references to IPA include the agents appointed to administer claims and complaints on its behalf.

What happened

Ms L was insured under a travel insurance policy provided by IPA.

Unfortunately, Ms L fell ill and had to cancel an upcoming holiday. She made a claim for her share of the holiday costs, but IPA declined the claim because it said Ms L hadn't told it about some pre-existing medical conditions when she'd bought the policy. IPA offered Ms L a refund of the premiums she'd paid.

Unhappy, Ms L brought her complaint to the attention of our Service.

One of our Investigators looked into what had happened and said he didn't think IPA had acted unfairly or unreasonably in the circumstances. Ms L didn't agree with our Investigator's opinion, so the complaint has now 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.

Industry rules set out by the regulator say an insurer must handle claims promptly and fairly and shouldn't unreasonably reject a claim. I've taken these rules, as well as other relevant considerations, into account when making this final decision. Media coverage of similar cases doesn't have any bearing on the outcome of Ms L's complaint which, in line with my remit, is based only on the specific circumstances of her individual case. And the fact that Ms L's travelling companion may have had their share of the holiday cancellation costs paid for under a separate travel insurance policy doesn't affect my decision about what I think IPA's obligations to Ms L are under the policy she holds.

IPA relied on a policy exclusion relating to pre-existing medical conditions when declining Ms L's claim. But, as Ms L was asked to answer questions about her health when buying this policy, the relevant law is The Consumer Insurance (Disclosure and Representations) Act 2012 ('CIDRA'). I'm satisfied that it's fair and reasonable to apply the principles set out under CIDRA to the circumstances of Ms L'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 available to it provided the misrepresentation is - what CIDRA describes as – a 'qualifying

misrepresentation'.

For a 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 – including how clear and specific the insurer's questions were. And the remedy available to the insurer under CIDRA depends on whether the qualifying misrepresentation was deliberate or reckless, or careless.

IPA thinks Ms L failed to take reasonable care not to make a misrepresentation because she answered 'no' to the following questions which she was asked when she bought the policy.

> *'Do any of these travellers have a pre-existing medical condition?*
>
> *We need to know about any condition, even a minor one, that you've seen a doctor about in the past 2 years.'*

and

> *'Within the last 2 years, have you or anyone you wish to insure on this policy suffered any medical condition that has required prescribed medication (including repeat prescriptions) and/or treatment including surgery tests or investigations?'*

I'm satisfied these questions are clear and specific, and I don't agree that these questions could reasonably be considered as easy to misunderstand.

I accept that answering these questions accurately may require a prospective policyholder to check their medical records, but this isn't inherently impractical or unreasonable – it's the nature of how the travel insurance market works, and an insurer is entitled to decide the level of risk it is prepared to accept when offering a travel insurance policy. If Ms L has any broader concerns about the sales process and information which wasn't contained within it, then she'd need to make a complaint about this issue to the regulated business who was responsible for the sale of the policy.

I've reviewed the information which I've been provided with about Ms L's medical history. This states she was prescribed medication for medical conditions including multiple urinary tract infections and was referred for ultrasound investigations in the two years before the policy was taken out. It wasn't up to Ms L to determine whether she considered these issues to be ongoing, serious and/or likely to affect any future travel plans. There was a duty on Ms L to take reasonable care to accurately answer the questions IPA asked.

I'm satisfied that a reasonable person would have realised from the questions asked that IPA wanted to know about Ms L's medical history which I've mentioned. So, I don't think Ms L took reasonable care when answering the questions IPA asked her when she was buying the policy.

IPA has demonstrated to my satisfaction that it would never have offered this particular type of insurance policy to Ms L if she had answered the medical questions she was asked in the way I think she reasonably ought to have. This means I think IPA has demonstrated that Ms L made a 'qualifying misrepresentation' under CIDRA and it is therefore entitled to apply the remedies available to it under the legislation. These remedies apply regardless of whether the condition being claimed for is linked to the conditions which were misrepresented.

I accept the qualifying misrepresentation here wasn't deliberate or reckless, and that there was no intent on Ms L's part to deceive IPA. This means I think it's fair and reasonable in the

circumstances for IPA to treat Ms L's misrepresentation as careless. IPA is therefore entitled to avoid the contract and decline Ms L's claim, but it must refund the premiums paid for the policy. IPA has already offered to do this, and I don't think this is a disproportionate, unfair or unreasonable offer in the circumstances.

I understand Ms L says she was reassured by IPA on two occasions that her claim would be covered. However, even accepting this was the case, it wouldn't be fair or reasonable to direct IPA to pay this claim in circumstances where there has been a qualifying misrepresentation under CIDRA.

I'm sorry to disappoint Ms L and I appreciate this isn't the outcome she was hoping for, but I must reach an independent and impartial decision which is fair and reasonable to both parties and I don't think IPA has done anything wrong, so I won't be directing it to do anything further.

For the avoidance of doubt, when reaching this decision, I haven't relied solely on rules and regulations. I've also had regard to what I think is fair and reasonable in the overall circumstances and in this case, I'm satisfied this is to apply the principles set out under the relevant law.

My final decision

My final decision is that I don't uphold Ms L's complaint.

Inter Partner Assistance SA has already made an offer to refund Ms L the premiums she paid for the policy, and I think this offer is fair in all the circumstances, so I direct Inter Partner Assistance SA to do this.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms L to accept or reject my decision before 27 October 2025.

Leah Nagle
Ombudsman