DRN-5849433

The complaint

Mr C complains that Inter Partner Assistance SA (IPA) has turned down a medical expenses claim he made on a travel insurance policy.

What happened

The background to this complaint is well-known to both parties. So I've simply set out a summary of what I think are the key events.

Mr C took out an annual 'Silver Gadget Plus' travel insurance policy through a price comparison website in August 2023. The policy was underwritten by IPA.

In June 2024, Mr C was abroad on holiday when he unfortunately became unwell and needed medical treatment. So he made a claim for the medical costs he incurred.

IPA assessed Mr C's claim, including copies of his medical records. It noted that in the two years before Mr C took out the policy, he'd seen the GP for a number of medical conditions and had been treated for/referred to other professionals for some of those conditions. So IPA concluded that Mr C hadn't answered some of its medical questions accurately when he took out the policy. And it said that if he'd done so, it would never have offered him this particular contract.

Therefore, IPA concluded that Mr C had made a qualifying misrepresentation under the relevant law when he took out the policy. It turned down Mr C's claim and it offered to refund the premiums he had paid for the policy.

Mr C was very unhappy with IPA's decision and he asked us to look into his complaint.

Our investigator thought IPA had provided evidence to show that Mr C had made a qualifying, careless misrepresentation under the relevant law. And she considered it had been fair for IPA to turn down the claim and offer to refund the premiums Mr C had paid.

However, the investigator didn't think IPA had handled Mr C's claim as well as it should have done and she felt this had caused Mr C some unnecessary distress and inconvenience. So she recommended that IPA should pay Mr C £100 compensation.

IPA accepted the investigator's assessment, but Mr C did not. And therefore, the complaint's been passed to me to decide.

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.

Having done so, whilst I'm very sorry to disappoint Mr C, I think the fair outcome to this complaint is for IPA to refund the policy premiums and to pay him £100 compensation. I'll explain why.

First, I'd like to say how sorry I was to hear about Mr C's illness abroad. I don't doubt what a worrying time this was for Mr C and his family and I do hope he's now made a good recovery.

The relevant regulator's rules say that insurers must handle claims promptly and fairly. And that they mustn't turn down claims unreasonably. I've taken those rules into account, amongst other relevant considerations, such as regulatory principles, the law, and the available evidence, to decide whether I think IPA treated Mr C fairly.

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. The standard of care is that of a reasonable consumer.

And 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 Mr C applied for the policy online through a price comparison website, he was asked questions about himself and his health. IPA used this information to decide whether or not to insure Mr C and if so, on what terms. IPA says that Mr C didn't correctly answer some of the questions he was asked at application. This means the principles set out in CIDRA are relevant. So, I think it's fair and reasonable to apply these principles to the circumstances of Mr C's claim.

IPA thinks Mr C failed to take reasonable care not to make a misrepresentation when he applied for and took out the policy. So, I've carefully considered whether I think this was a fair conclusion for IPA to reach.

First, when considering whether a consumer has taken reasonable care, I need to consider whether the questions they were asked during the sales process were clear. IPA has provided me with a copy of the online questions that were asked during the sales process.

The price comparison website asked:

'*Does anyone in your party have a pre-existing medical condition, or is anyone on a waiting list for treatment or investigation?...*

What is a pre-existing medical condition?

This is a medical condition or injury you've been diagnosed with and have had or are receiving treatment for. Examples include stroke, high blood pressure, anxiety and broken bones.'

Mr C answered 'no' to this question, which acted as a gateway question, as it allowed the price comparison website to provide them with information about potentially appropriate policies. Mr C was given details of IPA's 'Southdowns Silver Gadget Plus' travel insurance policy and opted to go ahead with this cover.

But the 'gateway' question I've referred to above wasn't the only question Mr C was asked

about his health during the application process. IPA asked Mr C its own questions about his health and circumstances in its declaration section.

Mr C was asked:

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

Mr C answered 'no' to this question.

In my view, the overall sales process Mr C followed was clear. I think IPA has made it sufficiently clear that it wants to know about any conditions a policyholder has had in the two years before the policy starts, which have required medication or treatment.

IPA concluded that Mr C failed to declare a number of medical conditions he'd had between August 2021 and August 2023. So I've looked carefully at the available medical evidence to decide whether I think this was a fair conclusion for IPA to draw.

Mr C's records show that in May 2023, he suffered from tonsillitis and was prescribed antibiotics. In July 2022, Mr C had complained about a rash and had been referred to dermatology. In June 2022, Mr C had consulted with the GP about hip pain and had been referred for physiotherapy. And a couple of months before that, Mr C had consulted with shin splits and the records suggest that he had been referred for an x-ray and for an ultrasound. He was subsequently referred to orthotics. During the relevant period, Mr C also consulted with a doctor for chest pain.

In my view then, the evidence indicates that Mr C had suffered from medical conditions in the two years before the policy was taken out for which he'd been prescribed medication and/or had been referred for investigations/treatment. This was specifically asked about in IPA's question. And therefore, I don't think it was unreasonable for IPA to have found that Mr C ought to have answered 'yes' to this question.

As such, I don't think IPA acted unfairly when it concluded that Mr C had made a misrepresentation when he applied for the policy.

Next, I've considered whether IPA has shown that Mr C's misrepresentation was a qualifying one under CIDRA. It's provided us with evidence which shows it doesn't offer any cover at all for pre-existing medical conditions under this particular policy. This is also made clear in the 'demands and needs' section of the policy documentation. So I'm satisfied that had Mr C answered 'yes' to IPA's question, it wouldn't have offered him this policy at all. This means I think IPA has demonstrated that Mr C made a qualifying misrepresentation and that it's reasonably entitled to apply the remedy available to it under the Act.

IPA has classified Mr C's misrepresentation as careless. It's offered to arrange a refund of the premiums he paid for the cover. CIDRA says that in cases of careless misrepresentation, an insurer may rewrite the policy as if it had all of the information it wanted to know at the outset. And if it wouldn't have offered cover at all, it may decline a claim, avoid the policy and refund the premiums. So I find that IPA has acted in line with CIDRA and that this was reasonable in the circumstances.

On that basis, I don't think it was unfair for IPA to conclude that Mr C had made a qualifying misrepresentation under CIDRA. So despite my natural sympathy with Mr C's position, I think it's reasonably entitled to turn down this claim and to avoid the policy and refund the

premiums he paid.

I appreciate Mr C has been through an online application for a similar policy which is underwritten by IPA, which shows it would have offered some medical cover. But I note that this is a different policy. And I'm also satisfied that the evidence shows IPA wouldn't have sold Mr C the contract he took out had he correctly answered its questions.

However, IPA accepts it didn't handle the claim as well as it should have done. It wrongly referred to a condition Mr C had suffered from after the policy was taken out as an initial reason to turn down the claim. And it seems it unreasonably delayed the progression of Mr C's claim. So I agree with our investigator that compensation of £100 is a fair, reasonable and proportionate award to recognise the unnecessary trouble and upset IPA's claims handling errors had on Mr C. I was pleased to note that IPA accepted this recommendation.

Putting things right

I direct Inter Partner Assistance SA to:

- Pay Mr C £100 compensation; and
- Refund the policy premium if it hasn't already done so,

IPA must pay the compensation within 28 days of the date on which we tell it Mr C accepts my final decision. If it pays later than this, it must also pay interest on the compensation from the deadline date for settlement to the date of payment at 8% a year.

My final decision

For the reasons I've given above, my final decision is that IPA was entitled to turn down Mr C's claim, cancel his policy from the start and pay a refund of premium.

However, I find that Inter Partner Assistance SA did make some claims handling errors and so I direct it to put things right as I've outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 16 December 2025.

Lisa Barham
Ombudsman