DRN-5867693

## The complaint

Mr and Mrs J complain that AXA PPP Healthcare Limited turned down a claim Mrs J made on a personal private medical insurance policy.

As the claim relates to Mrs J, for ease of reading, I've referred mainly to her throughout.

## 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 main events.

Mrs J held personal private medical insurance for many years. Unfortunately, she was diagnosed with a rare cardiac condition, which caused her to suffer low blood oxygen levels. Her treating cardiologist, who I'll call Dr O, recommended that Mrs J should undergo cardiac catheterisation, followed by percutaneous patent foramen ovale (PPFO) closure surgery. So Mrs J made a claim on the policy.

AXA assessed Mrs J's claim with its medical advisers (MA). It concluded that PPFO closure surgery was unproven treatment for Mrs J's rare condition. And it didn't think there was high quality trial evidence to support the use of PPFO closure surgery for Mrs J's illness. So while it agreed to pay for the cardiac catheterisation, it concluded that the PPFO surgery wasn't covered by the policy terms and it turned down this part of the claim.

Mrs J was very unhappy with AXA's decision and she complained. She also provided supportive evidence from Dr O. It seems Mrs J subsequently underwent PPFO closure surgery on the NHS.

AXA maintained its claims decision. But it acknowledged that there were some service issues, so it offered Mrs J £100 compensation.

Remaining unhappy with AXA's position, Mrs J asked us to look into her complaint.

Our investigator didn't think AXA had treated Mrs J fairly. He thought it had been reasonable for it to find that PPFO closure surgery wasn't covered by the policy terms.

Mrs J disagreed and so 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 cause Mrs J further upset, I don't think it was unfair for AXA to turn down her claim and I'll explain why.

First, I'd like to say that I do hope Mrs J has made a good recovery from the surgery. It's clear this was a worrying time for her and for Mr J.

It's also important to set out that I'm not a medical expert. This means I can't make clinical decisions or substitute clinical opinion with my own – and it would be inappropriate for me to do so. Instead, my role is to independently and impartially assess the evidence that both parties have provided to decide whether I think it was fair and reasonable for AXA to conclude, based on the available evidence, that Mrs J's claim for PPFO closure surgery wasn't covered by the policy terms.

I'd like to reassure Mrs J that while I've summarised the background to her complaint and the detailed submissions she has sent us; I've carefully considered all that's been said and sent. In this decision though, I haven't commented on each point that's been raised and nor do our rules require me to. Instead, I've focused on what I believe to be the key issues.

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, alongside other industry principles and guidance, the contract terms, and the available evidence, to decide whether I think AXA handled this claim fairly.

I've first considered the policy terms and conditions, as these form the basis of the contract between AXA and Mrs J. Page eight of the policy handbook says:

*'Like all health insurance plans, there are a few things that are not covered. We've listed the most significant things here, but please also see the detail later in this handbook.'*

Page 20 of the contract explains that AXA covers surgery and treatment which is conventional. It goes on to say:

'*We define conventional treatment as treatment that is established as best medical practice and is practised widely in the UK. It must also be clinically appropriate in terms of necessity, type, frequency, extent, duration and the facility or location where the treatment is provided.*

*In addition, to meet our definition, it must be approved by NICE (The National Institute for Health and Care Excellence) as a treatment which may be used in routine practice. Otherwise, it must have high quality clinical trial evidence proving it is effective and safe for the treatment of your medical condition (full criteria available on request).'*

And pages 21 and 22 explain the applicable cover if a policyholder's specialist recommends unconventional treatment. I've set out the applicable terms below:

*'We know our members may want to have access to developing treatments as they become available. Our general position is that there is no cover for treatment or surgery that are not conventional treatment. We call this unproven treatment.*

*In some cases we will consider covering surgery not listed in the schedule of procedures and fees. We may also consider other treatments and diagnostic tests carried out by a specialist which are not conventional treatments. We must agree to the treatment before you have it, including what costs (if any) we will pay.*

*The cover for unproven treatment is more restrictive than for conventional treatments. We will only pay for treatment that we agree is a suitable equivalent to conventional treatment. To understand what the equivalent conventional treatment is we will look at the treatment of other patients with the same medical condition and prognosis. Unproven treatment must have high quality evidence of its safety and take place in the UK.'*

I think the policy terms and conditions clearly explain that AXA generally only pays for

conventional treatment. I find it's explained what it considers conventional treatment to be. I'm also satisfied that it's clearly set out the criteria which need to be satisfied before it will consider and pay for unproven treatment.

It's clear that when assessing this claim, AXA took into account the available evidence from Dr O and that it took into account relevant studies and evidence. AXA referred that evidence on to its MA team for review. In my view, that was a reasonable and appropriate response from AXA.

In a letter dated 29 September 2024, Dr O wrote to AXA in support of Mrs J's claim. They said:

*'I would point out that (Mrs J's condition) is a rare condition. It is therefore to be expected that data from large scale randomised clinical trials is not available. However, we would highlight that PPFO surgery is widely considered to be the treatment of choice in this clinical setting*

*Both the Society for Cardiovascular Angiography & Interventions (SCAI) and the European Society of Cardiology (ESC) support the approach of PPFO closure in the setting of (Mrs J's condition.)'*

Subsequently, on 6 May 2025, Dr O said:

*'The conventional method for achieving closure of a PFO is via a percutaneous device closure…*

*This approach is supported by international and national guidance. As such, our neurocardiac muti-disciplinary team considered PPFO closure to be the clear first line option to treat (Mrs J's condition).'*

On the other hand, AXA referred to the relevant NICE guidance for PPFO closure surgery. NICE recommends PPFO closure for the prevention of *recurrent cerebral embolic events.* It doesn't appear that Mrs J required PPFO closure for the prevention of recurrent strokes – it was to treat the rare condition she was diagnosed with. AXA's medical team therefore concluded that NICE hadn't approved the treatment as routine treatment for Mrs J's specific condition. I think that was a reasonable conclusion for AXA to reach.

AXA's MA has also commented specifically on the clinical trial evidence Mrs J has provided in support of her claim. So I'm satisfied it's reasonably taken this evidence into account. I note that the trial evidence does indicate that PPFO closure surgery been successful in treating people with Mrs J's condition.

The MA has provided plausible and persuasive reasons though why it doesn't consider these trials to be 'high quality evidence' which would mean that Mrs J's surgery should have been paid. Those reasons focus on the very small numbers of patients who participated in the study. While I acknowledge the rareness of Mrs J's condition, which might account for the lack of large-scale clinical data, I don't find AXA's MA's conclusions to be unfair.

I entirely appreciate that Mrs J and her treating team felt that the PPFO closure surgery was best for her and, as I've said, it isn't my role to interfere in clinical opinion or decide on the most appropriate form of treatment.

However, I've very carefully considered all of the relevant medical evidence available on file. I've also taken into account the NICE guidance I've set out above and the studies both parties have referred to. And in my view, it wasn't unfair for AXA to conclude that Mrs J's

PPFO closure surgery wasn't conventional treatment and that it didn't meet all of the criteria required by the 'unproven treatment' cover. I say that because I don't think it was unfair for it to rely on its MA team's conclusions that NICE hadn't approved the treatment as routine treatment for Mrs J's condition and that there wasn't enough high quality evidence to show its safety and efficacy.

Additionally, I don't think it's unfair or unreasonable for AXA to compile its own internal guidance - based on available medical evidence - to determine what it classifies as conventional treatment, so long as it is treating all policyholders in the same situation in the same way. In this case, I'm satisfied that AXA has shown it treated Mrs J in the same way it would have treated any of its other policyholders in the same situation. So I don't think AXA has singled Mrs J out in any way.

So while I sympathise with Mrs J's position, I don't find AXA acted unfairly when it turned down her claim for PPFO closure surgery.

Mrs J has raised concerns about AXA's handling of the claim and the potential long-term impact of a delay in undergoing the surgery on her health. I can see that on 19 September 2024; AXA was given the relevant procedure codes. It let Mrs J know it would need further information from Dr O. On 26 September 2024, AXA's MA decided the full claim wasn't covered and it seems Mrs J was informed. Following Dr O's letter of 29 September 2024, the MA reviewed the claim again and while it maintained its decision to decline the claim for the surgery, it agreed to pay for the catheterisation, in line with the policy terms. It confirmed its overall decision to Mrs J on 7 October 2024.

In the round, I don't think I could reasonably find that AXA unfairly prolonged the assessment of this claim. It let Mrs J know, only a few days after the claim was made, that the surgery was unlikely to be covered. It also appropriately considered the medical evidence it was provided with. I think it ought to have agreed the claim for the catheterisation upfront and it seems there were delays in settling the invoice for that test. But I'm satisfied that the £100 compensation AXA's previously offered Mrs J to reflect the trouble and upset caused by that mistake is fair, reasonable and proportionate in the circumstances.

AXA should now pay Mrs J £100 compensation if it hasn't already done so.

**My final decision**

For the reasons I've given above, my final decision is that AXA PPP Healthcare Limited didn't act unfairly when it turned down Mrs J's surgery claim and that it's already made a fair and reasonable offer of compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J and Mrs J to accept or reject my decision before 22 December 2025.

Lisa Barham
**Ombudsman**