

complaint

Mr S complains that Europäische Reiseversicherung AG (ERV) has turned down his travel insurance claim for medical expenses he incurred after he became ill abroad.

In this decision I'll use 'ERV' to include its agents.

background

Mr S has an annual multi-trip insurance policy with ERV. He took the policy out in December 2016 shortly before he went on holiday. He told ERV that he had a pacemaker and prostate cancer.

While on holiday Mr S had a cold and felt short of breath. He consulted a doctor, who diagnosed COPD (chronic obstructive pulmonary disease). He notified ERV of this and later claimed for his medical expenses.

ERV turned down Mr S's claim. It said that he'd been undergoing tests for suspected COPD at the time he'd taken out the policy. Under the policy it specifically excluded claims for conditions where a consumer was on a waiting list, undergoing treatment, or tests, or was awaiting the results of any tests, or had undiagnosed symptoms. So his claim wasn't covered.

Mr S didn't agree. He said he was fit to travel and didn't intend to seek medical treatment abroad. He he'd travelled to spend time with a family member who lived overseas. He disputed that he'd seen a doctor for COPD, and hadn't been told he'd had it. COPD could be diagnosed only after a specific test. The overseas doctor didn't do that test – only an x-ray – and made an assumption about COPD. It was only when he returned to the UK that he had the relevant test and he'd not been diagnosed with COPD. He'd had treatment for post nasal drip which cleared up his cough.

Mr S said he'd been open and honest and declared all the medical conditions he was aware of when he'd first taken out the policy.

Our investigator didn't uphold the complaint. He thought ERV had been entitled to turn down the claim under a pre-existing medical condition policy exclusion. The complaint was passed to me for review.

further developments

I asked our investigator to obtain some more information from ERV and Mr S.

First, I asked ERV what questions it had asked Mr S when he applied for the policy. It sent us the screen shots of the screens he would have seen. These said:

"All pre-existing medical conditions must be declared.

Declaring your pre-existing medical conditions will ensure that we offer you the right travel insurance cover.

But [sic] not declaring any medical conditions you may not be covered if you require medical treatment abroad.

For each traveller named on this policy please select Yes if they:

- a. *Have, in the last two years, suffered from any medical or psychological conditions and for which they've received treatment, been prescribed medication, or attended any consultations, investigations or check-ups.*
- b. *Have every suffered from or received treatment, investigations or test: for*
 - *Heart attack, angina, chest pains (s) or other heart conditions*
 - *High blood pressure, blood clots, raised cholesterol, aneurysm or any circulatory disease*
 - *Any form of stroke, transient ischemic attack (mini-stroke) or brain haemorrhage*

If you:

- *have undiagnosed symptoms that may require further treatment (i.e. symptoms awaiting investigation or awaiting results of investigations and where the underlying cause has not been established); or*
- *are awaiting surgery*

Please call our specialist team free on 0800 033 4941 to discuss your quote."

When he applied for the policy on 17 December 2016 Mr S declared that he'd had a pacemaker fitted, and that he had prostate cancer. But he didn't declare his visits to the doctor about the cough in the months leading up to his applying for the policy. Those visits are set out in the final response letter. Specifically:

- 9 September 2016 – seen by the GP with a four to five month history of persistent, dry cough. Over the past few weeks he had passed out at times for a few seconds as a result of the coughing fits.
- 14 September 2016 – Mr S was seen by his GP complaining of a dry cough.
- Between 23 September 2016 and 18 October 2016 he'd seen his GP complaining of a persistent cough and wheezing. He was prescribed medication and advised to re-use his inhaler and spacer. He was also waiting to have a spirometry test.
- 24 October 2016 – Mr S's GP says that he was considering undertaking tests for possible COPD.
- 1 December 2016 – Mr S completed a 'How is your COPD' questionnaire.
- In addition to arranging the spirometry test, Mr S was prescribed Salbutamol, which is used in the treatment of asthma (known as COPD in adults over 50).

Mr S's GP notes also say that on 15 December 2016 Mr S came to review the spirometry test results. The test suggested 'obstruction with some reversibility'. Mr S said he'd never smoked, and never passed breathing tests even in younger age. His cough had gone since he'd stopped 'zestoretic' (a blood pressure drug). The GP suggested Mr S repeat the spirometry test in 3 to 4 weeks to see if it had improved.

ERV has provided evidence to say that if he'd told it he was under investigation at the time he bought the insurance it wouldn't have offered cover either for the medical condition under investigation or for the other medical conditions it had agreed to cover.

We asked Mr S to explain why he'd not called ERV to tell it about the visits to the doctor and the spirometry tests. He said:

- Originally his GP diagnosed his severe cough with the collapsing episodes. This was mis-diagnosed as his hospital consultant linked his collapsing with his heart condition. He'd had no further collapsing episodes since having his pacemaker fitted in October 2016. He declared this. The same consultant recommended he cease taking one of his medications prescribed for high blood pressure, as he thought this might be a factor causing his cough. This happened before he took out the policy.
- He was given tests before he took the travel policy but the pacemaker stopped the collapsing and no longer taking the blood pressure medication stopped the coughing. So he declared his medical issues to the best of his knowledge, being aware that any undeclared conditions wouldn't be covered.
- The cough while abroad was brought on by inhaling wood smoke from a fire pit in his daughter's garden. Given the earlier history of coughing his daughter took him to see a doctor. The doctor over-prescribed his condition as confirmed by his GP when he returned home. The chest x-ray was clear, and there weren't sufficient tests to diagnose COPD. The diagnosis was new to him, and the earlier tests proved inconclusive/clear. His GP never told him about suspecting COPD. This is why he'd not declared it, and he recovered within three days from the cough that developed on his holiday.

We asked ERV to comment on Mr S's explanation about his health. It said, in summary:

- It noted Mr S's comments, but noted there were two diagnoses on the medical report. Although Mr S disputes the COPD diagnosis he was still diagnosed with a respiratory condition.
- His GP said Mr S was still undergoing tests for suspected underlying respiratory problems such as COPD and asthma.
- ERV will not cover anything a consumer is undergoing investigation for.

my provisional decision

I made a provisional decision saying I didn't intend to uphold this complaint, for slightly different reasons from those given by our investigator. This is what I said:

"There's no suggestion that Mr S deliberately withheld information from ERV. He'd told it about his pacemaker and prostate cancer. ERV also hasn't suggested he was unfit to travel.

But I need to look at the questions ERV asked Mr S and to consider whether he took reasonable care in answering them. If I think he didn't take reasonable care then I'll consider whether ERV would still have offered him the travel insurance policy and if so on what terms. If he took reasonable care then ERV couldn't fairly rely on a pre-existing medical condition exclusion to turn down the claim, because its questions should capture the information it wanted to know about.

I've carefully considered Mr S's reasons for not telling ERV about his cough and investigation into the cough. He explained he thought the episode of collapsing had been resolved by the pacemaker. He also said he'd been advised to stop a blood pressure medication, to see if the cough continued. That's all borne out by the medical notes.

But I've also seen that Mr S completed a COPD assessment and had a spirometry test after he'd stopped the blood pressure medication. He spoke with the doctor about the spirometry test results shortly before he took out the insurance for his trip. The doctor said there was

obstruction with some reversibility, and suggested that Mr S repeat the test in three to four weeks time.

I think Mr S should have called ERV to tell it about the investigations he'd had into his cough, and that he was due to have a repeat test. This is the case even though he'd not been diagnosed with COPD. He'd been asked to call about any undiagnosed symptoms which were being investigated and may require further investigation. If he had called then I accept ERV wouldn't have covered him because he was under investigation. This isn't unusual for travel insurers, as it is a risk the insurer can't fully assess.

I've noted Mr S's comments about the chest x-ray being clear, the overseas doctor overprescribing medication and making a diagnosis of COPD without the proper tests. But this doesn't change my current findings because I've based my decision on the tests and discussions Mr S had with his GP before he left on his trip. So it doesn't make a difference that his cough while overseas was triggered by wood smoke.

So I currently don't intend to uphold this complaint. I think ERV was entitled to turn down Mr S's claim, on the basis it wouldn't have covered him had he called it about the investigations into his cough."

responses to my provisional decision

Mr S responded to say that he had nothing further to add. ERV didn't respond with any further comments.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I've not received any further comments or evidence from either Mr S or ERV. So I see no reasons to depart from the findings I reached in my provisional decision, set out in full above. I confirm those findings here. I don't uphold this complaint.

my final decision

For the reasons I've explained above I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 30 April 2018.

Amanda Maycock
ombudsman