

## **complaint**

Mr S isn't happy with the way that Aviva Health UK Limited ("Aviva") treated him when he made a claim on his private medical insurance policy.

## **background**

Mr S arranged an operation through Aviva. He used a hospital that was nominated by Aviva. There was a complication with his operation and the hospital didn't have the right facilities to deal with this. Mr S had to wait for an ambulance and was taken to an NHS hospital. He says that he was in a lot of pain and discomfort. Mr S says that Aviva shouldn't have recommended a hospital which wasn't able to deal with known risks of the operation he was having.

Our adjudicator looked into what happened and thought that Mr S was right to have expected more from Aviva. He recommended that Aviva pay Mr S £750 for the distress he experienced. That was because he said that Aviva had a duty of care when selecting hospitals for their recommended list.

Mr S didn't think that the compensation our adjudicator suggested was enough bearing in mind how ill he'd been. Aviva also didn't agree with our adjudicator because it said it wasn't responsible for the treatment Mr S got. And the hospital had met its registration criteria and the hospital regulator's standards.

I got in touch with Mr S to let him know my initial thoughts about his complaint. In summary, I explained that I didn't think Aviva had done anything wrong because it was the hospital's responsibility to explain and manage the risks of treatment. And Aviva isn't responsible for checking the day to day operation of the hospital or its staff. So I didn't think it was fair for Aviva to pay compensation to Mr S.

Mr S said that he felt we were missing the point as Aviva had sent him to a hospital for an operation with a known risk but no facilities to deal with that risk. He says that if he'd known this he'd have gone to a different hospital. I also let Aviva know my initial thoughts and it didn't add 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 can understand Mr S's frustration about what happened here. He went through a traumatic experience and was very unwell following the operation. But I don't think Aviva has treated Mr S unfairly because:

- The hospital had met the criteria for Aviva's registration process and the relevant regulatory standards for hospitals. Part of Aviva's registration process involves checking that the hospital is meeting those standards. So I think that Aviva did enough to make sure that the hospital met the right standards;
- There wasn't a history of similar problems with the hospital Mr S went to. So I don't think there would've been a reason for Aviva to review or reconsider the hospital's registration;
- Aviva isn't responsible for any possible negligent act by the surgeon or the hospital staff. Mr S has pointed us to awards made in medical negligence claims. But as our adjudicator explained that's something that Mr S may want to explore with a lawyer if he wants to. And it's not our role to look into whether the surgeon or the hospital did anything wrong here;
- The further points Mr S made about the lack of facilities at the hospital or the lack of a contingency plan haven't changed my mind. That's because, as I explained in my initial thoughts, it isn't Aviva that's responsible for managing or explaining the risks of treatment. And Aviva isn't responsible for checking the day to day operation of the hospital or its staff. So I still don't think that Aviva has done anything wrong here.

### **my final decision**

I'm not going to uphold Mr S's complaint about Aviva Health UK Limited. Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 18 August 2016.

Anna Wilshaw  
**ombudsman**