Financial Ombudsman Service

## complaint

Mr A's son has complained about AXA Insurance UK Plc's (AXA) delay in providing cover for Mr A's claim under his travel insurance policy and also about the way it handled the claim.

All references to AXA include its agents.

## background

Mr A was away on holiday when he suffered a heart attack and was taken into hospital. Mr A's family called AXA and logged the claim on the same day.

While in hospital Mr A had some tests which showed that he needed an operation. After a few days he was moved from the intensive care unit (ICU) to one of the wards. But before the operation took place Mr A had another heart attack and was moved back to ICU.

The hospital where Mr A was being treated didn't have the facilities to operate on Mr A. So when he was stable enough he was moved to another hospital. The operation was done there. A short while later Mr A was declared fit to fly and flown to a hospital in the UK by air ambulance.

Unfortunately after Mr A returned to the UK he suffered a stroke which he wasn't able to recover from. He passed away while in hospital.

AXA had initially refused to cover the claim because it said that Mr A's son, who took the policy out on Mr A's behalf, hadn't declared all his pre-existing conditions. It said that if he'd declared them all, it wouldn't have covered Mr A for heart problems. But AXA changed its decision about a week after Mr A went into hospital and confirmed it would provide full cover.

Mr A's son feels that the delay in the claim being accepted delayed Mr A's operation and led to him having another heart attack. He also feels that his father was flown back to the UK too soon and that the air ambulance was uncomfortable and caused his father stress. AXA rejected the complaint.

Our adjudicator didn't think that the complaint should be upheld. He thought that AXA was acting reasonably when it decided to investigate the claim before confirming cover. He also thought that the medical treatment provided to Mr A was down to the hospital and not AXA.

Mr A's son didn't agree. He said that AXA was pushing for his father to be repatriated and had he stayed in hospital he would still be alive. Mr A's son was asked to sign a disclaimer about the risks of the flight at the airport. He felt that AXA should've warned him about this and also about the fact that his father was going to have an injection to prevent blood clots before the flight. He said the doctors in the UK told him they couldn't give his father another injection to reverse the effects of his stroke because it would reverse the effect of the operation he'd had abroad.

## 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 understand that this must've been a very difficult time for Mr A and his family. But I think I should explain at the start that if I think AXA got things wrong I can only award compensation for the distress this caused Mr A. That said – I can see Mr A's son has said his father was anxious about whether his medical costs would be covered and that he was also under a lot of stress and discomfort especially during his repatriation.

Under Mr A's travel policy, pre-existing medical conditions aren't covered unless they've been declared and AXA's agreed to cover them. Such terms are common in most travel policies I'm aware of and not something I consider to be unreasonable. Insurers need to be aware of the risks they are insuring someone against.

When AXA contacted Mr A's GP it was told that Mr A had a number of pre-existing medical conditions. Some of those hadn't been declared to AXA though his previous heart attacks had been. So when the claim was reported AXA wanted to carry out further investigations. Its initial investigations showed that had all the pre-existing conditions been declared when the policy was taken out, it wouldn't have provided cover for Mr A's heart problem. But a few days later it changed its decision and agreed to provide cover.

From what I've seen I don't think that AXA acted unreasonably in wanting to look into Mr A's medical history before deciding whether or not to confirm cover. And I can understand why it said it wouldn't provide cover when it found out about the conditions Mr A's son hadn't declared. It was because when it ran Mr A's application through its screening process with all the conditions that should have been declared, it showed it wouldn't have provided cover for Mr A's heart problems.

I appreciate AXA changed its mind and decided to provide cover. But this is because AXA ignored one of Mr A's pre-existing conditions, his depression. Had this been taken into account together with the rest of Mr A's pre-existing conditions AXA wouldn't have covered the claim. So AXA could've declined cover but didn't. .

I appreciate Mr A's son feels AXA was wrong to refuse cover and that the delay in it confirming cover led to Mr A not having his operation early enough and having another heart attack. But – even if AXA should have confirmed cover earlier – I don't think the medical evidence I've seen supports his view that it was AXA's fault Mr A didn't have the operation he needed earlier.

I've seen a letter from the hospital Mr A was being treated in which said that he had been treated correctly without delays. I've also listened to the call between AXA and Mr A's daughter in law when the claim was reported. During this call AXA told Mr A's daughter in law that Mr A's medical records will have to be reviewed. AXA also said that the hospital will be able to treat Mr A anyway and that the insurance will be sorted out as they go along. I think that AXA made it clear from the start that Mr A's treatment was down to the hospital and that the decision of whether there was cover or not should have no bearing on this. So even if AXA unreasonably delayed confirming cover, which I don't think it has, I don't think this should've had any effect on the treatment Mr A received.

Mr A's son said that AXA pushed for his father to be repatriated early. And he thinks if he'd stayed in hospital abroad, he'd still be alive. Mr A was declared fit to fly before he was repatriated. And I haven't seen any medical evidence which suggests he wasn't. So I don't think that AXA acted unreasonably when it arranged this. AXA was only providing medical emergency cover under Mr A's policy. So, as the treating doctors thought it was safe to repatriate Mr A, it was reasonable for AXA to arrange this, so his treatment could continue in the UK.

Mr A's son has also said that the air ambulance was cramped and that his father was uncomfortable. AXA said that space on the air ambulance may have been restricted because of the medical equipment which was there to ensure Mr A was being repatriated safely. Again I don't think that this was unreasonable. There's only limited space in an air ambulance and the equipment needed to make sure the patient is safe and can be properly monitored is the top priority.

Mr A's son has complained about having to sign a disclaimer at the airport, which AXA hadn't warned him about. It's not clear whether he was warned about this. But even if AXA had warned him about it I don't think this would've changed anything. I think it was a reasonable request in the circumstances. And I can't really see how he could avoid signing this, as it was the only way his father could travel home. If he hadn't signed it AXA would have been entitled to abandon the repatriation and refuse any further cover.

Mr A was given medication to stop him developing blood clots. Mr A's son said that this meant that when he suffered a stroke his doctors couldn't give him medication to reverse the effects of the stroke. I haven't seen any medical evidence to support this. And I've seen a note on AXA's file which says Mr A was receiving blood thinning injections while he was in hospital. So, it doesn't look like he only had one because he was being flown back to the UK.

Mr A's son said if this is true then this medication was administered to Mr A without his knowledge or consent. I'm only able to look at how AXA dealt with the claim as the insurer and I'm not able to comment on the suitability of the medication that was administered to Mr A by the treating doctors.

Mr A's son is also unhappy about the lack of communication from AXA. And its lack of empathy. I appreciate that this is how he feels but having listened to a number of calls between him and his family and AXA I think the level and style of its communication was acceptable. Also from AXA's file it looks like the claim was being reviewed almost daily. When the claim was reported AXA said to Mr A's family that it's available 24 hours per day and its staff said they were sorry to hear about Mr A's condition.

As I've said above, I understand that this must've been a very difficult time for Mr A and his family but from what I've seen I haven't found that the way AXA dealt with the claim was unfair or unreasonable, so I decided not to uphold the complaint.

**my final decision**

For the reasons above, I decided not to uphold the complaint brought on behalf of Mr A's estate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A's son to accept or reject my decision before 15 February 2016.

Anastasia Serdari
**ombudsman**