

complaint

Mr M complains that Inter Partner Assistance SA (“IPA”) acted unfairly and unreasonably in declining his claim under a travel insurance policy. He wants his claim settled fairly and compensation.

background

Mr M had a travel insurance policy with IPA, which covered him for trips in Europe. He went on holiday and became unwell, needing hospital treatment. Mr M said IPA agreed that it would cover his costs, but later refused to pay. This was because Mr M had been absent from the UK for 46 days, and the terms and conditions of the policy said it only covered trips of up to 31 days length. Mr M said his trip to India should be ignored, which would then mean his trip was under 31 days in length. He also said the insurer had initially said that he was covered, and should be bound by that promise.

Mr M complained to IPA. It said Mr M left the UK and didn’t return for 46 days, and so the claim was declined. The policy clearly said that it would only cover trips of 31 days or fewer, and was only available to UK residents. It defined “home” as the UK.

Mr M complained to us. IPA denied telling the hospital that Mr M was covered, and noted Mr M contacted the broker who sold the policy when he needed treatment. The investigator’s view was that the terms and conditions of the policy clearly said that only trips lasting 31 days or fewer were covered, and the definition of “home area” was the UK. The calculation of the length of a trip was set out as being the time from the UK until return, so the time in India couldn’t be ignored. He also said that there wasn’t sufficient evidence that IPA agreed to cover Mr M’s costs.

Mr M disagreed. The investigator asked him about his residency status in the UK, and Mr M said he was a citizen and resident of India who lived in the UK when studying. The investigator said that the rejection of his claim was fair and reasonable and it appeared that Mr M wasn’t a permanent UK resident, so wasn’t eligible for the policy. He also noted that Mr M hadn’t provided evidence that IPA had agreed to cover the claim – the evidence supplied told him to contact IPA. Mr M remained unhappy and said silence on the part of the insurer constituted acceptance of his claim and his residency status. The investigator said silence didn’t mean acceptance and the complaint wasn’t upheld.

my provisional decision

In my provisional decision, I said:

“The core of this complaint is about whether IPA acted fairly and reasonably in rejecting Mr M’s claim. The relevant rules and industry guidelines say that IPA has a responsibility to handle claims promptly and fairly. And it shouldn’t reject a claim unreasonably.

I don’t think IPA is at fault. First, there’s no evidence it agreed to cover this claim – silence does not constitute acceptance and Mr M was told to contact IPA. More importantly, I don’t think that Mr M was eligible to have the policy in the first place – there’s no evidence that he held permanent resident status in the UK, and the policy states it is only available to those who have this status. Mr M himself describes himself as a citizen and resident of India.

As Mr M wasn't eligible for the policy, this means that IPA didn't act unfairly or unreasonably in declining his claim. I also note that the condition from which Mr M suffered from is one that is unlikely to have suddenly arisen without warning; it's likely to be a pre-existing medical condition. The policy excludes "any medical condition affecting you, that you are aware of, that could reasonably be expected to result in a claim on this policy".

But the core of this complaint is about IPA's application of a "31 day rule". The terms and conditions of the policy (accepted by Mr M) say that the definition of "home" is the UK, and the length of trips are calculated based on the departure and return date to the UK. The policy also says that trips can't be longer than 31 days to be covered. Such a term ought to be highlighted as a significant limitation or exclusion to the consumer.

Mr M was absent from the UK for more than 46 days, but his treatment was given within the first 31 days of his holiday. IPA hasn't shown that it would've been prejudiced if it settled an eligible claim for treatment received within the 31 day window. But in Mr M's case, he wasn't eligible for the policy due to his residency status and it seems likely his treatment was for a pre-existing medical condition; this means the claim would never have been successful and the complaint isn't upheld."

my findings

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

In response to my provisional decision, Mr M sent evidence which he said showed that he was registered with a UK GP and had residence rights in the UK. But the evidence in my view doesn't show that he has permanent residency rights – Mr M had a student visa which ended in January 2019. Mr M also complained that I considered the issue of pre-existing medical conditions and his eligibility under the policy and said this was unfair; but I can't ignore such important points when deciding if IPA should make payments to Mr M and he's had the opportunity to respond to my provisional decision.

Mr M also said that the policy didn't exclude those who were not UK permanent residents, but this is incorrect. The terms and conditions (which are separate to the policy schedule Mr M sent to this service) clearly do require policyholders to be UK permanent residents.

IPA didn't comment on the provisional decision, but confirmed to this service that if Mr M was found to be ineligible, it would refund his insurance premium.

In light of these comments, I remain of the view that Mr M wasn't eligible for the policy in the first place as he wasn't a UK permanent resident and also was likely to be suffering from a pre-existing medical condition. This means IPA didn't act unfairly or unreasonably in declining his claim and doesn't need to repay his medical costs.

Mr M hasn't brought a complaint that he wasn't eligible for the policy (indeed, he denies this) so I can't at this time require IPA to refund the premiums, but I note its agreement to do so and would point out to Mr M that he could bring such a complaint to this service if IPA doesn't refund him promptly if he contacts it directly following this decision.

my final decision

My final decision is that I don't uphold the complaint. Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 11 November 2019.

Claire Sharp
ombudsman