

complaint

Mr G has complained about the decision of UK Insurance Limited ("UKI") to reject his claim for personal accident benefit under his travel insurance policy, saying that his pre-existing medical condition was notified to UKI and was not the cause of either the accident or the amputation.

background

Mr G had travel insurance underwritten by UKI as a benefit of his bank account for many years. Whilst on holiday, Mr G sustained serious injuries to his feet. UKI met the cost of his medical treatment overseas. After he returned to the UK, Mr G continued to receive treatment but it was unsuccessful and one foot had to be amputated. He submitted a claim for the personal accident benefit for loss of a limb.

UKI rejected the claim, giving a number of different reasons for concluding that it did not meet the policy terms. Mr G disputed each of those reasons and UKI paid a small amount of compensation for poor handling of the claim, but maintained the claim did not satisfy the policy conditions relating to "loss of limb".

Mr G was aggrieved with UKI's rejection of the claim. The complaint was investigated by an adjudicator who considered the medical evidence provided by Mr G's GP showed that the claim was not covered under the policy. The GP stated that Mr G's pre-existing medical conditions had caused the accident, made the injuries worse and affected his ability to heal.

The adjudicator concluded that Mr G had not shown the loss of limb was due to an "accidental, bodily injury caused solely and directly by outward violent and visible means". In his opinion, it was reasonable for UKI to reject the claim.

Mr G disagreed. He said that the need for amputation was the result of the injuries he suffered whilst on holiday and had no other cause.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

The issue for me to determine is whether it was fair and reasonable for UKI to reject Mr G's claim for personal accident benefit.

I have considered the complaint as sympathetically as possible since I have no doubt that Mr G has had a terrible experience and the overall handling of his claim was not satisfactory.

UKI accepted that Mr G's injury was a "personal accident", despite a clear legal ruling by the Court of Appeal that a similar case could not be considered a personal accident; and contrary to the medical evidence that Mr G's existing medical conditions caused the accident to occur. I have therefore treated the claim as arising from a personal accident.

I consider it significant that the policy states:

"In addition to anything in the general exclusions, we will not pay any claim, which arises from or is in connection with:

- 1 Any sickness or disease, naturally occurring or degenerative condition ...*
- 3 A pre-existing medical condition ...*
- 5 Any complication following a bodily injury which is attributable to your death, loss of limb, loss of sight or total permanent disablement ..."*

In my judgment, Mr G's claim is specifically excluded by clauses (1) and (3) because of his existing medical conditions. I note that Mr G stated that he disclosed his medical conditions to UKI. UKI denied any such knowledge. Mr G has no evidence that UKI agreed to cover any existing medical condition and I am not satisfied on a balance of probabilities that it covered any of those conditions.

Even if I am wrong to agree with UKI that it was entitled to rely on clauses (1) and (3) to reject the claim, it is clear from the medical evidence that clause (5) is also applicable. The overseas medical report states that the injury was infected at the date of treatment; and it was this infection which meant that Mr G did not recover properly and which led to amputation. Mr G's GP stated that that his pre-existing medical conditions contributed to Mr G's poor recovery and there is no medical evidence to question his professional opinion.

I have also considered the handling of the claim. As explained above, UKI was entitled to reject the claim for medical expenses on the grounds that what happened was not an accidental bodily injury. I do not consider it should increase its offer of compensation.

Despite my sympathy for Mr G's predicament, I am satisfied that UKI was reasonably entitled to reject the claim. I am unable to agree it would be either fair or reasonable to require UKI to make any further payment to him.

my final decision

It is my final decision that UK Insurance Limited was entitled to reject Mr G's claim.

I make no award against UK Insurance Limited.

Reidy Flynn
ombudsman