Financial Ombudsman Service

complaint

Mr and Mrs H complain about the amount AXA Insurance UK Plc has paid for their travel insurance claim, as well as the service it provided to them.

background

I issued a provisional decision on this complaint in December 2015. An extract from that decision follows:

Mr and Mrs H went on holiday with their children. Their holiday had been pre- paid and this included accommodation and car hire costs. After 12 days, Mrs H fell ill and was taken to hospital where she stayed for over six weeks.

Mr and Mrs H's children returned home three weeks after Mrs H was taken to hospital. Mr H stayed with Mrs H and they both flew back together when Mrs H was told she was fit to fly, together with a doctor.

Mr and Mrs H had paid around £35,000 for the holiday. AXA has so far paid around £22,000 back to them. This includes over £15,000 for the unused holiday, £1,000.00 hospital benefit cover and around £6,000 for emergency medical cover. The emergency medical cover included the expenses of a family friend who flew back to England with the children, as well as Mrs H's medical tests and additional accommodation costs. AXA also paid for some of Mr and Mrs H's phone calls.

Mr and Mrs H have complained that it took AXA a very long time to confirm that it would cover the claim in the first place. AXA has paid Mr and Mrs H £250 compensation for this which they've accepted.

Mr and Mrs H have also complained about the amount AXA's paid out to them. They believe that everyone's holiday essentially ended on the day that Mrs H went into hospital and that AXA should refund the cost of everyone's holiday from that day. AXA had argued that it was only Mrs H's holiday that was affected from that day. It offered to pay for the other members' holiday but starting three days later. It said this is because they were still able to use the accommodation and the car during those days unlike Mrs H.

Mr and Mrs H have also complained that even though the children had pre booked business class flights, they flew back in economy. This, they say, is because AXA took too long to organise the flights. Also even though the original business class tickets were on hold, due to AXA's delay there were no business class seats left, so the children had to fly economy. Mr H also had to extend the car hire period by another 18 days, which he wants AXA to pay for. Also, AXA hasn't paid additional costs such as petrol and hospital parking.

Our adjudicator originally thought Mr and Mrs H's complaint should be upheld in full. And she asked AXA to pay a proportion of Mr and Mrs H's total pre-paid costs based on the number of days lost. This included unused return flights. She also thought the additional car hire cost should be covered and recommended an additional £200 in compensation for the delay in arranging the children's return flights. She felt that this delay made Mr and Mrs H's experience more distressing.

AXA calculated the proportionate settlement to be around £18,000. Because of this, the adjudicator then felt AXA's original payment of roughly £22,000 was reasonable. And she *didn't think AXA needed to pay the additional car hire cost, as AXA had already paid over £4,000 more than it needed to for curtailment. AXA agreed to pay the additional £200 compensation and the adjudicator thought this was enough.*

Mr and Mrs H didn't agree with the adjudicator and asked for the complaint to go to an ombudsman.

my provisional findings

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

I appreciate that this must've been a very distressing time for Mr and Mrs H. I'll firstly look at what's covered by the policy:

- *Under the section for "curtailment" (cutting the holiday short) the policy covers non-recoverable and unused travel, accommodation costs and pre-paid charges. It also covers reasonable additional travel expenses.*
- *The policy also covers reasonable additional transport or accommodation costs if it's medically necessary to stay longer than originally planned. The travel and accommodation has to be up to the standard of the original booking.*
- *The policy also covers the additional costs of a "close relative" such as a spouse. And also their travel if they can't use their original ticket.*
- *It also covers the children's travel costs.*

I agree that Mrs H's holiday effectively ended once she was admitted to hospital. Our approach isn't to automatically say that the same applies to the rest of the family members, because in some cases they can still enjoy their holiday. But in this case I'm satisfied that Mr H's holiday effectively ended on the same day because, I assume, he had to spend a lot of time in hospital with his wife. At the time, Mrs H was in a serious condition and was being transferred to a number of different hospitals for tests and treatment. I also think the children's holiday was essentially over at the same time because they weren't able to enjoy it with their parents.

For those reasons I agree that AXA should pay for the entire family's unused holiday from the day Mrs H was taken to hospital. AXA should therefore pay for the 13 days of unused accommodation costs. This comes to just over £18,000.

As I understand it Mr and Mrs H and the children weren't able to use their return flights. The cost of those flights is included in the overall cost of their holiday. But the policy doesn't cover the cost of unused tickets if new ones have been paid for by AXA. I don't think that this is unfair especially in the case of Mr and Mrs H because AXA paid for them to return home, on business class, like their original booking.

Even though this isn't in the policy I think AXA should pay Mr and Mrs H for the difference between the cost of the children's original flights and the flights they actually took. The children had to return to England earlier than their parents to go to school. I think that had AXA accepted the claim sooner the children would've arguably had more choice of flights because they would've been under less pressure to return home. Also they could've arguably managed to keep their original tickets and flown back business class. I don't think it would be fair for Mr and Mrs H who paid for the flights to be left completely out of pocket for the cost of the flights that the children weren't able to use.

Mr and Mrs H have also complained that AXA should pay the cost of the additional 18 days car hire and also costs like road tolls, parking and petrol. Before Mrs H's accident Mr and Mrs H had no plans to hire another car and were due to fly to another island. Under the policy Mr and Mrs H could be entitled to those costs if they can prove that they were reasonable. There is no doubt that it was necessary for Mrs H to stay beyond her original return date as she was unfit to fly, so I think those costs were reasonable. Mr H has provided evidence to show that hiring a taxi would've been much more expensive. I agree that AXA should pay for the additional car hire. I also agree that costs such as hospital parking and petrol were a direct result of Mrs H falling ill and should also be paid back.

The cost of 13 days of unused holiday comes to around £18,000. From this amount AXA can deduct the following:

- *The cost of Mr and Mrs H's unused return flights because it doesn't have to pay for them.*
- *The cost of the children's actual return flights. AXA paid for their economy flights. This would mean that the difference in cost between the business and economy flights for the children will be paid back to Mr and Mrs H.*
- *Three quarters of the pre-paid car hire costs and associated costs like petrol and parking between 9 and 12 August. The car was still being used by Mr H and the children during that time. Mr H has said that the area they were in was mostly rural with very little transportation so they would've spent money on petrol and parking whether Mrs H was in hospital or not.*

I've asked for a breakdown of the holiday costs specifically to see what the costs of the return flights were to see whether AXA has over paid or under paid Mr and Mrs H's claim. Unfortunately I've been told that there is no breakdown because this holiday was sold as a package. As there's no breakdown I need to decide what the likely cost of the return flights would've been had they been booked separately.

Mr and Mrs H's actual return flights were booked by AXA. They were both flown back on business class, just like their original flights. This cost AXA a total of about £9000. So on balance I think this would've been roughly the cost of Mr and Mrs H's original flights. If AXA is to deduct this from the £18,000 it should pay for the unused holiday then this means that the most it has to pay is about £9,000. This is subject to the further deductions I mentioned above. Even without the further deductions it seems that AXA, who's already paid around £15,000 for the unused holiday, has overpaid the claim.

I previously said that AXA should also pay for the 18 additional days of car hire costs as well as associated costs like parking and petrol. Mr and Mrs H claimed about £1,400 for the car hire and around £100 for the associated costs. Even if I were to add the additional car hire costs of about £1,500 to the £9,000 I mentioned above, AXA still seems to have overpaid the claim.

Our adjudicator suggested that AXA should pay £200 for the distress and inconvenience caused to Mr H and to the children. This was for the delay in arranging the children's flights who flew back in economy rather than business class. I think the amount our adjudicator suggested is appropriate in the circumstances.

my provisional decision

For the reasons above, I intend to partly uphold Mr and Mrs H's complaint against AXA Insurance UK Plc. As AXA seems to have overpaid the claim I don't think there is anything more for it to pay apart from £200 for distress and inconvenience. This is in addition to the £250 it's already paid.

my findings

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

AXA has agreed with the recommendations I made in my provisional decision. Mr and Mrs H had nothing further to add. So the findings I made in that decision haven't changed and I won't repeat them here.

my final decision

For the reasons above, I am partly upholding Mr and Mrs H's complaint against AXA Insurance UK Plc. As AXA seems to have overpaid the claim I don't think there is anything more for it to pay apart from £200 for distress and inconvenience. This is in addition to the £250 it's already paid.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs H to accept or reject my decision before 12 February 2016.

Anastasia Serdari
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