

## **complaint**

Ms F is unhappy with AXA PPP Healthcare Limited's decision to exclude certain illnesses from cover under her policy on the basis that they are chronic.

## **background**

The circumstances leading to this complaint, and my initial conclusions, are set out in my provisional decision of 9 September 2014, a copy of which is attached and forms part of this final determination. In that decision I invited both parties to let me have any further representations by 9 October 2014.

I have now heard from both parties.

AXA accepted my provisional decision.

Ms F did not accept my provisional decision. She does not consider that she has any chronic conditions; rather she believes that she has been the victim of medical negligence and misdiagnosis.

Ms F also said she is unhappy that AXA will not correspond with her on the telephone.

## **my findings**

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

Whilst I appreciate Ms F has serious concerns in relation to the quality of the treatment she has received, that is not the subject of this complaint. It is something that Ms F needs to take up in the first instance with the treating professionals and I understand that she is doing so. I understand too that Ms F does not consider that she has any chronic conditions. However I remain satisfied by the evidence that AXA fairly excluded the conditions that it was able to show met its definition of chronic. Nothing that Ms F now says persuades me that my provisional findings were incorrect and for this reason I am not persuaded to depart from the conclusion I reached. Nevertheless, should Ms F wish to make a claim in the future for a condition which she considers is not related to those excluded, she is not prevented from submitting medical evidence to AXA in support of her submission.

I understand Ms F is frustrated that AXA will not communicate with her by telephone. However, it has provided a reasonable explanation for this. It has also allowed Ms F to communicate with it via other methods. I am sorry to disappoint Ms F but I cannot require AXA or its agents to speak with Ms F on the telephone.

## **my final decision**

My final decision is that I direct AXA PPP Healthcare Limited to:

1. remove the exclusion relating to Ms F's foot pain from the policy
2. Pay Ms F £200 in compensation.

Lindsey Woloski  
**ombudsman**

## **Copy Provisional Decision**

### **complaint**

Ms F is unhappy with AXA PPP Healthcare Limited's decision to exclude certain illnesses from cover under her policy on the basis that they are chronic.

### **background**

Ms F has been covered under the policy since 1988. Since then, AXA has withdrawn cover for four conditions which it believes fulfil the definition of chronic under her policy.

AXA withdrew cover for 'interstitial cystitis and related symptoms' in 2009. It withdrew cover for 'treatment and pain management of bladder, pelvic pain and spasm, spinal pain and related symptoms including neck and sacroiliac joint pain' in 2010. It then withdrew cover for 'anxiety, depression, fibromyalgia and associated conditions' in 2011. Finally, it withdrew cover for 'continuing treatment, including pain management, of bilateral foot pain and related symptoms' in 2012.

Ms F is unhappy that these conditions have been excluded under the policy. She feels that the conditions are not chronic, and that AXA acted unfairly in applying the exclusions.

AXA explained that Ms F's claims history showed the conditions are chronic as defined by the policy terms. It also said as Ms F had renewed her policy annually since the exclusions were added she had accepted that cover was no longer available for them. Ms F was dissatisfied with this response and referred her complaint to this service.

Our adjudicator upheld the complaint. She was not satisfied that AXA had sufficiently shown the conditions could be said to be chronic. She recommended that AXA remove the exclusions from Ms F's policy until it has sufficient evidence to prove that they are chronic as defined by the policy terms. She also recommended that AXA pay Ms F £200 in recognition of the distress and inconvenience its handling of the situation caused her.

AXA disagreed with our adjudicator's assessment. It maintained that Ms F's claims history explains why the chronic conditions exclusion has been fairly applied in each instance.

### **my provisional findings**

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Having done so, and whilst I am sorry to disappoint Ms F, I am minded to conclude that her complaint only succeeds in part. I will explain why.

It is not in dispute that Ms F has a complex claims history. Nonetheless, the onus is on AXA to demonstrate that a condition is chronic as defined by its policy terms. Chronic condition is defined in the policy as follows:

*"A disease, illness or injury that has one or more of the following characteristics:*

- *It needs ongoing or long-term monitoring through consultations, examinations, check-ups and/or tests*

- *It needs ongoing or long-term control or relief of symptoms*
- *It requires your rehabilitation or for you to be specially trained to cope with it*
- *It continues indefinitely*
- *It has no known cure*
- *It comes back or is likely to come back”.*

For ease of reference I will deal with the conditions AXA deems to be chronic in turn.

‘interstitial cystitis and related symptoms’

I am persuaded by the medical evidence that AXA is able to show that the interstitial cystitis is chronic. Although Ms F’s consultant felt that the prognosis was good in 2007, she was still experiencing symptoms two years later and AXA covered the condition until 2009.

‘treatment and pain management of bladder, pelvic pain and spasm, spinal pain and related symptoms including neck and sacroiliac joint pain’

I am persuaded by the medical evidence that AXA is able to show that the above conditions are chronic. Ms F has suffered from the above conditions since 2005, and I consider that the first two bullets above are satisfied.

‘anxiety, depression, fibromyalgia and associated conditions’

Ms F has had treatment for anxiety since 2010, and treatment for depression since 1993. The medical evidence suggests that, whilst Ms F’s conditions are improving, she has suffered with anxiety, depression and fibromyalgia for a number of years. Due to the recurrent and on-going nature of these conditions, I do not consider it was unfair for AXA to conclude that they could be deemed as chronic in accordance with the policy definition.

‘continuing treatment, including pain management, of bilateral foot pain and related symptoms’

Ms F was diagnosed with tendonitis in her feet in 2007. She required three months of physiotherapy due to this. AXA feels her current symptoms have been on-going since this time.

However, Ms F underwent foot surgery in 2012 and the medical evidence from her consultant is that she has been left with postoperative neuropathic pain but that this is likely to improve with “*the input of a clinical psychologist specialising in pain management*”.

Because of this, I am presently of the opinion that AXA acted in haste by deeming this condition to be chronic. Although I consider AXA was entitled to deem the majority of Ms F’s conditions as chronic; I do not agree with its contention that by renewing cover a consumer is bound to agree to exclusions added at that time. Consumers are entitled to expect their cover to continue on the same terms as previously enjoyed, unless an insurer is able to demonstrate a condition has become chronic or otherwise excluded by a policy term.

I am minded to conclude that Ms F was caused distress by the addition of the exclusion to her foot pain following her unsuccessful surgery. For the upset suffered I agree a compensatory payment in the sum of £200 is merited.

**my provisional decision**

My provisional decision is that AXA PPP Healthcare Limited should:

1. remove the exclusion relating to Ms F's foot pain from the policy
2. Pay Ms F £200 in compensation.

Both parties now have one month in which to provide me with any further submissions before I issue my final determination.

Lindsey Woloski  
**ombudsman**