

complaint

Mr and Mrs C complain that Europäische Reiseversicherung AG (ERV) didn't pay their holiday cancellation claim under their travel insurance.

background

Mr and Mrs C renewed their annual travel policy with ERV in November. They each declared two medical conditions which ERV accepted.

In January Mr C needed medical treatment on holiday. On their return to the UK he was hospitalised with a likely heart condition. In February Mr and Mrs C claimed for the medical expenses incurred abroad. Mrs C says the claim form asked for details of any subsequent treatment and she gave all the information relating to Mr C's admission in the UK.

While the claim was being assessed, in April Mr and Mrs C booked a holiday for later in the year having received medical advice that Mr C was fit to travel. At the same time Mrs C phoned ERV to try to update the policy for cover for Mr C's likely new condition and stress which she had developed. Several days later ERV told her the policy wouldn't be updated until the medical expenses claim was settled.

ERV approved the claim in late May 2015. In June it referred the health changes to the underwriters. As a result ERV asked for Mr C's medical records for the last two years before he took out the policy.

In mid July ERV told Mrs C on the phone that it was excluding cover for Mr C's medical conditions as he hadn't declared some conditions noted in the medical records. Mrs C didn't know which conditions ERV was referring to and asked for an explanation in writing. ERV wrote to Mrs C in August then saying it wouldn't provide cover for both her and Mr C's existing conditions but gave no further information.

A few days before that letter was sent Mr C had unexpectedly been hospitalised due to his heart condition. They had to cancel their holiday and made a claim. In September ERV wrote to say it had withdrawn cover completely for Mr C and the claim was declined. In this letter it detailed the conditions it thought Mr C should have told it about before and after the policy renewal.

Mrs C complained to ERV. She went through the additional medical conditions it said Mr C should have declared. She explained why the minor conditions hadn't been declared and said some were waived conditions under the policy anyway. The other issues ERV said Mr C should have told it about related to his health in January. She said it knew about those from the January claim and when she phoned it in April to ask for the policy to be updated. When ERV told her she would have to wait until the outstanding January claim was settled, it hadn't asked her for any information. And it hadn't suggested there could be a problem with cover. It only asked for the medical records after she chased it. By the time it had confirmed there was a problem with cover it was too late to take alternative travel insurance as Mr C had been told to cancel the holiday.

ERV didn't provide a substantive response and Mr and Mrs C complained to us. ERV reviewed the matter and accepted there was an unreasonable delay in the first claim being finalised. It offered Mr and Mrs C £500 compensation.

One of our adjudicators explained why she thought ERV should pay the claim subject to the policy limits and total compensation of £700.

ERV strongly disagreed. In summary it said:

- The waived medical conditions in the policy only apply if there are no other existing medical conditions which wasn't so for Mr C.
- The combined effect of the undisclosed conditions, disclosed conditions and change in health meant there was no cover for Mr C's conditions so it wouldn't pay the claim.
- It was aware of Mr C's heart problems but the policy was clear Mr and Mrs C had to contact it and do a new medical screening once there had been a change in health.
- Mr and Mrs C booked their holiday the same day as telling it about Mr C's change in health, so they "took a gamble" over whether they would be covered.
- Mrs C was told over the phone in mid July that there was no medical cover so they could have got alternative cover then.

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'm upholding Mr and Mrs C's complaint. ERV should meet the claim plus interest and pay them £700 compensation. I'll explain why.

When ERV medically screened Mr C it could fairly only take into account undisclosed health issues if Mrs C didn't take reasonable care in disclosing those issues at policy renewal.

I accept some of Mr C's conditions weren't waived under the policy as he had other conditions. But I've looked at what the issues were (including itchy palms and ears and ringing in the ears), Mrs C's explanation as to why she didn't tell ERV and Mr C's medical notes. I've also listened to the call recording of the policy renewal. I'm satisfied that at the time of renewal Mrs C did take reasonable care in disclosing just the two medical conditions for Mr C.

It may be that a rescreening removing the undisclosed conditions would result in Mr C having cover, but at a higher premium. I'm not going to ask ERV to do a medical rescreening with those conditions removed because whether or not it would have offered cover it should still pay the claim in these particular circumstances.

I say this because ERV's unreasonable delay in reassessing cover for Mr and Mrs C and its delay in giving her an explanation for its decision completely prejudiced their position.

Mrs C booked the holiday and called ERV about Mr C's significant change of health the same day. It hasn't been established which happened first. Whichever it was, I don't agree with ERV that Mrs C "took a gamble" by booking without it confirming cover. She could reasonably understand that she and her husband had an annual policy and were covered until told otherwise.

I've listened to the call recording in April where Mrs C gives full details about Mr C's change of health. I haven't seen an explanation from ERV as to why it wouldn't review cover until it settled the January claim. It would have been reasonable for it to review cover as soon as Mrs C told it about the change in health. Had ERV done so and given its decision and explanation in mid to late May (a reasonable timescale) Mr and Mrs C could have looked for alternative insurance. There's no suggestion from ERV that alternative insurance wouldn't have been available. But if none was available they could have cancelled the holiday at that point, only incurring small cancellation costs.

ERV didn't ask for the medical records to start reassessing cover until June. Mrs C provided them quickly but ERV didn't tell her until July that there was no cover for existing medical conditions. ERV says Mrs C should have taken alternative insurance at that point. But she had asked ERV for a full explanation of its decision. She clearly wanted to understand why and challenge it if she thought its decision incorrect. That's what she did when she finally got a full explanation for its withdrawal of cover when it wrote to her in September.

It took a month after the July phone call for ERV to write to Mrs C to confirm there was no cover. It didn't give any explanation for its decision although Mrs C had asked. Its August letter arrived after Mr C had unexpectedly been hospitalised and advised he needed to cancel. They couldn't get insurance to cover that risk then.

I've said above why ERV should have given its decision about cover, with explanation, to Mrs C in mid to late May. Even if it had written to Mrs C with a full explanation of its decision shortly after its call in July she would have understood the position and taken alternative insurance. ERV's delays throughout prejudiced Mr and Mrs C's position.

ERV has dealt poorly with this claim. It's added to Mr and Mrs C's stress at an already difficult time for them due to their health problems. It's offered £500 compensation but £700 better reflects the level of distress it's caused.

my final decision

I uphold Mr and Mrs C's complaint. Europäische Reiseversicherung AG must pay:

- Mr and Mrs C's claim subject to the policy limit and excess. It should add interest to this settlement at 8% simple from the date of claim to the date of settlement*
- £700 compensation to Mr and Mrs C for their distress and inconvenience due to its poor service.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs C to accept or reject my decision before 22 September 2016.

Nicola Sisk
ombudsman

*If Europäische Reiseversicherung AG considers that it's required by HM Revenue & Customs to take off income tax from that interest, it should tell Mr and Mrs C how much it's taken off. It should also give Mr and Mrs C a certificate showing this if they ask for one so they can reclaim the tax from HM Revenue & Customs if appropriate.