

complaint

Mr D complains that Vitality Health Limited declined his claim against his private medical insurance policy.

background

The background to this complaint was set out in my provisional decision of 8 January 2020, an extract of which is attached and forms part of this final decision. So, I won't repeat that information here.

my provisional decision

In my provisional decision, I explained why I thought that Vitality hadn't treated Mr D fairly in declining his claim and what I proposed it should do to put matters right.

responses to my provisional decision

Mr D didn't provide a substantive response to my provisional decision. Vitality disagreed with my provisional decision. It said, in summary:

- It's not sure why I concluded that the information it gave to Mr D about podiatrists was poor.
- It's up to its registered providers to ensure contact information is correct and it's unrealistic to expect it to have up to date information for its specialists.
- Its registration process is the mechanism by which it checks that it's working with healthcare providers who are qualified and competent and it can't always add a provider that a member would like to use.
- The podiatrist who treated Mr D was derecognised by it in 2016 and has not attempted to re-register with it.
- It pays for eligible treatment and doesn't know which treatments specialists offer or what equipment they have.
- There are several treatments for Morton's neuroma.
- It would expect a podiatrist to make a good faith effort to treat a condition or to refer the patient.
- Mr D should have reverted to it to ask if the podiatrist he wanted to treat him was registered with it.
- It's contrary to its terms and conditions to agree to pay for treatment with an unrecognised provider.
- It may have been able to offer Mr D an alternative provider a little further away.

my findings

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

The terms and conditions of Mr D's policy say that it "*...aim(s) to offer increased choice and access to high quality, private facilities.*" I think the starting point for that is the provision of adequate, up-to-date information about specialists.

For the reasons I set out in my provisional decision, I think that the information Vitality gave to Mr D about podiatrists it recognised was poor. It gave him the names of one podiatry clinic and four individual podiatrists and phone numbers for the clinic and two of the individuals. In fact, two of the individuals' names related to the same person. And none of the podiatrists recognised by Vitality offered the treatment Mr D needed.

I'm surprised by Vitality's comment that it's unrealistic to expect it to have up-to-date information about its providers. I think that's what Mr D relied on it for, in the circumstances that arose here.

I quite understand that Vitality has a registration process and, as I noted in my provisional decision, Vitality recognised the podiatrist who treated Mr D up to February 2016. Vitality hasn't offered any specific reason why it wouldn't recognise the podiatrist who treated Mr D.

Mr D's policy provides that he should contact Vitality before treatment to ensure the treatment is covered. Mr D didn't do that. But, in the particular circumstances here, I don't think that should be fatal to his claim. I can quite understand why Mr D proceeded as he did, as Vitality hadn't given him adequate and up-to-date information for any recognised podiatrists who could help him.

I've considered all that's been said but, for the reasons set out above and in my provisional decision, I don't think that Vitality treated Mr D fairly in declining his claim.

my final decision

My final decision is that I uphold Mr D's complaint. I now require Vitality Health Limited to:

- Reimburse Mr D his out-of-pocket expenses for his podiatry treatment, which I understand are £2,150 (subject to the policy excess and policy limits).
- Pay Mr D compensation of £100 in relation to his distress and inconvenience.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 27 March 2020.

Louise Povey
ombudsman

extract of provisional decision

complaint

Mr D complains that Vitality Health Limited declined his claim against his private medical insurance policy.

background

On 10 January 2019, Mr D submitted an online claim to Vitality in relation to treatment for suspected Morton's neuromas in his foot. Vitality told him that he needed a GP referral. Mr D wasn't happy about the delay that would cause. Vitality offered Mr D its GP service.

On 26 January 2019, a Vitality GP referred Mr D to a podiatrist. On 29 January 2019, Vitality gave Mr D information about podiatrists it recognised. Mr D arranged treatment with a podiatrist other than the ones named by Vitality. He had treatment in February 2019 and submitted invoices to Vitality for payment. Vitality declined the claim. It said that the treatment wasn't carried out by a podiatrist it recognised.

Mr D wants Vitality to reimburse him £2,150 for the cost of his treatment. He says he has "full cover" for therapies, including podiatry, so he assumed he'd have cover for all of the treatments provided by a qualified podiatrist. Mr D says that Vitality recognises a handful of podiatrists in his area and the information it has about them is poor. Mr D says that none of the podiatrists recognised by Vitality provides the treatment he received. He felt that the lack of support from Vitality left him with little option but to make his own decision. He feels that Vitality's handling of his claim is unfair.

One of our investigators looked at what had happened. He didn't think that Vitality had acted unfairly in declining Mr D's claim.

Mr D didn't agree with the investigator. He said:

- *The investigator is biased towards Vitality.*
- *Vitality provided documentation that states that "full cover" is provided for podiatry and didn't mention that the podiatrist had to be "recognised" by Vitality.*
- *He didn't receive clear advice in the phone call on 10 January 2019: Vitality gave him a small list of podiatrists with no supporting information and none of them provided cryosurgery for his condition.*
- *The GP didn't refer him for non-surgical treatment.*
- *Vitality hasn't responded to his question about its selection process for recognised therapist and hasn't explained why the podiatrist who treated him was no longer recognised.*

The investigator said that the documentation to which Mr D had referred only provided a summary of cover and referred to the terms and conditions. He said that Vitality had given Mr D clear information in the phone calls. The investigator said that he wouldn't expect Vitality to share commercially sensitive information with Mr D.

Mr D asked that an ombudsman consider his complaint and added that the documentation he'd referred to is important and required by the regulator. He said that Vitality didn't explain anywhere what's meant by "recognised".

As there was no agreement between the parties, the complaint was passed to me, an ombudsman, to decide.

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.

It's clear that Mr D has very strong feelings about this matter. He's provided detailed submissions to support his complaint, which I have read and considered. However, I trust that he will not take as a discourtesy the fact that I focus on what I consider to be the central issues.

the relevant policy terms and conditions

The starting point is the terms and conditions of the policy, which says as follows:

"THERAPIES COVER

WHAT'S COVERED

Charges for the following therapies or consultations after referral by a GP or consultant [...]

- ***chiropody/podiatry***"

"WHAT'S NOT COVERED

[...]

- ***treatment*** given by a therapist [...] not recognised by us."

"EXCLUSIONS- WHAT'S NOT COVERED

[...]

TREATMENTS AND TESTS

*We will not pay for the following **treatments**:*

- any **treatment** provided by, or undertaken whilst under the care of, a [...] therapist [...] who is not recognised by us. We may not recognise a consultant who, among other reasons:
 - has had their permission to practice suspended or restricted by a professional or regulatory body, or
 - charges more than we think is reasonable compared to other consultants with a similar level of expertise.

To become recognised by us, providers must meet our recognition criteria and agree to our terms of recognition."

has the claim been declined unfairly?

The relevant rules and industry guidance say that Vitality has a responsibility to handle claims promptly and fairly and it shouldn't reject a claim unreasonably.

I don't think that Vitality acted fairly in declining Mr D's claims. I'll explain why:

- The reference in the documentation to "full cover" doesn't mean that Mr D has cover for all of the treatments provided by a qualified podiatrist, as Mr D suggests. Any claim by Mr D is still subject to the terms of the policy.*
- As I've set out above, the terms and conditions of the policy provide that Vitality doesn't cover treatment by a therapist it doesn't recognise. The podiatrist Mr D chose isn't currently recognised by Vitality: he was recognised up to February 2016. Vitality is acting within the terms and conditions of Mr D's policy in declining the claim but I don't think that leads to a fair outcome in the particular circumstances of this case.*
- Vitality provided Mr D with the names of one podiatry clinic and four individual podiatrists. Mr D says that the information he got from Vitality about recognised podiatrist was poor. I agree. Vitality didn't provide contact phone number for two of the individuals, so Mr D had only the name of those podiatrists. And two of the names related to the same podiatrist.*
- Mr D says that the podiatrists recognised by Vitality didn't offer the treatment he received. I've checked this myself. Of the three phone numbers Vitality gave Mr D, the clinic said that it doesn't offer cryotherapy for Morton's neuroma, one podiatrist no longer provided private treatment as he works in a hospital and has done so for about a year and the remaining podiatrist didn't return the call. On balance, I think that Vitality didn't give Mr D adequate and up-to-date information about podiatrists it recognised.*
- In the circumstances, I can quite understand that Mr D found a podiatrist himself. One course of action Mr D could have taken was to ask Vitality to recognise the podiatrist he'd found. He didn't do that but I don't think that should be fatal to his claim. That's because I think it's likely that if Mr D had contacted Vitality it would have agreed to cover the cost, up to its usual limits.*

putting things right- what I intend to direct Vitality to do

In the particular circumstances of this case and against the background that Vitality didn't give Mr D adequate and up-to-date information for any recognised podiatrist that could help him, I think that Vitality should reimburse Mr D his out-of-pocket expenses for his podiatry treatment, which I understand is £2,150, subject to the policy excess and policy limits.

The terms of the policy I've set out above refer to not recognising providers who charge more than Vitality thinks is reasonable, compared to others with a similar level of experience. I don't think it would be appropriate for Vitality to pay Mr D only the level of fees it would pay for recognised podiatrists, if that is less than he was charged. That's because, as far as Mr D was concerned, Vitality didn't have any recognised podiatrists in his area, so a reduction of fees to a level Vitality considers reasonable would be arbitrary in this case.

Mr D received poor service from Vitality in that it didn't provide him with adequate and up-to-date information about podiatrists it recognised who could help him at a time he was in pain. Then it unreasonably refused his claim. He was troubled and annoyed by that. In the circumstances, I think fair compensation for Mr D's distress and inconvenience in this case is £100.

my provisional decision

My provisional decision is that I intend to uphold Mr D's complaint. I intend to direct Vitality Health Limited to:

- *Reimburse Mr D his out-of-pocket expenses for his podiatry treatment, which I understand are £2,150 (subject to the policy excess and policy limits).*
- *Pay Mr D compensation of £100 in relation to his distress and inconvenience.*