DRN-4481945

The complaint

Mr and Mrs W complain that Right to Health Limited mis-sold private medical insurance.

What happened

Mr and Mrs W had private medical insurance with another insurer (A). Mr W spoke with Right to Health as his renewal costs for February 2022 had increased. Right to Health gathered details of what it considered to be suitable alternatives at a cheaper cost and Mr W decided to make the move to another provider (B). Mr and Mrs W had pre-existing conditions, some of which were treated under the terms of A's policy. However, when Mr W needed to make a claim under his new policy with B, he discovered he wasn't covered. Mr W said Right to Health didn't make this clear enough and so he wanted it to pay for those costs. This was an advised sale.

Right to Health said it told Mr B the new policy was subject to moratorium underwriting before he made his decision. It also said the sales literature and policy documents said the same. Right to health said it'd done nothing wrong and so didn't uphold his complaint.

Our investigator disagreed. He said Right to Health failed to make it clear that Mr W would lose elements of cover for conditions he'd previously enjoyed with A. However, he explained the cost of the new policy was less than his renewal price with A and so he took that into consideration too. Our investigator decided Right to Health didn't need to pay the cost of Mr W's claimed treatment with B. Instead, he off-set those costs against the cost of the new policy and highlighted Mr B was still better off financially, even though he'd covered those costs from his own pocket.

However, he recommended Right to Health pay him £500 compensation for the mis-selling of the new policy because of the considerable distress and inconvenience it caused by not explicitly telling Mr and Mrs W they'd be losing cover for conditions that were previously incorporated under the existing policy.

Mr and Mrs W accepted our investigator's findings. But Right to Health still disagreed. In summary, it said the adviser told Mr W in a call that pre-existing conditions wouldn't be covered immediately and that they'd have to go two years symptom-free before they'd be eligible under the new policy. It also highlighted the sales literature explained the new policy was subject to moratorium underwriting. And so, it's now for me to make a final decision.

What I've decided – and why

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

Having done so, I too have decided to uphold this complaint and for the same reasons explained by our investigator. As this was an advised sale, there's a responsibility on Right to Health to clearly explain the differences between the policies so that Mr and Mrs W could make an informed choice about whether to switch providers. I accept it briefly touched on part of this in one of the calls it had with Mr W, however, I don't think it went far enough, or

provided enough detail for them to make that choice. I'll explain why.

The relevant rule here is ICOBS 5.3. This rule says;

A firm must take reasonable care to ensure the suitability of its advice for any customer who is entitled to rely upon its judgement.

When Mr W spoke with Right to Health, it was clear he wanted to reduce the cost of his renewal premium and this formed the basis of their subsequent discussions about suitable prospective insurers. However, it was also clear that Mr and Mrs W had previously used their private health cover for treatment of several conditions. Mr W explained that he liked having the peace of mind provided by having the option of being treated privately.

The adviser and Mr W discussed their pre-existing conditions and that he'd suffered with Basel cell carcinoma. Mr W explained he'd had procedures previously to have affected areas removed and that he wanted to know whether that would continue to be covered under the new policy. He also explained he wanted full cancer cover. The adviser told him this option was possible and that the Basel cell cover would depend on whether the specialist considered it cancerous. Throughout the conversations, Mr W outlined it was important that his previous conditions were covered by the new policy.

The issue here is that Right to Health didn't go far enough to explain Mr W would immediately lose cover for his previous conditions. I think it would have been reasonable for it to explicitly tell Mr W those conditions would not be covered if he took the new policy. This was an advised sale and so I'd have expected the adviser to go through their existing cover and outline the conditions that would no longer be covered should he take the new policy. Right to Health didn't do that. Instead, it briefly touched on the meaning of moratorium underwriting – which I'm satisfied didn't go far enough in the circumstances of this being an advised sale. I think this is further supported by Mr and Mrs W's surprise when they tried to bring a claim for something I'm satisfied would have been covered under their existing policy with A.

I've thought carefully about the motivation behind Mr and Mrs W switching policies and cost appeared to be a factor, but so too was retaining cover for some of their pre-existing conditions. Mr and Mrs W had to pay for private treatment that wasn't covered under the new policy, but I don't think Right to Health should have to cover those costs – despite its mistake. I say that because Mr and Mrs W are still better off financially despite paying those costs, because policy B was considerably cheaper than policy A.

I can see Mr and Mrs W's previous policy A had a policy excess of £1,000 per policy year. Policy A also provided cover for specialist consultations, diagnostic tests, practitioner and physiotherapist charges and therapist, homeopath, and acupuncturist charges. These benefits were all subject to a combined policy limit of £2,000 per policy year. Policy A also provided cover for MRI scans, but this wasn't subject to any policy limits.

Mr and Mrs W provided several invoices for treatment – total cost £4,693.72 – within the new policy year which I'm satisfied would have been covered by policy A. However, given what I've just explained, they would have been subject to the policy limit of £2,000. I also note the excess would have been deductible. The MRI scan cost £1,109 and would have been considered separately as it wasn't subject to limitations under policy A. Therefore, the total amount of treatment that policy A would have covered is £2,100.

I think it's important to note that the cost of the new policy (B) Mr and Mrs W purchased was £2,261.28 per year, compared to the £3,708.81 they were due to pay for the renewal of policy A. This is an approximate annual saving of £1,447.53 which over the two years would

total £2,895.06.

Mr and Mrs W continued to pay for private treatment despite their new insurer declining their claim citing pre-existing conditions not being covered. This was at a considerable cost to them both at more than £4,600. I've mentioned this because I'm satisfied this shows Mr and Mrs W would most likely have stayed with their existing provider had Right to Health made it clearer they'd be losing cover for their pre-existing conditions. Further, during the conversations with Right to Health, Mr W disclosed several conditions he and his wife suffered with and said he wanted the peace of mind provided by having the option of private healthcare cover.

I'm satisfied Right to Health took that option away by not taking what I consider to be reasonable care to outline the cover he'd lose by switching providers. Mr and Mrs W described the distress and inconvenience as considerable when they realise their underwriting terms had significantly changed and I agree £500 is a fair amount of compensation to put things right in the circumstances. I also note that Mr and Mrs W have had policy B for more than two years now and so any previous condition that wasn't covered initially, should now fall into the scope of that policy's cover, provided it meets the moratorium underwriting. Unfortunately, that doesn't apply to the condition he's continued to receive treatment for and so my award takes that into consideration too.

My final decision

I'm upholding Mr and Mrs W's complaint and Right to Health Limited must now pay £500 compensation for the overall distress and inconvenience it caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W and Mrs W to accept or reject my decision before 21 March 2024.

Scott Slade
Ombudsman