DRN-4544193

The complaint

Mr C complains that Vitality Health Limited unfairly declined a claim on his private medical insurance policy.

What happened

I'll only summarise what happened as both parties are familiar with the background of this complaint.

Mr C had a private medical insurance policy with Vitality. His cover started on 1 December 2020 and was underwritten on a moratorium basis. Briefly that meant any claims for conditions Mr C had received treatment for, had symptoms of, sought advice on, or believed existed in the five years before his policy started wouldn't be covered and would be considered pre-existing. A pre-existing condition could become eligible for cover under the policy's moratorium, but only after a period of two years provided Mr C hadn't consulted anyone for treatment or advice, or taken medication for it or a related condition.

In April 2023 Mr C made a claim on his policy. It was for a lesion in his mouth that was diagnosed as severe epithelial dysplasia following a biopsy in March 2023, but Vitality declined it. Vitality said the available evidence indicated that the lesion was pre-existing and had also been monitored in the two years since Mr C's cover had started, so it didn't satisfy the policy's moratorium.

Mr C complained about that decline, and when it was maintained by Vitality he approached this service. Our investigator didn't think Vitality had declined the claim unreasonably, given the requirements of the moratorium and the evidence available, so they didn't uphold Mr C's complaint. But Mr C disagreed and said there was considerable similarity between his complaint and another our service had previously upheld. He said his condition had only been diagnosed in 2023 and the symptoms and monitoring prior to that hadn't led to any further action being required at that time. He also said our investigator hadn't spoken to any of his consultants and it was only they who could say whether this was a new diagnosis.

While our investigator considered what had been said, they ultimately remained of the same opinion and so as no agreement was reached Mr C's complaint was passed to me to decide.

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.

Vitality had a responsibility to consider this claim both promptly and fairly, and to not reject it unreasonably. The moratorium I referenced above was explained within the terms and conditions of Mr C's policy as follows:

"*The Moratorium Clause*

*We don't pay claims for the **treatment** of any medical condition or **related condition** which, in the five years before your cover started:*

- *you have received medical **treatment** for, or*
- *had symptoms of, or*
- *asked advice on, or*
- *to the best of your knowledge and belief were aware existed.*

This is called a 'pre-existing' medical condition.

However, subject to the plan terms and conditions, a pre-existing medical condition can become eligible for cover providing you have not:

- *consulted anyone (e.g. a **GP**, dental practitioner, optician or therapist, or anyone acting in such a capacity) for medical **treatment** or advice (including **check-ups**), or*
- *taken medication (including prescription or over-the-counter drugs, medicines, special diets or injections)*

*for that pre-existing medical condition or any **related condition** for two continuous years after your **cover start date**.*"

Certain words within the policy terms were specifically defined too. With 'treatment' being defined as:

"*Surgical or medical services (including **diagnostic tests**) that are needed to diagnose, relieve or cure a disease, illness or injury.*"

And 'diagnostic tests' as:

"*Investigations, such as X-rays or blood tests, to find or to help find the cause of your symptoms.*"

So, Mr C would have needed to demonstrate that his claim satisfied all of the moratorium's requirements, and for the reasons I'll now explain I don't think it was unreasonable of Vitality to conclude that it didn't do so.

Mr C's claim related to a lesion in his mouth that went on to be diagnosed as severe epithelial dysplasia. But looking at the available evidence relating to the five years before his cover started (December 2020) I note that in the claim form he completed Mr C said his symptoms had first started in December 2017. Mr C's GP completed part of this claim form too and they said his lesion was first noted by a dentist in January 2018.

A number of other letters in the available medical evidence referred to Mr C's lesion during the five years before his cover started too. For example a letter from March 2018 said Mr C had undergone a shave biopsy. It also explained a small residual lesion persisted and it would require watching and a review in 5 months. Another explained Mr C had been seen in October 2018 for an atypical lesion, but its exact nature was uncertain and a further review was being arranged. And another from August 2018 said Mr C had been reviewed and referred on to a dysplasia clinic for further review at an interval of six months.

The available evidence also showed that Mr C had consulted medical professionals about his lesion within the two consecutive years that followed his cover start date. A letter from August 2021 said he'd been seen in a clinic for the lesion, which was more extensive than in 2018 but had no sinister features and would be reviewed for example. And another from November 2022 said there'd been no changes with the lesion, and it would be reviewed again in a year.

So, given what Mr C needed to demonstrate in view of the moratorium and what the

available evidence had shown, I don't think it was unreasonable of Vitality to find that the condition being claimed for was pre-existing and hadn't had a two year clear period.

Mr C has reiterated that his condition hadn't been diagnosed before March 2023. He also says that further intrusive investigation, which may have led to surgery, would have taken place if his consultants were worried about the lesion beforehand. I appreciate the position Mr C is taking here, but the moratorium didn't require a diagnosis in order for a condition to be considered pre-existing. And so again, even with the diagnosis date I don't think it was unreasonable of Vitality to decline this claim for the reasons that it did.

I am also aware that Mr C feels there's considerable similarity between his complaint and another our service has previously upheld. Each case is however decided on its own merit and in the specific circumstances of this complaint for all of the reasons given above I don't think it was unreasonable of Vitality to decline this claim. I realise Mr C will likely be further disappointed by my findings.

My final decision

My final decision is that I do not uphold this complaint against Vitality Health Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 26 February 2024.

Jade Alexander
Ombudsman