DRN-4600989

The complaint

Mrs C has complained that Aviva Insurance Limited declined to meet a claim made under a group private medical insurance policy.

What happened

The background to this matter is well known to the parties so I won't repeat it in detail here. In summary Mrs C complained when Aviva declined a claim for an MRI to investigate her headaches. It said that the condition was pre-existing and fell within the policy's moratorium.

Our investigator didn't recommend that the complaint be upheld. Mrs C appealed.

As no agreement has been reached the case has been passed to me to determine.

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.

I'm aware I've summarised the background and haven't referred by name to some sensitive medical conditions for privacy. I've focused on what I find are the key issues here. Our rules allow me to take this approach. It simply reflects the informal nature of our service as a free alternative to the courts. I'm satisfied I don't need to comment on every individual argument to be able to reach what I think is the right outcome. Although I recognise that Mrs C will be disappointed by my decision, I agree with the conclusion reached by our investigator. I'll explain why.

- The relevant regulator's rules say that insurers must handle claims promptly and fairly. And that they mustn't turn down claims unreasonably. So, I've considered, amongst other things, the terms of this policy and the available medical evidence, to decide whether Aviva handled Mrs C's claim fairly.

- Mrs C's moratorium based policy started on 1 January 2023 with continued medical underwriting from 30 November 2016. This meant that benefits wouldn't be available for any pre-existing condition if the policyholder *had symptoms of, medication for, diagnostic tests for, treatment for, or advice about that pre-existing condition within five years before the start date of the policy, and there has not been a clear two year period after the start date of the policy during which they have been free of medication for, diagnostic tests for, treatment for or advice about that pre-existing condition.*

- Mrs C's claim was initially for headaches and other symptoms, but subsequently just for headaches. She had seen a specialist and was being referred for an MRI scan. However the medical evidence shows that she had been suffering with headaches, among other symptoms, since 2012 and received diagnoses in 2014. Since that time she had seen a specialist annually and been on prescribed medication. So as Mrs C had headaches recorded as a symptom in the five years before the start of her policy

and had not gone two clear years without medication or advice, I don't find that Aviva treated her unfairly by declining her claim.

- Mrs C is represented by Mr C who has said that Mrs C has suffered with a viral condition for a number of years which has a number of symptoms – not including headaches. He says that usually a number of symptoms appear at the same time. A Consultant's letter on file first makes reference to this condition in 2017 – after 2016 which is taken as the start date because of the continued medical underwriting. This is a different condition to the ones she was diagnosed as having in 2014. But I don't find that it was unfair of Aviva to take into account that the medical records show Mrs C has suffered with headaches since 2012.

- I note that Mrs C's consultant writes that there is no past or family history of migraine. But I'm not persuaded that means that Aviva should ignore Mrs C's past recorded history of headaches. Aviva accepts that there can be many causes for headaches and has indicated if there is a different diagnosis is made Mrs C should refer back to Aviva. I find that is fair and reasonable in the circumstances.

- Mrs C's policy, like other policies of this type, doesn't cover long term or chronic conditions, other than an acute flare-ups. Aviva deems Mrs C's conditions to fall into this chronic category. I have seen nothing to suggest that Mrs C's present headaches are an acute flare-up of her existing conditions. But this is on the evidence to hand. Of course, if there is a different diagnosis for Mrs C's current headaches Aviva will consider this and review its conclusions. Nevertheless I don't find that it has treated Mrs C unfairly by declining her claim on the medical evidence it had.

My final decision

For the reasons given above my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C to accept or reject my decision before 13 March 2024.

Lindsey Woloski
Ombudsman