

The complaint

Mr M is unhappy that CIGNA Life Insurance Company of Europe SA-NV declined a claim on his employer's group medical insurance policy.

What happened

Mr M was diagnosed with prostate cancer in early 2023. He claimed on his policy for High Intensity Focused Ultrasound treatment (HIFU). The claim was declined because CIGNA said it was experimental and of unproven efficacy for prostate cancer.

Mr M complained to CIGNA but they maintained their decision to decline the claim. Unhappy, Mr M referred his complaint to the Financial Ombudsman Service.

Our investigator looked into what happened and upheld Mr M's complaint. She thought that the available medical evidence confirmed that Mr M was recommended the treatment as a standalone treatment for his prostate cancer. And, she noted that the procedure was available via the NHS with special arrangements. Mr M was referred for the treatment on the NHS.

CIGNA didn't agree and asked an ombudsman to review the complaint. In summary, they said the available evidence did not position HIFU as the recommended treatment for Mr M's diagnosis. They also said that the NHS evidenced the 'lack of evidence on efficacy and security of HIFU as it was limited to selected, controlled, investigational context'.

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.

The relevant rules and industry guidelines say that CIGA has a responsibility to handle claims promptly and fairly. And they shouldn't reject a claim unreasonably.

There is an exclusion in the policy which says there is no cover for:

Any form of experimental Treatment (or procedure) that does not amount to Orthodox Treatment or does not adhere to the common accepted customary or traditional practice of medicine in the United Kingdom.

It's for CIGNA to demonstrate, on the balance of probabilities, that the exclusion applies.

I'm upholding Mr M's complaint because I don't think it is fair and reasonable for CIGNA to rely on the exclusion in the specific circumstances of this case. I'll explain why.

Mr M's cancer was localised to the prostate and hadn't spread beyond it. CIGNA says that HIFU hasn't been approved as primary treatment for prostate cancer and is considered to be experimental, investigative or of unproven efficacy. They shared their internal guidelines which confirmed that HIFU is considered medically necessary as a treatment for recurrent localised prostate cancer following the failure of radiation therapy and when other criteria are met. CIGNA also highlighted the National Institute Care Excellence (NICE) guidelines which said that the procedure should only be used with special arrangements for clinical governance, consent, and audit or research. This requires a multi-disciplinary team (MDT) to select the patient subject to certain criteria.

Special arrangements means, 'there are uncertainties about whether a procedure is safe or effective. We also recommend special arrangements if risks of serious harm are known. These will need to be carefully explained to a patient before they make a decision. A special arrangements recommendation places emphasis on the need for informed consent. This includes both the patient (or carer) and senior medical staff, such as the clinical governance lead in their trust'.

Mr M was referred for the treatment by the NHS under the special arrangements by an MDT. So, he was eligible for HIFU as a first line of treatment due to the nature of the cancer and taking into account his overall circumstances. Mr M was placed on the waiting list at an NHS hospital.

Mr M has also provided medical evidence from a consultant which explains the disease characteristics are suitable for focal therapy and sets out some of the potential benefits and risks associated with the procedure. It also says:

Focal therapy is offered in a small number of NHS units as well as privately and is currently provided under the NICE IPF423 and NICE IPG424 guidelines.

The NHS website says that:

HIFU is sometimes used to treat localised prostate cancer that has not spread beyond the prostate...The risk of side effects from HIFU is usually lower than other treatments...This is because the treatment targets the cancer area only and not the whole prostate. HIFU is not widely available and its long-term effectiveness has not yet been conclusively proven.

I've also taken into account the updated NICE guidelines IPG576 and IPG756/1 from April and May 2023 as I think it's fair and reasonable to do so. It includes the following information:

Evidence on the safety of focal therapy using high-intensity focused ultrasound for localised prostate cancer is adequate, but evidence on its efficacy is limited. Therefore, this procedure should only be used with special arrangements for clinical governance, consent, and audit or research.

Given that Mr M's cancer was limited to the prostate and had not spread I don't think it's unreasonable to conclude that this was a suitable treatment option for him. The NICE guidelines, the consultant's report and the information on the NHS website is supportive of that. So, in the circumstances of this case I don't think it is fair and reasonable to conclude that it is experimental Treatment (or procedure) that does not amount to orthodox treatment or does not adhere to the common accepted customary or traditional practice of medicine in

the United Kingdom. Based on the evidence that's available to me I think it's reasonable to conclude that for Mr M's treatment was not experimental as it was recognised as a viable treatment in his very specific set of circumstances.

Furthermore, I've seen information which shows that HIFU is covered by the policy, just not as a first line of treatment. But in the circumstances of this case I think it would be fair and reasonable to cover the HIFU. Mr M would have been entitled to claim for other private treatment for his cancer. As this was the treatment recommended for Mr M, and bearing in mind the available evidence, I don't think this leads to a fair and reasonable outcome.

Putting things right

CIGNA needs to put things right by reassessing and paying the claim in line with the remaining policy terms. They should also pay 8% simple interest per annum from one month after the claim was submitted to the date of settlement.

My final decision

I'm upholding this complaint against CIGNA Life Insurance Company of Europe SA-NV and direct them to put things right in the way I've outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 14 May 2024.

Anna Wilshaw
Ombudsman