

The complaint

Mr B complains about the decision by Western Provident Association Limited ('WPA') to turn down his private medical insurance claim.

What happened

On 1 January 2023, Mr B joined his employer's private medical insurance cover with WPA. This was on a moratorium basis, which meant WPA wouldn't cover any pre-existing conditions from the previous five years before the policy started.

In March 2023, Mr B had a remote GP appointment (with a private GP through WPA) as he was experiencing discomfort in his right knee, calf and ankle. He was referred to a specialist. Mr B therefore made a claim, and WPA authorised investigations and an initial consultation. The specialist arranged for Mr B to have an MRI scan, which took place on 17 May 2023. As WPA hadn't authorised the scan, it asked for more information. Mr B provided WPA with a copy of the specialist's report and the remote GP's referral.

WPA reviewed the information on 21 June 2023 and concluded that Mr B's symptoms predated the start of the policy. It therefore refused to cover the cost of the MRI scan on the basis the claim fell under the moratorium, though it did cover his follow-up consultation with the specialist. WPA later accepted there had been a delay in its handling of the claim, and offered Mr B £50 compensation for this. Unhappy with this, Mr B brought a complaint to the Financial Ombudsman Service.

Our investigator recommended the complaint be upheld. He didn't think the medical evidence supported that Mr B had experienced problems with his knee before the policy was taken out. He recommended that WPA settle the claim, plus interest. The investigator thought the £50 compensation WPA had offered for the delay in dealing with the claim was reasonable.

I issued a provisional decision on 22 February 2024. Here's what I said:

'The policy says:

'If you have moratorium underwriting you will not be eligible to claim for at least two years, for any condition(s) which you had during the five years before your Scheme membership starts. We call these pre-existing conditions.' The policy defines 'pre-existing condition' as:

- *'Any condition, disease, illness or injury whether symptomatic or not. This includes- Anything for which you have received medication, advice or treatment; or- Where you have experienced symptoms, whether the condition has been diagnosed or not, before the start of your cover'*

I can understand why WPA initially turned down the claim. The information from the private GP said that Mr B's symptoms had started on 24 December 2022. However, after Mr B disputed this, WPA arranged for the GP call to be listened to. It was confirmed the GP had

asked Mr B when his symptoms started, and Mr B said the symptoms were painful from a few months ago. The GP therefore estimated the start of the symptoms as being 24 December 2022, which was exactly three months earlier.

I agree with our investigator that it's clear this was an estimated start date, and doesn't show that Mr B's symptoms most likely started before 1 January 2023. I've therefore considered the other evidence.

Mr B's own GP records confirm there's no record of any problem with his right knee in the previous ten years.

The private GP noted in the referral letter that Mr B had experienced a sporting injury 20 years ago when he felt something go in his thigh, and that Mr B thought there may be asymmetry of the legs, particularly around the knee. Mr B had said the leg felt weak, but that was longer standing. He also said he thought over the years his leg had deteriorated with the left thigh growing more than the right thigh.

When Mr B saw the specialist in April 2023, he said he'd always noticed a slight deformity in the anterior aspect of his thigh (since the sporting injury), and for a few years he'd noticed his leg decreasing in size in terms of the circumference. This was more so recently, with a feeling of instability that his knee may give way on him. The specialist noted the circumference of Mr B's right thigh was 1cm less than the left.

WPA told us it thinks Mr B's right-sided thigh muscle wastage was pre-existing and most likely related to Mr B's more recent leg pain. I'm inclined to agree with WPA here, since the specialist had noted this had been happening for a few years. Though I note that WPA didn't rely on this information when turning down the claim, and it would have been helpful if it had done so. If WPA had made this clear, then Mr B would have been given the opportunity to address this point.

I don't know what the MRI results were or what was discussed in Mr B's follow-up consultation. If Mr B has evidence to support that his right sided thigh muscle wastage was completely unrelated to the leg pain he reported from March 2023, then I'd be grateful if he could provide this to me in response to this decision. I'll then consider the matter further.

However, at the moment, I think the available evidence supports that Mr B was experiencing problems with his right leg a few years before 2023, even though it seems his symptoms became a lot worse after the policy started. I therefore intend to find that it was reasonable for WPA to conclude the claim fell under the moratorium.

WPA accepts it caused an unnecessary delay with the claim, as it didn't review the medical information it was sent on 17 May 2023 for nearly a month. It offered Mr B £50 compensation for this. That doesn't seem unreasonable to recognise the impact that delay caused Mr B.'

I asked both parties to provide me with any further comments they wanted to make before 7 March 2024.

WPA responded to say it had nothing further to add.

Mr B responded with the following main points:

- He agrees that his thigh muscle wastage happened before the start of his policy, but doesn't agree that it was within five years of the policy starting. He says the injury*

happened 20 years ago, and the muscle wastage and size difference changed in the years following this.

- The symptom of pain in his knee started before his private GP appointment, but after the policy had started.
- He questions why WPA authorised investigations and his initial consultation with a specialist if it thought his claim fell under the moratorium.
- He has since been diagnosed with degenerative changes of the hip joints, and these issues have caused changes to his functional movements and load bearing of his other joints, particularly his lower limbs. He has been advised he will likely need a hip replacement in the near future.

As both parties have now responded, I'll make my 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.

Mr B says his thigh muscle wastage happened in the years following his injury 20 years ago, and that he hadn't had symptoms in the five years before the policy started.

I've read Mr B's specialist's letter again. He commented on Mr B's injury 20 years ago, and said that Mr B had experienced significant pain which eased after around two months (of the injury). Though Mr B had always noticed there was a slight deformity in the anterior aspect of his thigh. He then said:

'For a few years you have noticed your leg decreasing in size in terms of the circumference. This has been more so recently...'

I think this indicates that Mr B's muscle wastage had happened in the previous few years before he saw the specialist, rather than the initial few years following his injury. The specialist said that Mr B had always noticed a deformity to his thigh, and I assume he meant this was the case since the injury. His comments suggest that things had changed in the previous few years, with Mr B noticing his leg size decreasing.

So I remain of the view that it was reasonable for WPA to turn down the claim, on the basis that Mr B was experiencing problems with his leg before the policy started.

Mr B has questioned why WPA authorised the investigations and initial consultation. My understanding is that it did so because it had understood from Mr B that his symptoms had started after the policy had begun. It was only after WPA read the GP referral and the specialist's letter that it concluded the claim fell within the moratorium.

In my provisional decision, I asked Mr B if he had evidence to support that the muscle wastage in his thigh was completely unrelated to the leg pain he reported in March 2023. He's explained that he's been diagnosed with degenerative changes to his hip joints, and says that this affects his lower limbs.

I've read the information Mr B has provided from his physio. This says that Mr B has attended the clinic since January 2024 to address his left hip pain and related mobility issues. The physio said Mr B experienced numbness travelling down to his foot when lying down, and that imaging showed severe osteoarthritic changes to his left hip suggesting hip impingement and degenerative changes.

I note that in April 2023, Mr B's specialist mentioned that his past medical history included a diagnosis of left hip impingement. I don't know when this diagnosis was made. I also don't know if Mr B's leg pain is thought to have been caused by his hip problems.

I don't have enough information to conclude that Mr B's pre-existing thigh muscle wastage was unrelated to the leg pain he reported after the policy started which led to the claim. I therefore won't be requiring WPA to change its claims decision.

My final decision

My final decision is that I don't uphold this complaint about Western Provident Association Limited's decision to turn down the claim.

WPA has already made an offer to pay £50 to recognise the delay in dealing with the claim and I think this offer is fair. So my decision is that WPA should pay Mr B £50 if it hasn't already done so.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 8 April 2024.

Chantelle Hurn-Ryan
Ombudsman