

The complaint

Mr J complains about how Aviva Insurance Limited dealt with his claim against a group private medical insurance policy.

What happened

In summary, Mr J was covered by a group private medical insurance policy underwritten by Aviva. In June 2023, Mr J was diagnosed with basal cell carcinoma. In August 2023, he made a claim against the policy in relation to treatment by a Mr K. Aviva declined that claim and gave Mr J details of three specialists in a hospital near Mr J who charged within its fee guidelines. Mr J chose Mr F, a consultant maxillofacial head and neck surgeon. Mr F said that Mr J needed micrographic surgery and referred him to Dr M.

In late August 2023, Mr J asked Aviva to authorise surgery by Dr M. Aviva declined the claim because Dr M isn't on its panel of providers. On 30 August 2023, Aviva offered to source an alternative specialist. On 5 September 2023, Aviva concluded that there wasn't another appropriate specialist in Mr J's home country.

On 7 September 2023, Aviva told Mr J that he'd either have to travel to a provider on its panel or have treatment in the NHS. It provided Mr J with a list of the names of 39 facilities and told him that he'd need to check with those facilities whether they had specialists that carried out the procedure he required.

Mr J didn't think that was a reasonable response and complained about the service he'd received. In response to Mr J's complaint, Aviva made enquiries of three hospitals on the list it had given to Mr J and suggested one approximately three and a half hours drive from his home. Aviva subsequently gave Mr J telephone numbers for a hospital near where he lived and a named specialist, Dr R, who it said carried out the surgery he required. Mr J says that he contacted that hospital but was told that Dr R no longer worked there.

Mr J decided to proceed with surgery with Dr M and asked Aviva to reimburse the cost. Aviva declined to do so. Mr J complained about that.

Mr J says that Aviva told him that it had discretion to reimburse him but didn't do so. He says that he didn't have time to make enquiries of all the hospitals on the list Aviva gave to him. Mr J says that many of the hospitals on that list were a good distance away from his home and that Aviva wouldn't pay for travel or accommodation costs. He says it's unreasonable for Aviva to expect him to make his own enquiries of all the hospitals on the list it provided or to travel many hours for surgery. Mr J says that Aviva's response was uncaring and its communication poor, which caused him stress and anxiety. He'd like Aviva to reimburse the cost of his surgery with Dr M and to review its procedures.

One of our investigators looked at what had happened. He said that, in general, we don't think it's unreasonable for insurers to restrict cover to hospitals and individuals on its panel. But there are occasions when an individual requires a specialist procedure and it may be unreasonable to expect an individual to travel a long distance for treatment.

The investigator said that Mr J chose to proceed with treatment from Dr M, knowing that Aviva wouldn't cover the fee, so he didn't think it would be reasonable to ask Aviva to cover the full amount of Dr M's fee. But the investigator thought it was fair and reasonable for Aviva to pay Mr J a sum equivalent to what it would have paid to a member of its panel for the same consultation and procedure. The investigator explained to Mr J that we have no power to tell Aviva how to run its business.

Mr J accepted the investigator's recommendation, but Aviva didn't. It said, in summary:

- The policy is clear that it doesn't cover fees from a provider it doesn't recognise.
- It avoids exposing customers to clinical risk by not covering unregistered consultants.
- It asked whether the investigator is suggesting that it consider changing its policy terms and guidelines to cover procedures with whoever customer's choose, potentially exposing them to preventable risk.
- Mr J could have proceeded with a registered specialist within a reasonable distance from his home.
- It provided Mr J with the extensive list of hospitals because he wanted the procedure as soon as possible and if travelling was not an issue, the options were there for him.
- If it had only provided details of local facilities, Mr J would have complained about it restricting his choice.

Aviva asked that an ombudsman consider the complaint, so it 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.

Mr H has asked that we direct Aviva to review its claims process. As the investigator has explained, this service isn't able to direct an insurer about how it runs its business, so I don't make any further comment on that.

The relevant rules and industry guidance say that Aviva should deal with claims promptly and fairly and shouldn't unreasonably reject a claim. I uphold Mr J's complaint and I'll explain why:

- Insurance policies aren't designed to cover every eventuality or situation. An insurer will decide what risks it's willing to cover and set these out in the terms and conditions of the policy document. In general terms, insurers can decide what risks they wish to cover.
- The policy in this case says:
 '...]
 All **treatment and diagnostic tests** must be carried out by providers (such as **hospitals**, facilities or **specialists**) recognised by us.
 If a **member** has **treatment** with a provider that we do not recognise, we will not pay that provider's fees.'

- Aviva says that it contacted Dr M in August 2023 to ask if he wished to re-register with Aviva but he didn't wish to do so. Aviva isn't obliged under the policy terms to cover charges from treatment with Dr M, as he wasn't '*recognised*' by Aviva.
- Based on what I've seen, I think that Mr J was aware before he had treatment with Dr M that Aviva's position was that it wouldn't cover that treatment. Mr J says that Aviva told him that it had discretion to allow reimbursement of costs. Aviva referred the matter to its technical team but I've seen nothing to suggest that Aviva told Mr J that it would reimburse the costs of treatment with Dr M.
- Aviva isn't obliged to find a specialist for Mr J, nor is it responsible for the availability of particular specialists near where Mr J lives. But Aviva offered to source an alternative specialist for Mr J, so I've considered whether what it did was helpful.
- Aviva says that the long list of facilities it provided to Mr J was a list of providers who had previously sent it an invoice for the procedure Mr J required. It says that it provided Mr J with that list because he was keen to have treatment as soon as possible and, if he could travel, the options were there for him. But there were no phone numbers for the facilities on that list, nor names of specialists. And one of the facilities on that list appears to be a histopathology facility that doesn't offer services directly to patients.
- I don't think that providing Mr J with a long list of the names of facilities was helpful. I accept that it was distressing for Mr J to be faced with that information at an already stressful time.
- There was one hospital on the list provided by Aviva that was near to Mr J's home and when Mr J made further enquiries of Aviva, it referred to a Dr R. I accept what Mr J says about contacting Dr R – he contacted the hospital but was told Dr R no longer worked there. I'm satisfied, on balance, that Mr J couldn't have accessed treatment from a specialist on Aviva's panel a reasonable distance from his home.
- In the particular circumstances here, I think it's fair and reasonable for Aviva to reimburse Mr J up to the amount it would have paid a member of its panel for the same consultation and treatment Mr J had with Dr M. In reaching that view, I've taken into account that Mr J's claim was for eligible treatment under the policy, he had received a worrying diagnosis and wanted to proceed promptly with treatment recommended to him and that there was no appropriate provider on Aviva's panel a reasonable distance from Mr J's home.
- Aviva says that it avoids exposing customers to clinical risk by not covering specialists who are not on its panel. Aviva isn't responsible for the quality of the treatment provided. There's no suggestion that there was a clinical risk to Mr J in this case. Aviva says that Dr M was removed from its panel after he notified it of his retirement and declined to re-register as he practised occasionally and didn't accept payment from insurers.
- Aviva asks whether this service is suggesting that it consider changing its policy terms and guidelines to cover treatment with the insured's choice of treatment provider, thereby exposing them to risk. As Aviva is aware, each case is considered on its own merits and we have no power to direct an insurer to change its policy terms. But we can consider whether Aviva treated Mr J fairly

and reasonably and, for the reasons I've explained above, I don't think it did in this case.

Putting things right

In order to put things right, Aviva should:

- Reimburse Mr J up to the amount it would have paid a specialist on its panel for the consultation and treatment he had with Dr M.
- Pay interest on the amount mentioned above at the simple rate of 8% per year, from the date Mr J made the payment to Dr M to the date of settlement.

HM Revenue & Customs requires Aviva to take off tax from this interest. Aviva must give Mr J a certificate showing how much tax it's taken off, if he asks for one.

My final decision

My final decision is that I uphold this complaint. Aviva Insurance Limited should now take the steps I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 6 June 2024.

Louise Povey
Ombudsman