

## **The complaint**

Ms S is unhappy with the service she received from Aviva Insurance Limited when she claimed on her private medical insurance policy.

## **What happened**

Ms S made a claim on her private medical insurance policy. She is unhappy because she says Aviva has wrongfully withheld treatment, applied exclusions unfairly and essentially mis-sold her a policy.

Aviva considered Ms S's complaint but maintained they'd acted fairly on the basis of the information they had. Ms S complained to the Financial Ombudsman Service.

Our investigator looked into what happened and upheld Ms S's complaint. She acknowledged that Aviva had now changed the exclusion they had applied and accepted the claim. However, she thought this should have happened in May 2023. She directed Aviva to assess the invoices for Ms S's private treatment and pay her £750 compensation for the distress and inconvenience caused.

Aviva accepted the investigator's findings. Ms S didn't think the compensation offered fairly reflected the physical and mental impact of what had happened. She felt that compensation of £5000 to £7000 was more appropriate. So the complaint was passed to me to make a 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.

At the outset I acknowledge that I've summarised this complaint in far less detail than Ms S has, and in my own words. I won't respond to every single point made. No discourtesy is intended by this. Instead, I've focussed on what I think are the key issues here.

The rules that govern our service allow me to do this as we are an informal dispute resolution service. If there's something I've not mentioned, it isn't because I've overlooked it. I haven't. I'm satisfied I don't need to comment on every individual point to be able to fulfil my statutory remit.

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

I'm upholding Ms S's complaint. But I think that it's fair and reasonable for Aviva to assess the claim and pay her £750 compensation for the distress and inconvenience caused. I'll explain why.

Ms S has set out in detail the mental and physical impact that the delay in getting treatment caused her. I've also taken into account that this coincided with Ms S caring for a terminally ill family member and subsequently a bereavement.

I think the issues Ms S experienced with Aviva caused her considerable distress, upset and worry. The impact lasted over a period of months, at an already difficult time.

I don't think an award of £5000 or more is fair and reasonable in the circumstances of this case as I don't think there was an extreme impact caused by Aviva. I appreciate that Ms S may have been able to seek diagnosis and treatment more quickly had she been covered from the outset. However, I don't think it would be fair and reasonable to hold Aviva responsible for some of the issues Ms S experienced as an NHS patient, including misdiagnosis of her condition. It's clear that Ms S's condition was complex and I don't think I can fairly conclude that it's most likely she'd have avoided all of the difficulties she experienced as an NHS patient if she'd been referred privately.

Taking all of the above into account I think an award of £750 fairly reflects the distress and inconvenience caused to Ms S. I also think it's fair for Aviva to assess the claims for the private treatment Ms S undertook during the relevant time.

### **Putting things right**

To put this right I think Aviva should:

- Assess the private treatment invoices. If any of those invoices should've been covered by the policy, Aviva should refund those invoices and add interest at 8% simple from the date of the payment to the date of settlement. If these payments can't be agreed a new complaint can be raised.
- Pay £750 in compensation for the distress and inconvenience caused by the delay in approving the claim.

### **My final decision**

I'm upholding this complaint to the extent I've outlined above. Aviva Insurance Limited needs to put things right in the way I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms S to accept or reject my decision before 13 June 2024.

Anna Wilshaw  
**Ombudsman**