

## The complaint

Mrs and Mr O complain that BUPA Insurance Limited didn't pay all the treatment costs when it authorised a claim under a medical insurance policy.

## What happened

Mrs and Mr O had private medical insurance with BUPA through a group policy with Mr O's employer.

On 4 February 2023 BUPA gave prior authorisation for Mrs O to have 20 sessions with a psychologist. Mrs and Mr O understood that BUPA had paid the invoices for her treatment directly.

Mrs and Mr O say that on 23 May 2023 BUPA told them it was no longer paying for sessions as, even though Mrs O hadn't had all her 20 authorised treatment sessions, their policy cover had ended. Mr and Mrs O had to pay for some of the sessions Mrs O already had. They complained to BUPA and its final response letter said:

- It hadn't told Mrs O that it would cover her treatment after the policy cover ended.
- The policy terms were clear that it wasn't responsible for paying any treatment it had pre-authorised which happened after the date the policy cover ended.
- In the 4 February 2023 call Mr O hadn't told it he was leaving his employer or ending his company policy cover, if he'd done so it would have told him the claim wouldn't be covered after the policy ended.
- It had extended the timeline for Mrs O to look into the possibility of transferring her cover from the group policy to a personal policy.

Mrs and Mr O complained to us. In summary they say:

- The cover didn't end because Mr O left his employer or because he ended the cover, as BUPA suggested. The cover ended because Mr O's employer had got into financial difficulty and had been liquidated in March 2023 which was a great shock to Mr O. He didn't know that would happen when he and Mrs O phoned BUPA on 4 February 2023 for prior authorisation.
- BUPA hadn't placed conditions on the treatment authorisation. They had cover under the policy until the cover year ended on 1 April 2023 and BUPA hadn't paid for treatment sessions which took place before that date.
- They're disappointed that BUPA had taken 'advantage' of Mr O's employer's situation to end cover when Mrs and Mr O's finances were affected. Mrs O was very distressed that cover for her treatment, which was for a mental health matter, had ended without warning.

- BUPA ending cover was in breach of its obligations under the policy and the authorisation it had already given.
- They want BUPA to pay the outstanding treatment fees and compensation for their distress and inconvenience BUPA had caused.

During our investigation BUPA initially told us that at the policy renewal, 1 April 2023, Mr O's employer failed to pay the policy premium and cover ended for the group policy so Mrs and Mr O's cover ended. BUPA also said that during the period when the policy had lapsed it told Mrs and Mr O it was unable to authorise treatment and told Mr O that he needed to contact his employer's HR team about the situation. Later BUPA told us that Mrs and Mr O's policy cover had ended on 28 February 2023.

Our Investigator issued three views due to the different information the parties provided about the date Mrs and Mr O's policy cover ended. Our Investigator's last view was that BUPA had shown it had paid for Mrs O's treatment up until 28 February 2023 when the policy cover ended and it didn't need to do anything further.

Mrs and Mr O remained unhappy with BUPA's actions and wanted an Ombudsman's decision. They said the policy document showed the policy year ran from 1 April 2022 to 1 April 2023 and they'd seen no evidence that the policy lapsed on 28 February 2023, as BUPA suggested. They also detailed why they considered that the policy term BUPA relied on to decline the claim was unfair and unreasonable under various consumer rights legislation.

Before I made my decision I asked BUPA for some further information around the end of the policy cover and when it had told Mrs and Mr O about the problems with cover. I asked Mrs and Mr O whether or not she had ongoing treatment when she knew she was no longer covered by the policy. I referred to the details in my provisional findings below.

### **What I provisionally decided – and why**

I made a provisional decision that I was intending to partly uphold the complaint. I said:

'The relevant regulator's rules say BUPA must handle claims promptly and fairly and it mustn't turn down claims unreasonably.

I've seen Mrs and Mr O's policy membership certificate which says the policy started 1 April 2022 and I can see from the preceding membership certificates they sent to me that previously Mr O's former employer renewed the policy each year. But an insurer only has to provide policy cover for the period policy premiums are paid for.

It's unfortunate that BUPA didn't initially provide us with clear information about when the policy cover ended. Until its email to us of 19 March 2024 it appeared that the cover ended on 1 April 2023.

I've now seen enough information for me to be satisfied that the group policy cover, including cover for Mrs and Mr O, lapsed on 28 February 2023 due to non-payment of premiums by Mr O's former employer. We've sent Mrs and Mr O the confirmation of the date the policy lapsed from BUPA's system.

The policy terms say:

*"We do not pay for any treatment, including any treatment we have pre-authorised, that takes place on or after the date your cover ends."*

So BUPA acted correctly in line with the policy terms in only paying for Mrs O's treatment that occurred before 28 February 2023, even though it had pre-authorized 20 sessions and as at that date Mrs O hadn't had 20 sessions.

I've also considered whether BUPA acted fairly and reasonably. Mrs and Mr O refer to various legislation and regulations but the up to date legislation in relation to unfair terms in a consumer contract is the Consumer Rights Act 2015. It's for the courts, not this service, to decide if a contract breaches the Act. But I take into account the relevant law as well as industry guidelines and good practice in deciding if an insurer has acted fairly and reasonably.

The same or similar policy term that BUPA relied on to decline to pay for treatment once the policy ended is in most, if not all, medical insurance policies. I think it's reasonable for BUPA not to cover treatment that occurred when policy cover had ended. Mrs and Mr O had no control over whether or not his former employer paid the policy premium but that doesn't mean BUPA's action was unreasonable.

Mrs and Mr O say that BUPA told them 'out of the blue' in May 2023 that it was not paying for the treatment. I asked BUPA about how and when it notified Mrs and Mr O there was a problem with the policy. BUPA says with group schemes the employer is its customer and it wouldn't tell individual members of group schemes, such as Mrs and Mr O, that the policy has lapsed due to non-payment of premium as it's for the employer to decide how to tell their employees that the policy cover has ended. If an individual member asks about covering treatment BUPA asks the member to contact their employer to discuss an 'admin issue' which has led to an inability to authorise treatment. I think that's a reasonable position for BUPA to take.

BUPA referred to a call on 25 March 2023, which I've listened to, when Mrs O phoned BUPA about covering physiotherapy. I'm satisfied that in the call BUPA told Mrs and Mr O to be aware that it couldn't authorise any treatment as there was an 'admin error' on the policy and that Mr O needed to speak to his employer about the policy. I think BUPA acted reasonably and it wasn't under any obligation to tell Mrs and Mr O, as individual members, that the policy cover had lapsed.

Mrs and Mr O have told us that when BUPA stopped paying for the treatment she was unable to continue paying privately. I think BUPA acted reasonably in extending the period Mrs and Mr O could have transferred their policy cover to continue on a personal basis, but I understand why they didn't do so given their changed financial circumstances.

From the evidence I've seen I'm satisfied that BUPA paid for all the treatment it was required to pay for - the sessions up to 28 February 2023. So BUPA doesn't need to make any further payment towards Mrs O's treatment.

However, I think BUPA provided poor service to Mrs and Mr O when explaining why it had only paid for some of Mrs O's treatment. When BUPA sent its final response letter to them on 8 July 2023 it knew that the policy ending wasn't due to Mr O '*leaving his company, or ending his company cover (whichever one applies)*'. Given the real situation with Mr O's employer BUPA's comment understandably upset Mrs and Mr O and led them to consider that BUPA's decision was based on incorrect facts although, as I've explained above, BUPA's decision was reasonable. In these circumstances I think a fair outcome is for BUPA to pay Mrs and Mr O £150 compensation for their distress and inconvenience it unnecessarily caused due to its poor service.'

### **Responses to my provisional decision**

Mrs and Mr O didn't respond to my provisional decision. BUPA disagreed that it should pay Mrs and Mr O compensation. In summary it said:

- It wasn't aware that Mr O's employer, which paid the policy premium, had gone into

liquidation.

- Even if it had known, its policy is not to inform employees/dependents on group schemes that the employer hasn't paid the premiums. In the 25 March 2023 call it correctly told Mrs and Mr O there was an 'admin issue' with the policy that Mr O needed to raise with his employer.
- Its final response letter saying the cover ended due to '*Mr O leaving the company, or ending his company cover (whichever one applies)*' gives the most common reason for company cover ending, which is why it put that wording. It's factually correct that as Mr O's company hadn't paid the premiums his cover ended. So it hadn't given wrong information or led Mrs and Mr O to believe their cover has ended for a different reason.

### **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.

Mrs and Mr O haven't responded to my provisional decision to provide any new evidence as to why BUPA should pay all the treatment costs they claimed. So I've no reason to change my mind about that issue. For the reasons I've given in my provisional findings and these findings I'm satisfied that BUPA paid for all the treatment it was required to pay for - the sessions up to 28 February 2023. BUPA doesn't need to make any further payment towards Mrs O's treatment.

I've considered BUPA's response to my provisional decision that it should pay Mrs and Mr O £150 compensation for their distress and inconvenience. As I said in my provisional findings, I think BUPA acted reasonably in telling Mrs and Mr O in the 25 March 2023 call that it couldn't authorise any treatment as there was an 'admin error' on the policy and that Mr O needed to speak to his employer about the policy. And I've agreed above that BUPA wasn't under any obligation to tell Mrs and Mr O, as individual members, that the group policy cover had lapsed and why.

But I'm not persuaded by BUPA's view that its wording in its final response letter about cover ending was fair in these circumstances. Even if BUPA didn't know that Mr O's employer had gone into liquidation, it did know that Mrs and Mr O's policy cover had ended because his employer hadn't paid the premium. The cover hadn't ended because of Mr O leaving the company, as the letter says, and BUPA knew that. As BUPA also knew, the cover hadn't ended because Mr O had ended his cover, which I think Mrs and Mr O reasonably read to mean that he had proactively ended the cover.

As BUPA says, it's factually correct that as Mr O's company hadn't paid the premiums his cover ended, but that's not what the final response letter says. If BUPA didn't want to refer to the employer not paying the premium it still could have used more neutral wording in the letter which Mrs and Mr O couldn't have reasonably read to mean Mr O had proactively ended the cover.

I still think that the relevant wording in BUPA's final response letter unnecessarily upset Mrs and Mr O, given the real reason for the end of cover. And the wording led them to consider that BUPA's decision was based on incorrect facts although, as I've explained above, BUPA's decision was reasonable.

### **Putting things right**

For the reasons I've given in my provisional findings and these findings I'm satisfied that the fair outcome is for BUPA to pay Mrs and Mr O £150 compensation for their distress and inconvenience it unnecessarily caused due to its poor service.

### **My final decision**

I partly uphold this complaint and require BUPA Insurance Limited to pay Mrs and Mr O £150 compensation for their distress and inconvenience due to its poor service.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs O and Mr O to accept or reject my decision before 30 July 2024.

Nicola Sisk  
**Ombudsman**