

The complaint

Mr S complains on behalf of the estate of Ms S. He's unhappy China Taiping Insurance (UK) Co Ltd turned down a claim on Ms S's home employment insurance policy.

All references to China Taiping include its agents and claims handlers.

What happened

In October 2023 Ms S sadly passed away. Mr S subsequently contacted China Taiping and made a claim relating to redundancy pay owed to carers who had looked after Ms S. China Taiping contacted the charity that provided payroll services to the carers which said redundancy payments had been made from Ms S's personal health budget. However, it doesn't appear that covered a statutory redundancy payment due to one of the carers based on an employment start date of April 2007.

In February 2024 the local NHS Integrated Care Board said the "*ICB will cover redundancy even if the funding was previously paid by Local Authority, we just need evidence of the continuous employment*". China Taiping said as it appeared payment would be made by the NHS it wouldn't be providing cover for the redundancy payment under Ms S's policy. But if that wasn't the case Mr S should let it know so additional information could be requested and the claim reconsidered.

Our investigator didn't think it was unfair of China Taiping to say it wouldn't be making payment given the response the NHS had provided. And she thought it was fair of it to offer to reconsider matters if that wasn't the case.

Mr S didn't agree. He said the NHS hadn't provided payment or a response to the complaint he made. And so he thought this claim should be paid by China Taiping.

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 China Taiping has a responsibility to handle claims promptly and fairly. It shouldn't reject a claim unreasonably.

First, it's clear from the correspondence I've seen Mr S has understandably been deeply affected by the passing of Ms S (his mother). I was very sorry to learn about this and the impact of that on him. However, the question I need to consider is whether China Taiping acted fairly when dealing with the claim he made on Ms S's policy.

In thinking about that I've looked first at the terms and conditions of the policy. That says

"The insurer will reimburse you for the cost of statutory redundancy you are required to pay to any employee following their dismissal during the period of insurance, provided that you dismiss them as a result of any one of the following circumstances..."

In the event of the service users death, provided that the insurer will only make a payment if

i) on the date of the service users death there are insufficient funds in the service users direct payment or personal health budget accounts to meet the cost of your liability to pay statutory redundancy payments and a statutory redundancy notice period; or

ii) in the event that the service user does not have a direct payment or personal health budget account, or other government funded supported account, there are insufficient funds available in the service users estate, after settlement of specified expenses, to meet your liability to pay the cost of statutory redundancy payments and a statutory redundancy notice period. The service users legal representatives will be required to sign a declaration that there are insufficient funds available to meet the cost of redundancy payments and further information to substantiate such a declaration will be requested, including disclosure of bank or other financial statements.

The maximum amount the insurer will pay for any one claim for the cost of statutory redundancy shall not exceed

a) £1 ,600 in respect of any one employee; and

b) £3,200 in all."

In this case I understand Ms S's care was most recently being funded through a personal health budget (that's referenced in the emails China Taiping was sent from the payroll provider). And that provider said they had made redundancy payments to carers from that budget. It appears there may be an outstanding amount due to one of the carers based on their length of service. But China Taiping would only be liable to pay that if there were insufficient funds in the personal health budget to pay that (or, if that wasn't being funded from that budget, if there were insufficient funds in Ms S's estate to pay the redundancy).

At the time China Taiping issued its final response to Mr S's complaint I don't think there was evidence of that. In fact the local NHS Integrated Care board said it would be covering the redundancy if evidence of continuous employment was provided. So I don't think China Taiping did anything wrong in concluding, based on the evidence available to it, this wasn't a claim its policy would cover.

I appreciate that payment doesn't appear to have been made and I'm unclear if the NHS has now changed its position on that; Mr S says it hasn't responded to the complaint he raised with it. However, China Taiping has made clear it would reconsider the position if Mr S was able to show he did have a claim that fell within the terms of the policy. So if he's able to provide further evidence in relation to that he can do so and I'd then expect China Taiping to investigate matters further.

My final decision

I've decided not to uphold this complaint. Under the rules of the Financial Ombudsman Service, I'm required to Mr S on behalf of the estate of Ms S to accept or reject my decision before 20 December 2024.

James Park
Ombudsman