

complaint

Mr L's complaint is about AXA Insurance UK Plc's rejection of his claim for medical expenses which he made under a travel insurance policy.

background

Mr L had private medical treatment part way through a six week trip abroad. He made a claim to AXA for reimbursement of the cost of the treatment.

AXA rejected the claim on the basis that there was no cover under the policy for the cost of private treatment unless authorised by the assistance company. AXA said the assistance company advised Mr L, before he had the medical procedure, that the cost of the private treatment would not be reimbursed.

Mr L complained to AXA. He provided a letter from the treating specialist stating that he needed to have the procedure urgently and it could not be done at a public hospital for a couple of months.

AXA maintained its decline. It said the procedure was available at a public facility. If the procedure was of an emergency nature Mr L would have received the necessary treatment at a public facility quickly and would not have been placed on a waiting list.

Mr L remained dissatisfied and referred his complaint to this service.

The adjudicator ultimately recommended the complaint should be upheld in part. Based on the information provided by the treating specialist, he considered that Mr L acted reasonably in having the operation privately. There was insufficient evidence that the operation would have been carried out in a similar time frame under the public system. The adjudicator concluded that had Mr L not been treated privately it was likely that AXA would have had to return him to the UK to have the operation. The adjudicator recommended AXA pay what it would have paid for Mr L's repatriation costs and curtailment benefit from the date of Mr L's hospitalisation.

AXA disagreed. It emphasised that Mr L had been advised AXA would not cover the costs of the private treatment. It said if the operation was an emergency Mr L should have contacted it sooner to make arrangements to be seen under public facilities. On contact it asked him to seek public consultation so he could be examined and it could determine the urgency of the operation. Mr L chose not to as he had already arranged for the private treatment to take place a couple of days later.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Having done so, I have decided to uphold this complaint in part, for broadly the same reasons as the adjudicator.

The letter from Mr L's treating specialist to the AXA states:

"I explained to (Mr L) that his kidney needs to be decompressed as a matter of urgency and this could not be performed through the public hospital system for at least a couple of months. I recommended to (Mr L) that to avoid any long-term

damage to his right kidney, he proceed with the procedure at ... a private hospital, on an urgent basis... his procedure was not an elective procedure but an urgent one due to his renal failure".

I am satisfied that Mr L was medically advised he needed to have the procedure urgently and he would not be able to have the operation under the public system for a couple of months. Mr L has said that the specialist works in the private and public sector so I consider it was reasonable for Mr L to believe that the specialist would have informed knowledge about public health care waiting times.

AXA says it is likely Mr L could have had the operation carried out under the public system while he was abroad. There is no definite information as to the timescales if that option had been taken other than the information provided by the specialist.

Where public health care is available that should be the first option if it is suitable. However, given the available information from the specialist that the procedure was urgent and not available within the timescale he recommended AXA had two options: either to approve the private treatment abroad, or repatriate Mr L to the UK for surgery. There is no indication that Mr L was not fit to fly, to the contrary there is information in a medical report that there was discussion between Mr L and the doctor about having treatment abroad or in the UK. As Mr L chose to proceed with the private treatment AXA was not able to pursue the repatriation option. AXA should not be prejudiced by Mr L's decision to opt for private treatment if it could have repatriated him.

In all the circumstances, I consider that the fair and reasonable outcome would be for AXA to pay either the costs of the private treatment or the costs it would have incurred to repatriate Mr L including curtailment benefit, whichever is the smaller sum. The appropriate date to commence the calculation of curtailment benefit is the date of Mr L's hospitalisation.

my final decision

It is my final decision to uphold this complaint in part.

I require AXA Insurance UK Plc to pay the lesser sum of:

- (a) The private medical costs incurred by Mr L abroad. On the basis that Mr L has already paid these costs interest should be added to the settlement at a gross annual rate of 8% from the date of claim to the date of settlement, less tax if properly deductible;

or

- (b) The costs of repatriating Mr L to the UK plus curtailment benefit from the date of Mr L's hospitalisation.

Nicola Sisk
ombudsman