

complaint

Ms B complains about AXA PPP Healthcare Limited's decision to refuse to cover the cost of treatment under a private medical insurance policy.

background

Ms B told AXA her specialist had arranged for her to have knee surgery. When she told AXA what the surgery would involve, AXA said it didn't think the treatment would be effective. It told Ms B that as she was covered for the conventional treatment, it would pay the equivalent cost of this towards her surgery.

Ms B cancelled her surgery, and arranged for her consultant to carry out the same surgery on the NHS five months later. Unhappy with AXA's decision, she brought a complaint to this service.

Our adjudicator upheld the complaint. She didn't think AXA had shown the treatment *wouldn't* be effective, and noted that it was carried out on the NHS. As Ms B had arranged to have the surgery on the NHS, she thought AXA should pay NHS benefit under the policy for the time Ms B spent in hospital. As Ms B's surgery had been delayed for around five months, and she was in a lot of pain, the adjudicator recommended AXA pay compensation of £100 a week.

AXA didn't agree with the adjudicator's recommendations, so the matter's been passed to me.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

The policy says

"What we do not pay for:

...

(b) Treatment which has not been established as being effective or which is experimental. For established treatment, this means procedures and practices that have undergone appropriate clinical trial and assessment, sufficiently evidenced in published medical journals and/or approved by The National Institute for Health and Care Excellence for specific purposes to be considered proven safe and effective therapies."

Ms B's specialist wanted to carry out hemi-cap resurfacing. Although he'd considered partial knee replacement (the conventional treatment), he didn't think this would be a good option for Ms B. As she has other medical problems, he wanted to take a less invasive option, which was the hemi-cap implant. AXA refused the claim as it said the procedure hadn't been proven to be effective.

Ms B's specialist said he found AXA's decision to be very confusing, as over 70,000 of these procedures have been carried out over the last 12 years, and there are several peer review articles showing good results. I also understand the NHS carries out this procedure (and Ms B has since had this operation with her specialist on the NHS).

AXA makes the point that it could only find reference to small trials being carried out using this procedure, and a medical paper had concluded there were positive short-term results, but long-term results would be necessary before a definitive recommendation could be made.

Ms B's specialist has also sent in further information about the procedure, including a number of peer review papers which do seem to support that the treatment is effective.

I think this is quite a balanced case. I understand The National Institute for Health and Care Excellence hasn't approved the procedure, but it's also the case that the surgery can be done on the NHS which is a recognised medical body.

AXA says it can't find evidence of widespread use of the procedure on the NHS, but this may be because only a few surgeons are apparently able to perform the procedure. Although AXA says the NHS may only be carrying out trials of the procedure, I haven't seen any evidence of this.

On balance, I think on a fair and reasonable basis AXA should have accepted the claim. As Ms B has since had the surgery on the NHS, I can't require AXA to pay the claim. I think Ms B would have suffered loss of comfort by having the operation in an NHS hospital rather than a private one. But I see that AXA has paid her NHS cash benefit for each night she spent in hospital, so I think she's been compensated for this.

But the evidence I've seen is that Ms B was in a lot of pain whilst she was waiting for surgery, and had to wear a leg brace. So I think she was caused unnecessary pain and suffering as a result of her surgery being delayed for 20 weeks. The adjudicator thought AXA should pay compensation of £100 a week, which I agree is reasonable.

my final decision

My final decision is that I uphold this complaint. I require AXA PPP Healthcare Limited to pay Ms B £2,000 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms B to accept or reject my decision before 25 April 2016.

Chantelle Hurn-Ryan
ombudsman