

Ombudsman Determination

CIFO Reference Number: 16-001118

Complainants: [The complainants]

Respondent: [Company X]

It is the policy of the Channel Islands Financial Ombudsman (CIFO) not to name or identify complainants in any published documents. Any copy of this determination made available in any way to any person other than the complainant or the respondent must not include the identity of the complainant or any information that might reveal their identity.¹

[The complainants] complained about the decision taken by [Company X] to decline cover for [the complainant's] treatment for hyperparathyroidism.

Background

In October 2013 [the complainants] purchased a medical insurance policy online from [Company X] on a moratorium basis.

[Company X] has advised that the moratorium underwriting criteria for the policy reads as follows:

*“Means there is no need to complete a medical declaration on application. It is a period whereby **we** do not cover you for any condition which existed, i.e. of which you have had symptoms, even if a medical opinion has not been sought, in the last 60 months prior to joining. Such conditions may automatically become eligible for **cover** providing the condition does not remain present, including latently or in remission and only when **you** do not have symptoms, receive treatment, medication, test or advice (from **your GP** or **specialist**) for that condition for a continuous period of 24 months after **your cover** with **us** has started and immediately prior to any consideration of reinstating **cover** for that condition.”*

In March 2015, [the complainant] underwent a blood test and was found to have a problem with her parathyroid gland.

Subsequently, it was confirmed by a specialist endocrinologist that [the complainant] had a growth in one of her parathyroid glands and this was causing hyperparathyroidism. The appropriate treatment would require the surgical removal of the appropriate parathyroid gland.

¹ Financial Services Ombudsman (Jersey) Law 2014 Article 16(11) and Financial Services Ombudsman (Bailiwick of Guernsey) Law 2014 Section 16(10)

[Company X] declined cover for this treatment on the basis that [the complainant] had experienced symptoms of hyperparathyroidism during the previous five years. [The complainants] considered that the symptoms suffered were related to depression, chronic migraine syndrome and the menopause; these are all conditions for which [the complainant] receives treatment. [The complainants] were of the view that [Company X] should have provided cover accordingly.

The Case Handler did not uphold the complaint because he considered the symptoms experienced by [the complainant] were consistent with hyperparathyroidism within the moratorium period. Given that the policy exclusion related to the presence of symptoms, rather than the reasons for their existence, he considered it would be unreasonable in these circumstances to disregard the policy exclusion.

Subsequent submissions

In response to the Case Handler's conclusions, [the complainant] suggested that the wording of the contract was neither fair nor reasonable. The contract read that

“we do not cover you for any condition which existed i.e. of which you have had symptoms...in the last 60 months prior to joining.”

In [the complainant's] view, there is no proof that hyperparathyroidism existed in that period, and the symptoms experienced by [the complainant] were non-specific and could be attributed to a number of different conditions. Moreover, these symptoms have been present for many years and are currently being treated. According to [the complainant], if these symptoms were caused by hyperparathyroidism, [the complainant] would have subsequently suffered from osteoporosis. [The complainant] does not have osteoporosis.

[The complainant] explained that [the complainant] has recently had a CT scan to try to establish further information about her health problems.

Findings

The wording of the moratorium stipulates that for a successful claim to be made under the policy, symptoms of hyperparathyroidism could not have been present in the five years prior to inception of the policy in 2013, nor in the subsequent two years after inception.

The NHS website explains that symptoms of hyperparathyroidism include depression, fatigue and feeling thirsty. The information in [the complainant's] letter to [Company X] dated 12 June 2015 records that between 2009 and 2012 she visited her GP and noted symptoms including fatigue, headaches and depression. Furthermore, [the complainant] records in the same letter that, in approximately January 2015, she began experiencing:

1. A dry, burning, sore mouth;
2. hand tremors;
3. a fuzzy head;
4. lack of concentration; and
5. poor memory.

I recognise the view articulated in [the complainant's] letter that there is a

“tenuous link between general symptoms” such as “depression, fatigue, headaches and the like...”

with hyperparathyroidism. Nevertheless, the above symptoms from January 2015 occurred within two years after the inception of the policy with [Company X]. Furthermore, other symptoms were also present in the five-year period prior to 2013.

[The complainant] suggested that the contract was neither fair nor reasonable. Insofar as the fairness of the moratorium policy is concerned, I note that [Company X] do not require a medical declaration from customers on application but, in return, pre-existing conditions are not covered. In the absence of further medical information about their customers being required in advance, I do not consider [Company X's] limitation to be unreasonable in the circumstances. I also note that the exclusion was clearly disclosed in the policy.

I sympathise with [the complainant's] explanation of the ongoing symptoms [the complainant] is suffering, and acknowledge that they could be indicative of a number of conditions; however, the policy exclusion relates to the presence of symptoms consistent with the condition which has been subsequently diagnosed. The exclusion applies irrespective of whether there has been a diagnosis or not. Given that the symptoms previously suffered by [the complainant] during the moratorium period are consistent with hyperparathyroidism, I agree with the Case Handler's previous assessment that it would not be reasonable for me to disregard the policy exclusion.

Final decision

My final decision is that I do not uphold this complaint.

[The complainants] must confirm whether they accept this determination either by email to ombudsman@ci-fo.org, or letter to Channel Islands Financial Ombudsman, PO Box 114, Jersey, Channel Islands JE4 9QG, by **27 November 2017**. The determination will become binding on [the complainants] and [Company X] if it is accepted by this date. If we do not receive an email or letter by the deadline, the determination is not binding. At this point [the complainants] would be free to pursue their legal rights through other means.

If there are any particular circumstances which prevent [the complainants] confirming their acceptance before the deadline of 27 November 2017, they should contact me with details. I may be able to take these into account, after inviting views from [Company X], and in these circumstances the determination may become binding after the deadline. I will advise both parties of the status of the determination once the deadline has passed.

Please note there is no appeal against a binding determination, and neither party may begin or continue legal proceedings in respect of the subject matter of a binding determination.

Douglas Melville

Principal Ombudsman and Chief Executive

Date: 26 October 2017