



<u>Decision Ref:</u>	2019-0286
<u>Sector:</u>	Insurance
<u>Product / Service:</u>	Pet Insurance
<u>Conduct(s) complained of:</u>	Rejection of claim - pre-existing condition
<u>Outcome:</u>	Rejected

**LEGALLY BINDING DECISION
OF THE FINANCIAL SERVICES AND PENSIONS OMBUDSMAN**

Background

This complaint concerns the Complainant's pet insurance policy held with the Provider. The policy was incepted on **30 May 2017**.

The complaint is that the Provider unreasonably declined the Complainant's claim under this policy.

The Complainant's Case

The Complainant submits that he has held pet insurance for his dog, since his dog was twelve weeks old. The Complainant having changed providers, incepted this policy on 30 May 2017. The Complainant submits that in or around **25 November 2017**, his dog appeared to be in pain and would not allow him to touch his head or ears. On **27 November 2017**, the Complainant presented his dog to a veterinary clinic for examination. Due to the pet's refusal to allow the vet to examine his head or ears, the pet needed to be sedated to allow the vet to conduct the examination.

The vet examined him and carried out a skin scrapes and skin biopsy. These skin tests detected multiple allergens, but no treatment was administered. The Complainant submits that the list of noted allergens is too great to eradicate and that:

“it is not 100% [clear] that any of them is actually [the] cause of the issue he presented with on 27 November 2017”

The Complainant submitted a claim to the Provider in respect of veterinary expenses for his pet. The Provider rejected the claim on the grounds that the dog’s treatment was for a pre-existing condition. The Complainant says that his pet was not diagnosed with any condition prior to the biopsy and tests which were carried out in **November 2017**.

The Complainant submits that while his pet previously had minor symptoms, the veterinary team advised that there was no necessity for any further action. He says that the dog’s previous treatment dated **12 October 2016**, was for the unrelated treatment of skin mites and not related to the treatment pertaining to this complaint.

The Complainant submits that while the examination and tests carried out in November 2017 diagnosed allergens, the cause of the pet’s pain, for which treatment was sought, is still unknown. The Complainant submits that his pet has not had any further issues or symptoms since that time.

The Complainant seeks for the Provider to pay the veterinary expenses, the cost of which stands at €974.49.

The Provider’s Case

The Provider submits that based on the information it has been furnished with by the Complainant’s veterinary practice, the condition was pre-existing on the date of the policy inception.

The Provider notes the clinical history on the following entries, both before and after the policy inception date:

“06/06/2015 –L ear laceration on end of ear pinna 1 week duration but likely from otitis scratching debris in ear, other ear ok

29/01/2016 – Ears clean inside but outer pinnae very inflamed and red and scratches a lot. Pink ventrum and chest. Possible food allergy? Discussed break cycle with 5 days steroid and monitor then diet change possible?

12/10/2016 – Has been treated with advocate and still scratching.

30/05/2017 – Inception date of the policy with this Provider.

31/07/2017 – Sore ear left worse. No real dirt within canal. Poss allergy?

27/11/2017 - Bilateral otitis – wants full work up as has been ongoing.

22/12/2017 - Preliminary results diagnosed atopy.

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02/01/2018 - Multiple allergens detected. Recommend hypoallergenic food from now on with otitis treatment protocol."

The Provider submits that the dog presented with the same clinical signs and symptoms for multiple visits, prior to the policy inception date, with the vet suggesting the diagnosis of allergies. The Provider notes that the dog returned to the veterinary practice after inception of the policy and the vet recorded on the dog's file that the condition was ongoing.

The Provider further notes that on the **Claim Form** submitted by the Complainant at Section 5A, the following details are noted:

"1. As far as you are aware, when were the first signs or symptoms of the illness/injury first noticed?"

The Complainant's response to this question was **6 June 2015**.

"2. Has the pet ever previously been seen for this illness/injury or clinical symptoms"

The Complainant ticked 'Yes' and wrote the date of **6 June 2015**.

The Provider submits that, as per the Complainant's policy, there is no cover for veterinary costs resulting from a pre-existing medical condition. In its letter to the Complainant dated **9 February 2018**, the Provider states:

"Unfortunately, we cannot pay your claim as your policy does not cover the cost of treatment for pre-existing illness or injuries. We note that the first signs or symptoms were noticed on 6 June 2015, which was before your policy started."

The Complaint for Adjudication

The complaint is that the Provider unreasonably declined the Complainant's claim for veterinary expenses incurred in November 2017, relating to the examination, sedation and tests (including a biopsy) on his dog.

Decision

During the investigation of this complaint by this Office, the Provider was requested to supply its written response to the complaint and to supply all relevant documents and information. The Provider responded in writing to the complaint and supplied a number of items in evidence. The Complainant was given the opportunity to see the Provider's response and the evidence supplied by the Provider. A full exchange of documentation and evidence took place between the parties.

In arriving at my Legally Binding Decision I have carefully considered the evidence and submissions put forward by the parties to the complaint.

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Having reviewed and considered the submissions made by the parties to this complaint, I am satisfied that the submissions and evidence furnished did not disclose a conflict of fact such as would require the holding of an Oral Hearing to resolve any such conflict. I am also satisfied that the submissions and evidence furnished were sufficient to enable a Legally Binding Decision to be made in this complaint without the necessity for holding an Oral Hearing.

A Preliminary Decision was issued to the parties 13 August 2019, outlining the preliminary determination of this office in relation to the complaint. The parties were advised on that date, that certain limited submissions could then be made within a period of 15 working days, and in the absence of such submissions from either or both of the parties, within that period, a Legally Binding Decision would be issued to the parties, on the same terms as the Preliminary Decision, in order to conclude the matter.

In the absence of additional submissions from the parties, within the period permitted, the final determination of this office is set out below.

The Complainant submits that on **25 November 2017** his dog appeared to be in pain and would not allow him to touch his head or ears. The Complainant brought the dog to the vet on **27 November 2017** for examination, however due to the dog's refusal to allow the vet to examine his head or ears, the Complainant was advised the dog would need to be sedated to conduct the examination. While the dog was sedated, the vet examined him and carried out skin scrapes and a skin biopsy. Multiple allergens were detected, but no treatment was administered. The vet recommended a change in diet along with otitis treatment protocol.

The Complainant submitted a Claim Form on **30 January 2018** to the Provider claiming payment for the veterinary expenses relating to the examination, sedation and tests including the biopsy, the cost of which stood at €974.49.

On **9 February 2018**, the Provider sent a letter to the Complainant rejecting the claim for the cost of veterinary treatment. In declining the Complainant's claim, the Provider referred to the veterinary fees section in the policy wording.

The policy sets out under "*Section 1- Veterinary Fees. What the Underwriters will not pay*"

"2. Costs resulting from a Pre-existing Medical Condition"

I note that underneath the "Definitions" heading in the policy terms and conditions it states, the following:

"Pre-existing Medical Condition – Any condition or complication directly resulting from that condition, that has been identified or investigated by a vet or is otherwise known to You prior to the start of the insurance."

I further note from the clinical history provided by the Complainant's veterinary practice that the dog first presented with clinical signs and symptoms on **6 June 2015**. The vet

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thought this could be from a possible food allergy. The vet further notes on **27 November 2017** that the condition has been ongoing.

On **29 March 2018**, the Complainant wrote to the Provider:

"We do not believe that the previous cut on the dog's ear is related to the current claim or that this condition was pre-existing...."

....This wound did clear up and we had no further issues. The dog was covered by another company at this time but we did not make a claim as this very minor issue was below the claim threshold..."

The definition of a pre-existing condition in the policy terms and conditions is relied on by the Provider to entitle it to decline to cover claims made in respect of any treatment costs directly resulting from such pre-existing condition, that was present prior to the inception of the policy.

Having considered the documentary evidence before me, I must accept that the Provider was entitled to decline the claim in accordance with the terms and conditions of the policy. I must accept that the Provider was entitled to form the opinion that the Complainant's pet first showed clinical signs of the medical condition that led to the claim in dispute, before the start date of this policy. The clinical history and the claim form both confirm that the first signs of when symptoms began, was on **6 June 2015** before the policy was incepted on **30 May 2017**. This will be disappointing to the Complainant, but a policy of insurance is not all encompassing in terms of cover provided, and cover will be subject to the limitations conditions and exclusions, set out within the policy document.

It is unclear why the Complainant moved the already existing cover for his dog, to this Provider in May 2017. Although the Complainant says that the dog had cover in place, since he was 12 weeks old, such cover was not with this Provider, and the policy terms of the new policy incepted in May 2017, made it clear that the Provider would not cover any costs incurred for a condition which pre-existed the inception of the policy.

In those circumstances, I believe that the Provider was entitled to decline cover for the costs claimed by the Complainant in relation to the veterinary treatment costs incurred in November 2017.

Accordingly, I do not believe that it would be reasonable to uphold this complaint.

Conclusion

My Decision pursuant to **Section 60(1)** of the **Financial Services and Pensions Ombudsman Act 2017**, is that this complaint is rejected.

The above Decision is legally binding on the parties, subject only to an appeal to the High Court not later than 35 days after the date of notification of this Decision.

**MARYROSE MCGOVERN
DIRECTOR OF INVESTIGATION, ADJUDICATION AND LEGAL SERVICES**

4 September 2019

Pursuant to **Section 62** of the **Financial Services and Pensions Ombudsman Act 2017**, the Financial Services and Pensions Ombudsman will publish legally binding decisions in relation to complaints concerning financial service providers in such a manner that—

- (a) ensures that—
 - (i) a complainant shall not be identified by name, address or otherwise,
 - (ii) a provider shall not be identified by name or address,and
- (b) ensures compliance with the Data Protection Regulation and the Data Protection Act 2018.