

## **The complaint**

Mrs G is unhappy with Unum Limited's decision to decline her claim.

## **What happened**

Mrs G has income protection insurance with Unum through her employer. In June 2019 she began experiencing symptoms of anxiety and depression. She was admitted to hospital the same month following high blood pressure and heart palpitations which were also attributed to anxiety and panic attacks. Mrs G said that she was too unwell to work and was signed off by her GP. Following the 26-week deferral period required by her policy, Mrs G claimed on her insurance but was declined by Unum.

Unum said that there wasn't enough medical evidence to say that she was suffering from a mental health condition that would preclude her from working. It said Mrs G's symptoms were related to workplace and life stressors and that stress isn't considered a medical condition. It acknowledged that she'd been under the care of a psychologist and attended regular counselling sessions, however, its own psychiatrist said that the medical evidence wasn't persuasive enough because there wasn't a clear diagnosis of a mental health condition, or a clear rationale for why Mrs G was being treated for anxiety and depression.

Our investigator didn't agree with Unum and so she upheld her complaint. She explained that there was enough persuasive medical evidence that showed Mrs G had been incapacitated throughout the whole of the deferral period. She also highlighted that Mrs G was prescribed antidepressant medication, which was increased during that time. She also said that she was more persuaded by the contemporaneous medical evidence like the GP's notes, the occupational health specialist's reports and the psychologist's reports, all of which concluded that Mrs G was too unwell to work owing to her poor mental health.

But Unum still disagreed for the reasons explained. It said that provided Mrs G's psychologist was able to provide a further, more detailed rationale about the method used to diagnose Mrs G's mental health conditions, then it'd reconsider its position on her claim. And so, it's now for me to make a final decision.

## **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.

Having done so, I've decided to uphold it for broadly the same reasons already explained by our investigator. I think there's enough persuasive medical evidence to say that Mrs G was suffering from several mental health conditions that prevented her from working. I'm satisfied her symptoms were so debilitating that she was unable to work, or complete basic daily tasks, like getting herself washed and dressed without support from her close family members. I say that because there's enough contemporaneous medical evidence, from independent medical professionals, that reaffirm Mrs G's symptoms of anxiety, depression and panic attacks were the fundamental underlying conditions that precluded her from working. I acknowledge Unum's psychiatrist's comments and the way they have been relied

upon to decline her claim, but I'm less persuaded by them and I'd like to explain why.

Mrs G's claim is relatively lengthy and so I'd like to make clear that I've considered whether Unum's decision to decline it was fair. And so, I've focussed on when Mrs G's sickness absence began in June 2019, to when the 26-week deferral period ended. This is important because it's for Mrs G to show, by way of medical evidence, that she'd fulfilled the policy terms and met the definition of incapacity. To be clear, the policy terms say;

*"The policy provides a monthly benefit if the member is unable to work because of illness or injury for an agreed length of time.. Monthly benefit payments become payable when a member's incapacity continues past the end of the deferment period..."*

The policy's definition of incapacity;

*"Insured occupation cover: A member is incapacitated if we are satisfied they are:  
-Unable, by reason of their illness or injury, to perform the material and substantial duties of the insured occupation and are ... not performing any occupation"*

*"material and substantial duties means the duties that are normally required for the performance of the member's insured occupation and which cannot be reasonably omitted or modified. It is those duties required for the performance of the occupation at their, or any other employer"*

I've carefully thought about the medical evidence presented during that time. The GP's notes are relatively limited and so I agree with Unum on that point. But they're still relevant because they show that Mrs G began suffering with symptoms of anxiety and panic attacks from June 2019. They also say that she was prescribed antidepressant medication, which was quickly increased in strength because Mrs G was still experiencing severe symptoms related to her illnesses.

I note Unum's comments about Mrs G requesting her medication be increased and the suggestion that this was in some way less persuasive because she'd effectively 'told' the GP to increase it. But I disagree that this makes her testimony any less persuasive, or that her circumstances are any less credible because she effectively directed the GP and the intended treatment plan. I say that because I'm satisfied the GP would have disagreed with her request had he not thought it safe, necessary or relevant. Instead, I think this further demonstrated that Mrs G was legitimately suffering with her symptoms and was in need of further medical treatment. The GP's notes also say that Mrs G was unfit to work throughout the deferred period and that she regularly discussed her illnesses with them and continued to take the prescribed medication during that time.

Mrs G also had regularly discussed her conditions with her employer's occupational health specialist who'd also reported that during the deferred period she was medically unfit for work. Both these accounts are consistent that Mrs G was suffering with anxiety, depression and panic attacks. And so, for Unum to say that there's no evidence of an underlying medical condition is inconsistent with the contemporaneous medical evidence and therefore unfair.

Unum also highlighted that during the deferred period, there was reference to Mrs G beginning to feel better and suggested she wasn't incapacitated the whole time. But I think the comments she made during her sessions have been taken out of context. I say that because I'm satisfied comments made about this were in reference to how she felt more broadly since previous sessions. I also thought it worth highlighting that the treating psychologist said that Mrs G's progress was slow but incremental. I thought it important to reflect on this as it acknowledges that whilst there was progress throughout her treatment,

this wasn't overnight. I think it reasonable not to expect a linear journey with treatment.

I'm satisfied this demonstrated that Mrs G was engaging with treatment for her conditions and that she was addressing the underlying causes of her illnesses. And that there was, at times, progress being made – but not enough to persuasively say that she wasn't incapacitated. I say that because her medical conditions were always present during that time and to isolate her comments about feeling better over comparable weeks and interpret them the way Unum has is unfair in these particular circumstances.

Mrs G's psychologist wrote a letter to further explain why she believed that the decision to decline Mrs G's claim was wrong. In her letter, the psychologist said that she agreed with the GP's diagnosis and that she'd been treating Mrs G almost weekly for the last eight months. She explained that, in her medical opinion, Mrs G was unable to work because the symptoms of her illnesses were such that her decision-making abilities were severely impacted, as well as her concentration levels. As such she felt that, given Mrs G's profession and the level of responsibilities required of her as a senior professional, it was too much for Mrs G to be able to meet those demands because of her underlying medical conditions. I should say that I found that to be more persuasive in the circumstances because Mrs G's psychologist, being a relevant specialist and her level of expertise, consistently said that Mrs G was too unwell to work throughout the deferred period.

I should also say that the psychologist assessed Mrs G face to face almost weekly and so was best placed to determine her readiness for work and so I'm more persuaded by her professional medical opinion.

Unum's psychiatrist disagreed with the opinions of all other medical professionals responsible for Mrs G's care. That's to say that he didn't think the treating GP, or psychologist, were correct in their respective diagnoses and instead, said that she was suffering with work-placed and life stresses. He also contested the psychologist's letter in response to the declination of Mrs G's claim. Unum relied on his testimony and said that because the psychologist hadn't explained the clinical method used to diagnose Mrs G's conditions, that it was effectively not medically persuasive or to be considered.

I thought this was concerning as it felt as though Unum was effectively saying that their medical opinions were unreliable because their notes didn't include this information. I think it would have been fairer for Unum to recognise the diagnosis and treatment administered in conjunction with the concurrent medical notes from her psychologist and Mrs G's own testimony.

The psychologist's report details that Mrs G suffered from moderate to severe anxiety and depression, which I'm satisfied should have been persuasive enough to show she was suffering from two medical conditions. Should Unum want to know more about Mrs G's conditions, in the way suggested by its medical team, then it could consider an independent medical examination, or to speak directly with the Mrs G's treating psychologist. Although I don't think it necessary here because there's enough medical evidence to say that Mrs G was too unwell to work because she's incapacitated.

I wanted to acknowledge the desktop assessment completed by Unum's medical team, but because the findings were too inconsistent with those of the medical professionals that physically and, at times remotely, treated Mrs G I'm more persuaded by them in the circumstances. And so, because Mrs G was incapacitated throughout the deferred period, Unum must now pay her claim. I should also note that Mrs G returned to work on 16 November 2020 on a phased basis, following the successful treatment of her depression and anxiety.

**My final decision**

My final decision is that Unum Limited should now pay Mrs G's claim, plus 8% simple interest.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs G to accept or reject my decision before 31 March 2022.

Scott Slade  
**Ombudsman**