

## **The complaint**

Mr A is unhappy Unum Ltd declined his claim on his income protection policy.

## **What happened**

Mr A is a dentist. He became unwell and signed off work from 27 May 2019 due to anxiety and depression. So he made a claim on his income protection policy which would pay a benefit after a deferred (waiting) period of 26 weeks if he was unable to work due to illness or injury.

Unum declined the claim. They said there wasn't enough evidence to support Mr A met the definition of incapacity. And it seemed to Unum that Mr A's symptoms were due to life and workplace stressors.

Mr A disagreed he was able to perform the duties of a dentist with the symptoms he was experiencing, and he provided further evidence from his treating GP and therapist who both said he was medically unfit to work.

Unum looked into his concerns and they asked their psychiatrist to compile a report from a review of the medical evidence. The psychiatrist disagreed with the opinions of Mr A's treating GP and psychologist and concluded Mr A was suffering with work and life stresses rather than a mental illness. So Unum maintained their decision to decline the claim.

Unhappy with this, Mr A brought a complaint to this service. Our investigator looked at what had happened. He didn't think there wasn't enough evidence to show Mr A was incapacitated due to an illness. So he said Unum had acted fairly in declining the claim.

Mr A disagreed because he didn't think Unum had fairly assessed all the medical evidence. So the case was passed to me to make a decision.

I set out my provisional findings to both parties on 11 March 2022 explaining that I was intending to uphold this complaint. In summary I said:

*I've considered all the available evidence and having done so I've reached a different conclusion to our investigator. I'll explain why.*

*Mr A is required to meet the definition of incapacity throughout the deferred period – in this case 27 May 2019 to 25 November 2019. Unum initially declined the claim because they weren't persuaded by Mr A's GP records. I've looked at these records and they show Mr A was attending regular counselling from the start of his illness, throughout the deferred period and beyond. The notes also show Mr A's treatment was increased to include medication in July 2019 and by August the dosage of Mr A's medication had doubled, which showed the severity of his symptoms. The dosage was reduced by 25% in September due to the side effects and Mr A continued on medication until February 2020.*

*Mr A was engaging with treatment for his conditions and at times these treatments were helping him to improve. Unum have highlighted that by October 2019 the GP records that*

things are settling down which they said suggested Mr A wasn't incapacitated the whole deferred period. But I disagree. I think the comments made during his GP sessions have been taken out of context because I'm satisfied they were in response to the changes to his medication and a reference to how he felt more broadly since his previous session. Periods of improvement in mental state is a reasonable reaction following a change in medication - but it doesn't mean Mr A was well enough to perform the duties of a dentist. I think it's unreasonable Unum are expecting a linear journey with mental health treatment. So whilst progress was recorded by the GP in October 2019, I think it was unfair for Unum to decline Mr A's claim on that basis.

Mr A then provided Unum with further medical evidence from his treating GP and therapist to help support his claim. Both medical professionals agreed Mr A was suffering with anxiety and depression and that he was medically unfit to work in his occupation. But I'm not persuaded this evidence was fairly considered by Unum.

The GP wrote a letter to confirm Mr A's: "period of anxiety has been continuous and he has been unable to work throughout". Mr A also provided a detailed letter from his CBT therapist setting out the notes from their sessions. She recorded that Mr A's decision-making abilities and concentration levels were severely impacted and he suffered from compulsive checking behaviour. In her opinion, it was too much for Mr A to be able to meet the demands of his profession with his medical conditions. Given his profession and the level of responsibilities required of him in relation to the safety of his patients, she concluded he had been unfit to work throughout.

As both accounts from Mr A's treating medical professionals are consistent that he was suffering from debilitating anxiety and depression, I think it was unfair for Unum to say that there was no evidence Mr A was suffering from an underlying medical condition.

Unum's psychiatrist then completed a desk top review of the medical evidence and disagreed with the opinions of Mr A's treating GP and psychologist. He said Mr A was suffering with workplace and life stresses and he wasn't persuaded he had a mental illness. I think it's important to note that Mr A has suffered from anxiety before. He attended CBT therapy in 2015 which he found to be a successful treatment so he went back to the same psychologist when his symptoms returned in 2019. But I don't think Unum picked up on this. Mr A's previous treatment for a mental health condition adds weight to there being underlying medical reasons for the symptoms he experienced again in 2019, rather than it being a reaction to life and work stressors as suggested by Unum and their psychiatrist. So whilst I acknowledge the desktop assessment completed by Unum's medical team, I'm more persuaded by the medical opinions of Mr A's treating GP and psychologist. The psychologist had treated Mr A previously for the same condition, so I think she was best placed to determine Mr A's ability and readiness for work again in 2019.

In summary I think it's clear in this case Mr A was willing to return to work as soon as he was able – the evidence refers to several failed attempts to ease himself back into the dentistry environment. It's important to keep in mind what Mr A's insured role involves against the symptoms he was experiencing. I'm satisfied there's enough contemporaneous medical evidence, from two independent medical professionals, that show Mr A's symptoms were so debilitating he was unable to work as a dentist. It's unreasonable for Unum to conclude someone suffering from poor decision making and a lack of concentration would be capable of carrying out the duties of a dentist.

The overall evidence persuades me it is most likely that Mr A was suffering from an illness and he met the definition of incapacity when he made the claim. So I think Unum should put things right by paying the outstanding policy benefit to Mr A from the date that the claim was

*rejected up to when he returned to work in May 2020. Unum should also add 8% simple interest to the settlement figure.*

Mr A accepted my findings and Unum confirmed they didn't have anything further to add.

### **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.

As Mr A accepted my provisional decision and Unum didn't make any further representations about the outcome of this complaint, there's no reason for me to reach a different conclusion to that which I reached in my provisional decision.

### **Putting things right**

For the reasons I've outlined above, and in my provisional decision, I'm upholding this complaint and direct Unum Ltd to:

-pay the outstanding policy benefit to Mr A from the date that the claim was first rejected up to when he returned to work in May 2020.

-add 8% simple interest to the settlement figure.

### **My final decision**

I uphold this complaint against Unum Ltd and direct them to resolve things as I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 21 April 2022.

Georgina Gill  
**Ombudsman**