

The complaint

Mrs M is unhappy with Legal and General Assurance Society Limited's decision to stop paying her claim.

What happened

Mrs M has income protection insurance through her employer. She suffers symptoms of fibromyalgia including, low mood, lower back pain, irritable bowel, chronic fatigue and other cognitive issues related to verbal comprehension. She became too unwell to work in September 2012 and her claim was accepted by L&G in June 2013. She's received regular benefit since then until November 2021, when L&G decided to stop paying her claim. Mrs M said her health hasn't improved and that she'd like L&G to reinstate her claim because she remains too unwell to work.

L&G said it stopped paying Mrs M's claim because it found that, following a desktop assessment, she was no longer incapacitated to such a degree that she continued to meet the policy terms. L&G said that Mrs M had over-exaggerated her symptoms and that it was clear, after seeing her social media footprint, that she was well enough to return to work. It stopped paying her benefit with one month's notice.

Our investigator thought that L&G had unfairly stopped paying Mrs M's claim. She explained that whilst L&G may have had its concerns following its review, there wasn't enough medical evidence to show that L&G had fairly interpreted the evidence collected, especially around Mrs M's functional capacity. She said L&G should therefore reinstate the claim from November 2021 and pay 8% simple interest on that amount until the date of settlement.

L&G disagreed. It said the evidence clearly shows that Mrs M has a greater level of functionality than she'd previously reported in her May 2021 continuation form and that it stands by its decision to cease benefit. 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 reached the same conclusions as our investigator. I think L&G has stopped Mrs M's claim unfairly and should therefore reinstate it from November 2021. I'll explain why.

There's a wealth of arguments and evidence that's been submitted in this case, but not all of it will feature in my final decision because I think it's best to keep things as simple as possible here. I wanted to acknowledge this has been a difficult time for Mrs M and that her mental health has sadly deteriorated since her claim was stopped. It's understandable that L&G's decision has had a significant impact on Mrs M and she's described feeling over cautious, suicidal, anxious, depressed and as though her privacy has been unfairly invaded.

Mrs M explained this was brought on by L&G's desktop assessment where it began

reviewing her claim. This involved considering evidence gathered online to ensure Mrs M continued to meet the policy terms. I've seen much of the evidence collected by L&G through Mrs M's social media accounts and so I have a good understanding of why she feels this way. But I should say that insurers, like L&G, are entitled to periodically check this information in order to validate claims. It's a tool that's used by many insurers and given the length of time Mrs M's claim had been running, I'm not surprised by L&G's decision to use it. That said, I think L&G should have remembered that Mrs M suffers with fibromyalgia and chronic pain. Also, the emphasis is on L&G to persuasively demonstrate that Mrs M no longer meets the policy terms given it'd previously accepted that she was too incapacitated to work.

This is important because I'm not persuaded that the evidence gathered by L&G successfully, or persuasively demonstrated that Mrs M was well enough to return to work. The evidence I've seen is also incomplete. L&G provided links to videos which don't work and so I'm unable to see what evidence it relied on to make the decision to stop paying her claim. Further, there's no specific commentary, by a suitably qualified medical professional, which gives any indication on Mrs M's ability to return to work. I'd have expected to see some evidence of a medical opinion, specifically commenting on the videos, and other evidence gathered, that discusses Mrs M's illnesses and her reported symptoms that preclude her from work and why that's no longer the case in L&G's opinion.

I've reviewed the notes from the multidisciplinary team that discussed Mrs M's claim, but there's nothing specific mentioned there either, other than they agree the claim should be stopped. I think, given the complexities of Mrs M's illnesses and the length of time her claim has been ongoing, it would have been fair for L&G to refer her to an independent medical examination with the view to better understanding her functional capacity. That way it would have been able to point to some meaningful and persuasive evidence to show that it'd fairly considered stopping her claim. But because this didn't happen, I agree with our investigator's view that L&G treated Mrs M unfairly by stopping her claim the way it did.

L&G highlighted Mrs M's medical records show that she'd rarely visited the GP during the time it was reconsidering her claim. But I don't think that's unusual given the wider circumstances with COVID-19. I say that because that's the narrative for many people as advice was not to visit the doctor unnecessarily from March 2020. There were also national lockdowns during that time. Mrs M's medical records continued to show that she regularly took her medication to help ease some of her symptoms, which I think satisfactorily shows she was still suffering her illnesses. Further, Mrs M's illnesses are chronic and she's been coping with them for some time, and so, I don't think it's unusual that there's perhaps less interaction between her and the GP than what there was when this first began, other than to collect her medication.

I note that in Mrs M's claim continuation form completed in May 2021, she explained that she suffered with chronic pain in her hands and wrists. She also explained that she never has good days, only bad. And so, I can see why L&G questioned this when it discovered her social media pages where she was holding books and showing her completed artwork. But this ought to have been discussed in the context of a functional capacity examination to better understand her abilities, rather than the basis to stop the ongoing claim altogether.

My final decision

It's for these reasons I'm upholding Mrs M's complaint. Legal and General Assurance Society Limited should now reinstate Mrs M's claim and pay her 8% simple interest of that amount until the date the settlement is paid.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or

reject my decision before 13 July 2022.

Scott Slade
Ombudsman