

The complaint

Ms M is unhappy that Aviva Life and Pensions UK Limited declined her income protection claim after considering new medical evidence.

What happened

The background to this complaint was set out under my provisional decision, so I won't go into the detail here. To summarise, Ms M was diagnosed with chronic fatigue syndrome (CFS) in January 2021. She made a claim previously that was declined because she hadn't been diagnosed with a medical condition. We'd considered that complaint separately and a final decision was issued by another ombudsman.

In my provisional findings, I said Aviva should reconsider Ms M's claim in light of the new medical evidence available. Aviva said Ms M wasn't actively at work prior to bringing her latest claim and so it declined it on that basis. Our investigator thought that was fair. But I disagreed. I said Ms M was working up until she went off sick in April 2019. I recognised her symptoms were consistent with CFS and she'd provided medical evidence which said she'd likely been suffering with CFS since 2017. I recommended Aviva should reconsider her claim but from the point Ms M was diagnosed with CFS – which was January 2021.

Both Aviva and Ms M agreed with my provisional decision. And so, it's 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 the reasons explained in my provisional decision. Both parties agreed with my recommendation, however, there were some comments I thought I should address for clarity.

I agreed with both Aviva and Ms M that her CFS diagnosis was in January 2021 and so the claim should be considered from then. There's a 26-week deferred period on the policy and so Aviva will consider Ms M's incapacity during that time. Should it decide to accept Ms M's claim, benefit would be payable from July 2021. I know Ms M would like her claim to be considered from 2019, but I don't think that'd be fair given her CFS wasn't identified until January 2021. I acknowledge Ms M's arguments about her symptoms being continuous from 2019, but I'm satisfied January 2021 is the right time from which to consider her claim as this is when she saw the CFS specialist.

Aviva explained that as CFS is a new condition, Ms M will need to complete a new claim form, which I understand is part of its internal processes. I should also highlight to Aviva that it already has a wealth of information provided by Ms M and so, where possible, it should refer to its existing file so as to minimise the impact on Ms M and allow it to reach a decision on her claim promptly. I'd also recommend that Ms M work promptly with Aviva to provide any missing information it might ask for.

Putting things right

Aviva will now reconsider Ms M's claim for income protection for CFS from January 2021.

My final decision

My final decision is that Aviva Life and Pensions UK Limited must reconsider Ms M's claim from January 2021.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms M to accept or reject my decision before 19 September 2023.

Scott Slade
Ombudsman