DRN-4372058

The complaint

Mr W and Ms B have complained about the level of the settlement The Prudential Assurance Company Limited paid when they claimed following Mr W's stroke.

What happened

In 2007, Mr W and Ms B bought life and serious illness cover from Prudential. The policy they chose was for a 25 year term and, for Mr W, provided cover on a decreasing basis. At the end of 2021, Prudential wrote to him confirming his serious illness cover from the start of 2022 was £56,862.55. It also provided for a proportion of the cover to be paid depending on the severity of the illness or condition claimed for.

In autumn 2022, Mr W suffered a stroke. This left him with communication difficulties. Following his release from hospital, he made a claim on his policy. At the end of 2022, Prudential wrote to Mr W about his claim. They explained the medical information they'd received confirmed he'd had a stroke. But the policy provided there had to be permanent neurological deficit with persistent clinical symptoms - and it was too early to assess permanence. So they deferred Mr W's claim until March 2023, and said they'd reassess it then based on updated medical evidence.

Mr W complained. Prudential maintained their position that they would reassess the claim once six months had elapsed following his stroke.

In spring 2023, Prudential sought further evidence from Mr W's consultant. Based on the information it contained, Prudential assessed his stroke as of severity level "C", which meant they should pay him 50% of the sum assured. Prudential paid Mr W £26,490.87 plus interest of £161.55. When Mr W queried the level of payment, Prudential said this was half of the benefit due in March 2023, when they were able to confirm permanence.

Mr W complained again but Prudential maintained their position. So Mr W brought his complaint to our service. Our investigator considered the complaint and concluded Prudential needed to do more to resolve it. She said it was fair for Prudential to delay payment of the claim in order to decide how permanent Mr W's condition was. And she was satisfied that a payment of 50% of the cover value was fair, taking into account the severity of his stroke.

But she thought the policy definition of "stroke" had been met in October 2022 – so she said the cover value from that date, rather than March 2023 should have been used to calculate the value of the claim. To put things right, the investigator said Prudential should pay Mr W the difference between what they'd paid him and 50% of the cover value as at 26 October 2022, as well as 8% simple interest on that amount.

Mr W agreed with the investigator's view, but Prudential continue to say the definition wasn't fully met until March 2023. So I've been asked 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 that, I'm upholding Mr W's and Ms B's complaint. I'll explain why.

I've started by considering the relevant definitions in the policy. "Stroke" is defined as:

"Death of brain tissue due to inadequate blood supply or haemorrhage within the skull resulting in Permanent Neurological Deficit With Persisting Clinical Symptoms."

And "Permanent Neurological Deficit With Persisting Clinical Symptoms" is defined as:

"Symptoms of dysfunction in the nervous system that are present on clinical examination and expected to last throughout the insured person's life."

These symptoms include the difficulties Mr W has suffered since he had his stroke. The policy also sets out that it uses the Modified Rankin Scale (MRS) to measure the severity of a stroke.

The parties don't dispute that Mr W had a stroke or that the stroke was categorised as MRS2 – which, for the purposes of the policy, meant he was entitled to be paid 50% of the benefit. The complaint arises from Prudential's decision to defer payment of the claim, and then to pay 50% of the value of the cover as at March 2023. So that's what I've focused on in this decision.

Like our investigator, I think it was reasonable for Prudential to defer payment until they had some certainty of the severity of Mr W's stroke. As I'd expect, they collected and reviewed information from Mr W's specialist, who indicated in autumn 2022 that he may continue to improve. So I think it was fair for Prudential to review the position on severity in March 2023.

But I don't think it was reasonable to say the policy definition wasn't met until this point. When Prudential wrote to Mr W in December 2022, they confirmed diagnosis of his stroke. And they referred to the fact that his specialist had noted some possibility of improvement of the residual issues.

I've read the specialist's report, which she was asked to complete in October 2022. She was asked a series of questions, including:

"Is there permanent neurological deficit? Please attach imaging:"

To which she replied:

"Yes, there will be permanent gliosis. Further imaging planned"

And she answered "yes" to the question:

"Does the patient have any persisting clinical symptoms which, in your opinion, is likely to be permanent?"

I think it's clear from this report it was known in October 2022 that Mr W would be permanently affected by the stroke and would not recover completely.

Prudential have said they needed to wait because the specialist's report indicated Mr W's MRS score might improve. I agree the report says that. But the MRS score was relevant to deciding the severity of stroke – and therefore the percentage of the benefit Mr W should be paid – rather than assessing the permanence of his issues. I think the report is clear there

will be permanent issues. So I agree with our investigator it's fair to calculate Mr W's payment based on the benefit at the date of that report – 26 October 2022.

Putting things right

To put matters right, I think Prudential should confirm the value of the benefit (which decreases monthly) to Mr W as at 26 October 2022. They should use that figure to calculate the amount of the benefit that should have been paid to him. And they should pay Mr W the difference between that amount and what he's already received.

And I think Prudential should also pay simple interest on that sum, at the rate of 8% per annum, from the date they paid Mr W £26,652.42 (£26,490.87 plus interest of £161.55) until the date they pay him.

My final decision

For the reasons I've explained, I'm upholding Mr W's and Ms B's complaint about The Prudential Assurance Company Limited and directing them to

- calculate and pay Mr W the difference between the value of the serious illness benefit as at 26 October 2022 and what they've already paid him; and

- pay 8% simple interest on the additional payment, calculated from the date they paid him £26,652.42 until they pay him. If Prudential considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr W how much it's taken off. It should also give Mr W a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms B and Mr W to accept or reject my decision before 1 February 2024.

Helen Stacey
Ombudsman