DRN-4620411

The complaint

Mrs B complains because Aviva Life & Pensions UK Limited ('Aviva') hasn't paid a claim under her income protection insurance policy.

What happened

Mrs B holds an income protection insurance policy, provided by Aviva.

Mrs B made an incapacity claim under her policy. She said she was unable to go back to work after her maternity leave ended due to back pain, having less sleep, as well as fatigue due to her young child's medical condition. Aviva said Mrs B's incapacity claim wasn't covered as there was no record in her GP notes of these medical issues being discussed. Aviva also said Mrs B wouldn't be eligible for a 'family carer benefit' under the policy as her young child's medical conditions didn't meet the definition for a payment to be made.

Unhappy, Mrs B complained to Aviva before bringing the matter to the attention of our service.

One of our investigators looked into what had happened and said she didn't think Aviva had acted unfairly or unreasonably by declining Mrs B's claims. Mrs B didn't agree with our investigator's opinion so the complaint has now been referred to me as the final stage in our process.

Mrs B subsequently provided our service with new medical evidence which has been shared with Aviva for its comments, as is required under the rules that govern how our service deals with complaints.

I made my provisional decision about Mrs B's complaint on 31 January 2024. In it, I said:

'Industry rules set out by the regulator (the Financial Conduct Authority) say that insurers must handle claims fairly and shouldn't unreasonably reject a claim. I've taken these rules into account when making my provisional decision about Mrs B's complaint.

Mrs B's insurance policy with Aviva provides a benefit in certain circumstances in the event that she is incapacitated and unable to perform her occupation due to illness or injury. It's up to Mrs B to provide medical evidence to demonstrate that she has a valid claim and the policy terms are clear that Aviva won't pay a benefit if it doesn't receive enough medical information in support of a claim.

I understand Mrs B says she discussed the medical issues she was experiencing with her child's doctor and that she told her GP about these issues but they weren't recorded. Mrs B has also told our service about other medical issues she suffers from. While I don't doubt that Mrs B may not be in full health and I'm sorry to hear about everything she has been through, there's simply no medical evidence to support Mrs B's claim that she is incapacitated due to illness to the extent that she is unable to work in her occupation. There are no circumstances in which I'd direct an insurer to pay a claim like this one based solely on a policyholder's description of their symptoms, without any supporting medical evidence.

Mrs B's policy also provides for the payment of a 'family carer benefit' if a child under 5 years of age requires continuous health care throughout the day and night. The policy terms and conditions describe this as meaning 'the provision of care throughout the day and night for what is necessary for the health, welfare and protection of the child compared to a child of a similar age who does not have any illness or injury.'

Again, it's up to Mrs B to provide medical evidence to show that her child meets the policy definition for a claim for 'family carer benefit' to be paid to her.

It's clear that Mrs B's child has been unwell, with investigations ongoing, and I'm sorry to hear this. I have no doubt that Mrs B and her family have been through a very stressful time. But, while Mrs B has described various difficulties which her child has in relation to food allergies and feeding, the only medical evidence which Mrs B provided to Aviva related to recurrent UTI's. I don't think Aviva acted unfairly or unreasonably by determining that Mrs B's child's recurrent UTI's don't meet the policy criteria for a 'family carer benefit' to be paid. Aviva is entitled to base its decision about whether a claim is covered on the available medical evidence and I wouldn't expect Aviva to make its own assumptions about how much care Mrs B's child requires as Mrs B is suggesting Aviva should do.

Mrs B has since provided a letter from a paediatrician abroad dated 9 December 2023 stating that her child was unfit to fly for one week after that date. Mrs B feels this demonstrates how sensitive her child is, and that she needs to provide extra care. While I accept that Mrs B's child may need some level of extra care, I don't think this letter demonstrates that Mrs B's child requires continuous health care throughout the day and night, which is the policy criteria for a 'family carer benefit' claim to be paid.

I'm sorry to disappoint Mrs B. It's clear that she, her child and her family have been through a difficult time. But the available medical evidence simply doesn't support the payment of either an incapacity claim or a 'family carer benefit' claim under her policy with Aviva. I'd also say that, based on the information which I've seen, I don't think the situation which Mrs B has found herself in is something which this policy is designed to cover.

The fact that Mrs B has paid premiums to Aviva for a number of years doesn't mean her claims should be covered if they are not otherwise eligible. Mrs B has had the benefit of cover under her policy with Aviva in return for the premiums paid, regardless of whether or not Mrs B needed to make a claim under the policy in the past and/or whether any such claim was successful.'

Aviva responded to my provisional decision restating its position on the new medical evidence shared with it, but didn't comment directly on the content of my provisional decision. Mrs B responded to my provisional decision outlining further recent medical issues that both she and her child have experienced.

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.

I'm sorry to hear that Mrs B and her child's health hasn't improved, but the position remains that she has provided no medical evidence which demonstrates that she meets the criteria for a claim to be paid to her under this policy.

I therefore won't be changing my provisional decision and I won't be directing Aviva to do anything further.

My final decision

My final decision is that I don't uphold Mrs B's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 13 March 2024.

Leah Nagle
Ombudsman