

The complaint

Mrs V has complained that Legal and General Assurance Society Limited has not met a claim for total and permanent disability benefit made under her term assurance with critical illness policy.

What happened

The background to this complaint is well known to the parties so I won't repeat it in detail here. In summary Mrs V submitted a claim under her term assurance policy for total a permanent disability benefit from her insured occupation. L&G said it required an independent medical examination ("IME"). Mrs V objected – she felt that the evidence she had supplied showed that she met the policy definition.

Our investigator didn't recommend that the complaint be upheld, she felt it was reasonable for L&G to request an IME. Mrs V subsequently agreed to undergo the examination – but she said it was under protest. She thought the requirement for an IME was both unnecessary and excessive. She felt that the decision as to whether or not it was fair to have the IME must be based on whether there were reasonable prospects of a different decision to that reached by her treating team.

Although agreement has been reached regarding the IME, Mrs V requested the matter be passed to an ombudsman to determine.

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 aware I've summarised the background to this complaint and some sensitive medical details. No discourtesy is intended by this. Instead, I've focused on what I find are the key issues here. Our rules allow me to take this approach. It simply reflects the informal nature of our service as a free alternative to the courts. If there's something I haven't mentioned, it isn't because I've ignored it. I've fully reviewed the file and considered the representations Mrs V made after our investigator's assessment. For the following reasons I agree with the conclusion reached by our investigator:

- The relevant regulator's rules say that insurers must handle claims promptly and fairly. And that they mustn't turn down claims unreasonably. So I've considered, amongst other things, the terms of Mrs V's policy and the available medical evidence, to decide whether I think L&G treated her fairly.
- There is no dispute that Mrs V experienced a traumatic event in 2015 which has affected her both physically and psychologically. Mrs V has provided medical reports to L&G which she feels show that she meets the policy definition for a Total and Permanent Disability claim to be admitted. Accordingly I do understand why she doesn't see the need for a further IME. The definition she needs to meet is as follows: *Total and permanent disability - unable to do your own occupation ever*

again. Loss of the physical or mental ability through an illness or injury to the extent that the life assured is unable to do the material and substantial duties of their own occupation ever again. The material and substantial duties are those that are normally required for, and/or form a significant and integral part of, the performance of the life assured's own occupation that cannot reasonably be omitted or modified.

- L&G explained why it wanted to assess Mrs V's claim further by means of an IME. It acknowledged the diagnosis of Complex Regional Pain Syndrome from March 2023, and receipt of other medical reports, but as a multidisciplinary approach was recommended L&G felt that an IME in occupational health was a fair approach to assessing the claim.
- I'm satisfied that L&G told Mrs V the definition of own occupation against which it was assessing her. For completeness the policy definition of own occupation is: *Own occupation means your trade, profession or type of work you do for profit or pay. It is not a specific Job with any particular employer and is irrespective of location and availability. The relevant specialists must reasonably expect that the disability will last throughout life with no prospect of improvement, irrespective of when the cover ends or the life assured expects to retire. For the above definition, disabilities for which the relevant specialists cannot give a clear prognosis are not covered.* Mrs V was concerned that L&G was treating her occupation on a general level, whereas she had specialist training. I understand why this was important. I've listened to the call when L&G explained that the occupational health specialist would review the claim on this basis.
- L&G has not yet made a decision in respect of Mrs V's claim, so I'm only considering whether it has acted fairly and reasonably in requesting that an IME for it to carry out its assessment. It is not for this service to tell L&G how to assess claims, but I have looked carefully to ensure that it has treated Mrs V fairly. I understand that Mrs V feels the evidence she has supplied is sufficient to meet the terms of the policy. Certainly, there is medical evidence on the file which supports her claim. But I don't consider that it was unreasonable for L&G to require the input of an occupational health specialist when assessing whether Mrs V was prevented from carrying out her own occupation.
- Mrs V feels that the decision as to whether or not an IME is fair must be based on whether or not there are reasonable prospects of a different conclusion to that reached in the evidence that she has submitted. I don't agree. It may be the conclusion reached following the IME is the same – but L&G has requested the input of an occupational health specialist, and as indicated I don't find that is unfair.
- I note this matter has gone on for some time and Mrs V is suffering financially. I would hope that the IME can be arranged expediently, so that L&G can then make a claims decision. But in all the circumstances I don't find that L&G have treated Mrs V unfairly or unreasonably by requiring that she has an IME so that it can complete the assessment of her claim.
- L&G admitted that there have been service failings and delays in its assessment of Mrs V's claim. It apologised and offered a total of £600 in compensation. I find compensation was merited. Mrs V could have expected the claim process to run more smoothly and not add to what was already clearly a stressful situation for her. However I find that the compensation offered is fair.

My final decision

My final decision is that I don't find that L&G's request for an IME in order to assess Mrs V's claim was unfair or unreasonable. Therefore I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs V to accept or reject my decision before 24 April 2024.

Lindsey Woloski
Ombudsman