

## **The complaint**

Mr P complains that Unum Ltd unfairly declined his income protection claim.

## **What happened**

Both sides are familiar with the background to this complaint so I will briefly summarise what happened below.

Mr P has access to a group income policy through his employer. The policy is designed to pay benefit after a deferred period of 26 weeks if a member is unable to work because of incapacity.

Mr P made such a claim in 2023 and said he'd been unable to work because of anxiety and stress. He explained this was originally induced by working night shifts and being unable to sleep during the day, and he set out the ongoing impact his mental health continued to have on him.

Unum declined Mr P's claim and said there wasn't sufficient medical evidence to demonstrate that he'd been incapacitated in line with the policy terms. It maintained that position following a complaint from Mr P too, and so unhappy with what had happened Mr P brought his complaint to this service.

Mr P told us Unum's reasons for declining his claim were non-factual, the medical evidence he'd supplied was evidence of his incapacity, and Unum's action were discriminatory.

One of our investigators looked at what had happened and didn't think Unum had declined Mr P's claim unreasonably. They didn't recommend his complaint be upheld as a result, but Mr P disagreed and asked for it to be referred to an ombudsman.

When doing so Mr P said his condition wasn't a measurable one, and no one in his position would be able to demonstrate incapacity for the entire duration required by the policy because there were both good and bad days. Mr P provided further evidence too, which he felt supported his claim. And he said he remained of the opinion that discrimination had been shown by Unum – not necessarily to him, but in the way it gauged mental health conditions over physical ones.

So the matter is now for me to decide.

## **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.

Although I only summarised what happened above I'd like to reassure both sides that I carefully considered everything that had been said before reaching this decision. I'll not address each and every point that has been made however, and will instead focus on those matters I think are material to the outcome of this complaint.

While I'm sorry to learn of the impact Mr P says his mental health has had on him I will not be upholding his complaint. I realise Mr P will be further disappointed by this so let me explain why:

- Unum had a responsibility to consider this claim both promptly and fairly and to not reject it unreasonably. The cover available to Mr P was detailed in the group policy's terms and conditions. These explained the definition of incapacity being used for the group was "*insured occupation cover*" and that was specifically defined as follows:

*"A member is incapacitated if we are satisfied that they are:*

- *Unable, by reason of their illness or injury, to perform the material and substantial duties of the insured occupation, and are*
- *Not performing any occupation"*

The policy terms also confirmed the deferred period for the group was 26 weeks.

- Based on the date of Mr P's first absence the required deferred period here would have been 3 February 2023 to 4 August 2023.
- It wouldn't have been enough for Mr P to demonstrate that he was unwell during the deferred period. He would need to have demonstrated that his illness had totally prevented him from performing the material and substantial duties of his occupation for the entire 26 weeks.
- Mr P has explained that the nature of his illness meant it would have been difficult to demonstrate incapacity for the entirety of this timeframe because there'd have been both good and bad days. I appreciate Mr P's thoughts about this, but the policy terms were the basis on which the group cover was provided and so he did need to demonstrate he'd satisfied them.
- Mr P has provided much of his own testimony about how his health impacted his ability to work and I thank him for doing so. He's also said he doesn't know what else he could have supplied in support of his claim given he had GP certificates, a GP letter, and proof of NHS therapy.

It's not disputed that Mr P was signed off work with anxiety and referred for therapy, but I don't think it was unreasonable of Unum to find that collectively there wasn't sufficient evidence to demonstrate incapacity in line with the policy terms here.

I say this because Mr P's medical certificates did cite anxiety as the reason for him not being considered fit for work but there was little else on them. His GP medical records from the same time also contained very limited information about his anxiety.

I also say this because the letter from Mr P's GP explained he'd been diagnosed with anxiety and panic disorder in February 2023 and referred on for therapy. And it noted he'd been signed off work from February 2023 to September 2023 and unable to work because of his symptoms too. But this lacked detail about the impact of Mr P's health on his ability to perform the material and substantial duties of his occupation, as did the letters confirming Mr P had been referred for NHS therapy in February 2023 and given an appointment in August 2023.

- In response to our investigator's opinion Mr P provided a letter from his manager. This explained that, in their opinion, Mr P had not been ready to take on the

responsibilities of his job. I thank Mr P for providing this letter, but whilst I respect the opinion of his manager the letter does not negate the limited medical evidence that was available to corroborate Mr P's claim.

- Mr P has said Unum showed discrimination in the way it gauged mental health over physical health conditions. I empathise with Mr P's situation and the way he's described the impact and nature of his condition. But having looked at all the evidence I don't think Unum did do so nor do I think it acted unfairly or unreasonably.

For all of the reasons given above I'm not persuaded that Unum declined this claim unreasonably. I think it reached a reasonable position based on the evidence made available to it and declined Mr P's claim in line with the relevant policy terms. So I'll not be interfering with its position.

### **My final decision**

My final decision is that I do not uphold this complaint against Unum Ltd.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 25 July 2024.

Jade Alexander  
**Ombudsman**