

## **The complaint**

Mr S complains about the way that Zurich Assurance Ltd handled a claim he made on a group income protection insurance policy.

## **What happened**

The background to this complaint is well-known to both parties. So I've simply set out a summary of what I think are the key events.

Mr S is insured under his employer's group income protection insurance policy. The policy provides cover if an insured member is incapacitated and unable to work due to sickness or injury. The policy included a deferred period of 26 weeks.

In December 2022, Mr S became absent from work due to the serious illness of a close relative. Sadly, Mr S' relative passed away in March 2023. As Mr S remained unfit for work, his employer made an incapacity claim on the policy.

Zurich asked for medical evidence so that it could fully assess Mr S' claim, which it referred to its Chief Medical Officer (CMO). The CMO didn't think Mr S was incapacitated in line with the policy terms. Instead, they concluded that Mr S was experiencing a grief reaction, rather than a diagnosed mental illness. Based on the evidence and its CMO's opinion, Zurich turned down Mr S' claim.

Mr S was unhappy with Zurich's decision and his employer appealed. Mr S was also unhappy that Zurich's rehabilitation consultant had withdrawn support with little notice. Zurich reviewed further medical evidence from Mr S' GP and it decided to appoint an Independent Medical Examiner (IME) to assess him.

The IME assessed Mr S in November 2023. They concluded that while Mr S had been suffering a bereavement reaction both before and after his close relative's passing, he had since developed a depressive disorder, which represented a significant undermining of his mental health.

Zurich reassessed Mr S' claim and decided to accept it, backdated its acceptance to June 2023 – the date at which his deferred period had ended. And it apologised for the service Mr S had received from its rehabilitation consultant. Its team reopened Mr S' file and a new rehabilitation consultant was appointed to help support him.

Mr S remained unhappy with Zurich's handling of his claim and he asked us to look into his complaint.

Our investigator didn't think it had been unreasonable for Zurich to initially conclude that Mr S' claim didn't meet the policy definition of incapacity. So he didn't think it had been unfair for Zurich to initially decline his claim. He felt it had acted reasonably by appointing the IME once it had received new medical evidence from Mr S' GP. And he noted that Zurich had backdated acceptance of the claim to the earliest date at which benefit would have been payable. So he thought Zurich had handled the claim fairly.

However, he didn't think Zurich's apology was enough to recognise the impact and distress the sudden withdrawal of support from the rehabilitation consultant had caused Mr S. So he recommended that Zurich should pay Mr S £200 compensation.

Zurich didn't let us know whether or not it accepted the investigator's view.

Mr S didn't accept our investigator's assessment. In summary, he didn't think £200 compensation fairly reflected the impact of Zurich's actions on him. He felt Zurich had unreasonably required him to try and obtain medical evidence. He questioned why it hadn't appointed an IME far sooner than it had. And he felt Zurich had had enough information from the start to understand that he would have been unable to carry out his role, due to his vulnerabilities and symptoms. He also considered the rehabilitation consultant had attempted to rush him back to work.

The complaint's been passed to 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.

Having done so, whilst I'm very sorry to disappoint Mr S, I agree with the conclusions our investigator reached and I'll explain why.

First, I'd like to offer Mr S my sincere condolences for his sad loss and I was very sorry to hear about the impact on his health and situation. I don't doubt what a worrying and stressful time this has been for Mr S.

I'd also like to reassure Mr S that while I've summarised the background to his complaint and his detailed submissions to us, I've carefully considered all he's said and sent. In this decision though, I haven't commented on each point that's been made and nor do our rules require me to. Instead, I've focused on what I think are the key issues.

The relevant regulator's rules say that insurers must handle claims promptly and fairly. And that they mustn't turn down claims unreasonably. I've taken those rules into account, along with other relevant considerations, such as regulatory principles and guidance, the policy terms and the available medical evidence, to decide whether I think Zurich treated Mr S fairly.

I've first considered the terms and conditions of the policy, as these form the basis of Mr S' employer's contract with Zurich. It's important I make it clear that the insurance contract was agreed between Mr S' employer and Zurich. Mr S is a beneficiary of the policy as a result of his employment. But Mr S' employer is the policyholder and so I don't think it was unreasonable or inappropriate for Zurich to communicate mainly with Mr S' employer.

Mr S' employer made a claim on his behalf for incapacity benefit, given he wasn't fit for work. So I think it was reasonable and appropriate for Zurich to consider whether Mr S' claim met the policy definition of incapacity. This says:

*'The Member cannot perform the Material And Substantial Duties of their employment and they're not doing any paid work.'*

This means that in order for Zurich to pay Mr S incapacity benefit, it must be satisfied that he had an illness or injury which prevented him from carrying out the material and substantial duties of his own occupation for the entire 26 week deferred period and afterwards.

It's a general principle of insurance that it's for a policyholder to show they have a valid claim on their policy. This means it was Mr S' responsibility to provide Zurich with enough medical evidence to demonstrate that an illness had led to him being unable to carry out the duties of his own occupation for the full 26-week deferred period between December 2022 and June 2023.

### *The initial claim assessment*

Zurich assessed the initial medical evidence which was provided in support of Mr S' claim, including seeking the opinion of its clinical staff. While it sympathised with Mr S' position, it concluded that he wasn't suffering from a diagnosed mental illness which prevented him from carrying out his role. Instead, it felt that Mr S was suffering with a grief reaction following the bereavement he'd suffered, which most likely didn't amount to a defined medical problem. So I've next looked at the available medical and other evidence to assess whether I think this was a fair conclusion for Zurich to draw at that point.

Mr S' GP provided a letter dated late March 2023, along with some records and notes. In brief, the GP's letter explained that Mr S had been dealing with the long illness of his close relative and that his relative had recently passed away. The GP said this had had a major impact on Mr S' physical and mental health. They stated that Mr S had had marked anxiety, gastrointestinal problems and fatigue.

And Mr S' employer referred him to occupational health. I've seen a copy of the occupational health adviser's report dated April 2023. The report said that Mr S had continued to experience a significant level of emotional distress since his bereavement. The adviser stated that this was a grief reaction – which in Mr S' case caused symptoms of anxiety and low-mood. The adviser concluded that Mr S wasn't fit for work. They stated that it wasn't possible for them to provide a timescale in which Mr S would be fit to return to work, as it varied widely through the grieving process. And they considered that therapeutic support from a bereavement charity would be appropriate.

It seems too, from what Mr S told the rehabilitation consultant, that he'd been signed off by the GP with stress at home.

Zurich referred the available evidence to its CMO. I've set out below what I believe to be the CMO's key conclusions:

*'It is my view... that the primary reason for absence is a grief reaction following (Mr S') bereavement...and not a defined mental health disorder...'*

*Grief is not a formally recognised medical illness...*

*Overall, there is sufficient evidence to broach this as an exclusively grief reaction and not a mental illness.'*

Based on the medical evidence available to Zurich at that particular point, I don't think it acted unfairly or unreasonably by relying on the opinion of its CMO to conclude that Mr S hadn't met the policy definition of incapacity. I appreciate Mr S feels that Zurich could and should have organised an IME when it initially assessed the claim. I can see from the CMO's notes that they considered whether or not it would be appropriate to appoint an IME, but ultimately, given the available medical evidence at that time, they felt it would be of limited value.

Having thought about everything, I don't think it was unreasonable for Zurich to have concluded, in July 2023, that it had enough evidence to make a decision on Mr S' claim. It

seems Mr S thinks Zurich had sufficient evidence of his incapacity through its discussions with him. But, on balance, I'm not persuaded that it was unfair or unreasonable for Zurich to initially decline Mr S' claim based on the totality of the medical evidence it had been provided with.

### *The reassessment of the claim*

Following its initial decline of the claim, Zurich considered further medical evidence from Mr S' GP, including GP records dating up until the end of October 2023 and a letter dated from early October 2023 from a Primary Mental Health Support Service. This evidence indicated that Mr S' symptoms had deteriorated and so, at this point, it appointed an IME. In my view, this was a reasonable and appropriate response from Zurich.

In late November 2023, the IME concluded: *'The indications are that Mr S was experiencing a bereavement reaction...I would judge that he has since developed a depressive disorder due to this loss having a very significant impact on his mental health... I am judging that his presentation transcends a bereavement reaction and represents a significant undermining of his mental health.'*

Based on the IME's report, Zurich agreed that it had enough medical evidence to show that Mr S met the policy definition of incapacity and it agreed to backdate his claim and pay benefit from the end of the deferred period in June 2023. In my opinion, this was a very fair response from Zurich because the IME didn't indicate at what point Mr S had developed depressive disorder or that the deterioration in his condition had taken place during the deferred period.

I'm mindful that Mr S believes it was unfair for Zurich to suggest that he chase up his GP for medical information. I can understand why he found this an additional challenge at an already difficult time. But often, it can take some time for medical evidence to be provided by third party GPs and other medical practitioners. And Zurich explained to Mr S that if he also requested the medical evidence, it could move things along. I don't think this was an unfair suggestion for Zurich to make in the circumstances.

### *The role of the rehabilitation consultant*

It's clear how strongly Mr S believes that the rehabilitation consultant unfairly pressured him into returning to work. I'm sorry to hear that he found the calls difficult or pressured. Like the investigator, I've listened carefully to the calls between Mr S and the rehabilitation consultant. And I don't think I could reasonably find that the consultant unfairly pressured Mr S. I think they made it clear that their role was to support Mr S and to provide signposting services. I think they listened to what Mr S had to say and tried to provide helpful information. Whilst, ultimately, their role was to help Mr S to be in a position to return to work when he was ready, I don't think they put pressure on him in any way.

With that said, I've also seen a copy of an email from the consultant to Mr S' employer following the decline of the claim. This stated that to avoid confusion, they'd be withdrawing support from Mr S. Given the nature of the calls Mr S had been having with the rehabilitation consultant over the previous few weeks and Mr S' identified vulnerabilities at that time, I don't think the consultant handled the withdrawal of support in a fair or reasonable way. While Zurich has apologised for the service Mr S received, I don't think this is enough to reflect the additional trouble and upset I think this particular error caused him at an already worrying and upsetting time. Instead, I agree that an award of £200 compensation is fair, reasonable and proportionate to take into account the unnecessary extra distress I think this communication is likely to have caused Mr S.

I understand Mr S feels that this compensation doesn't go far enough. It's clear that he's continued to go through a very upsetting time and I appreciate he feels that Zurich's actions have contributed to this. But, as I've said, I don't think Zurich acted unfairly when it initially turned down Mr S' claim. And I find it agreed to settle the claim fairly once it had the evidence to show Mr S met the policy definition of incapacity. So I'm satisfied that compensation of £200 is fair and reasonable in all the circumstances.

### **My final decision**

For the reasons I've given above, my final decision is that I uphold this complaint in part.

I direct Zurich Assurance Ltd to pay Mr S £200 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 4 December 2024.

Lisa Barham  
**Ombudsman**