DRN-5146482

The complaint

Mr C complains that Unum Ltd had unfairly turned down his income protection claim.

What happened

Mr C is covered under his employer's group income protection scheme, which provides an income if he is unable to work due to illness or injury. The scheme has a deferred period of 26 weeks.

In November 2021, Mr C became absent from work due to anxiety and depression. He returned to work in May 2022 but in August 2022 he became absent again for the same condition. Claims were submitted to Unum but were turned down as it didn't think there was medical evidence to support that he was incapacitated, as defined by the policy.

Unhappy with this outcome, Mr C brought a complaint to this service. Our investigator looked into the matter but didn't think that the complaint should be upheld. He found that Unum's decision to decline the claim had been reasonable, based on the medical evidence provided.

Mr C disagreed with the investigator's opinion. As no agreement could be reached the matter has 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.

The above is intended to provide a summary of the situation. It's clear Mr C feels strongly about the matter and has provided detailed correspondence in support of his complaint which I've reviewed. It is important to point out that we are an informal dispute resolution service, set up as a free alternative to the courts for consumers. In deciding this complaint I've focused on what I consider to be the heart of this complaint rather than commenting on every issue or point made in turn. This isn't intended as a discourtesy to Mr C. Rather it reflects the informal nature of our service, its remit and my role in it.

The relevant rules and industry guidelines say that insurers must handle claims fairly and should unreasonably reject a claim. I've taken these rules into account when deciding what I think is fair and reasonable in the circumstances of Mr C's complaint.

The policy terms and conditions

The relevant policy definition of incapacity in this case is 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"*

For a claim to be payable, Mr C needs to show that he was unable to perform the main duties of his occupation due to illness throughout the deferred period. I've therefore considered the medical evidence provided.

Medical evidence

I've been provided with Mr C's medical record and I can see that he had a consultation with his GP in November 2021. In the notes it says that Mr C has a history of anxiety and depression but had started to struggle again in the past month or so. Mr C requested to restart his medication at this point. The notes also refer to family issues which were having an impact. Mr C was signed off work.

In December 2021, Mr C self-referred to the Primary Care Mental Health Team, however, as he was receiving counselling through his employer it was decided that it was more appropriate for him to continue with that counselling.

Mr C had monthly consultations with his GP. By April 2022 his GP noted that Mr C was starting to have more good days. In this same note it states that the problems seem to mainly surround family issues. Mr C returned to work towards the end of May 2022.

Mr C became absent from work again in August 2022. The notes state he was struggling with his mental health and had weaned himself off his medication as he hadn't been able to get appointments with the practice. This was reinstated and Mr C reported in September 2022 that he felt a little better since starting back on his medication.

By November 2022, Mr C reported that his mood was still up and down with poor sleep and lack of motivation throughout this period. The notes say that his work counselling sessions had now finished but that he did have a session with the Primary Care Mental Health Team. He still didn't feel fit enough to go back to work. Mr C continued to see his GP in the following months reporting similar symptoms and stating he didn't feel able to return to work.

In a letter dated April 2023, Mr C's GP confirms that Mr C had a history of anxiety and depression from 2017 but that in recent months there had been significant family stress which had impacted his mental health. The letter said Mr C had described sleep disturbance, poor concentration, poor motivation, and low mood. In the same month, the Primary Care Mental Health Team wrote to Mr C's GP and advised that he was being discharged from their care following completion of 8 sessions of CBT guided self-help. In the letter it was noted that there were life stressors/external factors during his treatment which affected his mood.

In July 2023 Mr C consulted with his GP again. The notes from this state that Mr C didn't think his current medication was working. He reported that his mood was still low and had ongoing anxiety with family stress.

In August 2023, Mr C's GP wrote another letter. In this correspondence the GP stated that ongoing family stressors were having a detrimental effect on his mood. The GP confirmed that in their opinion, Mr C was not fit to return to work.

I've also seen a report from a vocational rehabilitation consultant who saw Mr C in May 2023. This was arranged by Unum. In this report it noted that Mr C had detailed many of the challenges listed above, including but not restricted to variable moods and lack of motivation, poor sleep, and familial stressors. The consultant provided techniques for Mr C to try to aid his return to work.

Has Unum declined Mr C's claim fairly?

The main reason for Unum declining Mr C's claim is that there is a lack of medical evidence to support the presence of a persistent and pervasive mental health illness during each period of absence. Unum said that the evidence suggested that non-medical factors were what led to and continued to cause his absence from work. It said that the evidence didn't confirm that Mr C met the definition of incapacity during either of the deferred periods.

It is important to state at this point that I'm not a medical professional and so, to reach any decision on Mr C's medical situation at the time, it is necessary for me to rely on the information from those medical experts he has consulted with.

Mr C's medical record and the letters from his GP refer to his ongoing mental health condition which predates these two episodes of absence from work by several years. From what I've seen it appears that Mr C was able to work in the time following his initial diagnosis in 2017, and therefore I would need to see that there had been a marked change in Mr C's illness in order to say that he had been incapacitated as a result of this illness.

When Mr C consulted his GP in November 2021, it was his request that he was placed back on medication. He did self-refer to the Primary Care Mental Health Team at that time but as he was receiving counselling through his employer, the team didn't think they were the appropriate service to help.

Over the following months, during consultations with his GP, the notes suggest most variances in his medication were at Mr C's request, such as a change to a different medication as a result of a concern over side effects. It appears that the medication didn't lead to a marked improvement of his condition, with him reporting minimal changes. And even though Mr C did receive support through the Primary Care Mental Health Team starting at the end of 2022 which consisted of self-guided CBT sessions, I can't see that he was referred for further, more specialist intervention by his GP during the deferred periods.

From the medical evidence supplied it does appear that neither the medication Mr C was taking, or the treatment he received from both his employer and the Primary Care Mental Health Team, made a marked difference to Mr C's condition. Throughout this time period there has been many references to Mr C's quite significant family issues in both the GP notes and other letters and reports. I'm in no doubt that this was an incredibly challenging period for Mr C and these events will have understandably caused him acute stress. I note that the Primary Care Mental Health Team reported that these other factors did seem to be having the main impact on his mood.

Having carefully considered all of the above, I'm not persuaded that there is enough evidence at present to support that Mr C's illness was preventing him from performing his work duties in either of the periods of absence. I'm aware that his GP signed him off from work due to anxiety and depression, but I wouldn't usually consider that fitness to work statements based on self-reported symptoms are sufficient evidence alone to demonstrate that a policyholder cannot carry out their employment due to that illness. And the vocational rehabilitation report suggests techniques for returning to work. The main contributing factor to his low mood and other symptoms, appears to be the family issues he was experiencing. I haven't seen medical evidence to support that his illness significantly deteriorated during this time.

And apart from medication requested by Mr C and the self-guided CBT he completed, I haven't seen any further medical intervention, such as referral to a specialist, during the deferred periods. On balance, I don't think that Mr C has shown that his claim meets the

definition of incapacity as detailed in the policy terms and conditions. There is insufficient evidence to say that Mr C is medically incapable of carrying out the material and substantial duties of his role. So, I don't think Unum has acted unfairly or unreasonably when declining his claim based on the evidence supplied.

My final decision

For the reasons detailed above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 19 March 2025.

Jenny Giles
Ombudsman