DRN-5188335

The complaint

Mrs M is unhappy with how Vitality Life Limited handled her claim.

What happened

Mrs M has an income protection policy underwritten by Vitality. The policy will pay a benefit after a 12 month deferred period if she is unable to work due to an illness.

In September 2022 Mrs M became absent from work due to suffering from post Covid19 syndrome. The condition affected her cognitive processing and decision-making ability, and she was unable to stand, sit upright or walk for any significant length of time.

Mrs M contacted Vitality in August 2023 to start the claims process. In October 2023 Vitality requested Mrs M attended a Chronic Pain Abilities Determination (CPAD). Mrs M expressed concern about the suitability of a CPAD assessment and felt it may be detrimental to her health.

She complained to Vitality and they explained the assessment was to help them investigate her claim so she should attend. They also offered £100 compensation for their delay in assessing the claim, which Mrs M accepted.

The claim was assessed by Vitality's senior team and the report from the CPAD assessment was considered. Vitality referred to claim to their Chief Medical Officer (CMO) and went back to Mrs M to ask if any further tests had been carried out by her neurologist. Mrs M attended a cardiopulmonary exercise testing (CPET) assessment and provided the results to Vitality.

The claim was looked at by Vitality's CMO again and then declined in March 2024.

Mrs M appealed the decision on her claim and raised a further complaint. She provided a detailed submission challenging the use of the CPAD assessment and further evidence from her GP.

Vitality referred her appeal to their CMO and in June 2024 they explained they had disregarded the CPAD assessment and accepted cover for the claim from the end of her deferred period.

Mrs M remained unhappy with the way her claim had been handled so she referred a complaint to this service. Vitality reviewed their handling of the claim and offered a further £350 compensation for the time taken to issue their initial claims decision and appeal answer. They also offered to pay 8% interest on the claim settlement amount from 28 April, to cover the delay in assessing her appeal.

Our investigator said he thought the offer was fair. Mrs M disagreed. In summary she said:

- CPAD is not a medical assessment. It's not recognized by any medical bodies, is not approved for use in any clinical setting and isn't performed by a medical specialist.
- It has never been validated for use in the assessment of any medical condition, and the only peer reviewed publication available for the assessment significantly pre-dates COVID and the particular range of symptoms associated with post-COVID syndromes.
- A report generated by a non-approved assessment is logged on her medical record

which has caused concerned about her reputation.

- Vitality has a responsibility to apologise, discount the report and acknowledge that the use of the CPAD was not appropriate or in line with the policy terms.
- It is only because of the original flawed decision that the appeal process ran to April, she was actually out of pocket since September 2023 so the 8% interest should start from then.

The case 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 relevant rules and industry guidelines say Vitality has a responsibility to handle claims promptly and fairly. And they shouldn't reject a claim unreasonably.

The claim and the CPAD assessment

I appreciate Mrs M didn't think it was suitable for her to be sent for a CPAD assessment. I've read her detailed submissions in relation to this and the evidence she has provided to support her position. However, I don't think Vitality acted unfairly when they asked Mrs M to attend this type of assessment.

Mrs M was suffering from chronic physical pain – she was unable to stand or sit upright and she couldn't walk for any significant length of time. So I don't think it was unreasonable for Vitality to refer her for this type of chronic pain assessment.

Often, as part of income protection claim reviews for symptoms of chronic pain, insurers will appoint independent medical examiners to assess claimants and their fitness to work. The policy terms entitled Vitality to be satisfied Mrs M meets the policy definition of incapacity and the CPAD assessment is designed to better understand a claimant's physical limitations and their work capability.

Mrs M has raised substantive concerns regarding the CPAD assessment and the risks it may pose to other claimants in similar circumstances. However, my role is to look at this individual complaint, and as our investigator has already explained, larger findings such as the validity of certain tests are outside the scope of our authority.

I appreciate Mrs M was unable to perform any tests on the second day of the assessment and she has explained this is due to the impact the first day of assessments had on her. But I haven't seen enough supporting medical evidence from her treating doctors to persuade me that the CPAD assessment was unsuitable or detrimental to Mrs M's condition.

Based on the medical evidence in this particular case, and the type of pain symptoms Mrs M was suffering from, I don't think it was unreasonable for Vitality to refer her for a CPAD assessment. So it follows, it was fair for Vitality's clinicians to rely on the results of the CPAD and decline cover on that basis.

The appeal

Mrs M then submitted a detailed appeal letter, challenging Vitality's decline and their reliance on the CPAD assessment, alongside additional evidence from her GP. Vitality reviewed everything again and referred the appeal to their CMO which was a reasonable course of action.

Vitality decided in the circumstances of this case, to disregard the CPAD assessment and all its content, and reassess the claim without it. I think this was a fair and reasonable way to move the appeal forward. Vitality went on to agree cover for the claim and backdated benefit payment to the end of Mrs M's deferred period in line with the policy terms.

I think Vitality handled the appeal fairly. They took account of Mrs M's challenge to the CPAD and conducted a thorough review of everything again before reaching a fair and reasonable outcome on the appeal in the circumstances.

However, it's not in dispute it took longer than it should have to provide Mrs M with both her initial claim outcome and then an answer to her appeal. So I've thought carefully about the compensation Vitality have offered.

Compensation

Mrs M received £100 compensation from Vitality in 2023 for their delay in assessing the claim initially. Following this, it took a further four months for the initial claim outcome to be issued. I can see Vitality provided Mrs M with monthly updates about what was happening during this time. They let her know in November 2023 that the claim was being reviewed by their senior assessor team. The CPAD assessment report then came in, so in December 2023 Vitality updated Mrs M again to say the report had also been sent to the senior assessment team.

Vitality then referred the claim to their CMO and they ask Mrs M if any further tests had been carried out by her neurologist. No further action is taken by Vitality until Mrs M attends a cardiopulmonary exercise testing (CPET) test in February 2024 and she sends the results to Vitality. They again refer the matter to their CMO and the claim was declined in March 2024.

Although I think it was fair for Vitality to request the CPAD, and based on the complex nature of the claim I think the senior assessor and CMO's involvement was necessary, this is an unreasonable length of time to issue a claims outcome. Despite Vitality's updates during this time, this delay would have been frustrating and inconvenient for Mrs M at an already difficult time when she was unwell.

On 3 April 2024 Mrs M appealed the decision on her claim. She provided a detailed submission challenging the use of the CPAD assessment and further evidence from her GP. Vitality referred her appeal to their CMO and in June 2024 Vitality told Mrs M they had disregarded the CPAD assessment and accepted cover for the claim.

Vitality accept that their claims and the appeal outcome took longer than they should have. In addition to the £100 compensation already paid they have offered a further £350 compensation for the delays.

Mrs M has explained the distress the claim decline caused her and the impact of attending and reading the results of the CPAD assessment. But for the reasons I've already set out above, I don't think Vitality acted unfairly in asking her to attend the CPAD assessment or declining the claim initially. So taking everything into account, I think £450 fairly compensates Mrs M for the delay she suffered waiting for the outcome to her claim and the inconvenience of having to chase Vitality for updates on her appeal and a copy of the CPAD assessment.

Vitality have also offered to pay 8% interest on the claim settlement amount from 28 April 2024 which is the date they say they should have settled the claim if it wasn't for their delay in assessing the appeal.

Mrs M said if it wasn't for the original claim decision being declined incorrectly, the claim would have been settled straight away so she thinks the interest should be added from September 2023. But I've explained above why I think it was fair for Vitality to rely on the results of the CPAD assessment initially and decline cover.

It's reasonable to allow an insurer a month to fairly reassess a claim of this nature. As Mrs M lodged her appeal on 3 April 2024, I think it's fair for Vitality to start the 8% interest from 28 April 2024 when the appeal answer should have been issued by.

Putting things right

Vitality Life Limited need to put things right by:

- Paying Mrs M an additional £350 in compensation for the distress and inconvenience caused by their delay in providing a claims and appeal outcome.

- Adding 8% simple interest on the claim settlement payment from 28 April 2024.

My final decision

For the reasons set out above I uphold this complaint against Vitality Life Limited and direct them to put things right in the way I've outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 15 April 2025.

Georgina Gill
Ombudsman