DRN-5205000

The complaint

Mr P is unhappy Zurich Assurance Ltd declined his claim.

What happened

Mr P has a group income protection policy through his employer. The policy is underwritten by Zurich.

In June 2021 Mr P was diagnosed with Familia Alzheimer's Disease. He continued working, with adjustments. Then in August 2022 he decided he was unable to continue to work due to his illness.

His employer requested he worked until September 2022, so he agreed to work the additional time and delayed the start of his absence until 2 September 2022.

At the point Mr P became absent from work, his employer had made the decision to move to a different group income protection scheme with a new underwriter - Zurich. So Mr P made a claim under his new policy.

Zurich declined cover. They said Mr P didn't meet the 'Actively at Work' criteria set out within the policy terms and conditions when cover started. They directed Mr P to the previous insurer.

Mr P raised a separate complaint with this service about the previous insurer also declining cover. A final decision was issued by an ombudsman at this service that didn't uphold that complaint.

Our investigator looked into this complaint against Zurich. He said the claim had been fairly declined in line with the policy terms.

Mr P disagreed. In summary he said:

- The reasons relied on in the investigator's outcome are directly contradictory to the outcome this service reached on his complaint against the previous insurer.
- The investigator hasn't considered all the evidence because he hasn't commented on Mr P's submissions in the other complaint against his previous insurer.
- We haven't assessed whether Mr P was "Actively at Work" as of 1 September 2022 when the Zurich policy started, or before he was formally signed off work on 2 September 2022.

Mr P also requested the same ombudsman that considered his complaint against the previous insurer, also considered this complaint against Zurich. But this isn't something we felt was necessary. He remained unhappy that both his cases weren't handled by the same ombudsman.

The case was 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.

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I want to assure Mr P that I have access to his other complaint against his previous insurer and all the evidence provided on that case. I've taken account of any information relevant to this complaint and have carefully considered the final decision that was issued by a different ombudsman. If there is something I haven't mentioned, it isn't because I've overlooked it – the rules that govern this service say I don't need to comment on everything. This decision focusses on what I think are the key issues in Mr P's complaint against Zurich.

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

I'm sorry to hear about the circumstances of this claim. I understand this is a distressing experience for Mr P.

Having reviewed everything, I think Zurich have fairly declined cover in line with the terms of Mr P's policy. I appreciate Mr P is in a difficult position where his absence isn't covered. But that isn't something I can hold Zurich accountable for.

It's not unusual for policies to have limitations and exclusions to the cover they provide.

Mr P says this outcome contradicts the reasoning given in the ombudsman's decision in his case against the previous insurer. But I disagree.

Two separate tests have been applied under two separate policy definitions. They aren't interchangeable.

In the decision against the previous insurer, the other ombudsman didn't think Mr P met the definition of *Incapacity* under that policy by 31 August 2022, because he was still attending work at that time. However, the ombudsman also states that whilst Mr P was working, he'd said he wasn't carrying out his full duties.

In this case, Zurich has declined cover because they said Mr P didn't meet the definition of *Actively at work* under this policy.

The Zurich policy says:

If the Member isn't Actively At Work on the day cover starts, they'll not be covered.

[…]

For policies with 20 Members or more, their cover will start when the Member is next Actively At Work.

Actively at work is defined in the policy as an employee who:

• *has not received medical advice to refrain from work*

• is not absent from work or restricted from working due to illness or injury, and

• is actively following their normal occupation.

This means working at their normal capacity for the normal number of hours required by their contract, either at their normal place of business or at a place where the business requires them to work.

When Zurich was notified of Mr P's absence, they were told he had been working on adjusted duties and been receiving support from his previous insurer to help him stay at work.

Mr P was diagnosed in June 2021 and the evidence shows his illness began to impact his ability to work at his normal capacity.

He told his colleagues that his illness was affecting his short-term memory and asked for their support. He told Zurich that prior to his absence his symptoms had reached a level where he was exhausted, he'd been making a lot of mistakes, and he was misunderstanding things. He also suffered from sleep disturbance that impacted his ability to concentrate at work and was resulting in him sleeping during the work day.

Mr P's health continued to deteriorate. He said people were beginning to ask why things he'd been asked to do hadn't been done, and this got worse as time went on. By 1 August 2022 he told his employer he was no longer well enough to work.

Based on the above, I'm persuaded Zurich had enough evidence to reasonably conclude from June 2021 Mr P had been restricted from working at his normal capacity, due to his illness. This means Mr P didn't meet the definition of Actively at Work before his absence on 2 September 2022, or since (this includes 1 September 2022). So I think it was fair for Zurich to decline cover.

For clarity, my conclusion that Mr P had been restricted from working at his normal capacity from June 2021 doesn't mean he must therefore meet the definition of incapacity in his previous policy. As explained above, they are two separate tests under different definitions.

I appreciate Mr P will be disappointed in this outcome. The circumstances of his claim and the timings of his absence and the policy transfer are unfortunate, and I can understand why he feels this is unfair. But there just aren't any reasonable grounds upon which I could fairly ask Zurich to do anything further here.

My final decision

For the reasons set out above I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 25 July 2025.

Georgina Gill
Ombudsman