

The complaint

The estate of Mrs M has complained that Aviva Life & Pensions UK Limited ('Aviva') maintained its decision to decline a claim despite further medical evidence being provided.

What happened

The late Mrs M held a life cover policy, underwritten by Aviva. Sadly, Mrs M passed away and the estate contacted Aviva to make a claim. The claim was initially declined and a complaint was made and referred to the Financial Ombudsman Service. A final decision was made by a different Ombudsman here, not upholding the complaint.

Since then, the estate obtained new medical evidence and sent this to Aviva for reconsideration. Aviva maintained its claim decline and so a further complaint was raised and referred to the Financial Ombudsman Service.

Our investigator looked into the further complaint but didn't think Aviva had unfairly maintained its decline of the claim. The estate disagreed and asked for an Ombudsman's decision.

And so the case has been passed to me.

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, I don't think this complaint should be upheld. I'll explain why.

- The background to this matter is well known to both parties. And so in my decision I will only focus on what I consider to be key to my conclusions.
- My decision is limited solely to Aviva's decision to maintain its decline after the new medical evidence provided by the estate.
- The relevant rules and industry guidelines say an insurer should handle claims promptly and fairly. And shouldn't unreasonably reject a claim.
- The policy terms confirm a benefit is payable where the attending consultant and the insurer's chief medical officer are of the opinion that life expectancy is no greater than 12 months, at least 18 months before the policy expiry date.
- I've seen the letter from Mrs M's consultant dated August 2024 which confirms that without treatment, the survival rate from diagnosis is less than 12 months. But he also confirmed that with treatment, the survival rate is 32-42 months.
- Aviva reviewed the letter but said this didn't change the outcome as it would always consider the survival rate with treatment. And so the policy terms hadn't been met.

- The consultant gave a survival rate of between less than 12 months (without treatment) and 32-42 months (with treatment). So overall, Mrs M's life expectancy was up to 42 months and not less than 12 months, as required by the terms of the policy. I don't think the policy terms were met as the policy terms say for a benefit to be payable, the claimant would have a life expectancy of less than 12 months.
- I don't think it's unreasonable for Aviva to make a decision based on the life expectancy with treatment. The estate has said Mrs M wasn't having treatment at the time of her diagnosis and so the lower life expectancy should apply and the terms have been met. But I don't agree. There is no evidence that treatment wasn't possible or recommended and treatment had in fact been planned for Mrs M. So I don't think it's fair to say that her life expectancy was less than 12 months. Mrs M's life expectancy was 32-42 months, as confirmed by the consultant, due to having treatment planned.

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 the estate of Mrs M to accept or reject my decision before 28 January 2025.

Shamaila Hussain
Ombudsman