DRN-5247522

The complaint

Mrs T complains about the decision by Vitality Life Limited to turn down her claim under a joint life insurance policy.

What happened

In August 2018, Mrs T and her late husband Mr T took out a joint life insurance policy with Vitality. Mrs T made a claim after Mr T sadly passed away.

Vitality thought Mr T had failed to take reasonable care not to make a misrepresentation when he provided information about his health when taking out the policy. Vitality said the policy was to be avoided (cancelled from the outset) with no premiums to be refunded. This was on the basis that if Mr T had provided the correct information, it wouldn't have offered the policy. It said that this meant it would not be paying Mrs T's claim.

After Mrs T complained about its claim decision, Vitality issued its final response on the complaint and slightly altered its position. It said it accepted that Mr T hadn't misrepresented everything it originally thought he had. Though it still thought he had misrepresented information relating to his blood pressure. Vitality said if it had known the details of Mr T's blood pressure, it wouldn't have been able to offer him cover, and so its decision to avoid the policy remained. However, Vitality said it thought Mr T's misrepresentation had been careless rather than deliberate, which meant it would refund the premiums paid for the policy. Unhappy with this, Mrs T brought a complaint to this service.

Our investigator recommended the complaint be upheld. Whilst she thought the questions Mr T was asked about blood pressure were clear, she thought the available answers to one of the questions had been subjective. She concluded that Mr T hadn't failed to take reasonable care when answering questions about his blood pressure when taking out the policy. She therefore recommended that Vitality pay the claim, plus interest. She also thought Vitality should pay Mrs T £500 compensation for the distress and inconvenience she'd been caused during the claims process.

Vitality didn't accept our investigator's recommendations and so the matter has been passed to me for a decision.

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.

As this complaint concerns misrepresentation when taking out an insurance policy, I've considered the matter in accordance with the principles set out under the Consumer Insurance (Disclosure and Representations) Act 2012 (CIDRA). This requires consumers to take reasonable care not to make a misrepresentation when taking out a consumer insurance contract.

Vitality says that Mr T answered the following questions incorrectly when applying for the policy:

'Apart from any condition you have already told us about in this application, have you had any of the following in the last 5 years:
…
Raised blood pressure…'

Mr T answered 'yes' to this question. The application then went on to ask further questions about blood pressure which Mr T answered, the relevant ones being as follows (Mr T's answers are in bold):

'4. When did you last have your blood pressure checked by a medical professional? Please give your answer in months: ***10***

5. Do you know your most recent blood pressure reading? ***No***

6. How was your latest blood pressure reading described? ***Slightly higher than normal'***

The possible options in answer to question six were:

- High or resistant high blood pressure
- Fluctuating/variable high blood pressure
- Slightly higher than normal
- Normal
- None of the above

I agree with our investigator that the answers here were subjective, as Vitality was relying on the applicant recalling how their blood pressure had been described to them by another person.

The parties haven't been able to establish whether Mr T's blood pressure was checked ten months before the application was completed. That doesn't necessarily mean it wasn't checked at this time, only that Mrs T and Vitality haven't been able to find any record of it. Though, as Mrs T's solicitor has pointed out, a number of medical professionals check blood pressure, such as pharmacists, which could explain why there's no record of it. Mrs T is also under the impression that Mr T had health checks through work, but unfortunately no records have been kept of these.

Mr T's GP records show that his last blood pressure check with them was in 2016 and was 180/115 mm Hg at that time. We do know that Mr T was admitted to hospital in March 2018 for an unrelated condition and his blood pressure was also checked then. This was five months before Mr T applied for the policy. His blood pressure at this time was 180/120 mm Hg.

Vitality says that Mr T's reading in March 2018 was more recent than the one he disclosed from ten months before and that it was not feasible for him to think his blood pressure at this time was only slightly higher than normal.

Mr T may well have been thinking about the March 2018 check when he said the previous check took place ten months earlier, given there was only five months difference. It seems this wouldn't make a difference to Vitality's underwriting decision, so long as the last check took place within the previous 12 months.

We know Mr T had high blood pressure – this had been controlled by medication for many years. He told Vitality about his condition, and also said he didn't know his previous reading.

So, Vitality's decision to refuse the claim and avoid the policy is based on its opinion that Mr T's latest blood pressure reading wouldn't have been described to him as slightly higher than normal. But Vitality hasn't provided any evidence to show this was the case. We simply don't know how Mr T's blood pressure was described to him.

I appreciate that Mr T's March 2018 blood pressure reading (assuming it was this reading he had in mind when answering the question) was significantly higher than what is generally considered to be within a normal range. But as our investigator says, the possible answers to question six could be interpreted as relating to the applicant's specific medical history. Mrs T says that her husband took his blood pressure readings at home, and therefore would have been aware of what normal was for him. So, the reading of 180/120 mm Hg may well have been slightly higher than normal for him. This is further supported by his 2016 blood pressure reading being slightly less than this. There were no concerns raised about his blood pressure by the hospital.

Taking everything into account, I don't think Vitality has shown that Mr T failed to take reasonable care when answering the questions relating to his blood pressure. I therefore require Vitality to reinstate the cover and settle the claim.

My final decision

My final decision is that I uphold this complaint. I require Vitality Life Limited to reinstate the cover and settle the claim in line with the remaining policy terms, less any premiums returned to Mrs T. Interest should be added at the rate of 8% simple per annum payable from one month after the claim was made to the date of settlement*.

Vitality should remove any record of the avoidance from any internal and external databases.

I also require Vitality to pay Mrs T £500 compensation**.

*If Vitality considers that it's required by HM Revenue & Customs to take off income tax from that interest, it should tell Mrs T how much it's taken off. It should also give Mrs T a certificate showing this if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

**Vitality must pay the compensation within 28 days of the date on which we tell it Mrs T accepts my final decision. If it pays later than this, it must also pay interest on the compensation from the deadline date for settlement to the date of payment at 8% a year simple.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs T to accept or reject my decision before 14 March 2025.

Chantelle Hurn-Ryan
Ombudsman