

The complaint

Miss K has complained that Unum Ltd declined a claim she made under her group critical illness policy.

What happened

Miss K made a claim in March 2024 following a diagnosis of chronic fatigue syndrome (CFS). As CFS isn't one of the listed conditions covered by her policy she claimed for Total permanent disability.

The policy definition is: *Total permanent disability – unable to do any suited occupation ever again.* For a successful claim the following definition must be met:

Loss of the physical or mental ability through an illness or injury to the extent that the member is unable to do the material and substantial duties of a suited occupation ever again. The material and substantial duties are those that are normally required for, and/or form a significant and integral part of, the performance of a suited occupation that cannot reasonably be omitted or modified.

A suited occupation means any work the member could do for profit or pay taking into account their employment history, knowledge, transferable skills, training, education and experience, and is irrespective of location and availability.

The relevant specialists must reasonably expect that the disability will last throughout life with no prospect of improvement, irrespective of when the cover ends, or the member expects to retire. For the above definition, disabilities for which the relevant specialists cannot give a clear prognosis are not covered.

Unum declined the claim as Miss K hadn't provided a specialist consultant diagnosis that she was unable ever to carry out a suited occupation again. Unum also said it didn't consider CFS to be a condition that resulted in total irreversible loss of function, except in very few extraordinary situations where severely debilitating symptoms had persisted without interruption for many years in the face of optimal clinical support and rehabilitation measures. Unhappy miss K referred her complaint to this Service.

Our investigator didn't recommend that the complaint be upheld. But she felt that if Miss K could provide a specialist's report, not necessarily a consultant's – Unum should consider this.

Miss K appealed. She said that her GP had confirmed that she met the policy definition and that the rehabilitative programme she was on provided guidance on how to manage her condition, as there was no treatment or cure. She felt that the decision to decline her claim was unreasonable and that her policy had failed her.

As no agreement has been reached the matter has been passed to me to determine.

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.

Firstly I'd like to reassure Miss K that while I've summarised the background to this complaint and her submissions, I've carefully considered all she's said. Within this decision though, I haven't commented on every point she's made and nor do our rules require me to. Instead, I've focused on what I consider to be the key issues. Our rules allow me to take this approach. It simply reflects the informal nature of our service as a free alternative to the courts.

Unum has a responsibility to handle claims promptly and fairly. And it shouldn't reject a claim unreasonably. So I've looked carefully at all the circumstances in order to see if Unum treated Miss K fairly. Although I'm sorry to disappoint Miss K, I agree with the conclusions reached by the investigator for the following reasons:

- I note the comments that Miss K made about the reasons given for her claim being declined. In essence though what is important here is the policy term – that is what she needed to show she met in order for the claim to succeed.
- There is no dispute that Miss K has received a diagnosis of CFS from her GP and continues to suffer with symptoms including fatigue, brain fog and severe post exertional malaise. Her GP is supportive and said that she is not able to work in her current job due to her condition. He subsequently clarified that neither would she be able to work in a suited occupation again.
- Miss K has also submitted evidence from Specialist Physiotherapist from the Self-Management Programme for CFS that she attends. I don't find that it was unfair for Unum not to change its position based on this new evidence as it doesn't show that Miss K's condition is permanent.
- However the policy requires that a 'relevant specialist' reasonably expects that the disability will last throughout life with no prospect of improvement. I don't find that Unum treated Miss K unfairly when declining her claim as there is no evidence from such a specialist indicating that Miss K's symptoms are permanent, therefore the policy condition isn't met.
- Miss K's GP has said that there is no access to a designated service in her area to make a clinical diagnosis of CFS but confirmed that Miss K had been accepted on to a NHS funded rehabilitation service. I haven't disregarded Miss K submissions regarding the programme, but I don't find that this means the policy criteria is met. As she is claiming for Total permanent disability, the bar is a high one.
- Given the difficulties Miss K would experience in getting a specialist consultant to report given her locality, I agree that Unum should consider any other evidence she wishes to submit in support of her claim. I agree too that the specialist referred to in the policy definition doesn't need to be a medical consultant.
- I'm very sorry to disappoint Miss K, as there is no doubt that she is suffering from a debilitating condition. But on the basis of the evidence to hand though, I don't find that Unum has treated Miss K unfairly in concluding that she doesn't meet the policy definition in order for the claim to be paid as the policy definition for total permanent disability isn't met.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss K to accept or reject my decision before 24 March 2025.

Lindsey Woloski
Ombudsman