

The complaint

Mr M is unhappy that Unum Ltd (Unum) declined his income protection claim.

What happened

Mr M has a group income protection policy through his employer. The policy provides a benefit under certain circumstances after a deferred period of 26 weeks on an own occupation basis. Unum is the underwriter.

Mr M's role is desk based and where he is required to deal with customers on the telephone. He was first absent from work on 25 March 2022. He'd had previous absences from work in 2020 and his claim for income protection had been declined in February 2021. He said he has pain in his shoulders, arm, stomach and feet. He has neuralgia and diabetes and suffers from memory loss and plantar fasciitis. Mr M said he is unable to sit, stand or focus due to the pain he experiences and suffers from drowsiness, anxiety and depression.

Mr M submitted a new claim to Unum related to his absence from March 2022 under his employer's income protection policy. Unum reviewed Mr M's medical information and declined his claim. It said Mr M didn't meet the definition of incapacity as per the terms and conditions of the policy. This was because there was no clinical medical evidence that Mr M couldn't perform the duties of his own occupation.

Unhappy, Mr M brought his complaint to this service. Our investigator didn't uphold the complaint. She didn't think the medical evidence met the definition of incapacity as required within Unum's policy terms and conditions.

Mr M disagreed and asked for the complaint to be referred to an ombudsman. So, it's 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.

At the outset, I wanted to acknowledge that the whole situation has been very difficult for Mr M. So, whilst I understand that he's been experiencing several symptoms related to his medical conditions, my role is to reach an independent and impartial outcome that's fair and reasonable, based on the information available to me.

The relevant regulator's rules say that insurers must handle claims promptly and fairly. And that they mustn't turn down claims unreasonably. So, I've considered, amongst other things, the terms of this income protection policy and the circumstances of Mr M's claim, to determine whether I think Unum treated him fairly.

It's important to point out that we're an informal dispute resolution service, set up as a free alternative to the courts for consumers. In deciding this complaint I've focused on what I consider to be the heart of the matter rather than commenting on every issue or point made

in turn. This isn't intended as a discourtesy to Mr M. Rather it reflects the informal nature of our service, its remit and my role in it.

I note that Mr M has submitted further medical evidence since Unum issued its final response in April 2024. I would like to make it clear that I can only determine the complaint on the basis of the information Unum had available to it at the time it made its decision to decline the claim. It would be unfair for me to say that Unum acted unreasonably on the basis of evidence it hasn't seen and couldn't have seen at the time it made its decision.

I've first considered the relevant terms and conditions of this policy, as it forms the basis of the contract between Mr M's employer and Unum.

The policy document on page 28 states:

'5.1 Entitlement for payment of benefit

Benefit is paid when a member is incapacitated, was actively working on the day immediately prior to the start of the incapacity, and evidence has been provided to Unum which satisfies Unum of the incapacity. Payment of benefit will begin on the first day after the end of the deferred period and will continue to be paid for the duration of the incapacity, as long as the individual in respect of whom benefit is paid remains a member under this policy.'

And on page 30, section 5.2, definitions of incapacity are provided. The policy schedule sets out that Mr M must meet the policy '*Definition B*' of incapacity. This states:

'(i) For the deferred period and the first 2 years following the completion of the deferred period, if

- (a) Unum is satisfied that the member is unable, by reason of his illness or injury, to perform the material and substantial duties of his insured occupation, and*
- (b) The member is not following an occupation, except as provided under paragraph 5.3,*

Then the member is incapacitated.'

In order for the claim to be successful, Mr M has to show his claim is valid under the terms and conditions of the policy. In other words, he must demonstrate that he cannot perform the material and substantial duties of his insured occupation due to injury or illness. The policy states Mr M's deferred period is 26 weeks. So, the medical evidence needs to show that Mr M couldn't carry out the material and substantial duties of his role from March 2022 to September 2022 and beyond.

For the avoidance of doubt, I'm not medically qualified so it's not for me to reach any determinations about Mr M's medical diagnosis or to substitute expert medical opinion with my own. Instead, I've weighed up the available medical evidence to decide whether I think Unum acted fairly and reasonably in declining Mr M's claim.

I've been provided with detailed and substantial medical evidence relating to Mr M's conditions and symptoms for consideration. The records go back to around 2016 where Mr M sustained an injury due to an accident. I've noted the summaries of his medical conditions and symptoms provided by his GP dated 4 December 2024 and 13 December 2024.

Mr M had several reported symptoms which show he had pain in his arms, legs and feet. He suffered with anxiety, depression and had difficulty sleeping. He also had gastroenteritis, diabetes and plantar fasciitis. And whilst further tests and investigations were carried out for the diabetes, the musculoskeletal pain and the gastroenteritis during the deferred period, there were no noted concerns raised. And in relation to Mr M's mental health, I can see he was prescribed medication but there were no further concerns raised by his GP or interventions suggested.

In April 2022, Mr M had an occupational health (OH) assessment which confirms Mr M was signed off work due to stress, anxiety, depression and pain. Mr M provided details of his physical and mental health and it's clear that he'd been suffering with a number of symptoms related to his conditions. The symptoms he reported to the OH advisor were consistent with his GP records. Mr M had a review in June 2022 where he provided an update of his symptoms, and a further review was carried in August 2022. The report said Mr M was unfit for work and likely to remain for some time as he was referred back to the pain clinic. The assessments were carried out over the telephone and Mr M reported he had several issues with his health both physical and mental. However, there was no indication of his functional capability being assessed to carry out his own occupation

Unum's medical team reviewed all of Mr M's medical evidence. It was provided with all of Mr M's GP medical history, medical records and his OH reports. It said whilst Mr M reported problems, these could be potentially credible but were self-reported rather than an objective medical assessment that measured his physical functioning and that understood his restrictions and limitations. The evidence didn't show any worsening of symptoms since the claim was declined in February 2021 and there was no clear diagnosis of a medical or physical illness preventing Mr M from performing his role.

The test here is whether Mr M meets the definition of incapacity as per the terms and conditions of the policy. And having reviewed everything, I don't think it's likely he does. Whilst I appreciate the detail of the medical evidence Mr M has provided, this isn't sufficient in the light of the requirement in the policy. The evidence doesn't show Mr M is incapable of carrying out the material and substantial duties of his own role.

I have every sympathy with the ongoing symptoms Mr M is experiencing and I don't doubt that he is feeling unwell. But I must consider the medical evidence in its entirety, and on balance, I can't say Mr M was ill to the extent that it precluded him from working. I've noted that he was signed off from work by his GP and the OH report said Mr M wasn't fit to work, but I've also considered that the symptoms were predominantly self-reported by Mr M. Despite the several reported symptoms, the medical information doesn't provide Mr M's functional capability to carry out his own occupation. I'm sorry to disappoint Mr M but I'm not satisfied that Unum must pay Mr M's claim in the circumstances.

Overall, I've taken everything into account, and I'm not persuaded the medical evidence demonstrates that Mr M meets the definition of incapacity as per the terms and conditions of the policy. I don't find there are any reasonable grounds upon which I could direct Unum to pay Mr M's claim. It follows therefore that I don't require Unum to do anything further.

My final decision

For the reasons given above, my final decision is that I don't uphold Mr M's complaint about Unum Ltd.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 30 April 2025.

Nimisha Radia
Ombudsman