DRN-5355247

The complaint

Mrs D is unhappy with the way in which Unum Limited handled a claim made under a group income protection insurance policy after she was signed off work as too ill to work. That includes the time taken to accept the claim, after initially declining it.

What happened

The details of this complaint are well known to both parties, so I won't repeat them again here. I'll focus on giving the reasons for my 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.

This includes the detailed submissions provided by Mrs D. I'm not going to respond to each point made. I hope Mrs D understands that no discourtesy is intended by this. Instead, I've focussed on what I think are the key issues here. The rules that govern the Financial Ombudsman Service allow me to do this as we are an informal dispute resolution service. If there's something I've not mentioned, it isn't because I've overlooked it. I haven't. I'm satisfied I don't need to comment on every point to fulfil my statutory remit.

The relevant policy terms

Relevant to this case, the definition of incapacity is that the insured member (in this case, Mrs D) is:

- unable, by reason of their illness or injury, to perform the material and substantial duties of the insured occupation, and are:
- not performing any occupation

Insured occupation means the trade, profession or general role the member was actively undertaking for you immediately prior to incapacity.

Has Unum acted fairly and reasonably?

Unum has an obligation to handle insurance claims fairly and promptly. And it mustn't unreasonably decline a claim.

A claim for Mrs D was submitted a couple of months after Mrs D was absent from work due to sickness. I'm satisfied that Unum promptly considered the claim and requested medical evidence from her GP. It then requested further medical evidence as part of its review. The deferred period was due to end at the start of June 2024. I don't think Unum acted unfairly by requesting updated medical evidence at that stage.

For the claim to be paid, Mrs D needed to meet the policy definition of incapacity throughout the entire deferred period, not just part of it. Although Mrs D been signed off work, was

undergoing various medical investigations, was taking medication and displaying a range of symptoms, there's a specific definition that needs to be met under the policy. It's for Mrs D to establish her claim under the policy, and in particular how illness prevented her from carrying out the material and substantial duties of the role she'd been doing even with reasonable adjustments.

The updated medical information wasn't received until after the deferred period ended. From the information available to Unum at the time, I think it reasonably concluded that a functional capacity evaluation (FCE) would be helpful to understand Mrs D's limitations and how, and to what extent, illness impacted her ability to do her job.

The medical evidence provided up to then included some observations around Mrs D's ability to carry out everyday activities and her self-reporting of how her symptoms were deteriorating. However, scans and other investigations couldn't determine a definitive cause for her symptoms.

Further, Mrs D was initially signed off work at the start of the deferred period because she was undergoing further medical investigations, and this was causing her stress. Given that Mrs D had been unwell for some time before the she was signed off work in November 2023, I'm satisfied Unum was reasonably trying to understand the extent to which her health deteriorated and that she was no longer able to do her role at that time (and throughout the deferred period).

I'm satisfied that Unum promptly arranged the FCE which took place at the end of July 2024. The results of the FCE tests indicated that Mrs D performed with inconsistent effort during the assessment. The report also concluded that there was evidence of symptom exaggeration and explained why.

Given the conclusions of the FCE report and the other medical evidence obtained, Unum declined the claim in mid-August 2024. However, on appeal, Unum reviewed all the medical evidence and sought its chief medical officer's opinion. In light of all the evidence its chief medical officer concluded that Mrs D's reported symptoms were mainly neurological including fatigue, problems with coordination, tremor, weakness and blurred vision which had worsened over time. And overall, even taking into account some of the observations in the FCE report, it was felt that Mrs D had established that she was incapacitated as defined by the policy.

As such the decision to reject the claim was reversed at the end of September 2024.
It's not clear why the chief medical officer's opinion wasn't sought when considering the medical evidence (including the FCE report) before the decision to decline the claim was made in mid-August 2024. Although Mrs D did provide two letters in support of her appeal (one from her GP and another from her counsellor), it doesn't look like that information impacted the decision to accept the claim.

Further, as part of the review into the decision to decline the claim, Unum requested further information from Mrs D's employer (the policyholder). Again, it doesn't look like the information received was pivotal to the decision of declining the claim being changed and in any event, I think that information should've reasonably been obtained before originally declining the claim.

Having considered the chief medical officer's opinion, I'm satisfied that their opinion was based on the medical evidence (including the FCE report) available when the decision was originally taken to decline the claim in mid-August 2024. So, I'm satisfied that had the chief medical officer's opinion been obtained then, it's likely that the claim would've been accepted earlier.

Impact

When reversing the decision to decline the claim at the end of September 2024, I'm pleased to see that Unum agreed to pay the backdated monthly benefit to the start of June 2024 when the deferred period ended, together with interest at a rate of 8% per year from the start of June 2024 to the date of settlement. I think that's fair and reasonable and ensures that the claim has been paid from the end of the deferred period.

Because I'm satisfied that Unum didn't initially cause unreasonable delays and that it fairly and promptly arranged for Mrs D to attend a FCE, I'm satisfied that the earliest it could've had all relevant medical information to accept the claim would've been mid-August 2024.

So, I'm satisfied that the claim should've been accepted around six weeks earlier than it was. This would've prevented Mrs D from having to appeal the decision and the uncertainty of whether the decision to decline the claim would be overturned. I'm satisfied that this caused unnecessary upset and inconvenience at an already difficult time for her when she was unwell, had recently undergone a heart procedure and situationally vulnerable.

Mrs D has been awarded interest on the money she was without during this period. Unum has also offered £400 compensation which has been declined by Mrs D.

Unum accepts that it should've sign posted Mrs D to relevant services a few months earlier than it did, given that she'd told it about the financial stress she was under and for the inconvenience and distress she experienced due to raising a complaint.

I'm satisfied £400 compensation fairly reflects the overall impact of these things and Unum's initial decision to decline the claim in mid-August 2024 had on Mrs D.

Other issues

- Mrs D raised issues about how the FCE was carried out and some of the observations in the report. The FCE evaluator is independent from Unum, so I don't think Unum is responsible for the way in which the evaluation was carried out. I'm satisfied that Unum took these concerns seriously and asked the evaluator to provide their responses, which they then relayed to Mrs D. I'm also satisfied that despite the concerns raised by Unum, it was reasonable for it to consider the report findings and test results when assessing the claim. Ultimately the conclusions in the report didn't prevent the claim being accepted at the end of September 2024 and it was taken into account along with all the other medical evidence.
- I know Mrs D says she was under the impression that the claim would be paid immediately after her sick pay ended and that the two would run concurrently. However, I've seen nothing which persuades me that she was told this by Unum so I don't think it would be reasonable for me to hold Unum responsible for her belief. As explained above, I'm satisfied that Unum was looking to fairly and proactively assess Mrs D's claim at the end of the deferred period and was reasonably awaiting further medical evidence as part of that assessment.
- Mrs D did contact Unum multiple times after the deferred period ended to request updates about her claim and subsequent appeal. I'm satisfied that Unum fairly, appropriately, and promptly informed her that it would be providing updates to her employer which is the correct process as her employer is the policyholder.

My final decision

Unum Limited has already made an offer to pay Mrs D £400 compensation to settle the complaint. I'm satisfied this offer is fair in all the circumstances.

So, my final decision is that Unum Limited should pay Mrs D £400.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs D to accept or reject my decision before 24 April 2025.

David Curtis-Johnson
Ombudsman