DRN-5373486

The complaint

Mr T and Mrs T have complained that Zurich Assurance Ltd declined a claim made under their decreasing term assurance policy.

What happened

The background to this complaint is well known to the parties. In summary in 2015, Mrs T was hospitalised with Transverse Myelitis (TM). Investigations were carried out as to whether this was related to Multiple Sclerosis (MS). But Mrs T was told by her doctors that her test for MS was negative. She didn't require any further medical intervention and an MRI scan showed no further issues.

Mr and Mrs T have held an insurance policy with Zurich since 2006. But in 2018 Mrs T contacted Zurich to make them aware she was moving house, and Zurich decided to reassess the cover provided by her policy due to this change.

Having assessed Mrs T's medical records Zurich offered new terms to Mrs T, but the new level of cover excluded any claims for MS or neuromyelitis optica (Devic's disease) or any disease or disorder of the central nervous system. Mr and Mrs T accepted the level of cover offered.

In 2024, Mrs T was diagnosed with MS, and she made a claim with Zurich. But Zurich declined her claim because MS was excluded from the policy.

When Zurich declined her claim Mrs T said it wasn't fair for Zurich to exclude MS from the policy in 2018 as she hadn't been diagnosed with it previously. She referred her complaint to this Serivce.

Our investigator didn't recommend that the complaint be upheld. They didn't find that Zurich had done anything wrong.

Mr and Mrs T appealed.

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 Mr and Mrs T that while I've summarised the background to his complaint, I've carefully considered all Mrs T's said and sent us. Within this decision though, I haven't commented on every point she's made, rather 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.

Zurich 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 it treated Mr and Mrs T fairly. Having done so I agree with the conclusions reached by the investigator. I'll explain why:

- It is not in dispute that MS has been excluded for Mrs T from critical illness cover since 2018. This was explained by Zurich at the time and Mr and Mrs T signed to agree to the revised policy details. So despite my natural sympathy for the position Mrs T now finds herself in, I can't conclude that Zurich has treated her unfairly or contrary to her policy cover by declining her claim.

- I haven't disregarded Mrs T's submissions with regard to her health in 2015. She had been advised that she didn't have MS and she wasn't in fact diagnosed until 2024. She questions 'how Zurich were allowed to diagnose her via predication, when her own neurologist would not do so without a significant second episode'. I think it's important to point out that Zurich didn't diagnose Mrs T in 2018. Rather, with her consent it considered her medical records in order to assess the risk it was willing to take. This process is medical underwriting – insurers *are* able to exclude certain risks, and this is what happened here based on Mrs T's previous history. MS was excluded. Mrs T questions why other conditions weren't excluded – but the exclusion was limited to the listed conditions. This means that cover *is* still in place for other conditions.

- With regard to the decision Zurich took to exclude MS in 2018, Zurich has provided underwriting guides. I can't share commercially sensitive information, but I'm satisfied that the guide indicates that an exclusion will be considered in circumstances such as Mrs T's. But before adding the exclusion Mrs T's medical history was discussed with Zurich's Chief Medical Officer. I don't find that the process was unfair or that Mrs T was treated differently to anyone with her medical history would have been. For completeness I would add that this Service cannot tell insurers which risks they must accept – that is a matter of commercial discretion.

- I must determine complaints by refer to what in my opinion is fair and reasonable in all the circumstances. I recognise that Mr and Mrs T will be very disappointed by my decision and I'm sorry it doesn't bring them the news they had hoped for. But for the reasons given above I don't find that Zurich has treated Mr and Mrs T unfairly, contrary to their policy terms or to good insurance practice.

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 Mr T and Mrs T to accept or reject my decision before 22 April 2025.

Lindsey Woloski
Ombudsman