

## **The complaint**

Mrs K's complained that Legal and General Assurance Society Limited ("L&G") unfairly declined her critical illness claim following her cancer diagnosis.

## **What happened**

Mrs K was diagnosed with breast cancer in 2010. She underwent surgery and completed a course of treatment to deal with this. In 2013, she joined her employer's critical illness scheme. Cover under the scheme is provided to the employer by L&G.

In summer 2024, Mrs K was sadly diagnosed with cancer again. So she made a claim on the policy. L&G gathered and assessed evidence, and declined the claim. They said Mrs K wasn't covered because her cancer was a recurrence of the cancer she'd been treated for in 2010. And the policy didn't cover pre-existing conditions. And they explained that, although some cover was provided for what are described as "second and subsequent" cancers, Mrs K's cancer didn't fall within that definition.

Mrs K complained, but L&G didn't change their decision. So Mrs K brought her complaint to the Financial Ombudsman Service.

Our investigator reviewed the information provided by both parties and concluded L&G didn't need to do any more to resolve the complaint. He was satisfied the evidence showed that Mrs K's cancer was a recurrence of the cancer she'd had in 2010 – so it was fair to say it was a pre-existing condition and therefore not covered.

Mrs K wasn't happy with the investigator's view. So the matter's been passed to me to make a final 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.

Having done that, I'm not upholding Mrs K's complaint. I know this will be unwelcome news in her current circumstances and I'm sorry about that. I hope it will help if I explain the reasons for my decision.

I can only imagine how difficult it was for Mrs K to have received her diagnosis so many years after her initial cancer treatment. And it's natural she wanted to make a claim. It's apparent from listening to her conversations with the investigator that Mrs K is concerned she hasn't always been given the right information about the cover by her employer. While I understand that concern, that's not something I can look at. I can only consider whether L&G have dealt fairly and reasonably with her claim.

All critical illness policies provide cover for cancer. But a policy may exclude cover in certain circumstances. In this case, the policy says:

### ***"1 Pre-existing exclusions***

- a) *In respect of an insured person, we will not pay benefit for any insured condition:*
- i. that he has already met the definition of before the day he was included for cover under the plan.*
- ...
- c) *For the purpose of Part 3, Section 1 a) (above). Where the insured person has had any malignant tumours defined as cancer, we will not pay benefit for any subsequent cancer. For this purpose the subsequent cancer has to be connected to, or associated with, the earlier diagnosis of cancer. If the cancer is new and unrelated see Cancer second and subsequent in Part 4 of the policy."*

Mrs K met the cancer definition in 2010, before she joined the scheme. And paragraph 1c above makes it clear no claim will be paid for a subsequent cancer. So the only way her cancer may be covered is if it meets the definition of a "second and subsequent" cancer.

Second and subsequent is defined as:

*"A diagnosis that meets the definition under cancer, for a member who has previously met this insured condition, but which is not excluded by the pre-existing conditions exclusion due to the following statements being true:*

- i. The member has been treatment free for a period of five years from the date of the most recent previous diagnosis of cancer, and*
- ii. There is no evidence, confirmed by appropriate up-to-date investigations and tests, of any continuing presence, reoccurrence or spread of previous cancer, and*
- iii. The new cancer:*
  - affects an organ that is physically and anatomically separate to any previous cancer, and*
  - is not a secondary cancer or histologically related to any previous cancer, or*
  - for haematological cancer, the new cancer is categorised or divided according to defined cell characteristics in a distinctly different manner to any previous cancer."*

Mrs K meets some of this definition because of the length of time she was treatment free. But L&G declined the claim because they received evidence the cancer diagnosed in 2024 was secondary to, and histologically related to, the 2010 cancer.

I've looked at that evidence. Mrs K's oncologist confirmed in a letter to L&G that her most recent cancer was a recurrence of the breast cancer first diagnosed in 2010. And she provided a histology report evidencing that it was related to the previous cancer. L&G had this reviewed by their own Chief Medical Officer.

I'm not a doctor. But I'm persuaded by the fact that two experts agree that the 2024 cancer didn't meet the definition of a second and subsequent cancer means L&G's decision to decline the claim was fair.

Mrs K has shared with the investigator the difficulties she's faced following her most recent diagnosis. I'm sorry that my decision won't make those any easier. But, for the reasons I've explained, I don't think L&G need to do any more to resolve her complaint.

**My final decision**

For the reasons I've explained, I'm not upholding Mrs K's complaint about Legal and General Assurance Society Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs K to accept or reject my decision before 5 June 2025.

Helen Stacey  
**Ombudsman**