

The complaint

Mr H has complained that Zurich Assurance Ltd terminated his income protection benefit.

What happened

The background to this complaint is well known to the parties so it serves no purpose for me to repeat it in detail here. In summary Zurich admitted a claim Mr H made under his employer's group income protection policy in 2016 following a diagnosis of chronic fatigue syndrome.

Zurich reviewed the medical evidence and in September 2024 asked Mr H to attend a chronic pain abilities determination assessment (CPAD). On review of the assessment Zurich terminated Mr H's claim as the report concluded he would be capable of a return to work. Zurich continued benefit for a further two months to allow a gradual phased return to work.

Mr H didn't agree – he felt that his health and capabilities hadn't changed since an earlier attempted return to work. He said that he had now been diagnosed with diabetes and high blood pressure. He also said that he had tried his best in all the tasks asked of him during the CPAD assessment. Zurich considered Mr H's appeal but didn't change its position, so Mr H referred his complaint here.

The investigator didn't recommend that it be upheld, they didn't find that Zurich had treated Mr H unfairly by terminating his claim.

Mr H appealed. He felt that the investigator's findings had placed undue weight on the CPAD report – which he felt failed to account for the reality of living with CFS which is a highly variable condition.

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.

Although I've summarised the background to this complaint and some sensitive medical details - no discourtesy is intended by this. Instead, in this decision I've focused on what I find are 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.

The 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 relevant law, the policy terms and the available evidence, to decide whether I think Zurich treated Mr H fairly.

Having done so, and although I recognise that Mr H will be very disappointed by my decision, I agree with the conclusion reached by the investigator for the following reasons:

- For benefit to be paid Zurich needed to show that Mr H no longer met the policy definition of incapacity. Incapacity is defined as an illness that causes the member to be unable to work. The standard incapacity definition is that: *The member cannot perform the material and substantial duties of their employment and are not doing any paid work.*
- It is not in dispute that Mr H has a diagnosis of CFS and suffers with other health conditions too. However the test here is not whether he has an illness, but whether that illness prevents him from working.
- Zurich requested input from Mr H's GP when reviewing his claim. The GP responded in September 2023 and confirmed the clinical diagnosis had been reached in 2013, and that Mr H was certified unfit for work in 2016. The GP wasn't able to comment on Mr H's abilities to work as he hadn't seen him for some time at the surgery and there was no particular treatment plan going forward. I accept Mr H's comment that previous services said that they had done all they could. In October 2023 it is recorded in the medical notes that Mr H attended for a flu vaccine and was noted to be fit and well. I'm not persuaded that the medical evidence from the GP demonstrated that Mr H continued to meet the policy definition of incapacity.
- Accordingly I think it was fair for Zurich to commission the independent CPAD report. This was a thorough assessment which took place over two days in September 2024. The purpose was to explore Mr H's physical and cognitive abilities in addition to restrictions and limitations and compared this to the functional requirements of his role.
- The assessor found that the results indicated that the functional abilities demonstrated by Mr H during physical and cognitive testing could not represent his true capabilities. The conclusion was therefore that Mr H's actual abilities were far greater than he was willing to perform over both days of the assessment. His reported severe disability, pain, and exertion levels, and markedly restricted and limited physical tolerances and significant cognitive impairments during formal testing could not represent barriers preventing Mr H from returning to his normal role on a full-time basis. This conclusion was based on the number of inconsistencies and discrepancies demonstrated throughout the testing. I won't list those here as Mr H has seen and commented on the report.
- I accept that Mr H's role is demanding and highly pressured and requires focus and concentration. I think it is worth pointing out here that I am satisfied that the assessor was aware of Mr H's role and what it entailed.
- Mr H's GP further wrote in November 2024 that he had been asked to provide a letter to Zurich in support of any application made by Mr H. He said that his role wasn't to assess Mr H's ability to work but confirmed that CFS is a long-term condition and that he was referring Mr H back to the secondary care CFS service.
- Zurich considered all the medical evidence including the report and Mr H objections. It took advice from its medical officer. Zurich also took into account Mr H's own testimony but concluded that Mr H no longer met the policy definition of incapacity. I've carefully considered all the evidence here and in particular the submissions that Mr H has made. I understand that Mr H feels that his symptoms directly impair his ability to perform his role which calls for prolonged concentration and sustained attention. But my role isn't to make a medical finding; rather it is to determine whether in all the circumstances Zurich treated Mr H fairly. I'm not persuaded that Zurich

placed undue weight on the CPAD report or unfairly disregarded Mr H's testimony. I note too that Zurich recognised that, given his extended absence from the workplace, a phased return was appropriate. I find that was fair.

- I am sorry that my decision will bring Mr H unwelcome news, but I don't find that Zurich treated Mr H unfairly, unreasonably or contrary to his policy terms by concluding that Mr H no longer met the policy definition of incapacity and terminating his claim.

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 H to accept or reject my decision before 29 September 2025.

Lindsey Woloski
Ombudsman