

## **The complaint**

Miss S complains that Aviva Life & Pensions UK Limited has turned down an incapacity claim she made on a group income protection insurance policy.

## **What happened**

The background to this complaint is well-known to both parties. So I've simply set out a summary of what I think are the main events.

Miss S is insured under her employer's group income protection insurance policy, which provides cover if Miss S is incapacitated from working in her own occupation due to illness or injury.

In July 2023, Miss S was unfortunately signed off from work with a stress related problem. An ultrasound test had found that Miss S had a lump and she was very anxious about the cause – as well as having other previously diagnosed conditions. Miss S' GP continued to sign Miss S off from work with a stress related problem. So Miss S' employer made an incapacity claim on Miss S' behalf.

Unfortunately, in February 2024, Miss S was diagnosed with cancer.

Aviva obtained medical evidence to allow it to assess Miss S' claim, which it referred to its Consulting Medical Adviser (CMA) for review. The CMA didn't think the evidence showed Miss S' claim met the contractual definition of incapacity throughout the policy deferred period and so Aviva turned down her claim.

Miss S was very unhappy with Aviva's decision and she asked us to look into her complaint. She provided us with further medical evidence which our investigator sent on to Aviva for its assessment. Following another review by its CMA, Aviva maintained its decision to turn down Miss S' claim.

Our investigator didn't think Aviva had treated Miss S unfairly. She didn't think Aviva had unreasonably relied on the medical evidence, which indicated that during the deferred period, Miss S had had a stress related condition. And she didn't think Aviva had acted unfairly by deciding that there wasn't enough medical evidence to show Miss S met the policy definition of incapacity.

Miss S disagreed and so the complaint's been passed to me to decide.

## **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 so, whilst I'm very sorry to disappoint Miss S, I don't think Aviva has treated her unfairly and I'll explain why.

First, I'd like to reassure Miss S that while I've summarised the background to this complaint

and her submissions to us, I've carefully considered all that's been said and sent. I'm very sorry to hear about the circumstances that led to Miss S needing to make a claim and I don't doubt what a worrying and upsetting time this has been for her.

The relevant regulator's rules say that insurers must handle claims promptly and fairly. And that they mustn't turn down claims unreasonably. I've taken those rules into account, amongst other relevant considerations, such as regulatory principles, the policy terms and the available medical evidence, to decide whether I think Aviva handled Miss S' claim fairly.

I've first considered the policy terms and conditions, as these form the basis of the contract between Miss S' employer and Aviva. Miss S made an incapacity claim on the policy. So I think it was reasonable and appropriate for Aviva to consider whether it was satisfied Miss S' claim met the policy definition of incapacity. This says incapacity is:

*'The member's inability to perform on a full or part time basis the duties of their job role as a result of their illness or injury.'*

This means that in order for Aviva to pay Miss S incapacity benefit, it needed to be satisfied that she had an illness or injury which prevented her from carrying out her employed role for the entire six-month deferred period between July 2023 and January 2024 and afterwards.

It's a general principle of insurance that it's for a policyholder to show they have a valid claim on their policy. This means it was Miss S' responsibility to provide Aviva with enough medical evidence to demonstrate that an illness had led to her being incapacitated from carrying out her own occupation.

Aviva assessed the evidence Miss S provided in support of her claim, including seeking the opinion of its CMA. And it wasn't persuaded that she'd shown she met the policy definition of incapacity. So I've next looked at the available medical evidence to assess whether I think this was a fair conclusion for Aviva to draw.

Miss S' GP surgery provided copies of her medical records. I can see from those records that in addition to the discovery of the lump, Miss S also had other previously diagnosed conditions which had led to her requiring reasonable adjustments in her employed role. The notes show that in late July 2023, Miss S was signed off with a 'stress related problem'. A GP consultation note dated late August 2023 says that Miss S was *'undergoing extreme stress as she has been seen about a...lump and is very worried about what this could be.'* A further note in late September 2023 says that Miss S had an emergency appointment due to stress.

In October 2023, the GP records show that Miss S was very anxious and stressed in relation to the lump. Her fit note was extended. In November 2023, the GP noted that Miss S remained very anxious and was seeking medication to treat anxiety. Later that month, the GP stated that Miss S was *'still struggling with stress and anxiety in relation to ongoing health issues.'* The resulting fit note said that Miss S was unfit for work due to a stress related problem. Subsequently, in December 2023, Miss S was again signed off with a stress related problem. And a repeat fit note providing the same cause of absence was issued in late January 2024.

Based on the information set out in the GP's records, I don't think it was unreasonable for Aviva to conclude that Miss S' absence was caused by a stress related problem rather than a diagnosed illness or injury.

Miss S' GP wrote a letter in support of Miss S' claim in July 2024 – a few months after the deferred period had ended. The letter referred to Miss S' cancer diagnosis. The GP also

referred to Miss S' background history of existing medical conditions. The GP said that Miss S had presented to the surgery multiple times with mainly stress related complaints, although she had other symptoms. They said the main reason for Miss S' absence was anxiety and depression which had been triggered by her concerns about the lump. The GP added that *'different people react to stress differently, giving her signs and symptoms. I agree that her fit note seems justified for her situation from May 2023 until the beginning of February 2024.'*

In July 2024, Aviva's CMA initially reviewed the available medical evidence. I've set out below what I believe to be their key conclusions:

*'It would be inaccurate to describe her as symptom free, but she is not formally mentally ill or significantly impaired. I do not think there is a substantive mental health barrier preventing her from working from July 2023... This is a protracted and very distressing reaction to her facing her own mortality and received news of cancer, but it remains 'stress' and stress is not illness so there is not a clinical reason to [be] absent.*

...

*I believe her to be suffering from a natural stress reaction. She is able to comprehend medical advice, process it, reach a decision and communicate it. This denotes responsibility and clear thought. It is not a question whether she has symptoms, she does, but these have not transcended the point of becoming illness so she is not disabled. The barrier to returning is contextual rather than medical. The problem is her emotional reaction to this averse situation. It is painful for her to cope and that is reasonable, but this remains stress.'*

Taking into account the CMA's conclusions and the medical evidence from the GP, I don't think Aviva acted unfairly when it concluded that Miss S' absence was caused by stress rather than because of a diagnosed illness. I say that because the GP's July 2024 letter still indicates that the diagnoses given on her fit notes – stress related problem - seemed justified.

As I explained above, after she brought the complaint to us, Miss S provided us with additional medical evidence. Aviva has reviewed and responded to this evidence as part of this complaint – and it's agreed that we can consider its subsequent claims decision. I think this was a very fair and reasonable response from Aviva in the circumstances, as it means we've been able to assess the complaint fully without requiring Miss S to make a new complaint to us first.

I've looked carefully at the totality of the new evidence Miss S has provided. I haven't commented on each piece of evidence though – instead, I've focused on the evidence which I believe to be key.

In November 2023, Miss S was assessed by occupational health (OH). They stated that Miss S continued to have significant symptoms, meaning she wasn't yet fit to work. However, the letter doesn't state what these symptoms were or how they prevented Miss S from working.

Subsequently, in January 2024, following a further OH review, the OH physician reported:

*'Miss S reported that she had undergone some medical investigations and that further tests are planned later this month and into February 2024. She has ongoing worries about her health and until she has received some reassurance following these tests her health anxiety and stress-related symptoms are likely to continue. It seems likely that she will have more information about results and treatment plan/s over the next several weeks and may be able*

*to consider return to work plans then, depending on progress.'*

Miss S was referred to a Consultant Clinical Psychologist, who wrote a letter in support of Miss S' claim in October 2024. The letter explained that in 2019, Miss S had been diagnosed with a chronic condition and that she'd also had gastroenterological symptoms that were being investigated by her GP and which she mainly managed by working from home. The Psychologist referred to Miss S' discovery of the lump in May 2023 and stated:

*'However, simply learning this led Miss S to spiral psychologically. She shared feeling incredibly scared and worried, and would switch between reassuring herself that it was okay, to what if this is cancer, what will this mean for her and her life going forward, fearing that everything would change. Miss S reflected that due to her level of panic, that this induced a paralysis.'*

The Psychologist also explained how Miss S' health had been affected since her diagnosis with cancer in February 2024 – after the deferred period had ended.

Again, Aviva asked its CMA to review the new evidence. The CMA was asked whether the new evidence was sufficient to show that Miss S was totally incapacitated from working from July 2023 to date. The CMA answered 'no'. They were then asked whether they agreed that Miss S was suffering from a normal stress reaction to her diagnosis and health issues. The CMA answered 'yes'. The CMA additionally stated that it was reasonable to conclude that Miss S was capable of working – certainly part time – in her own role, with suitable adjustments.

I've thought very carefully about all of the evidence that's been provided. It's important I make it clear that I'm not a medical expert. In reaching a decision, I must consider the evidence provided by both medical professionals and other experts to decide what evidence I find most persuasive. It isn't my role to interpret medical evidence to reach a clinical finding – or to substitute expert medical opinion with my own – and it would be inappropriate for me to do so.

It's clear from the evidence that Miss S has been suffering from upsetting symptoms and that she's also received a very worrying diagnosis. I understand this has been a very upsetting time for her.

However, I think the evidence from Miss S' GP, which spans the deferred period, indicates that Miss S was unable to work because of a stress related problem. Both the CMA and the OH physician – who are experts in occupational medicine – concluded that Miss S' absence was mainly down to stress and health anxiety. And the Consultant Clinical Psychologist also referred to Miss S' discovery of the lump causing her to feel incredibly scared and worried.

So based on the totality of the medical evidence, both from during the deferred period and which Miss S provided subsequently, I don't think Aviva acted unfairly or unreasonably when it concluded that Miss S wasn't suffering from an illness that prevented her from working, in line with the policy definition of incapacity. Instead, I think it was reasonably entitled to rely on the available evidence to decide that Miss S had been suffering from a stress related problem.

I'd like to reassure Miss S that I'm not suggesting that she was fit for work. I appreciate she was medically signed off. And I understand she's been through a very difficult time. But I need to decide whether I think she's shown she met the policy definition of incapacity for the whole of the deferred period and afterwards. As I've explained above, I don't think she has. As such then, I don't think Aviva acted unreasonably when it turned down Miss S' claim.

Miss S indicated that she wished to provide further medical evidence. We explained that we couldn't consider any additional new evidence which Aviva hasn't had a chance to see. It's open to Miss S to send any new evidence she has to Aviva for its consideration. It's also open to her to tell Aviva about any treatment she's undergoing and provide evidence to show how that treatment may affect her ability to carry out her own role. If she's unhappy with any further review of her claim, she may be able to make a new complaint about that issue alone.

Overall though, despite my natural sympathy with Miss S' position, based on the available medical evidence, I don't think Aviva has treated her unfairly. So I'm not telling it to do anything more.

### **My final decision**

For the reasons I've given above, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S to accept or reject my decision before 2 September 2025.

Lisa Barham  
**Ombudsman**