

complaint

Mrs F has complained that Amtrust International Underwriters DAC mis-handled the claim that she made on her mortgage payment protection insurance policy.

background

I've attached a copy of my provisional decision from March 2019 which forms part of this final decision. In my provisional decision I set out why I was not minded to uphold Mrs F's complaint. I invited both parties to provide any further submissions they may wish to make before I reached a final decision. No responses were submitted.

my findings

I have reconsidered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. As none of the parties has provided any further evidence or arguments for consideration, I see no reason to depart from the conclusions set out in my provisional decision.

It follows that I do not uphold Mrs F's complaint.

my final decision

My decision is that I do not uphold Mrs F's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs F to accept or reject my decision before 2 June 2019.

Carole Clark
ombudsman

COPY OF PROVISIONAL DECISION

complaint

Mrs F has complained that Amtrust International Underwriters DAC mis-handled the claim that she made on her mortgage payment protection insurance policy.

background

Mrs F was made redundant from her job on 17 February 2017 (and received pay in lieu of notice up until 17 May 2017, according to her employer). However, within days of that, she had visited her doctor and been signed off as unfit to work. Therefore, as she was not able to actively look for work at the time of her claim, she was told by Amtrust that her claim would need to be made under the disability part of the policy rather than the unemployment part.

Mrs F was unable to work due to a complicated set of issues, but ultimately her GP's diagnosis of Mrs F's condition was one of stress. Ultimately Amtrust declined the claim on the basis that Mrs F's situation was not covered under the policy terms because she had not been diagnosed by a psychiatrist.

Our adjudicator didn't uphold the complaint. Mrs F disagrees with the adjudicator's opinion and so the complaint has been passed to me for a decision.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Mrs F was only four months into a new job when she was made redundant by her employer. She had recently told her employer that she was pregnant and believes that she was discriminated against because of this. I don't need to focus too much on the circumstances of Mrs F's redundancy. That's because, as already explained, Mrs F's claim was for sickness rather than unemployment. For the purposes of this decision I'm satisfied that, because Mrs F wasn't actively looking for work, the claim was correctly set up as a disability claim.

Mrs F has complained that the claim went on for months with very little information being provided by Amtrust. Mrs F first contacted Amtrust on 1 March 2017 to explain that she had been made redundant, so Amtrust sent her an unemployment claim form. Amtrust received the partially completed claim form back on 2 August 2018. Because Mrs F mentioned on the form that she was in receipt of Employment and Support Allowance and had been signed off due to fatigue, it appeared to Amtrust that this was now probably a disability claim rather than an unemployment claim. Therefore Amtrust then sent Mrs F a disability claim form to complete. Mrs F rang Amtrust on 25 August 2017 to discuss her situation and it was clarified with her that this would indeed now need to be a disability claim.

There was then an extended period in which Amtrust was awaiting the necessary supporting evidence for the claim. It wasn't until 4 January 2018 that Mrs F's GP completed the necessary part of the claim form. And the copy that Mrs F emailed to Amtrust wasn't completely legible so it had to ask her to send in the original paper copy, which it received on 12 January 2018.

Unfortunately the GP did not provide a description of Mrs F's condition and had simply written: '*no significant change post natally.*' So at this point Amtrust was still unclear what medical condition it was that was preventing Mrs F from working. Her previous medical certificates had all said that she was signed off due to fatigue but did not give an underlying cause for that fatigue.

Therefore Amtrust needed to request more information from the GP. The GP was slow to respond and Amtrust chased for the information before finally receiving the report on 15 March 2018. This

stated that Mrs F was unable to work due to anxiety/stress. Due to the information contained within the report, Amtrust wrote to Mrs F the same day to let her know that it was declining the claim.

During the rest of March and April 2018 there was contact between Mrs F and Amtrust as Mrs F tried to challenge the decision to decline her claim and prove that her condition and its treatment did fall under the policy terms.

In regard to mental health issues, the policy states:

'What is not covered:

Any psychotic or psychoneurotic illness, mental or nervous disorder or stress or stress related conditions unless the condition has been diagnosed by a Community Mental Health Team overseen by a member of the Royal College of Psychiatrists, or has been investigated and diagnosed by a Consultant Psychiatrist.'

Mrs F's medical records for her visit to the GP on 24 February 2017 note: *'discussed adv re talking therapies – contact details for IAPT given.'* It seems clear from this that the GP did not refer her to a mental health service. Rather he gave her information so that she could self-refer if she wanted to.

Mrs F did in fact refer herself to what she calls the emotional wellbeing service. She told Amtrust that the GP had failed to go back through her records properly and that she had in fact been treated by a psychiatrist at that service. Amtrust told Mrs F that if she could provide evidence of that, it was possible that her claim would be accepted and that it could be backdated.

Ultimately Mrs F was not able to provide the required evidence to support her claim. Amtrust itself made contact with the emotional wellbeing service who confirmed that they were not overseen by a consultant and that Mrs F's practitioner was not a psychiatrist. I understand that Mrs F is upset that Amtrust contacted this service directly and feels that it was underhand in the manner in which it asked questions over the phone. But I haven't seen any evidence that the Amtrust adviser didn't explain who she was or didn't ask clear enough questions. It is reasonable for an insurer to make enquiries to satisfy itself that a claim meets the required terms of the policy.

On 4 April 2018 the emotional wellbeing service finally confirmed that they didn't work with consultants and that the practitioners were counsellors or CBT therapists. Further consideration was given to this information. Then, on 18 April 2018, Amtrust concluded that its actions taken so far were correct, so a second letter was sent to Mrs F declining the claim.

Looking back to when Mrs F first lost her job in February 2017 to when the claim was finally declined in April 2018, I can't attribute any delays to Amtrust. Mrs F didn't return her claim form until August 2018 (which I assume was due to Mrs F's pay in lieu of notice and the waiting period on the policy) and then further enquiries needed to be made to establish the basis of the claim. By far the biggest delay was because of a very slow response from the GP.

Mrs F has reiterated that her medical condition is not that which was reported by the GP. The GP had said that it was anxiety and stress at work. It's not that there's a disagreement between her and the GP about her condition. Rather it's down to an administrative oversight because of the length of time it took the doctor to look at her notes. She says that Amtrust has a duty to investigate this mistake. But an insurer is entitled to rely on medical evidence provided by a policyholder's doctor.

Mrs F says her medical records demonstrate that she was suffering from pregnancy related depression and anxiety. She says she offered to provide details of her antenatal and post natal care and that her specialist team was never consulted. Having said that Amtrust was entitled to rely on the information provided by the GP, I don't think Amtrust would necessarily dispute that Mrs F's pregnancy played a part in her illness. I'm not sure that Amtrust would have understood that Mrs F was making a distinct point about her claim being specifically for pregnancy related anxiety. As Mrs F has herself said, her issues were complex as they arose out of redundancy, feeling she'd been discriminated against and of course the pregnancy itself. But, from the evidence I've seen, I also don't

think that it would have made a difference to the claim if Amtrust had understood the distinction that Mrs F was trying to draw. Depression and anxiety, whatever the cause, was still only covered if diagnosis involved a psychiatrist.

Mrs F says that if she had been told at the start that her claim wouldn't succeed - because neither stress nor normal pregnancy related conditions such as fatigue were covered - she'd have cancelled the policy and saved herself the monthly premiums.

But when Mrs F first contacted Amtrust, it was to make an unemployment claim and there would have been no reason for it to provide further advice to her until it received her claim form. Even when Amtrust did first receive the claim form, and then had further contact with Mrs F about her situation, I don't think it would have been right for Amtrust to pre-empt the outcome of the claim prior to having all of the evidence. As soon as it had enough evidence to fully consider the claim, it wrote to Mrs F straight away to decline it. When Mrs F said she thought her GP had made a mistake and that she had been seen by a psychiatrist, Amtrust told her what evidence it would need from her in order to review the claim. As soon as it became clear that the treatment Mrs F had received did not meet the requirements of the policy terms, Amtrust again let Mrs F know straight away that it was declining the claim.

Overall I currently consider that the way that Amtrust dealt with Mrs F's claim was reasonable. Mrs F's condition was excluded under the terms and conditions of the policy and so the claim was correctly declined.

Mrs F is also unhappy about the way that one of Amtrust's advisers spoke to her over the phone and she feels that she was harassed. She says she was asking the adviser for help about her pregnancy related issues and the GP's mistake and says the adviser repeatedly refused to answer. I've listened to the call in question. The adviser explains that she's called the emotional wellbeing service for information. There is then a discussion about what constitutes a community mental health team and Mrs F is adamant that she has been seen by a psychiatrist. The adviser says she has gone on information received from a person at the emotional wellbeing service, but if that isn't correct then, once the service calls Mrs F back with information, she (the adviser) could check the clinician's registration as a psychiatrist. The adviser then explained there was no time limit to claiming from Amtrust's point of view.

Mrs F had explained that she has no income and a small baby. The adviser does try to empathise but, naturally enough, Mrs F doesn't feel that the adviser can truly appreciate her situation. Mrs F does become upset towards the end of the call but I can't attribute this to the conduct of the adviser. Mrs F is being given the news that her claim is currently being declined and it's this that is upsetting rather than any poor service on the part of the adviser.

Mrs F has talked about mental health conditions being common and how, at a vulnerable time in her life, she was expecting to be covered. I'm very conscious of the extremely difficult situation that Mrs F now finds herself in and am sorry for it. But insurance policies do not cover every eventuality and all of them have exclusions. This decision is only looking at whether Amtrust was correct to decline Mrs F's claim, in line with the policy terms and conditions. And I currently find that Amtrust did act reasonably in declining the claim.

my provisional decision

My provisional decision is that I do not uphold Mrs F's complaint.

Carole Clark
ombudsman