

complaint

Mrs H is unhappy with the way AXA Insurance UK Plc ('AXA') has handled her two claims under her Payment Protection Insurance ('PPI'). She's unhappy with the delay in it paying out her sickness claim and then ending it sooner than she thinks it should have done. AXA later turned down her claim for unemployment and Mrs H considers this should be paid.

background

Mrs H made a sickness claim in March 2009, but AXA did not pay her benefits until March 2016. Because of this delay Mrs H thinks AXA ought to pay her 8% simple interest on the claim benefit. Mrs H also considers AXA should have paid her benefits for a longer period than it did.

Mrs H also doesn't think AXA has treated her fairly when she made an unemployment claim in December 2012. AXA turned down her claim because of lack of information about her unemployment and because she didn't register as unemployed. Mrs H considers it should be paid. AXA's response is that it correctly paid Mrs H's sickness claim based on the medical records. AXA doesn't agree that it was responsible for the delay of around seven years in the claim being paid. AXA has explained that it turned down Mrs H's unemployment claim because it didn't have enough information about her unemployment and because Mrs H hadn't met the policy terms and requirements for employment claims.

Mrs H asked us to look into her complaint against AXA. Our adjudicator who looked into it didn't recommend that it should succeed. He considered AXA had paid Mrs H's sickness claim for the correct amount of time. He didn't feel that AXA had delayed paying the claim. Nor did the adjudicator consider AXA did anything wrong when it turned down Mrs H's unemployment claim because it didn't meet the policy terms. Mrs H didn't accept this assessment and asked for her complaint to be passed to an ombudsman.

my findings

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

I'm aware that Mrs H has also said the PPI was mis-sold since her claims have not paid out as she expected. The question of whether or not the PPI was mis-sold is being looked into as part of a separate complaint. My decision here looks at the claims Mrs H made to AXA and whether or not AXA treated her fairly and reasonably.

Mrs H has made a number of points and arguments that she feels support her view that AXA has acted unfairly and unreasonably in assessing her sickness claim and later unemployment claim. She's also unhappy about errors she's noted in AXA's records, including about her date of birth on the claim form it sent her.

Sickness claim

Mrs H was signed off as unfit for work from mid November 2008 until one month after 30 April 2009. AXA paid Mrs H's sickness claim up until the end of May 2009 but Mrs H considers she should have received another month's benefit, for June 2009.

The terms of Mrs H's PPI policy clearly state that for a sickness claim to be paid, the policy holder needs to be seeking treatment or consulting a doctor for a condition which prevents them from being able to work. The medical evidence about Mrs H's sickness includes a letter from a doctor dated February 2016. The letter refers to Mrs H's sick notes last being given at the end of April 2009 for a one month period.

But Mrs H says that as she didn't return to work until the end of June 2009 benefit should have been paid to her for that month too. Mrs H has referred to a letter from her occupational health physician as evidence that she didn't return to work until the end of June 2009. The letter dates from the end of March 2009 and states:

"Can I suggest that she [Mrs H] starts on a third of her weekly hours initially for the first couple of weeks so she can find her feet and then gradually aim to return to full hours within the 12 weeks, so that by 12 weeks time she is back up to her normal working hours of 35 a week."

I've looked at the contents of the letter but I don't agree with Mrs H that this letter supports her argument that AXA shouldn't have stopped the payments in May 2009 but should have carried them on for another month. The recommendation in the letter was in effect that by the end of May 2009 (up until when AXA paid Mrs H's claim) she should be working more than 16 hours per week. In any event as Mrs H hasn't shown she was certified as unfit for work by her doctor for June 2009, it seems to me fair that AXA considered her to be fit for work/working in June 2009 and didn't pay for the 'extra' month of June 2009.

As well as the claim duration, Mrs H is unhappy about the delay in AXA paying out her claim. Mrs H told AXA about her sickness claim in March 2009; however, the claim wasn't paid until March 2016. We have looked into the reasons for this delay. AXA's records show that Mrs H's claim was registered in mid March 2009 over the phone. AXA then sent Mrs H a claim form on the same day. According to AXA's records it wrote to Mrs H in August 2009 to tell her that it would close her claim as she hadn't contacted it since registering her claim.

Mrs H says she did send in the claim form but AXA must have lost it. I sympathise with Mrs H for the difficult time she must have been having due to her health. But based on the available evidence – where there's no record of the completed claim form being received by AXA or of Mrs H contacting AXA to follow it up – I cannot conclude AXA was at fault such that it should pay Mrs H the interest on her claim that she asks for. Although AXA closed the claim I don't consider it acted unfairly or unreasonably given that Mrs H doesn't appear to have contacted AXA to progress her claim at the time. Mrs H did phone AXA years later, in December 2015, about the claim. Subsequently AXA received the information it needed to accept the claim in March 2016 and paid the claim then. It follows that I don't think it's fair to ask AXA to pay interest on the claim it paid in March 2016.

Unemployment claim

In December 2014 Mrs H made an unemployment claim. However, AXA didn't accept the claim, because it said that Mrs H hadn't registered as unemployed with the Jobcentre as required by the terms of her policy. The terms of Mrs H's policy define unemployment as:

"if you are not in employment and you are registered as unemployed with the relevant Government agency. You must also be in receipt of National Insurance Contribution credits and be available for an actively seeking alternative employment or self-employment."

Insurers commonly have a term like the above so they can be satisfied that a claimant is properly to be regarded as unemployed and looking to mitigate their loss by actively seeking to return to work. There's nothing wrong with Mrs H's policy having this term and AXA seeking information about the nature of Mrs H's unemployment and evidence of her registering as unemployed and looking for work.

Mrs H hasn't been able to show she registered as unemployed, and AXA has had difficulties contacting her former employer to find out about the circumstances of her redundancy. Mrs H feels AXA has unfairly turned down her unemployment claim. She's given an explanation of why she is unable to provide the information AXA has asked for: she says that the Jobcentre she visited advised her she couldn't register until she had used up her redundancy payment and savings. Mrs H has been asked for evidence of this advice but hasn't been able to provide it. AXA also contacted the Jobcentre and it told AXA it didn't have any record of Mrs H contacting it.

AXA has also asked Mrs H to show it evidence of her job searching, such as job applications. Mrs H says she has given AXA emails about this and passed on names of people she spoke to, looking for work. Some of the information about job searching appears to pre-date Mrs H's unemployment but there's a job application and a registration at two recruitment agencies in January 2015 - the month after Mrs H stopped work. However, overall, I can see why AXA has taken the view it has, that Mrs H hasn't been able to satisfy the terms and conditions of her policy about unemployment claims. I don't think Mrs H's reasons for not now being in a position to send in information are enough for me to conclude that AXA should nevertheless accept and pay out her unemployment claim. I don't consider AXA acted incorrectly or unfairly in turning down Mrs H's unemployment claim on the basis it did.

As Mrs H needed to make retrospective claims, she feels she's lost out by doing so, as she says it's been harder for her to provide all the information AXA has asked for. She's said she was too unwell at the time to make her claim in 2009. I understand the points Mrs H makes about backdated claims in general being at times more difficult to support, if the information is not as readily available due to the passage of time. But that doesn't necessarily mean that an insurer ought to change its claims validation process or requirements; it's still fair and reasonable for an insurer to ask for information to check whether the claim is covered by the policy terms and conditions.

Finally AXA has explained that the incorrect date of birth on the claim form arose because before Mrs H contacted it to claim it held only limited information about her policy. AXA has told us that when Mrs H returned her claim form it amended the date of birth.

my final decision

My decision is that I do not uphold this complaint. Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H to accept or reject my decision before 19 October 2016.

Claire O'Connor
ombudsman