

complaint

Miss O complains that PDHL Limited has provided her with inappropriate advice relating to a debt management plan ("DMP") she entered into with them. The complaint has been brought to this service by a claims management company ("CMC"). But for simplicity I shall refer below to all actions being taken by Miss O, unless shown otherwise.

background

Miss O had entered into a DMP with a debt management company ("D") in mid-2013. Her DMP was transferred to PDHL on 20 February 2015. She complains, in summary, that PDHL hadn't told her that a debt relief order ("DRO") would be more appropriate for her than a DMP and that there were free debt advice agencies, and that she hadn't been told that interest and fees could be charged by creditors whilst she was on a DMP.

The adjudicator didn't recommend that the complaint should be upheld. He concluded that Miss O had made an informed decision about whether to enter into a DMP, that PDHL had told Miss O about free debt advice companies, and that interest and fees could be charged. He also noted that Miss O had maintained her payments each month to PDHL with the exception of April 2015, but that she had made an overpayment in May 2015 to make up the difference. He'd also noted that PDHL had provided Miss O with details of the payments to be made to creditors, its fees, and an estimated date of when the DMP would be completed.

The CMC disagreed and responded to say, in summary:-

- That much of Miss O's income consisted of Disability Living Allowance ("DLA") which should have been disregarded for the purposes of repaying her debts;
- It would have been more appropriate for PDHL to have recommended a DRO to Miss O rather than a DMP;
- The welcome letter was fabricated;
- PDHL had not complied with the requirement to specifically tell Miss O about free debt counselling, debt adjusting and provision of credit information;

my findings

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

Where things are not clear, or in dispute, I make my findings on what I think is most likely to be the case. I take into account the evidence which is available to me and the wider surrounding circumstances.

I note that the CMC said that Miss O's DLA shouldn't be taken into account when calculating her disposable income. But I also think that it's likely that Miss O's expenditure details included items for her health condition on which she spent her DLA. And I also note that there are inconsistencies in the way DLA is treated for these purposes.

I also note that the financial information provided by the CMC and by PDHL differs as to the amount of DLA Miss O received. PDHL shows that Miss O received £313, and the CMC said she received £500. I have seen no evidence of the DLA payment, such as a bank statement, to be sure how much Miss O receives. But I note that Miss O told PDHL on 26 February 2015 that its financial information was correct.

PDHL showed that Miss O had an income of around £1,111 and expenditure of £1,031. The CMC showed an income of £800 and expenditure of £753. On balance, as Miss O told PDHL that the financial information they had was correct, it's likely that Miss O had a spare income of around £80 per month. This is reinforced by the fact that Miss O had been regularly paying D £74.50 per month from July 2013, and £80 per month from April 2014. And her monthly payments of £80 were mostly maintained when PDHL took over her DMP.

I also note that the CMC said that a DRO would have been more appropriate than a DMP for Miss O. But, I note that to be eligible for a DRO, spare income must be less than £50 per month. PDHL said that Miss O wouldn't fully meet the criteria for a DRO. And I can see that this appears to be the case as her spare income would appear to be somewhat in excess of £50 per month. So, I don't think that PDHL acted unfairly when a DRO wasn't suggested due to the information it had on Miss O's finances.

The CMC said that it believed that PDHL's welcome letter was fabricated. I've seen no evidence to suggest this. But I can see from PDHL's contact notes that it sent its welcome letter and heads of terms to Miss O on 24 February 2015 and asked her to return certain documents. It then chased the return of the documents in April 2015, and sent her another pack on 27 April 2015. The notes show that the pack data was received by PDHL on 26 May 2015. So, I'm satisfied that Miss O had received PDHL's information pack.

I also note that there are several references to free debt advice in PDHL's pack. The key information shows "Money Advice Service" in bold print and refers to it providing free and impartial advice on how to deal with creditors. In the service agreement under the "Budgeting" heading, it said that PDHL could supply details of charitable debt management firms. And PDHL referred in its promise on setting up the DMP that it would show where free and impartial advice from the Money Advice Service could be obtained.

So, having considered very carefully the circumstances of this complaint, overall and on balance, I don't think that PDHL has acted inappropriately.

my final decision

My decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss O to accept or reject my decision before 8 April 2016.

Roslyn Rawson
ombudsman