

complaint

Mrs P has complained on behalf of the estate of her late husband Mr P about the decision by Aviva Insurance Limited to decline a claim under his personal accident policy.

background

In February 2015 Mr P fell over in his garden. Mrs P called an ambulance and he was admitted to hospital. Sadly Mr P died a week later.

Mrs P made a claim to Aviva for Mr P's accidental death. Aviva declined the claim because it said that Mr P had died from a medical condition that was not caused by an accident. Consequently, it was not covered by the policy.

Mrs P complained to Aviva about its decision. It didn't change its position and she referred her complaint to this service.

our initial conclusions

Our adjudicator didn't recommend that the complaint should be upheld. She didn't think there was any evidence that Mr P's fall caused his death. Consequently, she considered that Aviva's decision to decline the claim was reasonable.

Mrs P didn't accept our adjudicator's conclusions.

my findings

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

Mr P's policy said it would pay a benefit *"if an insured person suffers an accident that directly results in their death"*. The policy defines *"accident"* as *"a single, unexpected, unforeseen and unintentional incident"*.

Showing that Mr P had an accident is not enough, on its own, to make a claim under the policy. It's also necessary to show that the accident was the direct cause of Mr P's death.

I've carefully considered Mrs P's account of Mr P's fall. She says that he had not shown any symptoms prior to falling over in the garden and he fell over the edge of a patio in the dark. He had seen his GP three days earlier regarding a cough and she thinks his GP would have sent him to hospital if he had been suffering from a fatal illness.

I've also considered the records made by the hospital where Mr P was treated. These do not refer to him having suffered a fall. The record of his admission says:

"Was in his garden when he felt dizzy...For the past couple of nights he has been having panic attacks. He mentioned that we (sic) wakes up at night gasping for air and feeling discomfort in his chest."

Mrs P says that Mr P was deaf and would have answered "yes" if he was asked if he felt dizzy, especially when he had been given medication. I'm not persuaded that this adequately

explains the reference to panic attacks. It seems to me that it would have required more than simple "yes or no" answers for the doctor to note the amount of detail that he recorded.

I also note that Mr P had been having the panic attacks "*for the past couple of nights*" which would have been after he had seen his GP. I think this could explain why Mr P's GP didn't refer to him to a hospital.

On the basis of the evidence I've seen, I don't think Mr P's death was the direct result of an accident. I think it's possible that the medical condition that caused his death may have caused him to fall over, but I'm not satisfied that the medical condition was caused by a fall.

Given the above, I'm satisfied that Aviva's decision to decline the claim was made in accordance with the terms of the policy and was, therefore, fair and reasonable.

my final decision

For the above reasons, my final decision is that I don't uphold this complaint. I make no award against Aviva Insurance Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs P on behalf of the estate of Mr P to accept or reject my decision before 11 April 2016.

Charles Bacon
ombudsman