

complaint

Mr W has complained that The Prudential Assurance Company Limited (“Prudential”) has rejected his request to replace his monthly annuity payments with a one-off lump sum.

background

Mr W started drawing benefits from his pension plan in 2013. Mr W was unable to take his whole pension as a lump sum due to the total value of his pension being above the Inland Revenue triviality limit at the time of £18,000. He therefore chose to take the benefits under his pension plan as a tax-free cash lump sum and an annual pension.

Due to being seriously ill, Mr W also applied to take his pension under the full commutation rules allowed in cases where there was severe ill health. Mr W’s doctor provided information regarding his health but as Mr W did not fulfil all the criteria’s under the Inland Revenue rules, he was not eligible for the lump sum. The HMRC rules only allow full commutation where the policyholder’s life expectancy is less than twelve months.

Due to the recent budget change in March 2014, Mr W believes he is able to cancel his annuity and instead take his pension as a lump sum as the value of his pension was under £30,000 which is the new triviality limit.

One of our adjudicators investigated Mr W’s complaint. She was of the opinion that the complaint should not be upheld as it would not be fair and reasonable to ask Prudential to stop Mr W’s annuity payments and pay him a lump sum instead. She also explained that HMRC rules on taking pensions as a lump sum due to severe ill health, has certain conditions that must be met in order to be eligible for the lump sum. As Mr W did not meet all the conditions, he would not have qualified for the full commutation benefit.

Mr W did not agree with the adjudicator, and asked for his case to be considered by an ombudsman. In summary, Mr W said:

- Prudential had misled him and refused to see him.
- Mr W’s doctor provided information about his health however he was not a consultant in dealing with cancer. The doctor could only tick the boxes that he considered appropriate without consulting the hospital.
- Prudential has not informed him correctly about what would happen to his policy in the event of his death. He assumes Prudential will keep all of his money.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

Whilst I have read in detail all the points that Mr W has made, I will focus on the points I consider to be material in reaching a fair outcome. In considering what is fair and reasonable in any particular case, I must also have regard to the law and tax rules concerning the payment of pensions. Prudential is only able to pay pension benefits in accordance with HMRC tax rules, which set out what is allowed and what is not.

At the time that Mr W approached the business it was known that Mr W had cancer and had approximately two years to live. The Inland Revenue rules only allow a policyholder to take all their pension benefits as a lump sum where the policyholder has a life expectancy of less than twelve months.

As Mr W was expected to live for more than twelve months the Inland Revenue rules would not allow the Prudential to pay the value of the pension benefits as a lump sum. Prudential has therefore followed the Inland Revenue rules when it refused the request from Mr W to have his benefits all paid as a lump sum.

Once an annuity is in payment there is currently no regulations that would allow an individual to commute the future payments due to a policyholder such as Mr W a lump sum.

Therefore, whilst acknowledging Mr W's very serious ill-health and very much understanding the reasons why he would prefer to receive a one-off lump sum, I cannot uphold his complaint.

Mr W has referred to the budget change in 2014 which allows any policyholder who have a fund value of less than £30,000 to take their pension as a one-off lump sum. Unfortunately, as Mr W has already taken his pension benefits before the budget changes, this facility would not apply to him. Whilst there has been press comment about allowing all pensioners to commute their future benefits for a lump sum there is no indication that this change is going to be introduced into law.

my final decision

I do not uphold this complaint against The Prudential Assurance Company Limited and therefore I make no award.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr W to accept or reject my decision before 30 December 2014.

Adrian Hudson
Ombudsman