

The complaint

Mr G has complained that Aviva Life & Pensions UK Limited ('Aviva') has unfairly declined his claim.

What happened

Mr G had a group income protection insurance policy through his employer. This would pay a benefit if he was unable to work due to illness or injury after a deferred (waiting) period of 26 weeks.

Mr G became absent from work in March 2022 and made a claim. He left his employment in October 2022.

Aviva declined the claim as it said Mr G's absence was due to work related matters and these were specifically excluded.

Mr G complained as he didn't think Aviva had fairly declined the claim. He said he was suffering from a mental health illness and his claim should be paid.

Aviva maintained its decline and so Mr G referred his complaint to this Service.

Our investigator looked into the complaint but didn't think Aviva had unfairly declined the claim.

Mr G disagreed and in summary, has said he would like to discuss his complaint with me to present his case verbally.

And so the case has been passed to me for a final decision.

What I've decided – and why

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

Having done so, I don't think this complaint should be upheld. I'll explain why.

But firstly, I'll deal with Mr G's request to discuss his complaint with me directly. I have to remain independent and impartial. Mr G says he would like to present his case verbally. So I asked him to call in and speak to the investigator or alternatively, call the helpline and explain his position which I would then listen to the recording of. But Mr G hasn't done this.

Having considered the full file, I am satisfied I have enough information available to reach a decision. This complaint turns on the medical evidence provided to Aviva and the reasons for Mr G's absence, as supported through that evidence. The medical evidence is a contemporaneous record of the reasons for Mr G's absence and so I have placed significant weight on the notes from the time of Mr G's absence when reaching my conclusions.

The relevant rules and industry guidelines say an insurer should handle claims promptly and

fairly. And shouldn't unreasonably reject a claim.

The policy terms define incapacity as follows:

"The member's inability to perform on a full and part time basis the duties of their job role as a result of their illness or injury."

The policy also says:

"Absence caused by workplace matters, such as a relationship breakdown, workplace demands or failure to make reasonable adjustments are not covered."

This means Mr G has to demonstrate that he is incapacitated for 26 weeks and beyond due to illness or injury in order to be eligible for benefit. But any absences due to work stress are excluded.

So to decide whether Aviva acted fairly, I have to consider the medical evidence available to Aviva at the time. I've summarised what I consider to be the relevant medical evidence from the deferred period.

The key medical evidence

March 2022 – The GP notes record Mr G was stressed and work stress had got to him again due to increased pressure at work. His boss was supportive but he was considering other less stressful options for the future.

April 2022 – GP notes record Mr G was suffering from ongoing stress in the background with work and life.

May 2022 – GP notes record Mr G was currently feeling low as he had Covid and he was concerned about having to isolate. Before that, he was feeling a lot better.

June 2022 – GP note records that Mr G may want to formulate a plan whilst waiting for a referral and then notes this to be 'change of job etc'. Mr G felt he could not return to the job he was in and that management had abandoned him.

July 2022 – occupational health report following a telephone consultation with Mr G. This summarised that previously, Mr G had recurrent episodes of depression in 2020 and 2021. Triggers for his most recent episode of health were also due to his depressive illness, ongoing isolation, working from home, challenges in his personal life, being diagnosed with an illness and pressures at work. Mr G was particularly busy prior to his sickness absence with additional challenges. The specialist felt Mr G was unfit for work. When he was ready to work, Mr G would need to have open discussions about work pressures and measures to alleviate these.

Other medical evidence

Mr G says his previous medical history should be taken into account and it should be read as a whole. I've carefully considered all the available medical evidence including the GP notes, occupational health records and a recent letter dated April 2023 from a mental health specialist. There is reference to stress, low mood, stress at work and depression. It's clear that Mr G was suffering from illness and was absent from work for shorter periods between 2020 and 2022.

However, the relevant period for Mr G's claim is the deferred period from March 2022. On

the whole, the medical evidence from 2022 shows that Mr G didn't feel that he could go back to work. Although he says his mental health was affected due to a number of personal and work reasons, I think the GP notes demonstrate that Mr G's absence in March 2022 was triggered by work related stress which isn't covered by the policy. So I don't think Aviva unfairly declined the claim on the basis that Mr G's absence was caused by work related matters, which are excluded.

Mr G also said Aviva had failed to provide policy documents to him and said it should have sought specialist medical evidence to better understand his mental health illness and his reasons for absence.

Aviva's policyholder is Mr G's employer so he would need to request the policy information from his employer. This isn't something I can hold Aviva responsible for.

In relation to the medical evidence, the onus is on Mr G to prove his claim and provide specialist medical evidence if he chooses to. Aviva reasonably requested Mr G's medical records and reviewed the available evidence. Many of the GP notes during the deferred period show that Mr G was absent due to workplace stress. But Mr G needs to show that he was unable to work due to illness or injury for the full 26 weeks before he becomes eligible for benefit. I'm not persuaded the medical evidence shows that Mr G was absent solely due to illness for the duration of the deferred period.

I'm sorry to disappoint Mr G but I can't fairly ask Aviva to accept his claim based on the available medical evidence which suggests that Mr G's absence during the deferred period was largely caused by stress at work.

My final decision

For the reasons set out above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 28 July 2023.

Shamaila Hussain
Ombudsman