

## **The complaint**

Mrs P has complained that Unum Ltd has unfairly declined her claim.

## **What happened**

Mrs P has a group income protection insurance policy through her employer, underwritten by Unum. This would pay a benefit if Mrs P was unable to work due to illness or injury throughout the deferred (waiting) period and beyond.

In January 2020 Mrs P reduced her hours and in July 2021, she became completely absent from work due to illness.

A claim was made to Unum but it said the claim was made too late and should have been notified when Mrs S reduced her hours. Mrs P said she didn't realise she had to claim when she reduced her hours as her employer was still paying her full salary.

Unum assessed the claim, using January 2020 as the start of the deferred period. It said there was insufficient evidence to prove that Mrs P was incapacitated and the late notification had prejudiced its position to gather contemporaneous medical evidence. So it declined the claim.

Mrs P appealed and complained but Unum maintained its decision so she referred her complaint to this Service.

Our investigator looked into the complaint but didn't think Unum had declined the claim unfairly. Mrs P disagreed and in summary, has made the following comments:

- The claim was submitted late but that's because Mrs P's absence was a gradual deterioration of her health.
- Unum could have requested further information and evidence from the GP to support the claim.
- Mrs P has been able to obtain ill health benefits from her deferred defined pension scheme based on the same medical evidence provided to Unum.

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.

The relevant rules and industry guidelines say an insurer should handle claims promptly and fairly. And shouldn't unreasonably reject a claim.

The policy sets out the definition of incapacity as follows:

*“Unable by reason of their illness or injury, to perform the material and substantial duties of the insured occupation.”*

The policy also defines ‘actively at work’ as follows:

*“Is actively following their normal occupation, and*

*Is working the normal number of hours required by their contract of employment, and*

*Is working at their normal business or at another business location, and*

*Has not received medical advice to reduce or stop their work activity.”*

Unum say Mrs P should have submitted a claim at the point she was no longer performing her normal occupation and hours. But Unum wasn’t notified until after Mrs P went fully absent over a year later. It said the claim was notified late.

Unum did still review the medical evidence from the deferred period which showed that Mrs P had reduced her hours due to headaches, neck pain and a fracture of her little toe.

Despite the late notification, Unum reviewed all of the available medical evidence and concluded there was insufficient information commenting on Mrs P’s function and specifically how her illnesses affected her ability to do the main duties of her job. I agree that the medical evidence doesn’t comment on Mrs P function in any detail so I don’t think Unum unreasonably declined the claim on this basis.

Unum said if a member’s condition relapses, deteriorates or a new condition occurs within 12 months of the commencement date, a new claim can be made even if they haven’t returned to work. Mrs P became fully absent on 12 July 2021.

Mrs P provided further medical evidence in the form of occupational health (OH) reports which I can see Unum has considered. I’ve summarised the contents here:

January 2021 – This report said Mrs P wasn’t under the care of any specialist for any of her declared health issues and the assessor commented: *“Mrs P was resolute that she plans to terminate her employment due to her health issues”* and didn’t believe her symptoms of pain and fatigue would ever resolve to allow her to fulfil her contractual duties. The report concluded Mrs P’s physical and psychological capabilities may improve with medication.

July 2021 – This report concluded Mrs P was unfit for work as she had significant pain and tiredness. It said she would benefit from seeing a surgeon and needed to follow a slow graded rehabilitation plan.

Unum reviewed the OH reports alongside her GP records and found that surgical intervention wasn’t indicated and an MRI showed normal, age related changes which weren’t related to her headaches, neck or back pain.

Mrs P provided a further report dated November 2022 which Unum reviewed but it said this report didn’t provide any evidence of Mrs P’s function during the deferred period.

Taking all of the above into account, I don’t think Unum has adopted an unreasonable position in this case. Even though the claim was notified late, I am satisfied Unum did review the available medical evidence to consider whether Mrs P was incapacitated. I don’t think it

was unreasonable for Unum to decline the claim as it reviewed the medical evidence in the form of GP notes and consultations but explained there was insufficient evidence showing how Mrs P's illnesses affected her function and the duties of her role.

Turning now to Mrs P's comments in response to the investigator, I appreciate why Mrs P submitted the claim late but Unum assessed the claim despite late notification. I think Unum requested the appropriate medical evidence based on the circumstances. As it wasn't notified of the claim earlier, it wasn't able to obtain further evidence or ask questions at the time Mrs P reduced her hours due to her illnesses.

Mrs P also says she has been able to obtain other ill health benefits using the same medical evidence submitted to Unum. But the criteria for Mrs P's income protection policy isn't necessarily the same as for other benefits. Based on the definition of incapacity in the policy terms and conditions, Mrs P has to demonstrate that she is unable to perform the material and substantial duties of her occupation due to her illness. Being diagnosed with an illness or being signed off work isn't sufficient by itself without commenting on her duties.

I'm not satisfied that the medical evidence from the deferred period or later persuasively demonstrates how Mrs P's illnesses affected her ability to perform her role throughout the deferred period and beyond. So I don't think Unum's decision was unreasonable.

### **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 Mrs P to accept or reject my decision before 25 August 2023.

Shamaila Hussain  
**Ombudsman**