

The complaint

Ms S complains that Chubb European Group SE hasn't accepted her permanent total disablement ('PTD') claim under a personal accident policy.

What happened

Ms S is covered under a personal accident policy with Chubb. In 2019, she injured her ankle. Ms S made a claim under the policy, and Chubb accepted she had a valid claim for permanent partial disablement, and a settlement was paid. However, Ms S thought she had a valid claim for PTD.

Chubb didn't make a payment under the PTD section of cover as it didn't think Ms S had shown she met the requirements for a claim to be paid. Unhappy with this, Ms S brought a complaint to this Service. Our investigator concluded the medical evidence didn't support that a PTD claim should be paid.

Meanwhile, Chubb offered to arrange for Ms S to attend an independent medical examination ('IME') with a specialist. It wanted an up-to-date picture of her disability, so it could decide whether she met the policy requirements for a PTD claim to be paid. Ms S didn't want to do this, and brought a new complaint to this Service.

Our investigator didn't recommend the complaint be upheld. She thought Chubb's suggestion that Ms S attend an IME was reasonable.

Ms S didn't accept our investigator's findings, and so the matter has been passed to me for a 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.

The policy says:

'Permanent total disablement from any occupation means disablement which totally prevents the Insured Person from attending to any and every occupation or job of any kind whatsoever and which lasts for 12 calendar months and at the expiry of that period is beyond hope of improvement.'

I appreciate that Ms S's GP thought that it was unlikely Ms S's symptoms would improve significantly to allow her to work in a normal capacity. However, we would generally place greater weight on the opinion of specialists than a GP.

One specialist thought that Ms S's recovery would continue to evolve as she was still having active treatment. Another specialist thought she was capable of engaging with work. A third specialist said in August 2022 they thought Ms S would find it difficult to work at that time.

I'm not persuaded that the available specialist evidence has shown that Ms S's disablement prevents her from doing any and every occupation whatsoever.

Ms S has recently provided this Service with an updated opinion from her GP. The GP says that Ms S has a permanent disability. She also says that Ms S's pain is not curable, and the prime focus has moved to pain management. Though by making a payment under the permanent partial disablement cover, Chubb has accepted that Ms S has a permanent disablement, so this isn't in dispute.

I think it was reasonable for Chubb to offer to arrange for an IME to take place with a specialist. This will allow it to obtain an up-to-date understanding of Ms S's disablement and ability to work, so that it can make a claims decision on whether the PTD claim should be paid. I also note Chubb wants to establish whether all of Ms S's symptoms are related to her accident, as the available medical information suggests that may not be the case. An IME specialist can offer an opinion on this.

Ms S has a treating consultant (Mr M), and she thinks Chubb should contact him for his updated opinion. Mr M is a consultant orthopaedic surgeon and is of the view that Ms S's symptoms are largely neuropathic in nature. Given that this isn't Mr M's area of specialism, it seems to me that an IME with an appropriate specialist in this area would be reasonable. Though of course, Ms S is welcome to also provide Chubb with Mr M's updated opinion on her injury if she wishes, so that it can take this into account at the same time as the IME report.

I've noted that Ms S wrote some statements in respect of whether she met the PTD definition, and Mr M marked a statement that suggested she did. I don't think this alone shows that she meets the PTD requirements. I would expect to see much more detailed explanation and reasoning behind this.

I therefore don't uphold this complaint, as I find that Chubb's offer to arrange an IME before making a claims decision was reasonable.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms S to accept or reject my decision before 24 August 2023.

Chantelle Hurn-Ryan

Ombudsman