



The complaint

Mr M complains that Canada Life Limited declined a claim he made under a group critical illness policy.

What happened

To summarise, in October 2021 Mr M joined his employer's group critical illness policy. Unfortunately, in February 2022, he was diagnosed with Parkinson's disease. Mr M made a claim on his insurance policy. But in September 2022, Canada Life declined the claim on the grounds that his Parkinson's was considered a pre-existing condition, under the policy terms.

Mr M complained, asking Canada Life to review its decision and providing further evidence from his consultant neurologist. But Canada Life maintained its position, issuing its final response to Mr M in November 2022.

As Mr M remained unhappy about Canada Life's decision, he came to the Financial Ombudsman Service. An investigator looked into things for him, but didn't uphold the complaint. The investigator was satisfied Canada Life was entitled to decline the claim under the policy terms. So he didn't think Canada Life had treated Mr M unfairly.

Mr M disagreed, so the complaint has come 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'm not upholding this complaint. I appreciate Mr M feels very strongly about his complaint and I understand this will be unwelcome news for him. I am sorry about that. I'll explain my reasons, focusing on the points and evidence I consider material to my decision. So, if I don't refer to a particular point or piece of evidence, it's not because I haven't thought about it. Rather, I don't consider it changes the outcome of the complaint. My decision is based on the balance of probabilities, in other words, what's most likely to be the case.

Group insurance policies aren't individually underwritten. But, to manage risk, most will contain terms excluding claims for pre-existing conditions. Canada Life has cited a particular policy definition as well as section 4.1 covering exclusions. It's relied on the following terms:

'4.1.1 Pre-existing conditions

'No benefit will be payable for an insured illness (or a repeat of the same insured illness) which existed prior to the date of inclusion:

- *of the insured person or child in this Policy, or*

- *in a previous group critical illness policy arranged by you or any other employer in connection with the member's employment, or*
- *of the illness in the Policy, if later.'*

The term 'existed' is defined within the policy conditions as:

'an insured illness or related condition is said to have existed if it was:

- *first diagnosed, or*
- *treated, or*
- *known to the insured person or child*

prior to the date of inclusion (as detailed in Section 4 – What is not covered) or the date of any increase in benefit.

'As long as a later diagnosis confirms this, we will consider an insured illness or related condition to have existed if the insured person or child:

- *has had symptoms of, or*
- *has sought or been given advice or counselling on, or received treatment for, or*
- *has undergone or is awaiting diagnostic tests for*

the insured illness or related condition even if the condition has not been formally diagnosed.'

The key issue in Mr M's complaint is whether or not he had symptoms of the insured illness – Parkinson's - prior to the date of inclusion.

Canada Life's decision was based on its conclusion that the symptoms Mr M experienced in December 2020 were more likely than not related to his later diagnosis of Parkinson's. Mr M disagrees, saying that his symptoms were non-specific, with his consultant stating it's not possible to say in retrospect whether those symptoms related to Parkinson's.

I've looked at the medical evidence to decide whether Canada Life acted fairly in assessing the information available and applying the exclusion. I've also considered the recent opinion, obtained by Canada Life at our investigator's request, from its Chief Medical Officer, himself a consultant physician and rheumatologist.

Following his diagnosis, Mr M was referred to Dr J – a consultant neurologist and specialist in Parkinson's – by his local neurologist, for a second opinion. After the consultation, Dr J wrote to Mr M in May 2022 as follows:

'In Dec 2020 you noticed that both your legs felt slightly weak. At the time you attributed this to the fact that you are not running as much as usual. Your wife commented however that she noticed that you were walking differently and that increasingly you have been walking more slowly.'

'Your walking is now definitely significantly slower and after walking a mile or so you feel quite tired. '

And under the title 'assessment', Dr J states:

'I think there can be no doubt about the diagnosis of Parkinson's both in terms of the history, the physical examination today and the DAT scan all of which triangulate.'

Following Mr M's claim, Canada Life wrote to Dr J for information. Dr J responded in July 2022, enclosing his letter to Mr M of May 2022. In the covering letter to Canada Life, Dr J says:

'As you will see, he developed rather non-specific symptoms affecting both legs in December 2020. His motor symptoms have gradually progressed.'

So on the basis of these documents Canada Life applied the exclusion and declined the claim, on the grounds that symptoms of Parkinson's had, most likely, been present before Mr M joined the group policy.

To support his appeal, Mr M asked Dr J for clarification. In a letter to him, dated September 2022, Dr J says:

'It is not possible to say in retrospect whether or not these symptoms in 2020 related to Parkinson's.'

'I should point out that it is now known the subtle and non-specific symptoms are present going back an average of seven years prior to a diagnosis of Parkinson's.'

'It seems to me on this basis unfair to exclude you on this technicality since most people who have a subsequent diagnosis of Parkinson's will have some subtle and non-specific symptoms dating back an average of seven years and on this basis they can presumably exclude a majority of people from a Parkinson's claim. You could have no way of knowing the symptoms were due to Parkinson's or indeed that they were due to an underlying serious cause.'

Dr J understandably expresses his difficulty in stating retrospectively whether the December 2020 symptoms did or did not relate to Parkinson's. I can appreciate Dr J's difficulty in giving a definitive answer to this question. But what he does confirm is that the majority of diagnosed patients will have subtle and non-specific symptoms dating back an average seven years. The symptoms of leg weakness Mr M initially reported to Dr J dated from approximately 14 months prior to diagnosis.

I've also reviewed the report from Dr W, consultant physician and rheumatologist. Mr M very much disputes this report and I can understand his concerns. But having read it, I can see that Dr W's conclusions are based on his reading of the existing medical evidence, notably, that of Dr J. Dr W states:

'We have to be guided by the opinion of Dr J, the Consultant Neurologist; and more particularly by the complaint made by Mr M himself. The history given by Mr M is that his symptoms began in 2020 - increasingly bothering him such that he and his wife had noticed by the time that he saw the Neurologist two years later, that there had been a significant deterioration in the very motor features he had complained of two years previously in 2020.'

'His walking was particularly affected - that being his chief feature and complaint.'

Dr W goes on to conclude:

'It is my opinion that the 2020 difficulties with his legs together with the walking symptoms do relate to the onset of Parkinson's Disease at that time. The leg

weakness symptoms experienced in 2020 were a symptom of the later diagnosis of Parkinson's Disease.'

I accept Mr M wouldn't have known he had Parkinson's when he joined the group policy and I can understand why he feels Canada Life's decision is unfair. But the policy doesn't require a diagnosis. In Mr M's case, the central issue is whether the symptoms he experienced were likely symptoms of, at the time, undiagnosed Parkinson's.

In coming to a decision I've placed particular weight on the letters of Dr J, who had met and examined Mr M to provide a second opinion. He was the expert in the field. He clearly includes the reported history of symptoms, albeit non-specific, in the confirmation of diagnosis and he later points out that the majority of diagnosed people will have prior subtle and non-specific symptoms.

So having considered the evidence, I think it was reasonable for Canada Life to conclude that Mr M's 2020 symptoms were, most likely, linked to his later diagnosis of Parkinson's. And therefore, that Mr M's condition existed, in line with the policy terms and definitions, prior to him joining the group policy. So I don't think Canada Life acted unfairly in applying the policy exclusion for pre-existing conditions and declining his claim. It follows I'm not going to ask Canada Life to do anything more in relation to this complaint.

My final decision

My final decision is that I'm not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 26 September 2023.

Jo Chilvers
Ombudsman