

The complaint

Miss W complains about the sale of her personal accident insurance policy by Essential Finance Group Management Limited.

What happened

In April 2022, Miss W was sold the policy by Essential Finance. The aim of the policy is to provide financial support and hospitalisation benefit for accidental injuries. After the policy is held for 12 months, it also allows the insured to claim for hospitalisation benefit due to sickness.

After Miss W had held the policy for 12 months, she contacted the insurer to check that she would be eligible to claim if she were hospitalised due to mental health, as that was what she had been told by Essential Finance. The insurer told Miss W that the policy has a general exclusion for mental health, so she wouldn't be able to claim for this. Miss W complained to Essential Finance about the sale of the policy. She said she wanted it to pay her £13,500 (which was the maximum hospitalisation benefit).

Essential Finance accepted that it had misled Miss W about the cover. It offered to refund her premiums, though it noted that she didn't want to cancel the policy. It also offered her £50 compensation by way of apology. Unhappy with this, Miss W brought a complaint to this Service.

Essential Finance told this Service it would increase the compensation payment to £100. And it would still be willing to provide a refund of premiums up to the date of its final response, if Miss W changed her mind about cancelling the policy.

Our investigator didn't recommend the complaint be upheld. Whilst it was accepted that Essential Finance had misled Miss W, he thought Essential Finance's offer to refund the premiums and pay £100 compensation was reasonable.

Miss W 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.

Miss W has referred to the Consumer Duty. This came into force on 31 July 2023 and isn't retrospective. That means it doesn't apply to Miss W's complaint, as the event she is complaining about happened before the Consumer Duty was introduced. However, in considering this complaint, I've taken into account the relevant rules and regulations in place at the time.

It isn't in any dispute that Essential Finance gave Miss W the wrong information when it sold her the policy, both parties agree on this. When a business does something wrong, the aim

of this Service is to place the consumer in the position they would have been, if the error hadn't happened (as far as possible). I've therefore thought about what Miss W might have done if she hadn't been given the wrong information by Essential Finance.

The first thing I've thought about is whether Miss W could have obtained the cover she wanted elsewhere.

Whilst some personal accident policies on the market do include hospitalisation cover for sickness, as far as I'm aware, these generally exclude pre-existing conditions. So I think it's unlikely that Miss W could have taken out a personal accident policy with a different insurer that would have covered her for this.

Another option might have been for Miss W to take out private medical insurance on a moratorium underwriting basis. Private medical insurance would cover a private admission to hospital or pay a cash benefit if the insured used an NHS hospital instead. This type of policy will usually cover pre-existing conditions after two years after taking out the policy, but the insured would need to be free from medication, treatment etc in that time. So if Miss W were taking anti-depressant medication for example, or having regular reviews with her doctor, then this wouldn't be appropriate for her.

I note Miss W has said her financial adviser previously tried to find her cover, but couldn't do so because of her existing health problems. So I think it's unlikely that Miss W could have taken out the type of cover she wanted elsewhere.

Though even if Miss W could have taken out cover elsewhere, she hasn't been financially disadvantaged by the matter (apart from paying the premiums). I say that because she hasn't been hospitalised since taking out the policy. I therefore don't require Essential Finance to pay her the maximum hospitalisation benefit.

It's not clear whether Miss W would have still gone ahead and taken out the policy if she'd known from the outset that claims for mental health would be excluded. That being the case, I think Essential Finance's offer to refund her premiums was reasonable. I note Miss W chose to continue with the policy, which was of course up to her. If Miss W changes her mind about this, then I think Essential Finance should add interest to the refund of premiums as it has had the benefit of the money rather than Miss W.

I do think it's appropriate for Essential Finance to pay Miss W compensation for the loss of expectation she experienced. It has offered her £100 compensation, which I think is reasonable in all the circumstances.

My final decision

Essential Finance Group Management Limited has already made an offer to refund the premiums and pay £100 compensation to settle the complaint. I think this offer is fair.

So my decision is that Essential Finance Group Management Limited should pay Miss W £100 compensation, and refund the premiums paid up to the date of its final response if Miss W decides (within four weeks of accepting this decision) that she wants to cancel the policy. Interest should be added to the refund of premiums at the rate of 8% simple per annum from the date each premium was paid to the date of settlement*.

* If Essential Finance considers that it's required by HM Revenue & Customs to take off income tax from that interest, it should tell Miss W how much it's taken off. It should also give Miss W a certificate showing this if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss W to accept or reject my decision before 3 January 2024.

Chantelle Hurn-Ryan
Ombudsman