

## **The complaint**

Mr H has complained that Liverpool Victoria Financial Services Limited ('LV') unfairly applied an exclusion and declined his claim.

## **What happened**

Mr H has an income protection insurance policy, underwritten by LV. He bought this in 2021 and LV added a mental health exclusion. This could be reviewed after 2 years and would be removed if Mr H suffered no further symptoms and required no further treatment.

He made a claim in 2023 which LV declined. It said Mr H had requested an ADHD assessment within the two-year period which meant that it couldn't remove the exclusion.

Mr H complained and unhappy with LV's response, referred his complaint to the Financial Ombudsman Service.

Our investigator looked into the complaint but didn't think LV had acted unfairly.

Mr H disagreed, and in summary, has made the following comments:

- He requested an ADHD assessment as a result of his workplace – and based on symptoms he had entered into an online informal tool. All symptoms were generic. He has never received a diagnosis.
- He has provided medical evidence from his GP to show that he hasn't been diagnosed with a mental health illness.
- It's unfair for LV to rely on the self-reported symptoms towards the end of the two-year period, one month before the two-year period was due to expire. It should have reviewed his claim sympathetically.
- The initial exclusion was discriminatory as he had suffered from mild stress which is not a mental health disorder or a symptom unique to mental health. Mr H presented with generic symptoms shared with mental health disorders despite not being diagnosed and he is now facing adverse consequences.
- If Mr H had not received the letter from LV to say he was covered for mental health related claims, he might have waited another 30 days before requesting an ADHD assessment and so the two-year clause would have expired.
- He didn't receive a key facts document.

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.

I am very sorry to hear of the difficult circumstances Mr H and his family are in. I would like to assure Mr H that I have carefully considered everything he has said in detail, even if I don't explicitly refer to it in my decision. This is because in my decision I will focus on what is key to my outcome. This isn't meant as a discourtesy to Mr H but rather reflects the informal nature of the Financial Ombudsman Service.

- The relevant rules and industry guidelines say an insurer should handle claims promptly and fairly. And shouldn't unreasonably reject a claim.
- The background to this matter is well known to both parties so I won't repeat all the facts here and will instead summarise the key facts where relevant.
- The policy confirms: "You can ask us to review this exclusion two years after your policy start date. If at that time you've suffered no further symptoms and required no further treatment then we can remove this exclusion."
- Mr H says the exclusion should have been removed automatically but the policy is clear that Mr H needs to request a review. LV did review the exclusion in any event and found that Mr H had visited his GP and had requested a formal ADHD assessment a month before the expiry of the two-year period. Mr H says he did this based on an online assessment in which he entered his symptoms but this was informal and relating to his job. He was never diagnosed.
- As Mr H reported he had entered symptoms into an online tool, it isn't unreasonable for LV to conclude that Mr H had suffered from symptoms within the two-year period. It doesn't matter whether the symptoms occurred towards the end of the two years. As long as they were within the two-year period, LV correctly declined the claim and didn't agree to remove the exclusion.
- Mr H doesn't need to have a diagnosis of a mental health condition for the exclusion to remain. Symptoms alone are sufficient for the exclusion to remain, as per the policy terms and conditions.
- Mr H has raised other concerns about a letter LV sent to him which confirmed he was covered for mental health conditions. Mr H hasn't been able to access the letter and LV doesn't have a copy. As I haven't seen the letter, I can't attach much weight to it. But even if he had received a generic letter confirming mental health conditions were covered, his specific policy documents confirm the exclusion for mental health related claims. And so I am satisfied LV has acted reasonably.
- Mr H says if he hadn't received a letter confirming he was covered for mental health conditions, he might have waited until the two years was up before requesting the ADHD assessment. And the exclusion would then have been removed. But as he had already completed the online tool at the point he requested the assessment, he still would have suffered symptoms within the two years. And so the exclusion would have remained based on the date of symptoms rather than the date he requested the assessment.
- Mr H says the application of the exclusion is discriminatory. I haven't seen any evidence that Mr H has been discriminated against as the questions on the application form apply to all customers and the same exclusion would be applied to

another customer in the same situation as Mr H. Insurers can apply exclusions relating to certain health conditions and can decide the level of risk they are prepared to take.

- Mr H is unhappy about how LV dealt with his subject access request, but LV has confirmed he will need to refer that matter to the Information Commissioner's Office which is the relevant body for such complaints.
- Mr H has also recently provided further comments to say that LV failed to provide him with a key facts document. This isn't something which has been investigated as part of this complaint. But I don't think it's material to the outcome as the crux of Mr H's complaint related to the mental health exclusion which he was aware of from the outset.
- Overall, whilst I am sorry to disappoint Mr H, I don't think LV has acted unfairly. So I won't be asking it to do anything further.

### **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 H to accept or reject my decision before 24 April 2024.

Shamaila Hussain  
**Ombudsman**