

## **The complaint**

Mrs N complains Unum Limited unfairly declined her claim when she was too unwell to work.

## **What happened**

Mrs N works as a client manager in financial services and is a beneficiary of her employer's group income protection policy, which is underwritten by Unum. The policy is designed to pay a benefit in the event of incapacity due to illness or injury, after a deferred period of 26 weeks.

The policy defines incapacity as follows:

“The member is incapacitated if Unum is satisfied that the member is:

- (a) unable, by reason of their illness or injury, to perform the material and substantial duties of the insured occupation, and is
- (b) not performing any occupation[...]

Mrs N became absent from work in February 2023. Initially this was due to a flu-like illness, however at the next appointment with her GP, Mrs N reported she was very stressed and struggling to sleep due to fearing for the welfare of her family members abroad. And she was finding work difficult, especially in relation to dealing with particular clients. The details of the events impacting Mrs N's family members are well known to both parties, so I won't go into further detail here.

In March 2022, the GP deemed Mrs N unfit for work for two weeks, stating “stress related problem”. They prescribed medication for Mrs N to take at night to help her sleep and information for her to self-refer for talking therapy. Towards the end of March, the GP issued a further fit note up until mid-April and noted Mrs N had requested this due to feeling anxious for her family abroad.

In mid-April Mrs N was signed off work for a further month by the GP and the condition noted was anxiety / anxiety disorder. Mrs N had reported feeling stressed and unable to sleep due to the situation with her family.

During May Mrs N continued to report to the GP her concerns about her family abroad. She also referred to her mother's ill health. The records reflect Mrs N had not taken the medication previously prescribed as she had concerns about its effects, but it was agreed with the GP she would start taking this. And she was still waiting to start talking therapy sessions.

The GP continued to sign Mrs N off work between June and August 2022 due to anxiety. And in early July 2022 the GP is noted to have asked Mrs N “...as you have been able to go to your workplace due to the current situation, did you think about alternative like to change your job or speak to your manager whether to move you on different site etc.”

In June 2022, Mrs N's employer arranged an occupational health consultation to assess her ability to return to work. The report stated Mrs N was "generally fit and well" and said the situation affecting her family abroad had resulted in her developing anxiety symptoms. The outcome of the review was that Mrs N was unfit for work at that time due to her symptoms, and talking therapy was recommended. A further consultation took place in July 2022, and noted no improvement in Mrs N's symptoms.

Mrs N and her employer submitted a claim to Unum. Within her claim form, Mrs N stated her illness to be "panic attacks and anxiety as I am extremely worried about my father and my family". She said she had been diagnosed with anxiety disorder, prescribed a sleeping tablet and referred for talking therapy. And she stated her symptoms impacted her at work due to being unable to control her emotions and feeling this could prevent her from acting in a professional way with particular clients.

Unum declined the income protection claim in March 2023. It said it thought Mrs N had been absent from work due to stress and anxiety related to her family's situation and said there wasn't evidence of an abnormal mental state, or that her symptoms had developed into a significant mental health condition.

Mrs N complained to Unum. She said she didn't think her claim had been assessed fairly, and said Unum's decision letter contained factual errors about her medication and mental state.

Unum responded to the complaint. It said it has reviewed the claim again, and still thought Mrs N had not met the policy terms of incapacity throughout the 26 week deferred period.

Unhappy with the response, Mrs N brought her complaint to this service.

An investigator here looked into what had happened and said they didn't think Unum had declined the claim unfairly.

Unum accepted the investigator's view. However Mrs N disagreed. In summary she said she had been certified as unfit for work by her GP and thought it unfair to expect her to provide evidence beyond this. She also had concerns over the consideration given to the opinion of Unum's doctor.

So, the case has been passed to me to decide.

### **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.

And I've looked at the relevant rules and industry guidelines, which say Unum has a responsibility to handle claims promptly and fairly and shouldn't reject a claim unreasonably.

Firstly, I'm very sorry to hear about what Mrs N and her family members have been going through. And I should clarify that my assessment here is not based on whether or not Mrs N has been unwell. Rather, I've looked at whether I think the evidence sufficiently supports that she met the policy definition of incapacity, for the duration of the deferred period.

To make a successful claim against the policy, Mrs N needed to demonstrate that she was unable to perform the material and substantial duties of her occupation, throughout the deferred period, due to illness or injury. Having reviewed the available medical evidence, I don't think Mrs N's claim has been unfairly declined. And I'll explain why.

- Mrs N was deemed unfit for work by her GP throughout the deferred period. However I'm not persuaded the GP's opinion alone sufficiently demonstrates Mrs N met the policy definition of incapacity. This is because the threshold criteria for a GP to assess fitness for work is not the same as the incapacity definition set out in the policy. And the majority of the commentary about symptoms recorded by the GP, is based on Mrs N's self-reporting.
- The GP records, occupational health report and Mrs N's statements in her claim form, all include references to her stress and anxiety symptoms being due to the situation facing her family members abroad, and her concerns that she would be unable to act in a professional way at work with particular clients due to this. In particular, in July 2022 the GP questioned Mrs N about whether she had asked her employer for a change of role.

I'm satisfied this demonstrates Mrs N's symptoms were a reaction to her circumstances at the time. And while I note she was prescribed a medication to help with sleep and was referred to talking therapy, I've not seen persuasive medical evidence that her symptoms were caused by a significant mental health condition. I'm aware symptoms of stress and anxiety can progress into more serious mental health conditions, but the evidence doesn't persuade me that was the case here.

- I've noted Unum's letter declining the claim stated Mrs N was being managed without medication. Her medical records shows she was prescribed Mirtazapine to help with sleep. However I don't think this means Unum assessed the claim unfairly. Mrs N wasn't prescribed any anti-depressants or other medication to treat a mental health condition. So although I accept Mrs N was prescribed a medication, I'm still not persuaded she was suffering with a significantly impairing mental health condition, which prevented her from carrying out her job role.
- Mrs N has highlighted an entry on her medical records from September 2022 when she was noted to have presented with a more significant mental state and was booked an appointment with a mental health nurse to discuss psychological therapies. However this occurred after the 26 week deferred period had ended in August 2022, which is the period of time Unum was required to assess. And I note Mrs N has said she returned to work the following month, in October 2022.

Mrs N has raised concerns that a doctor used by the insurer would not be impartial. However it's common, and I think reasonable, for an insurer to rely on the advice of a medical professional to assess medical evidence presented in support of a claim. And as I've said, having reviewed the medical evidence myself, I'm satisfied the claim was fairly declined.

### **My final decision**

For the reasons I've given, it's my final decision that I do not uphold this complaint. And I make no award against Unum Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs N to accept or reject my decision before 27 September 2024.

Gemma Warner  
**Ombudsman**