

The complaint

Mr J is unhappy with Unum Limited's decision to decline his income protection claim.

What happened

Mr J had income protection insurance with Unum provided by his previous employer. On 29 September 2023, he became too unwell to work. Mr J suffered with symptoms of depression, pancreatic insufficiency, irritable bowel syndrome (IBS) and possible inflammatory bowel disease (IBD). Mr J was employed as a Lead Engineer, however, he was made redundant in March 2024. He submitted a claim to Unum in February 2024, however, it was declined. The deferred period was 12-weeks – 29 September – 29 December 2023).

Mr J said Unum failed to consider all the medical evidence he provided. He also said his symptoms of depression have been long-standing and that each of the illnesses he's suffered are intrinsically linked, meaning they each impact one another. Mr J described the difficulties he's experienced, particularly with his wife's breast cancer diagnosis in December 2023. Mr J accepted he suffered with life-related stresses, however, said that Unum had unfairly focused on that to decline his claim.

Unum said it declined Mr J's claim because there wasn't enough medical evidence to persuasively conclude that he was incapacitated, as described by its policy. It noted Mr J had suffered with depression historically, however that it was well managed. It also said the medical evidence showed his symptoms had improved during the deferred period and so maintained its declination.

Our investigator agreed with Unum's assessment. She explained that although she was persuaded Mr J suffered with the medical conditions listed above, there wasn't enough medical evidence to show he was incapacitated and therefore unable to work in some capacity. She also said there was evidence to suggest Mr J was experiencing stress at work, given his employer's ownership had changed and the new ownership were considering redundancies. Our investigator subsequently noted there was more persuasive evidence that demonstrated a worsening in Mr J's condition, however, that this was after the deferred period and therefore was less persuasive in the circumstances.

Mr J, unhappy with our investigator's opinion, asked for an ombudsman to consider his complaint. In addition to the above arguments, Mr J said the life stressors weren't the sole reason for his absence. He also explained that he wasn't affected by redundancies until March 2024 and said the GP had made an error by capturing that in his notes.

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've decided not to uphold it and for the same reasons explained by our investigator. I should start by saying that I'm not disputing that Mr J suffered with the illnesses he's described. I also understand that he's experienced a tough time throughout

the period in question, but that doesn't automatically mean he was incapacitated. Mr J had to demonstrate he was incapacitated as described by Unum's policy terms. But I'm satisfied the medical evidence during the deferred period doesn't show Mr J's symptoms incapacitated him as described by the policy. I'll explain why.

The relevant rule that applies in this case is from the insurance code of business sourcebook (ICOBS). This says Unum must handle claims promptly and fairly and must not unreasonably reject, or avoid a claim.

Incapacity is defined in the policy terms as –

*“A member is incapacitated if we are satisfied that they are:
Unable, by reason of their illness or injury, to perform the material and substantial duties of the insured occupation, and are not performing any occupation”*

Mr J was able to work from home, meaning his symptoms of IBS and IBD could be relieved with regular breaks. I've also seen that he was prescribed medication to help manage those symptoms. Having considered the specialist's comments about this, I'm satisfied Mr J reported improvements before and during the deferred period. I should also say that none of the medical reports explain why Mr J wouldn't be able to work with those symptoms. And given what I've explained about Mr J's ability to work from home, the increased toilet frequency could be sufficiently met. I note there were some difficulties with the medication Mr J was initially prescribed to manage his on-going condition, however, adjustments were made under the care of his specialist, and I'm satisfied these were resolved.

Mr J's provided evidence about the effects of prednisolone to further support his incapacity, however, I note this is generic information and not specific to Mr J and his experience. I'm not disputing the difficulties Mr J's described, but in order for his testimony to be more persuasive, I'd have expected it to be supported and further explained by his treating specialist, however, there wasn't any medical testimony from that specialist to further rationalise Mr J's incapacity and his inability to work for those reasons.

Mr J's poor mental health was perhaps less definitive because the medical evidence shows that this has continued to decline. I say that because I've seen subsequent evidence from Mr J's GP which showed progression of his symptoms. However, I note this was after the deferred period at the end of December 2023, which our investigator explained couldn't be considered as part of this complaint. I should say that our investigator was correct when she explained that. Mr J's deferred period is 12-weeks and so he needed to demonstrate his incapacity during that time. And so, I've considered the available medical evidence at that time, and I'm satisfied Unum has assessed that fairly prior to declining his claim.

I say that because the GP's notes indicated Mr J's symptoms of depression remained stable during that period. Mr J was prescribed medication, and that remained consistent throughout that period. That's to say there was no increase in its strength, although I note this was offered by the GP in December 2023 and declined by Mr J. Other than the FIT notes issued by the GP, I've not seen any persuasive medical evidence which satisfactorily explained why Mr J was unable to work because of his poor mental health. I saw that Mr J visited the GP towards the end of October, and it was noted that the prescribed medication was having a good effect.

There's also nothing to suggest there was a mental disorder or evidence of a persistent or persuasive functional impairment that would prevent Mr J working. I note Mr J's self-reported symptoms and his testimony about his impaired decision-making, but that wasn't further explained or supported by medical evidence.

I should say that being prescribed anti-depressant medication doesn't sufficiently explain why Mr J was unable to work due to incapacity. And so, I also find that argument unpersuasive in the circumstances.

Unum highlighted that Mr J's poor mental health was triggered by the possibility of redundancy from his employer, a statement that Mr J vehemently denies. I understand the connection Unum is making here because life-stressors aren't considered a medical condition. Unum's suggested Mr J's stresses in life are perhaps the reason for his absence from work, which of course, aren't covered by the policy. Our investigator said there was evidence to support that and referred to Mr J's medical notes from the GP. Mr J's made subsequent arguments about that and said this was an error by the GP. I've carefully considered that, and his supplementary evidence – a letter from his previous employer which states Mr J wasn't considered for redundancy until March 2024.

To be clear, I'm satisfied the letter Mr J provided shows he wasn't considered for redundancy until then. However, I'm less persuaded it supports Mr J's testimony that the GP made a mistake. I say that because the GP's notes are clear that Mr J was concerned about redundancy potentially affecting him when he visited on 29 September. He explained he'd already survived two rounds of redundancy considerations. The letter provided simply says he wasn't considered until March 2024, it doesn't support that this wasn't something Mr J was concerned about prior to that. I think it's reasonable to conclude this was a worry for him, given the employer had already sanctioned two rounds of redundancies previously.

Further, I note Mr J was asked to provide a letter from the GP to acknowledge the error and provide further explanation, but he declined to do that.

So, having carefully considered Mr J's complaint, I'm satisfied Unum declined his claim fairly because it relied on the available evidence to do that. The medical evidence doesn't support Mr J's claim as it doesn't show he was incapacitated for the entirety of the deferred period.

My final decision

For the reasons I've explained, I don't uphold Mr J's case because the medical evidence doesn't support his incapacity claim.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 11 January 2025.

Scott Slade
Ombudsman