

Case 20 – Compensation Award

Life Policy – Policy cancelled by insurer in accordance with master policy. No cancellation clause in summary provided to members

Background

1. Liberty Life issued a policy to the Z_____ Plan on a group scheme basis with effect from 1 June 2009. Members were insured for life cover.
2. Premiums were increased by 100% with effect from 1 September 2011 and 1 November 2012 in an attempt to keep the policy actuarially sound. The reason for the increases was poor claims experiences.
3. The scheme deteriorated further and the policy between Z_____ and Liberty Life was subsequently cancelled with effect from 31 May 2013.
4. The cancellation was done in terms of Rule 8.1.2 of the Master Policy which stated:

*“8. TERMINATION
8.1 Termination of Policy
This Policy will be terminated upon the happening on any one of the following events:
...
8.1.2 If Capital Alliance give 1 calendar month’s notice to the Member via the Intermediary...”*
5. One month notice was given.
6. Z_____ negotiated a new policy with another insurer for those members where the life insured and premium payer was the same person.
7. In cases where the life insured and premium payer differed, members were left without cover.
8. We received complaints from these members.
9. Liberty Life offered alternative cover to these members, waived waiting periods and agreed to stay on risk until the end of June 2013 while negotiating alternate cover with the complainants.
10. The summary of the policy which was provided to the members did not contain a cancellation clause.
11. The summary did not contain a clause highlighting the existence of a master policy and the fact that the master policy was the contractual document which applied.
12. The complainants questioned Liberty Life’s entitlement to cancel the policy, in view of the absence of a cancellation clause in the summary.
13. We upheld Liberty Life’s right to cancel in terms of the wording of the Master Policy. Liberty Life was requested to consider a payment of R2000 per complainant for compensation due to the fact that the complainants had been inconvenienced and distressed by the cancellation of the policy in the absence of clear wording regarding its right to do so in the summary.

14. The insurer declined to consider and pay compensation for the reasons that it had been within its right to cancel in terms of the policy; had provided sufficient notice to the members for them to obtain alternative cover; had offered alternative cover; had offered to waive waiting periods and had agreed to remain on risk until 1 July 2013.

Provisional determination

15. The matter was discussed at an adjudicator meeting. The office made a provisional determination on the following basis:

- The summary contained no cancellation clause.
- The summary mentioned the existence of a Master Policy in a sub-clause applicable to Waiting Periods but did not contain a specific clause that confirmed that the Master Policy prevailed in the event of a dispute and/or discrepancy between the Master Policy and the summary.
- Had the summary been clear, it would have alerted the members to the fact that there were further terms and conditions applicable to the policy and that the insurer could cancel the policy.
- Whilst Z_____ arranged cover with a different underwriter, this was only available to members where the main member and premium payer was the same person.
- Whilst Liberty Life offered alternative cover, the alternative cover was not the same as that which had previously been enjoyed under Z_____.
- It was clear, in our opinion, that the complainants in question had been inconvenienced and were distressed in that they were left without cover based on a clause of which they were unaware at application stage and even up to the time of cancellation.

16. For the above reasons, the meeting unanimously agreed that a compensatory award of R2000 be made to each complainant.

17. Liberty Life disputed the provisional determination. It argued that:

- It had provided sufficient notification to the members that the policy was to be cancelled.
- It had given notice of its intentions to the Financial Services Board.
- That Z_____ was responsible for the advice provided to the members.
- That in the spirit of Treating Customers Fairly, it could no longer increase the premiums to cater for the claims experience as this would have made the policy to be of poor value to the members.
- That various alternatives of cover were made available.

- Where members were not eligible for the alternative cover offered, representatives were made available to them to assist in finding alternative cover.
- That cover was extended until the end of June 2013.
- That the summary implied that Liberty Life could cancel the policy by virtue of the fact that Z_____ reserved the right to change the underwriters of the risk at any time.
- That the cancellation of the policy was in the best interests of the members as, had the policy continued, they would have suffered unjust hardship from the continued increase in premiums.

Final Determination

18. The matter was again discussed at an adjudicator meeting.

19. The meeting upheld the provisional determination for the following reasons:

- It was accepted that notice of the cancellation had been given to the members and the Financial Services Board. The notice of the cancellation was, however, not relevant when the issue at hand was the poor wording of the summary.
- That whilst Z_____ was responsible for the advice provided, Liberty Life ought to have drafted the summary clearly.
- That in fairness, the members, at application stage, should have been made aware of the possibility that the scheme could be cancelled in order for them to make an informed decision when contracting.
- That the alternative cover options offered by Liberty Life were not the same as those under Z_____.
- That whilst representatives were made available to assist with finding alternative cover, this in itself was an inconvenience to the members as it required action not anticipated or advised at application stage.
- That Z_____’s right to change underwriters, which was mentioned in the summary, did not imply that Liberty Life could cancel the scheme.
- That the cancellation of the scheme had caused unjust hardship as the members had been inconvenienced and distressed by the loss of cover based on a clause of which they were unaware and which in turn necessitated seeking alternative cover.

20. Liberty Life was instructed to pay each complainant a compensatory amount of R2000 within 30 days.

Result

21. The insurer agreed to the payment of R2000 compensation per complainant.