

Case 32 – Disability – temporary benefit

Background

1. The complainant claimed under a disability income benefit for a period when she was unable to work:
 - Firstly, as a result of a back injury sustained on duty when she fell while pregnant;
 - and thereafter she suffered from major depression. Her psychiatrist booked her off work until end of September 2016. She resumed her duties in October 2016.
2. The policy had a 6 month waiting period which applied prior to a benefit becoming payable.
3. The insurer regarded the complainant's last day of work as 1 February 2016. It had been recommended by a health assessment service that Alexander Forbes should consider approving the benefit from the expiry of the waiting period until 30 September 2016.
4. The claim was initially declined on the following grounds:

The merits of the information submitted have been considered, and we regret to inform you that Alexander Forbes Life has declined the claim for disability benefits for the following reasons:

- The member sustained an injury on 04 December 2014. Information received from the company confirmed that the member was on and off work since the injury. This information concurs with the medical information submitted. Alexander Forbes Life was notified of the potential claim for disability benefits on 04 March 2016. The late notification clause is therefore applicable.
 - The medical information at hand indicates that the injury sustained did not result in a serious medical condition warranting disability benefits. There is therefore no objective evidence to indicate that the claimant is totally unable from performing the duties of her own occupation according to the policy definition of disability.
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5. The matter was discussed at an adjudicator meeting and a recommendation was done that the insurer pay for August and September 2016 in respect of major depression.
 6. Alexander Forbes disagreed with our recommendation on the basis that the complainant had not been disabled as defined.

Provisional determination

7. A provisional determination was done after an adjudicator meeting stating *inter alia* the following:

"We recognise your opinion that the policy in question is not a sickness or sick-leave policy, but rather occupational disability policy. However, it cannot be denied that the complainant was booked off, could not perform her normal duties, and therefore experienced occupational disability,

although for a limited period only.

We fail to see why you would be of the opinion that there was no medical evidence in support of her claim while her psychiatrist diagnosed major depressive disorder, irrespective of the cause thereof.

In an adjudicators' meeting, presided over by Judge McLaren, a provisional ruling was made that a disability income benefit be paid to the complainant for the period August 2016 and September 2016."

8. After that the insurer responded in respect of the depression claim as follows:

"Her depression was described as severe and that she has had suicidal ideation. We do understand the Ombudsman view that there were reports from her doctor booking her off until end of September, but given that the original and primary complaint and claim was a back problem, there is nothing supporting the claim original claim. Should the Ombudsman's view be that AF Life consider the case on depression (given the provisional finding), please note that the Complainant's waiting period expires 31 August 2016. We therefore would only be liable for September 2016.

The impression is that there was incapacity outside the waiting period for 1 month only and therefore we may be liable for 1 month of a benefit.

We look forward to receiving the final determination and resolving this matter."

Final determination

The waiting period commenced on 1 February 2016 and according to Alexander Forbes, lasted for 6 months. It therefore ends on 1 August 2016. This was previously stipulated in a letter by Alexander Forbes dated 4 January 2017. The benefit is therefore payable for August and September 2016 for the reasons previously mentioned in our provisional determination. This is our final determination.

Outcome

Alexander Forbes thereafter agreed to pay the benefit for the 2 months.