

Claim for Disability Income Benefits— should a consultation during 2005 have been disclosed, and was it material to the risk.

BACKGROUND

On 25 May 2008 the complainant applied for a policy which offered *inter alia* Disability Income Benefits and which commenced on 1 July 2008. During February 2010 she submitted a claim for the Disability Income Benefits. In the claim form she stated that she had been suffering from depression since the middle of November 2009, and that she had consulted a psychologist and a psychiatrist during January 2010 after attempting suicide.

During the course of its investigation into the validity of the claim, the insurer became aware that the policyholder had consulted a psychologist in 2005, and the psychologist mentioned in a report that the policyholder had “*shown symptoms of depression over the years*”. Neither these symptoms nor the consultation had been disclosed on the complainant’s application form of 25 May 2008. The complainant’s claim was repudiated by the insurer, who advised her that the policy would be re-issued with a mental health exclusion.

The policyholder then lodged a complaint with our office. Included in the complaint was a further report from the psychologist in which the psychologist stated that it had only been for marital problems that the complainant, accompanied by her husband, had consulted her in 2005, and added that while the policyholder had displayed symptoms of depression at that stage, they were not serious enough for a formal diagnosis of a Major Depression

Episode to be made. The psychologist explained that at the time he had therefore merely recommended that the complainant should contact her GP with a view to obtaining medication, which the policyholder did not do.

DISCUSSION

The insurer was requested to re-consider its decision in the light of the further report, but declined to alter its position.

The matter was then discussed at adjudicators' meeting. The opinion of the meeting was that there had not been a material non-disclosure.

The first relevant question in the application form was framed:

“Do you have, or have you ever had, trouble with or disorders of:

4.5 Your nervous system (e.g. concussion, paralysis, fits, blackouts, depression, anxiety, persistent headaches)?”

It was for marital problems that the complainant together with her husband had consulted the psychologist in 2005, and the meeting's view was that marital problems do not amount to a problem or a disorder of the nervous system. There had furthermore been no diagnosis of depression.

The second question was:

“4.10 Have you sought medical advice during the past five years in connection with any symptom or condition, or been a patient in a hospital or nursing home or undergone any medical examination (including ECG, X-ray examination or specialised laboratory test) not mentioned above?”

This question related to the seeking of **medical** advice for a symptom or a condition, and in the meeting's view a consultation with a psychologist for marital problems did not fall within the ambit of the question.

CONCLUSION

The insurer was informed that it was our opinion that the claim should be assessed on its merits, and that the policy should be reinstated with no exclusion relating to mental health. This the insurer agreed to do, and the claim was subsequently paid.

DSM
March 2011