An tOmbudsman Seirbhísí Airgeadais agus Pinsean
Financial Services and Pensions Ombudsman

Decision Ref:	2020-0442
Sector:	Insurance
Product / Service:	Critical & Serious Illness
Conduct(s) complained of:	Rejection of claim
Outcome:	Rejected

LEGALLY BINDING DECISION OF THE FINANCIAL SERVICES AND PENSIONS OMBUDSMAN

The Complainant became a member of a Life Assurance and Critical Illness Insurance group policy on **6 June 2017**, by way of her at that time becoming a member of a named Trade Union, the policyholder. The Provider is the underwriter, responsible for assessing claims.

The Complainant's Case

The Complainant's husband died suddenly in **[month redacted] 2017**. The Complainant later completed a Life Assurance Claim Form to the Provider on **9 July 2018**, however the Provider declined this death benefit claim as the death of her husband had occurred before she had accrued six months continuous membership of the Trade Union and in this regard, the terms and conditions of the Life Assurance and Critical Illness Insurance group policy expressly excludes cover for those members who have not yet accrued membership of the Trade Union for a continuous period of 6 months.

In this regard, in her letter to this Office dated **30 March 2019**, the Complainant sets out her complaint, as follows:

> *"I have made a claim under* [the Trade Union's] *Life and Critical Illness policy and they tell me I am not covered. My poor husband died suddenly in [month redacted] 2017,* [he] *was a very healthy [details redacted] man who took great care of himself and had a full check-up in June 2017. He wasn't ill and no way would one expect him to pass so suddenly.*

I am left with [number redacted] children on a widow's pension. I work [number redacted] weeks a year as a part-time [redacted]. I cannot work full time with the children as childcare is so costly. We did not have any insurance policies.

I suppose we never thought we were going to die. As we were not high earners, it was hard to make all ends meet, but I joined [the Trade Union] *in June 2017, and have been a member since and hope to remain until I retire.*

I submitted the claim after a year of [my husband's] *passing as it says when you become a member* [of the Trade Union] *you are automatically entitled to claim…*[My husband] *wasn't ill and I can get details from his GP that he was not ill. I would understand* [the claim declinature] *if he was ill or health problems when I took out the policy. I feel this is so unfair".*

The Complainant seeks for the Provider to admit her death benefit claim in respect of her late husband, in the amount of €5,000.

The Provider's Case

Provider records indicate that the Complainant became a member of a Life Assurance and Critical Illness Insurance group policy on **6 June 2017**, when she became a member of a named Trade Union, the policyholder.

The Complainant completed a Life Assurance Claim Form to the Provider on 9 July 2018 relating to the death of her husband the previous year, in [month redacted] 2017.

The Provider says that the Life Assurance and Critical Illness Insurance group policy provides a death benefit in the event of the death of a member, or his or her spouse, but as is customary for policies of this type, there is a minimum period of 6 months for which the member must hold membership, before being eligible to claim, in accordance with the terms and conditions of cover. In this regard, these policy terms and conditions were agreed with the Trade Union, the policyholder, when it arranged this cover for its members and the Provider notes that it is also the Trade Union that is responsible for providing details of the policy terms to its members.

The Provider notes that the determination of cover is based on when the event giving rise to a claim occurs and not based on when a claim is actually made. As the Complainant's husband died within her first six months of membership, the Provider notes that the Complainant was not eligible to claim in respect of that event as there is a minimum period of 6 months during which the member must hold membership, before being eligible to claim, in accordance with the terms and conditions of the policy.

Accordingly, the Provider says that it is satisfied that it declined the Complainant's death benefit claim in respect of her late husband in accordance with the terms and conditions of the Life Assurance and Critical Illness Insurance group policy that she is a member of.

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The Complaint for Adjudication

The complaint is that the Provider wrongly or unfairly declined the Complainant's death benefit claim in respect of her late husband.

Decision

During the investigation of this complaint by this Office, the Provider was requested to supply its written response to the complaint and to supply all relevant documents and information. The Provider responded in writing to the complaint and supplied a number of items in evidence. The Complainant was given the opportunity to see the Provider's response and the evidence supplied by the Provider. A full exchange of documentation and evidence took place between the parties.

In arriving at my Legally Binding Decision I have carefully considered the evidence and submissions put forward by the parties to the complaint. Having reviewed and considered the submissions made by the parties to this complaint, I am satisfied that the submissions and evidence furnished did not disclose a conflict of fact such as would require the holding of an Oral Hearing to resolve any such conflict. I am also satisfied that the submissions and evidence furnished were sufficient to enable a Legally Binding Decision to be made in this complaint without the necessity for holding an Oral Hearing.

A Preliminary Decision was issued to the parties on **16 September 2020**, outlining the preliminary determination of this office in relation to the complaint. The parties were advised on that date, that certain limited submissions could then be made within a period of 15 working days, and in the absence of such submissions from either or both of the parties, within that period, a Legally Binding Decision would be issued to the parties, on the same terms as the Preliminary Decision, in order to conclude the matter.

Following the consideration of an additional submission from the Complainant, the final determination of this office is set out below.

The Complainant became a member of a Life Assurance and Critical Illness Insurance group policy on **6 June 2017**, on becoming a member of a named Trade Union, the policyholder. The Provider is the underwriter, responsible for assessing claims. Sadly, the Complainant's husband died suddenly in [month redacted] **2017**, some two months after she became a policy member. She later submitted a Life Assurance Claim Form to the Provider on **9 July 2018**, however the Provider declined this death benefit claim as the death of her husband had occurred before she had accrued six months continuous membership of the Trade Union.

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In this regard, like all insurance policies, the Life Assurance and Critical Illness Insurance group policy that the Complainant is a member of, does not provide cover for all eventualities. Instead the cover is subject to the terms, conditions, endorsements and exclusions set out in the policy documentation.

I note that the terms and conditions of the applicable Term Life Assurance and Critical Illness Insurance Policy Certificate provides, amongst other things, at pg. 3, as follows:

> *"The Underwriter will pay the sum mentioned in the schedule to a Member after production of satisfactory proof, as determined by the Underwriter, of:*
>
> *i. the happening of the event stated in the schedule and*
> *ii. the age of the Assured Person*
>
> ***Provided always that** this policy is subject to conditions and exclusions set out below and those, if any, endorsements by the Underwriter herein …*
>
> ***Eligibility***
>
> *All Members of* [the Trade Union] *who are under the ceasing age and **have been a member for a continuous period of 6 months.***
>
> *Spouses of Members of* [the Trade Union] *who are under the ceasing age. **Members must have been a member for a continuous period of 6 months.**"*
>
> [my emphasis]

I note that the Complainant became a member of the Life Assurance and Critical Illness Insurance group policy on **6 June 2017.** Sadly, only a few weeks later in [month redacted] **2017** her late husband died. In this regard.

I note that the Complainant's insurance claim fell for assessment from the date of loss, in this instance the date when the Complainant's late husband sadly died in [month redacted] 2017, and not from the date that the claim was eventually submitted to the Provider. As her late husband died before the Complainant had accrued six months' continuous membership of the Trade Union, I am satisfied that the Provider was entitled to decline her death benefit claim in respect of her late husband, in accordance with the terms and conditions of the Life Assurance and Critical Illness Insurance group policy, that she is a member of.

The Complainant, in a recent submission has stated:

> " … if he had [been] ill and 1 had joined [the Trade Union] for this wrong reason that this is the reason you must be 6 month a member, this is something wrong and 1 would never have done, I am a honest person, so please understand how sad 1 am and I feel under the circumstances that with the sudden death of [Complainant's husband's name] that this would be considered…"

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It is important to note that there is no suggestion whatsoever, that the Complainant was not entirely honest in making her claim for a benefit payment under the policy.

I can appreciate the Complainant's very difficult circumstances, living on limited means and faced with the financial responsibility for the whole family. Notwithstanding the Complainant's very difficult situation, I must accept that the Provider was entitled to decline her claim for the reasons outlined above.

As a result, I take the view that there is no reasonable basis upon which it would be appropriate to uphold this complaint that the Provider acted wrongly or unfairly when it declined the Complainant's death benefit claim, in respect of her late husband.

Conclusion

My Decision pursuant to ***Section 60(1)*** of the ***Financial Services and Pensions Ombudsman Act 2017***, is that this complaint is rejected.

The above Decision is legally binding on the parties, subject only to an appeal to the High Court not later than 35 days after the date of notification of this Decision.

MARYROSE MCGOVERN
DEPUTY FINANCIAL SERVICES AND PENSIONS OMBUDSMAN

4 December 2020

Pursuant to *Section 62* of the *Financial Services and Pensions Ombudsman Act 2017*, the Financial Services and Pensions Ombudsman will publish legally binding decisions in relation to complaints concerning financial service providers in such a manner that—

(a) ensures that—
  (i) a complainant shall not be identified by name, address or otherwise,
  (ii) a provider shall not be identified by name or address,
  and
(b) ensures compliance with the Data Protection Regulation and the Data Protection Act 2018.