

Date: 9/8/22

Virtual Meeting

MARKET CONDUCT ANNUAL STATEMENT BLANKS (D) WORKING GROUP

Thursday, September 15, 2022

12:00 p.m. – 1:00 p.m. ET / 11:00 a.m. – 12:00 p.m. CT / 10:00 – 11:00 a.m. MT / 9:00 – 10:00 a.m. PT

ROLL CALL

Erica Weyhenmeyer, Chair	Illinois	Martin Swanson	Nebraska
Rebecca Rebholz, Vice Chair	Wisconsin	Hermoliva Abejar	Nevada
Maria Ailor	Arizona	Leatrice Geckler	New Mexico
Crystal Phelps/Teri Ann Mecca	Arkansas	Guy Self	Ohio
Scott Woods	Florida	Gary Jones/August Hall/ Jeffrey Arnold	Pennsylvania
Paula Shamburger/ Elizabeth Nunes	Georgia	Rachel Moore	South Carolina
LeAnn Crow	Kansas	Larry D. Deiter/Candy Holbrook	South Dakota
Lori Cunningham	Kentucky	Shelli Isiminger	Tennessee
Dawna Kokosinski	Maryland	Shelley Wiseman	Utah
Mary Lou Moran	Massachusetts	Melissa Gerachis/Will Felvey	Virginia
Jill Anne Huisken	Michigan	John Haworth/Jason Carr	Washington
Paul Hanson	Minnesota	Letha Tate	West Virginia
Jennifer Hopper/Teresa Kroll	Missouri		

NAIC Support Staff: Teresa Cooper/Hal Marsh

AGENDA

1. Consider Adoption of its Aug. 24 Minutes—*Erica Weyhenmeyer (IL)* Attachment 1
2. Consider the Travel Data Element Addition Proposed by the Market Analysis Procedures (D) Working Group—*Erica Weyhenmeyer (IL)* Attachment 2
3. Discuss Formation of a Subject Matter Expert (SME) Group to Create the Pet Market Conduct Annual Statement (MCAS) Data Call and Definitions—*Erica Weyhenmeyer (IL)*
4. Review the Process for Submitting Requests for Edits to the MCAS Data Call and Definitions—*Erica Weyhenmeyer (IL)*
5. Discuss Any Other Matters Brought Before the Working Group—*Erica Weyhenmeyer (IL)*
6. Adjournment

Draft: 9/14/22

Market Conduct Annual Statement Blanks (D) Working Group
Virtual Meeting
August 24, 2022

The Market Conduct Annual Statement Blanks (D) Working Group of the Market Regulation and Consumer Affairs (D) Committee met Aug. 24, 2022. The following Working Group members participated: Erica Weyhenmeyer, Chair (IL); Rebecca Rebholz, Vice Chair (WI); Teri Ann Mecca (AR); Maria Ailor (AZ); Scott Woods (FL); Paula Shamburger (GA); Shannon Hohl (ID); Shannon Lloyd (KS); Lori Cunningham (KY); Mary Lou Moran (MA); Dawna Kokosinski (MD); Jeff Hayden (MI); Jennifer Hopper and Jo LeDuc (MO); Martin Swanson (NE); Hermoliva Abejar (NV); Guy Self (OH); Jeffrey Arnold (PA); Glynda Daniels and Rachel Moore (SC); Tony Dorschner (SD); Shelli Isiminger (TN); Shelley Wiseman (UT); Melissa Gerachis (VA); Jason Carr and John Haworth (WA); and Letha Tate (WV). Also participating was: Tracy Garceau (CO).

1. Adopted its July 21 Minutes

The Working Group met July 21 and took the following action: 1) adopted its May 26 minutes; 2) heard a presentation from Samantha Burns (America's Health Insurance Plans—AHIP) and Joseph E. Zolecki (Blue Cross Blue Shield Association—BCBSA) on a filing deadline proposal for the health Market Conduct Annual Statement (MCAS); 3) reviewed the travel MCAS data element addition proposed by the Market Analysis Procedures (D) Working Group; and 4) reviewed the short-term, limited duration insurance (STLDI) MCAS data element addition proposed by the Market Analysis Procedures (D) Working Group.

Mr. Haworth made a motion, seconded by Mr. Swanson, to adopt the Working Group's July 21 minutes (Attachment **XX**). The motion passed unanimously.

2. Adopted a New Deadline for the Health MCAS

Ms. Weyhenmeyer stated that on the last Working Group call, Ms. Burns and Mr. Zolecki proposed a permanent health MCAS filing deadline of June 30. She stated that comment letters have been received from the Health Industry Interested Parties (HIIP) group and Regence BlueCross BlueShield.

Ms. Burns stated that she and Mr. Zolecki are representing the HIIP group. She stated that she wants to connect on a couple of points from the presentation they made last month, and the letters provided. She stated that they share the goal to deliver the health MCAS as a reliable tool for regulatory oversight. She stated that they believe a uniform MCAS deadline should not outweigh the need for ensuring that the health MCAS is carefully compiled and validated, and the results are accurate and complete. She stated that they propose that June 30 be the permanent health MCAS deadline because the health insurance data is significantly larger than other lines of business. She stated that the amount of data for health compared with life and property/casualty (P/C) is disproportionate, and the extra time would be beneficial for state insurance regulators and health carriers. She stated that because of this volume, reconciliation of health data is more complex, and the mandatory state and federal reporting requirements enhances the challenge of imposing an April 30 deadline. She stated that health data is also not as automated as other lines of business.

Birny Birnbaum (Center for Economic Justice—CEJ) stated that the CEJ opposes this proposal. He stated that the premise behind the June 30 deadline for the health MCAS was to give companies extra time for new data submission requirements. He stated that every insurer for every line of business starts with massive databases of information and then writes a program to extract and compile the data categories set out in the MCAS, annual

financial statement, or other reporting requirements they must adhere to. He stated that once the programming is produced and the report is done, it does not matter how many records and data categories are there, as the effort is in the programming, which is done for the initial report and is the rationale for the initial time extension. He stated that insurers may have to start earlier in the year or apply more resources, but there is no technical reason that reporting by April 30 versus June 30 would produce erroneous data. He stated that he urges market regulators to take MCAS data collection as seriously as the financial regulators take annual and quarterly statement data collection. He stated that state insurance regulators need to be able to perform market analysis in a timely fashion to identify practices that may have consumer protection concerns that need to be addressed, and he urged rejection of the June 30 deadline proposal.

Mr. Swanson stated that he spoke with the person who does this work in his department, and they take the data seriously and would like it to be more accurate. He stated that they have had to grant extensions in the past because health data is more complicated, and he would prefer to proceed with a health MCAS deadline of June 30.

Mr. Haworth stated that there are other reports due on April 1, such as the Supplemental Health Care Exhibit (SHCE), and May 15 is typically the date of the first quarter filings; therefore, from a financial side, having MCAS data for year-end come in after the first quarter financial filing seems out of order. He stated that it seems better to align the date with the supplemental health care filings. and he explained that carriers already have the claims data when they complete the Schedule T form, which is completed by April 1. He stated that companies can ask for extensions when needed, but for the purposes of national market analysis, a June 30 deadline is challenging.

Ms. Hopper stated that Missouri understands the complicated nature health insurers face getting information together, and it also takes collecting this data seriously. She stated that state insurance regulators would also like additional time to review the data provided and therefore would like to have the data earlier than June. She asked if it was possible to compromise and do a deadline of May 31.

Ms. Ailor stated that she agrees with Missouri's proposal. She stated that she understands that the volume for health data is larger than other lines of business; for that reason, it also takes state insurance regulators a longer time to review that data. She stated that having a June 30 deadline hinders their processes with national analysis efforts, which health MCAS data is a part of; for that reason, she agrees that May 31 is a good compromise.

Mr. Zolecki stated that he wants to re-emphasize the commitment and dedication of carriers on the HIIP group to the MCAS process and filings and the collaborative efforts they have had over the last several years with the Working Group. He stated that he believes a very credible relationship has been built, and he wants it to be clear that they too take this filing very seriously. He stated that work is being done on the financial side to address redundancy and financial reporting efficiency, and subject matter experts (SMEs) on the market conduct and financial side have been consulted to look for the most efficiencies possible in the regulatory process. He stated that there are two other MCAS lines of business that will be reported on in the next several years, and he asked if keeping June 30 for health, and those new lines, would be considered and if this Working Group and the HIIP group could work together during that time to come up with a permanent health MCAS filing date that is feasible for state insurance regulators and carriers.

Mr. Birnbaum stated that the fact that there is more data for health should not matter because it must be programmed to produce the data.

Mr. Swanson made a motion, seconded by Ms. Gerachis, to keep June 30 as the health MCAS deadline. The motion did not pass unanimously, so a roll call vote was taken. Arkansas, Florida, Idaho, Kentucky, Nebraska, Ohio, Pennsylvania, South Dakota, and Virginia voted in favor of the motion. Arizona, Georgia, Maryland, Michigan,

Missouri, Nevada, Washington, West Virginia, and Wisconsin voted against the motion. Kansas, Massachusetts, South Carolina, Tennessee, and Utah abstained. Ms. Daniels asked if someone could make a motion for May 31 to be the health MCAS deadline if this motion was voted down. Ms. Weyhenmeyer said that would be an option. South Carolina changed its vote to no from abstaining. The motion failed 10 to 9.

Ms. Hopper made a motion, seconded by Mr. Swanson, to change the health MCAS deadline to May 31. The motion passed unanimously.

3. Reviewed the Travel Data Element Addition Proposed by the Market Analysis Procedures (D) Working Group

Ms. Weyhenmeyer stated that the Market Analysis Procedures (D) Working Group proposed that a new data element be added to the underwriting activity section of reporting within the travel MCAS blank for “policies in force during the reporting period.” She stated that if approved, the data element will be added to travel MCAS reporting for the 2024 data year reported in 2025. She stated that no comments had been received.

Mr. Birnbaum stated that the data element refers to policies, and in the travel underwriting section, there are references to individual, group, and blanket policies. He asked for clarification on what the definition of policies is for this new data element. Randy Helder (NAIC) stated that the request with this data element is for the total number of insureds, including individual policies and individuals on group policies. Mr. Birnbaum stated that he supports adding this data element, but he believes there needs to be some clarification added here given the different types of policies. He stated that he believes what is being asked for is the number of covered lives in force during the reporting period on the number of policies. Mr. Helder stated that he would like to defer to the travel MCAS SME group for additional discussion on this, and Teresa Cooper (NAIC) agreed. Ms. Weyhenmeyer stated that this would be discussed further at a future call.

4. Reviewed the STLDI Data Element Addition Proposed by the Market Analysis Procedures (D) Working Group

Ms. Weyhenmeyer stated that the Market Analysis Procedures (D) Working Group proposed the addition of a data element for “dollar amount of claims paid during the reporting period” within the claims section of the STLDI MCAS blank.

Ms. Weyhenmeyer stated that this data element would be added to the STLDI MCAS reporting in the 2024 data year reported in 2025 if adopted. She stated that no comments were received on this. Mr. Birnbaum stated that the CEJ supports adding this data element.

Ms. Daniels made a motion, seconded by Mr. Haworth, to add the data element for “dollar amount of claims paid during the reporting period” within the claims section of the STLDI MCAS blank. This motion passed unanimously.

5. Discussed the MCAS Lawsuit Definition

Ms. Weyhenmeyer stated that Attachment Four within the meeting materials contains information relevant to this discussion. She stated that earlier this year, the Working Group adopted the expansion of Homeowners and Private Passenger Auto (PPA) MCAS lawsuit reporting to include lawsuits that are not claims related. As part of that approval, the lawsuit definition for the Home and Auto MCAS was reviewed and updated, and for consistency, the Working Group started with the lawsuit definition adopted for other MCAS lines of business. Ms. Weyhenmeyer stated that questions were raised regarding one of the bullet points within the common lawsuit definition. The bullet in question states: “If one lawsuit seeks damages under two or more policies, count the number of policies involved as the number of lawsuits. For example, if one lawsuit seeks damages under three policies, count the action as three lawsuits.” Ms. Weyhenmeyer stated that the Working Group asked for some

research to be done related to the adoption of this specific bullet point and its intent. The definition containing this bullet point was originally adopted in 2012 for the Long-Term Care (LTC) MCAS that was first reported for the 2014 data year. NAIC staff could not find any information related to the conversations that led to the adoption of this bullet; however, it exists within the lawsuit definition for nine MCAS lines of business.

Ms. Weyhenmeyer stated that the Working Group needs to determine if the bullet point is appropriate for lines of business other than Home and PPA or if it should be removed from other lines of business. She stated that this work could be done a few different ways: 1) an SME for each line of business could be assigned to do some research and put some thought into the appropriateness of the bullet for their line of business and report back to the Working Group; 2) the Working Group could ask for comments regarding the appropriateness of the bullet in the various MCAS lines of business and have discussions at the working group level; or 3) an SME group could be created to have discussions and bring their findings back to the Working Group.

Mr. Swanson suggested that time for comments on this be given. Mr. Birnbaum asked if it was even possible to have one lawsuit that covers two or more policies within that line of business. He stated that the bullet point conflicts with the carefully crafted treatment of class action lawsuits, and the reason one lawsuit might be covering multiple policies is because it is a class action. He stated that this is confusing, conflicts with the treatment of class action lawsuits, and inflates the number of lawsuits. He stated that this may be unique to the LTC MCAS blank, where there may be multiple LTC policies with the same insured, but he suggests deleting the bullet for any other line of business.

Lisa Brown (American Property Casualty Insurance Association—APCIA) stated that she agrees with Mr. Birnbaum, and the language in the bullet is contradictory and inflates the number of lawsuits. She stated that she cannot think of a situation on the P/C side where there is not a single lawsuit by one policyholder that touches multiple policies.

Mr. Swanson made a motion, seconded by Ms. Ailor, to delete the bullet from all nine MCAS lines of business that reads: “If one lawsuit seeks damages under two or more policies, count the number of policies involved as the number of lawsuits. For example, if one lawsuit seeks damages under three policies, count the action as three lawsuits.” The motion passed unanimously.

Ms. Weyhenmeyer stated that the next Working Group meeting would take place on Sept. 15.

Having no further business, the Market Conduct Annual Statement Blanks (D) Working Group adjourned.

NAIC MARKET CONDUCT ANNUAL STATEMENT BLANKS (D) WORKING GROUP
Changes/Additions to Approved Blanks and Data Call and Definitions
Proposal Submission Form

NAIC USE ONLY

Proposal Submission Date: 6/23/2022	
Proposed Effective Data Year for Reporting: 2024 Data Year	
Proposed <input checked="" type="checkbox"/> Substantive Change <input type="checkbox"/> Non-Substantive Change/Clarification	
Proposal Number	Click or tap here to enter text.
Proposal Status	<u>All Submissions</u> <input checked="" type="checkbox"/> Received – Date 6/23/2022 <input checked="" type="checkbox"/> Accepted <input type="checkbox"/> Rejected by MCAS Blanks WG Chair <input checked="" type="checkbox"/> Posted to Web Page for Public Exposure/Comment – Date Click or tap to enter a date. <input type="checkbox"/> Referred to Another NAIC Group – Date Click or tap to enter a date. – Name of Group Click or tap here to enter text. <input type="checkbox"/> Adopted <input type="checkbox"/> Modified <input type="checkbox"/> Rejected <input type="checkbox"/> Deferred by WG – Date 8/24/2022 <u>Substantive Revisions</u> <input type="checkbox"/> Adopted <input type="checkbox"/> Rejected by D Committee – Date Click or tap to enter a date. <input type="checkbox"/> Adopted <input type="checkbox"/> Rejected by EX/Plenary – Date Click or tap to enter a date. <input type="checkbox"/> Other – Date Click or tap to enter a date. Specify Click or tap here to enter text.
NAIC Staff Input	The Working Group met 8/24/22 and requested further information/clarification regarding the data to be collected with this proposal.

Proposal Contact Information

Name of Contact Person	Randy Helder
Name of Organization	NAIC – Market Analysis Procedures (D) Working Group
Email Address	rhelder@naic.org
Phone Number	Click or tap here to enter text.
Affiliation Type	<input type="checkbox"/> State Regulator <input checked="" type="checkbox"/> NAIC Staff <input type="checkbox"/> Other Regulator <input type="checkbox"/> Reporting Company <input type="checkbox"/> Industry Trade Association <input type="checkbox"/> Consumer Representative <input type="checkbox"/> Other

PROPOSAL IS FOR: Data Element Data Definitions Data Validation

APPLICABLE LINE(S) OF BUSINESS:

- | | | |
|--|--|---|
| <input type="checkbox"/> Annuity | <input type="checkbox"/> Lender Placed Auto and Home | <input type="checkbox"/> Private Flood |
| <input type="checkbox"/> Disability Income | <input type="checkbox"/> Life | <input type="checkbox"/> Private Passenger Auto |
| <input type="checkbox"/> Health | <input type="checkbox"/> Long-Term Care | <input checked="" type="checkbox"/> Travel |
| <input type="checkbox"/> Homeowners | <input type="checkbox"/> Other Health | <input type="checkbox"/> STLD |

PROVIDE A CONCISE STATEMENT OF THE PROPOSED CHANGE:

Addition of the following data element to Schedule 4 – Underwriting: Policies/Certificates in Force During the Reporting Period.

PROVIDE THE REASON FOR THE CHANGE:

The data element will aid in analysis and provides an alternative value for standard Travel MCAS ratios. The data element will aid in analysis and provide a more useful denominator for potential ratios measuring cancellations and complaints.

NAIC MARKET CONDUCT ANNUAL STATEMENT BLANKS (D) WORKING GROUP

Changes/Additions to Approved Blanks and Data Call and Definitions

Proposal Submission Form

IF ADDITIONAL DOCUMENTS CONTAIN DEFINITIONS, BLANK MOCK-UPS, ETC, PROVIDE A LISTING OF THESE DOCUMENTS BELOW. SEND THE LISTED DOCUMENTS TO NAIC STAFF ALONG WITH THE COMPLETED FORM:

Click or tap here to enter text.