

Draft: 4/25/23

Market Analysis Procedures (D) Working Group  
Virtual Meeting  
April 10, 2023

The Market Analysis Procedures (D) Working Group of the Market Regulation and Consumer Affairs (D) Committee met April 10, 2023. The following Working Group members participated: Jo LeDuc, Chair (MO); John Haworth, Vice Chair (WA); Teri Ann Mecca (AR); Maria Ailor (AZ); Don McKinley (CA); Tracy Garceau (CO); Nick Gill (CT); Pratima Lele (DC); Scott Woods (FL); Erica Weyhenmeyer (IL); Lori Cunningham (KY); Mary Lou Moran (MA); Dawna Kokosinski (MD); Timothy N. Schott and Connie Mayette (ME); Jeff Hayden (MI); Troy Smith (MT); Robert McCullough (NE); Maureen Belanger (NH); Ralph Boeckman and Erin Porter (NJ); Larry Wertel (NY); Ben Hauck (OH); Landon Hubbard (OK); Karen Veronikis (PA); Matt Gendron and Brett Bache (RI); Rachel Moore (SC); Tanji Northrup (UT); Will Felvey (VA); Isabelle Turpin Keiser (VT); Darcy Paskey, Rebecca Rebholz, and Mary Kay Rodriguez (WI); and Theresa Miller (WV). Also participating was: Shane Quinlan (NC).

1. Adopted its Aug. 22, 2022, Minutes

LeDuc said the Working Group met Aug. 22, 2022, and adopted pet insurance as the next line of business in the Market Conduct Annual Statement (MCAS).

Haworth made a motion, seconded by Ailor, to adopt the Working Group's Aug. 22, 2022, minutes (Attachment XX). The motion passed unanimously.

2. Discussed its Charges and Goals for 2023

LeDuc said all last year's charges remain, but one additional charge was added by the Market Regulation and Consumer Affairs (D) Committee. She said the new charge is to, "assess currently available market analysis data to identify needed improvements in the effectiveness of the data for market analysis and the predictive abilities of the market scoring systems utilizing the data." She said this charge is also included in the Market Information Systems (D) Task Force charges, and the Working Group will report to the Task Force its progress throughout the year.

LeDuc reminded the Working Group that the Task Force charged the Market Information Systems Research and Development (D) Working Group to research and make recommendations surrounding the incorporation of artificial intelligence (AI) techniques into the NAIC's Market Information Systems (MIS). She said the Working Group's recommendations were discussed by the Task Force and ultimately adopted by the Task Force at the 2022 Summer National Meeting. She said while the report was generally favorable to incorporating AI techniques into the MIS, it recognized that the data used in the MIS is not as complete as would be needed for AI to be useful. Additionally, the effectiveness of the data collected and the scoring systems likely need improvement.

LeDuc said she and Haworth are suggesting that the best place to start is to hear from the Working Group members and other interested state insurance regulators about what data they use, how they use the data, and their thoughts on the data's effectiveness. She said the only scoring systems currently in the MIS are the Market Analysis Prioritization Tool (MAPT) scoring and the Market Conduct Annual Statement (MCAS)-MAPT rankings. She said the Working Group will consider these later in the year, but the Working Group should first dedicate itself to the effectiveness of the data, because if the effectiveness of the data is not good, the scoring will also be lacking.

LeDuc proposed that the Working Group dedicate this year to this charge alone. She said this charge intersects with the Working Group's charges to, "Recommend changes to the market analysis framework based on results over the past five years," and "Discuss other market data collection issues and make recommendations, as necessary." She said the other charge is to, "Consider recommendations for new lines of business for the MCAS." She said in the last couple years, the Working Group has added other health insurance, travel insurance, and pet insurance to the MCAS, and a pause on this charge will assist participating states to incorporate these new MCAS lines into their baseline analyses.

Ailor said the pause on considering new lines was a good idea. She asked if the pause was just for this year or open-ended. LeDuc said it can only be for the year. She said the Market Conduct Annual Statement Blanks (D) Working Group has a charge to review the older lines of business in the MCAS every three to five years. Weyhenmeyer noted that the pet insurance line of business is still being drafted and may not make the deadline for adopting for use with the 2024 data year. Quinlan said his department still has staffing concerns, and the new lines of business in the MCAS feel like force-feeding their analysts.

Haworth said the newer lines of business have still not been incorporated into the current MIS tools, such as the Market Analysis Review System (MARS). LeDuc suggested that with a pause, perhaps the resources used to incorporate the new lines of business can be re-assigned to incorporate the new incoming data into the MIS tools.

Birny Birnbaum (Center for Economic Justice—CEJ) said consideration of MCAS lines of business is a charge given to the Working Group from the Market Regulation and Consumer Affairs (D) Committee, and it cannot just be paused without getting approval from the Committee. He said a new line of business added this year would not be implemented until the 2025 data year and collected for the first time until 2026. He said pausing puts the implementation dates out even further. He said regarding the resource issues, the MCAS enables departments to quickly review companies in a specific line of business and avoid the resource needs of investigations and ad hoc data calls. He also noted that there were market conduct issues with business owners' policies during the COVID-19 pandemic that could have been addressed with the type of data available in the MCAS, and title insurance has many market conduct issues to be investigated. LeDuc said these discussions are necessary before the Working Group goes to the Committee regarding pausing on MCAS line of business considerations.

Lisa Brown (American Property Casualty Insurance Association—APCIA) said there have been years that the Working Group considered lines of business but decided not to add a line of business. She said it could be done the same way this year. Birnbaum said he agrees.

LeDuc asked for comments to be sent to Randy Helder (NAIC) by April 28 regarding the data used by jurisdictions and the effectiveness of the data. Birnbaum asked how a current inventory of data in the MIS relates to what is needed to incorporate AI techniques in the MIS. He said to evaluate potential AI applications, the Working Group should start with identifying AI applications that would be useful for market analysis and then determine the data needs required for those AI applications. He said the Working Group could then compare what MIS data is available against the data needs for the AI applications. LeDuc said Birnbaum's suggestion was a good second step, but the Working Group needs to know what data is available and how it is being used. She said that is the charge of the Working Group. Birnbaum said he agrees, and his suggestion and the approach outlined by LeDuc are not mutually exclusive and could be worked on at the same time.

Haworth said the Working Group needs to also consider the format in which the data is presented to analysts. He said the data tables for the analysis of private passenger auto (PPA) insurance analysis are different than those for health insurance analysis. Additionally, he said, the NAIC is reformatting the data table to make them for useful for queries. He cautioned against building applications for databases that may become obsolete.

### 3. Discussed Proposed Other Health Insurance MCAS Ratios

LeDuc said in 2022, the Market Conduct Annual Statement Blanks (D) Working Group adopted the Other Health MCAS blank. She said after a new MCAS blank is adopted, it is the responsibility of the Market Analysis Procedures (D) Working Group to develop and adopt scorecard ratios for the new blank. She said the scorecard ratios are the ratios that are publicly made available on the MCAS web page, and they are usually on a state-wide basis, so no individual company ratios are identifiable. She said there are typically about 10 ratios that are identified for publication on the MCAS scorecard for a line of business, but the Working Group can adopt however many ratios that make sense.

LeDuc said a set of proposed ratios was prepared to begin the discussion of which ratios the Working Group will adopt for the Other Health MCAS blank. She said the ratios are just suggestions, and the Working Group can adopt all or just some of them. She said the Working Group could also come up with different ratios or different ways of calculating the ratios. She said there are 10 proposed ratios. She said they are the typical ratios found in the MCAS blanks, but four of them are different than what the Working Group has adopted in the past. She referenced that the proposed ratios include a loss ratio, as well as a suggestion to post the median days to make decisions to approve and make decisions to deny claims. She noted that the median day ratio may be a little strange, as it would be, in effect, an average of the median days that are reported. She said the Working Group could decide not to include these on the scorecard. She also referenced a proposed ratio for the average commission paid on policies issued. She said for the first time, the MCAS is asking companies to report on commissions paid and the commissions that were returned on canceled policies. She said any scorecard ratio discussion should consider the usefulness of the ratios being posted.

LeDuc said she was not certain whether the ratio results will include enough companies in each state to make the ratios meaningful and ensure confidentiality. She said a concern to address should be whether the ratios are posted only on a national basis like is done for the health insurance MCAS ratio.

Ailor asked how soon the ratios need to be adopted. Helder said by September, but no later than October. Ailor asked if a subject matter expert (SME) group would be formed to review the proposal and make recommendations for the Working Group to consider. LeDuc said SME groups have been used in the past.

Garceau said she is fairly new to the MCAS. She said the proposed ratios look good, but she cannot find any information on what a good ratio would be. She said she had not received a response from the NAIC on her question regarding ratios. LeDuc said that was a good question, and training is needed for new market regulation analysts. She said there is no bright line on what is a good ratio or a bad ratio. Helder noted that most of the proposed ratios are also found on most of the MCAS lines of business, and they are likely considered useful by market analysts. The other ratios were included because there were data elements that were unique to the Other Health blank, so it was assumed that the drafters believed the data elements were useful.

Brown said there is no target ratio that companies are supposed to reach to be determined as a good or bad market participant. The market analysts are comparing a company's ratios to other company ratios to find the outliers. LeDuc said that is how she has used ratios. She said each state and ratio is different, so the market analysts look for companies that are outliers with either a high or low ratio.

LeDuc asked for volunteers to form an SME group to work on the Other Health MCAS ratios. Garceau, Rodriguez, and Birnbaum volunteered. LeDuc asked others who would like to volunteer to contact Helder.

#### 4. Discussed Other Matters

Haworth said the MCAS Filing Status report in iSite+ does not include any travel insurers because there is nowhere on the financial annual statement for companies to report their travel insurance premiums, and it is not possible to know if a company is required to file a travel insurance MCAS blank. However, he said all companies received a call letter in December 2022, which listed all the lines of business to be reported in the MCAS and the participation requirements. LeDuc said there may need to be extra diligence on the part of the participating MCAS jurisdictions to ensure that all companies that need to file actually do file.

Having no further business, the Market Analysis Procedures (D) Working Group adjourned.

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## Potential Data Sources Used in Market Analysis

### NAIC Sources

- CDS – Complaint Database System
- RIRS – Regulatory Information Retrieval System
- FAS – Financial Annual Statement
  - Financial Profile reports
  - State Page
  - MDA
  - FAST
  - RBC
  - IRIS
  - Supplement Exhibits
- MATS – Market Actions Tracking System
  - Examinations
  - Continuum Actions
- MARS – Market Analysis Review System
  - Level 1
  - Level 2
- MAPT – Market Analysis Prioritization Tool (Combines FAS, RIRS, CDS data)
- MCAS – Market Conduct Annual Statement
  - MCAS-MAPT – combine MCAS, FAS data
  - Filings
- MAMS – Market Analysis Market Share
- SERFF – System for Electronic Rates and Forms Filing
  - State Instances | IIPRC
  - Filing Documents
- PDB – Producer Database
- NAIC Bulletin Boards
  - Market Analysis
  - Market Regulation
  - Product Filing Boards – Health | Life | P&C
  - Attorneys
  - Actuary Boards – Health | Long-Term Care | CASTF
- Statistical Reports
  - Accident and Health Policy Experience Report
  - Analysis of Annuity Operations by Line of Business
  - Auto Insurance Database Report
  - Competition Database Report
  - Credit Life Insurance and Credit Accident and Health Insurance Experience Report
  - Director and Officer Insurance Report
  - Dwelling, Fire, Homeowners Owner-Occupied, and Homeowners Tenant and Condominium/Cooperative Unit Owner's Insurance
  - Long-Term Care Insurance Experience Report
  - Market Share by Line Reports

- Market Share Reports for Groups and Companies
- Market Share Reports for the Top 25 Property/Casualty Insurers Over 25 Years
- Medical Malpractice Insurance Report: A Study of Market Conditions and Potential Solutions to the Recent Crisis
- Medicare Supplement Loss Ratios Report
- Profitability by Line by State
- State Average Expenditures & Premiums for Personal Automobile Insurance
- Statistical Compilation of Annual Statement Information
- Supplemental Health Care Exhibit Report

### State Data Sources

- Complaints | Inquiries
- Regulatory | Enforcement Actions
- Examination Reports
- Producer Licensing Data
- State Mandated Filings
  - Grievance Reports
  - Prompt-Pay Reports
  - ZIP Code Reports
  - Premium Comparison Survey
  - Claims Reports
- Other State Agencies/Departments/Divisions
  - Securities
  - Banking
  - Labor
  - Attorney General

### Non-NAIC Sources

- U.S. Centers for Medicare & Medicaid Services (CMS)
  - Health Insurance Exchange Public Use Files (Exchange PUFs)  
(<https://www.cms.gov/ccio/resources/data-resources/marketplace-puf>)
  - Health Insurance State-based Marketplaces Public Use Files (PUF)  
(<https://www.cms.gov/ccio/resources/data-resources/sbm-puf>)
  - Issuer Level Enrollment Data (<https://www.cms.gov/ccio/resources/data-resources/issuer-level-enrollment-data>)
  - Medical Loss Ratio Data and System Resources (<https://www.cms.gov/ccio/resources/data-resources/mlr>)
- U.S. Securities & Exchange Commission (SEC)
- U.S. Department of Labor
- FIO
- American Community Survey Data - <https://www.census.gov/programs-surveys/acs/data.html>
- Self-insured plan filings - <https://www.efast.dol.gov/5500search/>
- CMS consent Orders (<https://www.cms.gov/medicare/compliance-and-audits/part-c-and-part-d-compliance-and-audits/partcandpartdenforcementactions->)
- Trade Press / Research Papers
- Social Media

- Twitter
- Instagram
- Pinterest
- Snap Chat
- Facebook
- Insurance company materials
  - Websites – producer information
  - Insurance company manuals
- Rating Agencies
  - AM Best
  - Fitch
  - Moody's
  - Standard & Poor's
  - Weise
- Lawsuits | Class Action Lawsuits
  - LexisNexis
  - Westlaw
- Financial Industry Regulatory Authority (FINRA)
- Better Business Bureau (BBB)

# DRAFT - MCAS Ratios

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## Other Health

Ratio 1. **The number of claims denied, rejected or returned to the total number of claims ~~paid, denied, rejected or returned closed~~**

$$\left( \frac{[\# \text{ of claim denied, rejected or returned } (68)]}{[\# \text{ of claims pending at beginning of period } (66) + \# \text{ of claims received } (67)] - \# \text{ of claims pending at end of period } (74)} \right)$$

Ratio 2. **Pre-existing Condition Denials to Total Denials**

$$\left( \frac{[\# \text{ of claim denied, rejected or returned as subject to pre – existing condition exclusion } (70)]}{[\# \text{ of claims denied, rejected or returned } (68)]} \right)$$

Ratio 2a. **Inadequate Documentation Denials to Total Denials**

$$\left( \frac{[\# \text{ of claim denied, rejected or returned due to failure to provide adequate documentation } (71)]}{[\# \text{ of claims denied, rejected or returned } (68)]} \right)$$

~~Ratio 3. **Median Number of Days from Receipt of Claims to Decision for Approved Claims**~~

~~(Median Number of Days from Receipt of Claims to Decision for Approved Claims (77))~~

~~Ratio 4. **Median Number of Days from Receipt of Claims to Decision for Denied Claims**~~

~~(Median Number of Days from Receipt of Claims to Decision for Denied Claims (75))~~

Ratio 5. **Cancellations During Free Look Period**

$$\left( \frac{[\# \text{ of policies/certificates cancelled during free look period } (55)]}{[\text{total } \# \text{ of policies issued during the period } (50)]} \right)$$



## DRAFT - MCAS Ratios

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Ratio 6.      **Loss Ratio**

$$\left( \frac{[\text{Total Dollar Amount of Paid Claims During the Period (80)}]}{[\text{Direct Written Premium (45)}]} \right)$$

Ratio 7.      **Number of Complaints received per 1,000 Policies/Certificates In Force During the Period**

$$\left( \frac{[\text{\# of complaints received by company (83) + complaints received through DOI (84)}]}{[(\text{policies/certificates in force at beginning (47) + policies/certificates issued (50) })/1,000]} \right)$$

Ratio 8.      **Percentage of Lawsuits Closed with Consideration for the Consumer**

$$\left( \frac{[\text{\# of lawsuits closed with consideration for the consumer (89)}]}{[\text{\# of lawsuits closed during the period (88)}]} \right)$$

Ratio 9.      **Lawsuits opened per 1,000 Policies/Certificates In Force During the Period**

$$\left( \frac{[\text{\# of lawsuits opened during the period (87)}]}{[(\text{policies/certificates in force at beginning (47) + policies/certificates issued (50) })/1,000]} \right)$$

Ratio 10.     **Average Commission**

$$\left( \frac{[\text{Commissions Paid during the Reporting Period (101) - Unearned Commissions Returned to Company on Policies Sold During the Period (102)}]}{[(\text{\# of new policies/certificates issued during the period (50) }]} \right)$$