Draft date: 8/26/24

Virtual Meeting

MARKET CONDUCT ANNUAL STATEMENT BLANKS (D) WORKING GROUP
Thursday, September 5, 2024
3:00 – 4:00 p.m. ET / 2:00 – 3:00 p.m. CT / 1:00 – 2:00 p.m. MT / 12:00 – 1:00 p.m. PT

ROLL CALL

Rebecca Rebholz, Chair	Wisconsin	Martin Swanson	Nebraska
Tolanda Coker, Vice Chair	Arizona	Hermoliva Abejar	Nevada
Teri Ann Mecca/Lori Plant	Arkansas	Alma Tapia	New Mexico
Sheryl Parker	Florida	Guy Self	Ohio
Elizabeth Nunes/	Georgia	Gary Jones/August Hall/	Pennsylvania
Paula Shamburger		Karen Veronikis	
Erica Weyhenmeyer	Illinois	Gwendolyn McGriff/	South Carolina
Charles Thomas	Kansas	Rachel Moore	
Lori Cunningham	Kentucky	Larry D. Deiter	South Dakota
Raymond Guzman	Maryland	Shelli Isiminger/	Tennessee
Mary Lou Moran	Massachusetts	Rhonda Bowling-Black	
Jeff Hayden	Michigan	Shelley Wiseman	Utah
T.J. Patton/	Minnesota	Melissa Gerachis/Will Felvey	Virginia
John Fritzberg-Glover		John Haworth/John Kelcher	Washington
Julie Hesser/Jo LeDuc	Missouri	Letha Tate	West Virginia

NAIC Support Staff: Teresa Cooper/Hal Marsh

AGENDA

1. Consider Adoption of its July 11 Minutes—*Rebecca Rebholz (WI)*   Attachment 1

2. Consider the Removal of Duplicate Data Element #51 from the Other Health   Attachment 2
    Market Conduct Annual Statement (MCAS)—*Rebecca Rebholz (WI)*

3. Consider the Draft Frequently Asked Questions (FAQ) and Definitions   Attachments 3 & 4
    Related to Artificial Intelligence (AI) and Machine Learning (ML)
    —*Rebecca Rebholz (WI)*

4. Consider the Draft Definitions for Partial Payments and Cancellations for the   Attachment 5
    Pet Insurance MCAS—*John Kelcher (WA)*

5. Review of Next Steps Related to MCAS Other Health Interrogatory Question #5
    and Additional Items Related to Comments Received—*Rebecca Rebholz (WI)*

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6.   Receive an Update on the Formation of a Subject Matter Expert (SME) Group to Review the Private Passenger Auto (PPA) MCAS Blank—*Rebecca Rebholz (WI)*

7.   Discuss Any Other Matters Brought Before the Working Group —*Rebecca Rebholz (WI)*

8.   Adjournment

Draft: 8/1/24

<div align="center">
Market Conduct Annual Statement Blanks (D) Working Group
Virtual Meeting
July 11, 2024
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The Market Conduct Annual Statement Blanks (D) Working Group of the Market Regulation and Consumer Affairs (D) Committee met July 11, 2024. The following Working Group members participated: Rebecca Rebholz, Chair (WI); Tolanda Coker, Vice Chair (AZ); Keith Nault (FL); Paula Shamburger (GA); Erica Weyhenmeyer (IL); Mary Lou Moran (MA); Raymond Guzman (MD); Julie Hesser and Cynthia Amann (MO); Martin Swanson (NE); Ben Houck (OH); Karen Veronikis (PA); Glynda Daniels (SC); Tony Dorschner (SD); Shelli Isiminger (TN); William Stimpson (UT); Melissa Gerachis (VA); John Kelcher (WA); and Letha Tate (WV). Also participating was: Mary Kay Rodriguez (WI).

1. Adopted its June 6Minutes

The Working Group met June 6. During this meeting, the Working Group took the following action: 1) received an update from the other health/short-term, limited-duration (STLD) subject matter expert (SME) group, 2) received an update from the accelerated underwriting (AU) SME group, 3) received an update from the pet insurance SME group, and 4) received an update on Market Conduct Annual Statement (MCAS) filings and the 2023 MCAS premium exhibit used for identifying required filings.

Dorschner made a motion, seconded by Gerachis, to adopt the Working Group's June 6 minutes (Attachment). The motion passed unanimously.

2. Discussed the Recommendation from the Other Health/STLD SME Group to Remove Duplicate Data Element No. 51 from the Other Health MCAS

Rodriguez explained that while two data elements in the other health MCAS are worded differently, they ask for the same information. No. 51 asks for the number of new policies or certificates denied during a period, while No. 90 asks for the number of individual applications or enrollments denied. Rodriguez stated that the SME group suggests keeping No. 90 because, as applicants get denied, policies normally do not.

Rebholz asked that any comments related to this be sent to Hal Marsh (NAIC) no later than Aug. 2.

3. Discussed the Draft FAQ and Definitions Related to AI and ML Proposed by the AU SME Group

Rebholz stated the first FAQ is, "Why is the term 'big data' not included in the MCAS definition and accelerated underwriting?" She answered that the term "big data" was used in the NAIC's AU educational report. It was intentionally left out of the MCAS definition of AU because it was an undefined term that could potentially lead to inconsistencies in MCAS reporting. Brendan Bridgeland (Center for Insurance Research—CIR) stated the term "big data" is used in the educational report's definition cited in the MCAS data call and definitions, and it would be better to say that the term is too vague. Rebholz said that could be a better way to state it and could lead to an update on the FAQ.

Rebholz moved on to question two of the FAQ, which is, "How would the company determine if its processes are considered accelerated underwriting?" Rebholz explained that three elements must be present to meet the MCAS AU reporting requirements. The first element is artificial intelligence (AI)/machine learning (ML). Predictive models and ML algorithms are used to analyze applicant data. A model or algorithm prediction is used to limit or replace a human decision. If the data is run through a predictive model or ML algorithm, it is considered AU under

the MCAS definition. The second element is data. FCRA-compliant, non-medical, third-party data and/or other non-medical, third-party data is used, including if it is used in conjunction with application data and/or medical data. If only application data and/or medical data are used, it does not meet the definition. The third element is decision, as life Insurance is underwritten by predicting an insurance outcome.

Rebholz moved to the third FAQ question, which is, "Can examples be provided on what would not be accelerated underwriting?" Rebholz said for the purposes of MCAS reporting, AU does not include a simple automated analysis of an application and/or medical information, and that does not meet elements No. 1 or No. 2. She also stated that using insurance claims or motor vehicle violation data in standalone underwriting rules, such as declining coverage for a driving-under-the-influence conviction, that does not meet element number one above, and use of medical data only in an algorithm, and that would not meet element number two above.

Rebholz moved on to the draft definitions of algorithms, AI, big data, ML, and predictive models. She explained that the SME group opted to use existing definitions as the basis for the MCAS AU definitions.

Rebholz stated the draft definitions were all taken from one of the following: the NAIC Model Bulletin: Use of Artificial Intelligence Systems by Insurers; AI bulletin; the NAIC Glossary for Regulators of Insurtech; the Casualty Actuarial and Statistical (C) Task Force's predictive model white paper; or the NAIC's *Accelerated Underwriting in Life Insurance Educational Report*. She also stated that the definition of algorithm comes from three of these listed sources.

Rebholz asked that any comments related to this be sent to Marsh no later than Aug. 2.

4. Discussed the Draft Definitions for Partial Payments and Cancellations Proposed by the Pet Insurance SME Group

Kelcher provided an overview of the draft pet insurance definitions. Partial payment is defined as "a claim not paid in full for costs included in the insurance policy/certificate's coverage. Removal from a claim of charges for costs not covered in the policy – where there is full payment for costs covered in the policy – is not considered a partial payment. Do not report as partial payment claims that are reduced by deductibles, copays, maximum benefit limits, or other limitations set by the insurance policy/certificate."

Kelcher said the cancellation definition was revised to "cancellation – includes all cancellations of policies where the cancellation effective date is during the reporting year". These should be reported every time a policy is canceled during the reporting period (i.e., if a policy is canceled for non-pay three times in a policy period and is reinstated each time, each cancellation should be counted). Exclusions are:

  • Policies canceled for "re-write" purposes where there is no lapse in coverage.
  • Policies returned by the owner under the right to review or the free look provision

Rebholz asked that any comments related to this be sent to Marsh no later than Aug. 2.

5. Discussed a Review of MCAS Other Health Interrogatory Question No. 5

Rebholz said that within the MCAS submission tool, the character limitation for interrogatories is 4,000 characters, and companies are exceeding this limit. Companies have said that entering this information is time-consuming and have questioned its usefulness to regulators. Rebholz asked if there are options available to modify it or if the data that is collected serves a purpose since it is in a difficult format and hard to parse through.

Rodriguez suggested putting together an SME group to look at the types of information being received for this interrogatory. Coker suggested continuing to receive the information and only updating if a company has a change in the following year and then only having to report the changes. Rebholz suggested forming an SME group and discussing Coker's suggestion.

Rebholz asked that any comments related to this be sent to Marsh no later than Aug. 2.

6.   Discussed the Review of Existing MCAS Lines of Business

Rebholz stated that the oldest lines of business collected for MCAS are homeowners, private passenger auto (PPA), and life and annuity. Since this is the first attempt at updating an existing MCAS, Rebholz suggested picking one or two of these lines to focus on.

Guzman stated that homeowners and PPA deserve attention, especially given changes in the marketplace. He suggested starting with PPA. Rebholz agreed to start with PPA.

7.   Discussed Other Matters

Teresa Cooper (NAIC) gave an update on MCAS filings to date. Cooper stated that the last filing deadline has passed. Other health MCAS filings were due at the end of June and are now past the initial filing date. Companies can continue to make amendments to filings as needed and that will continue through mid-January 2025.

Cooper said there are some companies that have extensions. There has been continued correspondence with companies regarding validation failures, and NAIC data analysts are working through these. There was one issue in the other health MCAS where a company stated that it was not able to move forward with its filing because it answered "no" to the first interrogatory question, which is, "Are you currently marketing these products in this jurisdiction?" Cooper explained a draft validation, which was not intended to be used for the 2023 data year, was inadvertently put into production during an information technology (IT) update on June 24. It was identified and inactivated on the morning of June 26. She said she believed the impact was minimal.

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

SharePoint/NAIC Support Staff Hub/D Working Groups/MCAS Blanks WG (TES)/2024 MCAS Blanks WG

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: 3/19/2024	
Proposed Effective Data Year for Reporting: 2024 Data Year	
Proposed ☒ Substantive Change ☐ Non-Substantive Change/Clarification	
Proposal Number	2024.6
Proposal Status	<u>All Submissions</u> ☒ Received – Date 3/19/2024 ☒ Accepted ☐ Rejected by MCAS Blanks WG Chair ☒ Posted to Web Page for Public Exposure/Comment – Date 4/3/2024 ☐ Referred to Another NAIC Group – Date Click or tap to enter a date. – Name of Group Click or tap here to enter text. ☐ Adopted ☐ Modified ☐ Rejected ☐ Deferred by WG – Date Click or tap to enter a date. <u>Substantive Revisions</u> ☐ Adopted ☐ Rejected by D Committee – Date Click or tap to enter a date. ☐ Adopted ☐ Rejected by EX/Plenary – Date Click or tap to enter a date. ☐ Other – Date Click or tap to enter a date. Specify Click or tap here to enter text.
NAIC Staff Input	Form updated with recommendation on 4/18/2024. Form updated with recommendation from SME Group on 6/11/24.

Proposal Contact Information

Name of Contact Person	Rebecca Rebholz
Name of Organization	Wisconsin Office of the Commissioner of Insurance
Email Address	rebecca.rebholz@wisconsin.gov
Phone Number	608-264-8111
Affiliation Type	☒ State Regulator ☐ NAIC Staff ☐ Other Regulator ☐ Reporting Company ☐ Industry Trade Association ☐ Consumer Representative ☐ Other

PROPOSAL IS FOR: ☒ Data Element   ☐ Data Definitions   ☐ Data Validation

APPLICABLE LINE(S) OF BUSINESS:

☐ Annuity	☐ Lender Placed Auto and Home	☐ Private Flood
☐ Disability Income	☐ Life	☐ Private Passenger Auto
☐ Health	☐ Long-Term Care	☐ Travel
☐ Homeowners	☒ Other Health	☐ STLD

PROVIDE A CONCISE STATEMENT OF THE PROPOSED CHANGE:
Data elements #51 and #90 both ask for the number of new policies/certificates denied during the period.

#51 – Number of new policies/certificates denied during the period.

#90 – Number of individual applications/enrollments denied during the period for any reason.

Recommendation: Keep both data elements for this reporting period. The intent of the two data elements was to produce the same data, the reporting fits well into both of the current reporting sections. Instead of removing one data element now, review the submitted 2023 data that is reported, then determine if one of the

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

data elements should be removed. Recommend creating a Subject Matter Expert (SME) Group to review the Policy/Certificate Administration and Marketing and Sales sections of the MCAS Other Health Blank. SMEs can review the two sections to determine if there are data elements that can be changed (wording), removed or combined. Changes would be implemented for the 2026 data reporting year if approved by the MCAS Blanks WG by 6/1/25.

SME Group Recommendation: Delete data element #51. The language used in data element #90 is more consistent with the wording across the rest of the MCAS Other Health Blank. Additionally, removing data element #51 will help eliminate the confusion of asking for the same data in two different sections on the same blank.

PROVIDE THE REASON FOR THE CHANGE:
Identify duplicate data elements and remove the duplicate.

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.

Accelerated Underwriting FAQs

DRAFT Document – Edited 5/23/24

Why is the term "big data" not included in the MCAS definition of Accelerated Underwriting?

The term "big data" was used in the NAIC's Accelerated Underwriting (AU) Educational Report but was intentionally removed from the MCAS definition of Accelerated Underwriting for vagueness because it was an undefined term which could lead to inconsistency in MCAS reporting. The intent of the MCAS reporting is to exclude any processes intended solely to speed up or automate the underwriting process.

How would the company determine if its processes are considered accelerated underwriting?

All three elements below must be present to meet the MCAS AUW reporting requirements:

1) AI/ML: Predictive models and machine learning algorithms are used to analyze applicant data. A model or algorithm prediction is used to limit or replace a human decision. If the data is run through a predictive model or machine learning algorithm, it is considered accelerated underwriting under the MCAS definition.

   > For example, if the data is run through an algorithm that will, at points in the process, choose from multiple possible decisions, it is considered accelerated underwriting under the MCAS definition. However, even if the data you use includes such data as criminal history, consumer credit or motor vehicle report data it would not be considered accelerated underwriting for MCAS reporting purposes *if* those data are used in stand-alone rules, such as declining coverage if there is a prior conviction of insurance fraud, a recent bankruptcy or multiple speeding violations.

2) Data: **FCRA Compliant non-medical third-party data** and/or **Other non-medical third-party data** is used, including if it is used in conjunction with **Application data** and/or **Medical data**. If only **Application data** and/or **Medical data** is used, it does not meet the definition.

3) Decision: Life Insurance is underwritten by predicting an insurance outcome.

Can you provide examples of what would not be included as accelerated underwriting?

For the purposes of MCAS reporting, AUW does not include:

- Simply automating analysis of application and/or medical information. (does not meet elements #1 or #2, above)
- Using insurance claims or motor vehicle violation data in a stand-alone underwriting rule such as declining coverage for a driving under the influence conviction. (does not meet element #1, above)
- Use of medical data only in an algorithm. (does not meet element #2, above)

Accelerated Underwriting Definitions

DRAFT Document – Edited 5/23/24

Algorithm - All of the following should be considered**:**
- A clearly specified mathematical process for computation (NAIC Model Bulletin: Use of Artificial Intelligence Systems by Insurers, AI Bulletin)
- A set of rules that, if followed, will give a prescribed result (AI Bulletin)
- A list of steps to finish a task (NAIC Glossary for Regulators of InsurTech)
- A set of instructions that can be performed with or without a computer (NAIC Glossary for Regulators of InsurTech)

For example, the collection of steps to make a peanut butter and jelly sandwich could be considered as an algorithm. (NAIC Glossary for Regulators of InsurTech)

Artificial Intelligence (AI) - refers to a branch of computer science that uses data processing systems that perform functions normally associated with human intelligence, such as reasoning, learning, and self-improvement, or the capability of a device to perform functions that are normally associated with human intelligence such as reasoning, learning, and self-improvement. This definition considers machine learning to be a subset of artificial intelligence. (AI Bulletin)

Big data - refers to extremely large datasets analyzed computationally to infer laws (regressions, nonlinear relationships, and causal effects) to reveal relationships and dependencies or to perform predictions of outcomes and behaviors. (Casualty Actuarial and Statistical (C) Task Force Predictive Model White Paper)

Machine Learning - Machine learning algorithms are a process or set of rules executed to solve an equation, e.g., a life insurance underwriter uses a set of rules to place an individual insured in a particular risk category. The 'learning' part of machine learning means that those programs change how they process data over time, much as humans change how they process data by learning. Machine learning often falls into two groups: supervised or unsupervised. The difference between the two is whether the program is directed to analyze patterns or is self-automated. (NAIC's Accelerated Underwriting in Life Insurance Educational Report)

Predictive Model - refers to the mining of historic data using algorithms and/or machine learning to identify patterns and predict outcomes that can be used to make or support the making of decisions. (AI Bulletin)

MCAS Pet Insurance Definitions

DRAFT Document - Edited 6/20/24

Partial Payment – A claim not paid in full for costs included within the terms of coverage of the insurance policy/certificate.

Removal from a claim of charges for costs not covered in the policy – where there is full payment for costs covered in the policy – is not considered a partial payment.

Do not report as a partial payment claims that are reduced by deductibles, copays, maximum benefit limits, or other limitations set by the insurance policy/certificate.

Cancellations – Includes all cancellations of the policies where the cancellation effective date is during the reporting year.

• These should be reported every time a policy cancels during the reporting period. (i.e., if a policy cancels for non-pay three times in a policy period and is reinstated each time; each cancellation should be counted.)

Exclude:

- Policies cancelled for 're-write' purposes where there is no lapse in coverage.
- Policies returned by the owner under the right to review or the free look provision.