Teresa,

CEJ offers the following comments on the proposal to implement reporting of non-claim and claims (all) lawsuits for personal auto and homeowners MCAS lines. Generally, we support the proposal with the following changes:

1. While it makes sense to segregate the claims-related lawsuit data elements from the non-claims-related lawsuit data elements to provide consistency and ease of reporting for insurers for the claims-related lawsuits, the data elements for non-claims lawsuits are new data elements. Consequently, we suggest that the additional definitions and clarifications for claims-related lawsuits be effective for 2022 experience reporting in 2023, but the initial reporting of non-claims related lawsuits data elements be for 2023 experience reported in 2024.

2. There is an inconsistency between the definition of lawsuit -- "An action brought in a court of law in which one party . . ." -- and the definition / instruction for claims-related lawsuits: "include arbitration cases." An arbitration is not an action brought in a court of law. For consistency, either eliminate the instruction to "include arbitration cases" or revise the definition of lawsuit to "An action brought in a court of law or through a mandatory arbitration in which one party . . . ."

If arbitrations will be included, we also suggest that further explanation be included instead of "Include arbitration cases."

Include arbitrations demanded by the insurer or claimant pursuant to pre-dispute mandatory arbitration provisions in the insurance contract. Do not include mutually-agreed upon arbitrations, appraisals or mediations.

We offer this clarification to ensure that only demand-type dispute resolution mechanisms are included in the reporting of lawsuits. Pre-dispute mandatory arbitration provisions in an insurance contract permit one party to force the other party into a binding arbitration -- in the same way that one party filing a lawsuit forces the other party into court. In contrast, mutually-agreed upon or voluntary arbitration requires consent of both parties and, consequently, is unlike a lawsuit. Further, we suggest the specific instruction that mediations or appraisals are not considered arbitrations (or lawsuits) for purposes of MCAS reporting.

Birny