FROM THE NAIC CONSUMER REPRESENTATIVES

To: Other Health MCAS Drafting Group
Randy Helder

Date: March 10, 2020

Re: Comments on MCAS for Short-Term, Limited Duration Insurance

The undersigned NAIC consumer representatives offer the following recommendations for data elements and definitions for the Short-Term Limited Duration Insurance (STDLI) MCAS. Many of these recommendations are outlined in the attached proposal.

Definition of STLDI and Renewal. We suggest definitions that track those used in both the Data Call and the SERFF Product Filing Coding Matrix.

Collection of Group Data. We support the collection of experience by major product category, but suggest different categories to better reflect the distinction between individual and group as well as issues posed by STLDI sold by or through associations. We also provide a more complete set of data elements, as explained in our proposal.

Total Applications and Coverage Denials. A key data point missing from the draft STLDI MCAS is the number of applicants denied STLDI coverage. To collect this information, we urge the Drafting Group to additionally ask a) the total number of applicants for coverage; b) the total number of denials based on health status at the point of initial application; and c) the total number of cancellations based on health status at the point of renewal. (The total number of applications received by the insurer is separate from the number of applications received in the section of the draft MCAS on producer oversight.) This information is critical to understanding how STLDI is being sold within a given state. These additions are reflected in our proposal

Renewals Denied. The current draft includes the number of renewals allowed but does not reflect the number of renewals denied, which we believe is a more relevant market conduct data point for regulators to collect. Our proposal reflects these additional data elements.

Rescissions, Policy Terminations, and Cancellations. Questions 16 through 22 ask a series of questions focused on member-mediated or member-requested cancellations. As we commented during the development of the data call, we urge the Drafting Group to additionally ask for the total number of *insurer*-initiated cancellations. We believe this information will complement the data requested in question 19 on rescissions. These additions are reflected in our proposal.

Claims Administration. In addition to the information outlined under the draft section on claims administration, we urge the Drafting Group to collect additional information on 1) claims denials; and 2) appeals processes. These additions are reflected in our proposal.

First, we urge an additional question on a) number of claims denied, rejected, or returned – out-of-network claim/service. This question may only be relevant to STLDI products that include a provider network, but—to the extent that products claim they have a network—collecting information on out-of-network claim denials is important.

Second, we urge three additional questions on a) number of claims appealed; b) number of denied claims that were overturned on appeal; and c) number of denied claims that were upheld on appeal. As with out-of-network denials, this question may only be relevant to some STLDI products that allow for an appeals process, but we urge the Drafting Group to collect this information.

Producer Oversight. We strongly support the draft section on producer oversight and believe that the draft questions, which address the method of marketing as well as commissions and other fees, are critical to understanding the marketing of STLDI products in each state. Our proposal includes some breakout by new and renewal applications.

Lawsuits. Most other MCAS lines include data elements related to lawsuits. We suggest using the same data elements and definitions regarding lawsuits found in other MCAS blanks

Thank you in advance for your consideration, and we look forward to continuing to work closely with the chair and members of the Drafting Group on these issues. If you have any questions about the content of this letter, please contact Katie Keith (katie@out2enroll.org).

Sincerely,

Birny Birnbaum
Lucy Culp
Katie Keith
Sarah Lueck
Jackson Williams

Consumer Representative Comments and Recommendations for

Short Term Limited Duration Insurance MCAS Data Elements and Definitions

Premature to Discuss Ratios

The development of ratios has historically followed the adoption of the MCAS data elements and definitions, and we suggest that any discussion of ratios be deferred until the Other Health data elements and definitions are adopted. The rationale for this timing is that the discussion of data elements – to include or not to include – involves consideration of whether the information will be useful to regulators for market analysis. Once the data elements are adopted, such adoption means the regulators have found the data elements to be useful and necessary for market analysis. At that point, the ratios can and should be developed to best provide insight into the data elements. Discussion of ratios is often time consuming because there is generally a trade-off between the number of ratios and the ability of market analysts to utilize the ratios. Having such discussion at the data element / definition development stage will both slow the development of the data elements and would have to be revisited following adoption of the data elements / definitions. For these reasons, we urge a focus on data element selection and definitions and deferring discussion of ratios.

Coverage and Data Element Suggestions

Interrogatories

We suggest developing interrogatories after the data elements and definitions are further developed as the interrogatories generally track the data elements.

Coverages

Coverages refer to specific products (columns) for which experience are reported for specified data elements (rows).

<u>Individual vs. Group</u>

We support the breakout of individual versus group experience, but suggest the following breakouts.

- Individual policies not sold through an association;
- Individual policies sold through an association;
- Group policies issued to an association;
- Group policies issue to an employer;
- Group policies – all other.

Discussion: We suggest that these product categories better correspond to the major types of product marketing and sales in the market place and, consequently, can reflect different experience based on the nature of the sale. We did not find the categories of association, trust and administrator to mutually exclusive or accurate descriptions of sales channels. For example, an association may use an affiliated trust to be group policyholder for the association.

We are concerned that associations are engaged in both individual and group policy sales and believe segmentation along these lines is critical for monitoring this market.

Regarding definitions, we suggest:

> An individual policy is defined as coverage issued on an individual policy form.
>
> A group policy is defined as coverage issued on or through a group policy form.
>
> Coverage to be reported are short-term limited duration medical plans that are not required to comply with all state or federal mandates for health insurance. These coverages are health coverage pursuant to a contract with a term of coverage of 364 days or less and have duration of 36 months or less inclusive of renewals or extensions. These coverage are products filed as SERFF Type of Insurance H15I.002 (Individual filed on or after January 1, 2019), H16I.004 (Individual filed before January 1, 2019), H15G.004 (Group filed on or after January 1, 2019) or H16G.004 (Group filed before January 1, 2019).
>
> Renew or renewal means when a policy form is renewed or reissued to an insured or group of insureds with the same form number as the preceding policy/product. It is not a renewal if a policy is issued to an insured with a new form number.

We pulled this definition of STLDI from the SERFF Product Coding Matrix and the STLDI Data Call. We suggest the definitions of individual and group because it ties into the policy form associated with the product sold, is easy to understand and implement and works well with the proposed product/coverage reporting categories.

Length of Coverage Offered

We support the product break-out by the three time frames listed but recommend identifying the policies/certificates with *up to* 90 days coverage, policies/certificates with 91 to 180 days coverage and policies/certificates with 181 to 364 days coverage. This breakout is important to identify the length of coverage offered. We note that the data elements regarding months in force, discussed below, are important complements to the coverage breakouts to identify the length of coverage experienced.

Data Elements

Policy Administration

Net Written Premium: We suggest the addition of net written premium as a complement to earned premium to show the effects of rapidly changing books of business. For a stable book of business, net written and earned premium will largely track one another. For a rapidly increasing or decreasing book of business, the two premium measures will depart and thereby offer insight to the market analysis

Earned Premium

Number Policies in Force at Beginning of Period

Number of Covered Lives on Policies in Force at Beginning of Period

Discussion: We suggest that policy information is needed for both individual and group policies. The basic concept is – coverages in force at beginning of period, coverages added during the period, coverages terminated during the period, coverages in force at end of the period. In

addition to covering all coverage sales and terminations, this approach permits a reconciliation of activity during the period which serves as an important data quality check.

Data elements referring to "Policies" will be reported for individual and group coverages. It is useful for market analysts to see an insurers' turnover of group policyholders. Data elements referring to "certificates" will be reported for group coverages only.

Number of New Policies Issued During the Period

Number of Covered Lives on New Policies Issued During the Period

Number of Renewal Policies Issued During the Period

Number of Covered Lives on Renewal Policies Issued During the Period

Number of Policies Cancelled at the Initiation of the Policyholder During the Period

Number of Covered Lives on Policies Cancelled at the Initiation of the Policyholder During the Period

Number of Policies Cancelled at the Initiation of the Policyholder During Free Look Period During the Period

Number of Covered Lives on Cancelled at the Initiation of the Policyholder During Free Look Period During the Period.

Number of Policies Cancelled Due to Non-Payment of Premium During the Period

Number of Covered Lives on Policies Cancelled Due to Non-Payment of Premium During the Period

Number of Policies Cancelled by Insurer for Any Reason Other than Non-Payment of Premium During the Period

Number of Covered Lives on Policies Cancelled by Insurer for Any Reason Other Than Non-Payment of Premium During the Period

Number of Policies Cancelled by Insurer Following Filing of a Claim or Prior Authorization Request by the Policyholder During the Period

Number of Lives on Policies Cancelled by Insurer Following Filing of a Claim or Prior Authorization Request by the Policyholder During the Period

Number of Policies in Force at End of Period

Number of Covered Lives on Policies in Force at End of Period

Number of Member Months on New Policies Issued During the Period

Number of Member Months on Renewal Policies Issued During the Period

Number of Member Months on Other Than New Policies or Renewal Policies Issued During the Period

[Group Policy Certificate Activity]

Number of Certificates in Force on Group Policies at Beginning of the Period

Number of Covered Lives on Certificates in Force on Group Policies at beginning of the Period

Number of New Certificates Issued During the Period from Group Policies

Number of Covered Lives on New Certificates Issued During the Period on Group Policies

Number of Renewal Certificates Issued During the Period on Group Policies

Number of Covered Lives on Renewal Certificates Issued During the Period on Group Policies

Number of Certificates on Group Policies Cancelled at the Initiation of the Certificate Holder During the Period

Number of Covered Lives on Certificates on Group Policies Cancelled at the Initiation of the Certificate Holder During the Period

Number of Certificates on Group Policies Cancelled at the Initiation of the Certificate Holder During Free Look Period During the Period

Number of Covered Lives on Certificates on Group Policies Cancelled at the Initiation of the Policyholder During Free Look Period During the Period.

Number of Certificates on Group Policies Cancelled Due to Non-Payment of Premium During the Period

Number of Covered Lives on Certificates on Group Policies Cancelled Due to Non-Payment of Premium During the Period

Number of Certificates on Group Policies Cancelled by Insurer for Any Reason Other Than Non-Payment of Premium

Number of Covered Lives on Certificates on Group Policies Cancelled by Insurer for Any Reason Other than Non-Payment of Premium During the Period

Number of Certificates on Group Policies Cancelled by Insurer Following Filing of a Claim or Prior Authorization Request by the Policyholder During the Period

Number of Covered Lives on Group Policies Cancelled by Insurer Following Filing of a Claim or Prior Authorization Request by the Policyholder During the Period

Number of Certificates on Group Policies in Force at End of Period

Number of Covered Lives on Certificates on Group Policies in Force at End of Period

Number of Member Months on New Certificates on Group Policies Issued During the Period

Number of Member Months on New Renewal Certificates on Group Policies Issued During the Period

Number of Member Months on Other Than New Certificates on New Renewal Certificates on Group Policies Issued During the Period

Application Activity (Producer Oversight)

Discussion: "Individual Application" means a request by a consumer to purchase an individual policy or a certificate under a group policy. We suggest that the application data be reported by all coverages (individual vs. group and length of coverage offered) and that the commission and fees be reported by the individual/group coverages level only. Where indicated new and renewal application experience is reported separately.

Number of Individual Applications Pending at Beginning of Period

Number of New Individual Applications Received During the Period

Number of Renewal Individual Applications Received During the Period

Number of New Individual Applications Denied During the Period for Any Reason

Number of New Individual Applications Denied During the Period – Health Status or Condition

Number of Renewal Individual Applications Denied During the Period for Any Reason

Number of Renewal Individual Applications Denied During the Period – Health Status or Condition

Number of New Individual Applications Approved During the Period

Number of Renewal Individual Applications Approved During the Period

Number of Individual Applications Pending at End of Period.

Number of New Individual Applications Taken via Phone During the Period

Number of New Individual Applications Taken via Face to Face During the Period

Number of New Individual Applications Taken Electronically During the Period

Number of New Individual Applications Taken By Mail During the Period

Number of New Individual Applications Taken by Any Other Method During the Period

Dollar Amount of Commissions Incurred During the Period

Dollar Amount of Fees Charged to Applicants and Policyholders During the Period

Prior Authorization

Number of Prior Authorization Requests Pending at Beginning of Period

Number of Prior Authorization Requests During the Period

Number of Prior Authorization Requests Approved During the Period

Number of Prior Authorization Requests Denied During the Period

Number of Prior Authorization Requests Pending at End of the Period

Median Number of Days from Receipt of Prior Authorization Request to Decision

Average Number of Days from Receipt of Prior Authorization Request to Decision

Claims Administration

Number of Claims Pending at Beginning of Period

Number of Claims Received During the Period

Number of Claims Denied Total During the Period

Number of Claims Denied – Claim Submission Coding Error – During the Period

Number of Claims Denied – Failure to Obtain Prior Authorization – During the Period

Number of Claims Denied in Whole or in Part – Benefit Cap Exceeded – During the Period

Number of Claims Denied – Not Medically Necessary – During the Period

Number of Claims Denied – Pre-Existing Condition Exclusion – During the Period

Number of Claims Denied – Non-Covered Condition or Even – During the Period

Number of Claims Denied – Out-of-Network – During the Period

Number of Claims Pending at End of Period

Median Number of Days from Receipt of Claim to Decision for Denied Claims

Average Number of Days from Receipt of Claim to Decision for Denied Claims

Median Number of Days from Receipt of Claim to Decision for Approved Claims

Average Number of Days from Receipt of Claim to Decision for Approved Claims

Number of Claim Decisions Appeals Pending At Beginning of Period

Number of Claim Decision Appeals Received During the Period

Number of Claim Decision Appeals Resulting in Decisions Upheld During the Period

Number of Claim Decision Appeals Resulting in Decisions Overturned or Modified During the Period

Number of Claim Decision Appeals Rejected and Not Considered for Any Reason

Number of Claim Decision Appeals Pending at End of Period

Average Number of Days from Receipt of Appeal to Decision

Median Number of Days from Receipt of Appeal to Decision

Dollar Amount of Claims Paid During the Period

Dollar Amount of Co-Payment Required on Claims During the Period

Dollar Amount of Co-Insurance Required on Claims During the Period

Dollar Amount of Deductible Required on Claims During the Period

Lawsuits and Complaints

Discussion: These data elements are taken from other MCAS blanks and the same definitions should be used:

Lawsuit—An action brought in a court of law in which one party, the plaintiff, claims to have incurred a loss as a result of the action of another party, the defendant. For purposes of reporting lawsuit in the MCAS blank:

- Include only lawsuits brought by an applicant for insurance, a policyholder or a beneficiary as a plaintiff against the reporting insurer or its agent as a defendant;
- Include all lawsuits, whether or not a hearing or proceeding before the court occurred;
- Do not include arbitrations of any sort;
- 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;
- If one lawsuit has two or more complainants, report the number of complainants as the number of lawsuits. For example, if one lawsuit has two complainants, report two lawsuits. If the lawsuit is a class action, see instructions for treatment of class action lawsuits;
- Report a lawsuit in the jurisdiction in which the policy was issued with the exception of class action lawsuits;
- Treatment of class action lawsuits: Report the opening and closing of a class action lawsuit once in each state in which a potential class members reside. Include an explanatory note with your submission stating the number of class action lawsuits included in the data and the general cause of action.

Lawsuits Closed During the Period with Consideration for the Consumer—A lawsuit closed during the reporting period in which a court order, jury verdict, or settlement resulted in payment, benefits, or other thing of value, i.e., consideration, to the applicant, policyholder, or beneficiary in an amount greater than offered by the reporting company before the lawsuit was brought

Number of Lawsuits Open at Beginning of the Period

Number of Lawsuits Opened During the Period

Number of Lawsuits Closed During the Period

Number of Lawsuits Closed During the Period with Consideration for the Consumer

Number of Lawsuits Open at End of Period

Number of Complaints Received Directly From Any Person or Entity Other than the DOI

Number of Complaints Received from Any Source Resulting in Claims Reprocessing