

FROM THE NAIC CONSUMER REPRESENTATIVES

To: Other Health MCAS Drafting Group
Randy Helder

Date: August 17, 2020

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

The NAIC consumer representatives offer the following additional recommendations for the Short-Term Limited Duration Insurance (STLDI) MCAS. Our comments work through those interrogatories and data elements in the order presented in the current draft STLDI MCAS blank and definitions. Our suggestions address the substance of the interrogatories and data elements; proposed additions are in red while proposed deletions are in ~~strike through~~. If our suggestions are accepted, some reordering is likely needed.

Interrogatory 1

~~1. List the states where your STLDI products are marketed.~~

Given the ability of insurers to sell across state lines and the documented issues with STLDI sales through out-of-state associations, it is essential for this MCAS to collect information on sales within a state through insurers licensed in another state and associations located out-of-state. However, the proposed interrogatory – list states where your STLDI products are marketed – provides limited data. There is no indication of the volume of inter-state sales within the state.

To better identify these types of sales, we suggest reporting instructions, definitions and interrogatories.

Recommended Reporting Instructions:

Report any STLDI activity associated with residents of this state. Report experience separately for each state in which there is any STLDI activity. Activity means any positive responses to the interrogatories or any positive or negative values for any of the data elements.

Recommended Definitions

Association means an organization comprised of individuals, entities or other organizations and whose members are offered, solicited or sold STLDI. Such associations, for purposes of MCAS reporting, may or may not be a licensed insurance producer and they may be known by a term other than association. A licensed insurance producer who solicits, sells, or negotiates STLDI to or for members of the public only is not an association. An employer is not an association for purposes of this MCAS reporting. A stand-alone trust not affiliated with any other association is an association for purposes of this MCAS reporting.

Out-of-state Association means STLDI activity performed by or conducted through an association located in another state or jurisdiction and conducted according to the laws and requirements of the other state or jurisdiction.

In-state Association means all STLDI activity other than out-of-state Association STLDI activity.

Recommended Interrogatories

Does the company market or sell STLDI in this state through an out-of-state Association?

If yes, please list each out-of-state Association through which the company markets or sells STLDI in this state, the state in which the out-of-state Association is located for purposes of STLDI and the number of STLDI insureds at the beginning and at the end of the reporting period in this state who obtained the insurance through this out-of-state Association.

Interrogatories 2, 3 and 4

2. Does the company offer STLDI policies with **1 to 90** day duration?
3. Does the company offer STLDI policies with **91 to 180** day duration?
4. Does the company offer STLDI policies with **181 to 364** day duration?

These interrogatories should match the reporting categories.

Interrogatory 5

5. Number of **different** individual STLDI **policy forms** ~~products~~ filed?
6. **Number of different group STLDI policy forms** filed?

Products is an undefined term, particularly when paired with “filed,” since “filed” is a regulatory term. We suggest replacing products with “policy forms,” which is a well-understood concept in relation to “filed.” We also suggest separate interrogatories for individual and group policy forms.

The above raises the general issue of reporting of group and individual policy activity and crisper definition of reporting categories, discussed below.

Interrogatory 6

7. Does the company issue **individual** STLDI **policies** ~~products~~ through associations?
8. **Does the company issue group STLDI policies to or certificates under group policies through associations?**

The word “products” is not needed as discussed above. Further, a definition of association is needed. See our suggested definition, above.

Interrogatory 7.

9. List the names of each association through which the reporting company has any agreement related to the sale of STLDI. For each organization listed, report the amount of non-premium fees charged by the association as a condition for purchase of the STLDI. ~~If yes, is insurer collecting any fees on behalf of association? (Y/N)~~

While we agree that information on fees charged by the association in relation to eligibility for STLDI is important, we suggest a different approach – require the reporting company to provide a list of all associations through which the reporting company issues STLDI and, for each association reported, the amount of fees charged by the association as a condition for STLDI purchase eligibility.

We note that the MCAS Blanks Working Group has recently modified a number of MCAS blank for other lines of business to add interrogatories that ask the reporting company to list the third-party administrators and managing general agents utilized by the reporting company. In the case of STLDI, there is some analogy to providing a list of associations.

Interrogatories 8 and 9

10. List the names of each third-party administrator utilized by the reporting company, including marketing, solicitation, negotiation, sale, administration and claims handling of STLDI. For each TPA listed, identify the activities performed by that TPA
- ~~11. Number of trusts through which STLDI are issued~~
- ~~12. Number of administrators contracted per which STLDI are issued~~

It is important to distinguish between associations, trusts, and administrators. A trust may be a type of association or may be a tool used by an association to be the group policyholder for the association. Consequently, asking about trusts may lead to confusing responses because the insurer might report both the association and the trust as separate entities when, in fact, they are part of the same overall association structure. Further, if there are stand-alone trusts, then this type of association would be captured in the proposed definition of association. If the insurers do utilize stand-alone trusts to sell STLDI, then the proposed interrogatory to list all associations would reveal any such trusts.

An administrator – commonly understood as a third-party administrator – is an entity utilized by the insurer to outsource some of the administrative tasks associated with the solicitation, sale and administration of insurance. An administrator is not a type of association for purposes of this MCAS reporting as an administrator is not an association through which individual or group policies are sold or issued. We suggest deleting the interrogatory about trusts and revising the interrogatory about third party administrators as shown above. This approach would be consistent with recent actions by the MCAS Blanks Working Group for other MCAS lines.

Coverage Reporting Categories

The current draft includes the following coverage categories:

- Individual policies not sold through an Association
- Individual policies/certificates issued through an Association
- Individual policies/certificates issued through an Out-of-State Association

We support these categories but note that the elimination of group policy information altogether is problematic. First, by eliminating group policy information, the experience of reporting companies will not be a complete picture of the STLDI market. While the group markets for other types of insurance are mature and regulators have sufficient experience to have determined that, for example, group life experience, was not needed, the same cannot be said for STLDI. Initially, the STLDI should be collecting experience for all STLDI experience.

As currently proposed, the blank will only collect STLDI information related to coverage issued through an association and individual policies issued through other than an association. All group coverage other than that issued through an association is excluded. This leaves a big gap in experience reporting and should be remedied.

Summary vs. Transaction Reporting

The proposed STLDI MCAS is currently oriented, like other MCAS lines of business, around summary reporting as opposed to transaction reporting. We have, for two decades, urged regulators to collect transaction-level data which, in the instance of STLDI, would be data for each policy/certificate issued/cancelled/nonrenewed and each claim received. With transaction reporting, a reporting company reports all sales and claims transactions so the inclusion of additional or many policy characteristics does not increase the number of records reported, but permits more granular market analysis. With summary reporting, each new category or data element represents a new record or set of records with the result that the number of records reported multiplies quickly with additional granularity.

Stated differently, a summary reporting tool will always be limited in the level of granularity in reporting that is possible and makes analysis of issues that cut across reporting categories (data mining) impossible. If regulators are not satisfied with granularity provided by summary reporting, we suggest that STLDI would be an ideal candidate to pilot test transaction reporting for MCAS.

Below, we provide an illustrative record layout for STLDI sales. We term the record layout “illustrative” to show the drafting group members how transaction-level reporting would work. Each policy or coverage sold would be a separate record. Unlike the summary reporting data, the transaction reporting can be analyzed by any individual data element or combination of data elements. For example, data reported pursuant to the transaction record layout could be analyzed to assess not just policy cancellations but policy cancellations by type of product by producer by

type of association. Stated differently, transaction data provides all the analytic potential of summary reporting and an exponential increase in the market analysis potential.

If the drafting group wants to explore this, we can develop a record layout for STLDI claims.

We would add that in addition to the greater market analysis capabilities associated with transaction data reporting, data quality of transaction reporting will be significantly better than for summary reporting. Transaction reporting is largely a data dump from the insurers' data systems. For example, the illustrative sales data format includes data elements any insurer (or its third party administrator) must have to sell and administer the policy. Consequently, data reporting is largely a function of mapping insurer data system elements to the MCAS format. In contrast, summary reporting requires insurers to write programs to generate reports that summarize the data in the insurer's data systems. This step – creation of summary reports – introduces the potential for error (by errors in the report specifications) and precludes certain types of data quality review (because the data are summarized and errors may be hidden). In contrast, data quality review for transaction reporting is more thorough and less constrained.

Illustration of Transaction Data Reporting for STLDI Sales

Report all activity related to individual policies or individual certificates under group policies

1. Company NAIC Number
2. Insured unique identification
3. SERFF Policy Form Number
4. Company Policy Form Number
5. Individual (Enter 1) or Group Policy (Enter 2)
6. Company Identifier for Individual Policy or Individual Certificate Under Group Policy
7. Producer 1 Name
8. Producer 1 ID Number
9. Producer 2 Name
10. Producer 2 ID Number
11. Manner of Application
 - a. Face-to-Face
 - b. Phone
 - c. Online
 - d. Other
12. Effective Date of Coverage as YYYYMMDD
13. Renewable Policy – Enter 0 if no, 1 if yes.
14. New (Enter 1) or Renewal (Enter 2)
15. Premium for Coverage Provided
16. Non-Premium Fees Charged to Consumer for Eligibility to Purchase Coverage
17. Other Non-Premium Fees to Consumer to Purchase Coverage

18. Term of Coverage in Days
19. If Policy Cancelled or Terminated at Insureds Request Prior to End of Coverage Term, Enter Date Cancelled as YYYYMMDD
20. If Policy Cancelled by Insurer Prior to End of Coverage, Enter Date Cancelled as YYYYMMDD
21. If Policy Cancelled (Including Rescissions) by Insurer Prior to End of Coverage, Enter One of the Following Codes
 - a. 1 – Non-Payment of premium
 - b. 2 – Misrepresentation in Application Discovered Prior to Filing of Claim by Insured
 - c. 3 – Misrepresentation in Application Discovered After Filing of Claim by Insured.
 - d. Other
22. If Policy Cancelled Prior to End of Coverage, Total Amount of Refund to Insured
23. If Issued Through or With an Association, Name of Association
24. Contact State for Association
25. Contact Email for Association
26. Complaint for Any Reason Received About This Policy or Certificate from Insured
27. Complaint for Any Reason Received About This Policy or Certificate from DOI
28. Complaint for Any Reason Received About This Policy or Certificate from Any Other Source

Thank you in advance for your consideration and the efforts of the Drafting Group on these issues. If you have any questions about the content of this letter, please contact Birny Birnbaum (birny@cej-online.org) or Katie Keith (katie@out2enroll.org).