Draft date: 8/3/24

2024 Summer National Meeting
Chicago, Illinois

NAIC/CONSUMER LIAISON COMMITTEE
Monday, August 12, 2024
11:45 a.m. – 1:45 p.m.
McCormick Place Convention Center-Grand Ballroom—Level 1

ROLL CALL

Grace Arnold, Chair	Minnesota	Chlora Lindley-Myers	Missouri
D J. Bettencourt, Vice Chair	New Hampshire	Eric Dunning	Nebraska
Mark Fowler	Alabama	Scott Kipper	Nevada
Lori K. Wing-Heier	Alaska	Justin Zimmerman	New Jersey
Peni Itula Sapini Teo	American Samoa	Alice T. Kane	New Mexico
Alan McClain	Arkansas	Adrienne A. Harris	New York
Ricardo Lara	California	Mike Causey	North Carolina
Mike Conway	Colorado	Jon Godfread	North Dakota
Andrew N. Mais	Connecticut	Judith French	Ohio
Trinidad Navarro	Delaware	Glen Mulready	Oklahoma
Karima M. Woods	District of Columbia	Andrew R. Stolfi	Oregon
Dean L. Cameron	Idaho	Michael Humphreys	Pennsylvania
Ann Gillespie	Illinois	Alexander S. Adams Vega	Puerto Rico
Doug Ommen	Iowa	Cassie Brown	Texas
Vicki Schmidt	Kansas	Jon Pike	Utah
Timothy J. Temple	Louisiana	Scott A. White	Virginia
Joy Y. Hatchette	Maryland	Mike Kreidler	Washington
Anita G. Fox	Michigan	Allan L. McVey	West Virginia
Mike Chaney	Mississippi	Nathan Houdek	Wisconsin

NAIC Support Staff: Lois Alexander

2024 NAIC Consumer Representatives

Amy Bach	United Policyholders	Adam Fox	Colorado Consumer Health Initiative
Kellan Baker	Whitman-Walker Institute	Stephanie E. Hengst	The AIDS Institute
Stephani R. Becker	Shriver Center on Poverty Law	Marguerite Herman	Individual Consumer Advocate
Ashley Blackburn	Health Care for All	Claire Heyison	Center for Budget and Policy Priorities
Brendan M. Bridgeland	Center for Insurance Research	Kara Hinkley	The Amyotrophic

Name	Organization
Jaclyn de Medicci Bruneau	Ceres-Ceres Accelerator for Sustainable Capital Markets
Bonnie Burns	California Health Advocates
Jalisa Clark	Georgetown University Law Center on Health Insurance Reforms
Laura Colbert	Georgians for a Healthy Future
Symone Crawford	Massachusetts Affordable Housing Alliance
Brenda J. Cude	University of Georgia
Lucy Culp	The Leukemia and Lymphoma Society
Deborah Darcy	American Kidney Fund
Michael DeLong	Consumer Federation of America
Shamus Durac	Rhode Island Parent Information Network
Eric Ellsworth	Consumers' Checkbook
Erica Eversman	Automotive Education and Policy Institute
Carly Fabian	Public Citizen
Joseph Feldman	Individual Consumer Advocate
	Lateral Sclerosis Association
Anna Howard	American Cancer Society, Cancer Action Network
Anna Hyde	Arthritis Foundation
Janay Johnson	American Heart Association
Amy Killelea	Individual Consumer Advocate
Kenneth S. Klein	California Western School of Law
Peter Kochenburger	Southern University Law School
Dorianne Mason	National Women's Law Center
Erin L. Miller	Community Catalyst
Carl E. Schmid II	HIV+ Hepatitis Policy Institute
Jennifer Snow	National Alliance on Mental Illness-NAMI
Deborah Steinberg	Legal Action Center
Christa L. Stevens	Autism Speaks
Harold LM Ting	Health Care Consumer Advocate
Wayne Turner	National Health Law Program-NHLP
Brent J. Walker	Coalition Against Insurance Fraud
Richard Weber	Life Insurance Consumer Advocacy Center-LICAC
Caitlin Westerson	United States of Care
Jackson Williams	Dialysis Patient Citizens
Silvia Yee	Disability Rights Education and Defense Fund

AGENDA

1. Consider Adoption of its Spring National Meeting Minutes and Karrol Kitt Memorial—*Commissioner Grace Arnold (MN)*   Attachment One

2. *Hear a Presentation on Insurance Obstacles to Mental Health and Substance Use Disorder Care—Joe Feldman (Individual Consumer Advocate), Jennifer Snow (NAMI), and Deb Steinberg (LAC)-20 minutes*   Attachment Two

3. Hear a Presentation on The Impact of the Enhanced Premium Tax Credit on Uninsurance, Premiums, and State Innovation—Claire Heyison (CBPP) *and Laura Colbert (GFHF)-10 minutes*

4. Hear a Presentation on Important Changes to Essential Health Benefits in the Notice of Benefit and Payment Parameters 2025—Wayne Turner *(NHLP)* and Adam Fox *(CCPI)-15 minutes*

5. Hear a Presentation the Misuse of Indexed Life and Annuity Policy Illustrations—Richard Weber *(LICAC)-10 minutes*   Attachment Three

6. Hear a Presentation on Readability Standards in State Insurance Laws—Brenda Cude *(University of Geargia)-15 minutes*   Attachments Four and Five

7. Hear a Presentation on Whether Plaintiff's Attorneys are the Cause of Rising Premiums—Kenneth Klein *(California Western School of Law)-15 minutes*

8. Hear a Presentation on Combatting Post-Disaster Fraud but Preserving Coverage-*Amy Bach (UHelp) and Brent Walker (CAIF)-15 minutes*

9. Hear a Presentation on the Progress and Challenges in U.S. Insurance Sector Disclosures in Navigating Climate Risks-*Jaclyn de Medicci Bruneau (Ceres-Ceres)-10 minutes*

10. Any Other Matters Brought Before the Committee —*Commissioner Grace Arnold (MN)*

11. Adjournment

Overview

State of Mental Health & Substance Use in the U.S.

Mental Health & Substance Use Access Challenges in Private Insurance

Actionable Strategies for State Regulators

Questions and Resources

Mental Health & Substance Use Crisis

- America is experiencing a mental health and substance use disorder crisis that worsened during the COVID-19 pandemic

- Suicide is one of the leading causes of death in the US, 2nd leading cause of death amongst young adults

- Over 100,000 people have died from overdose per year

Behavioral Health Conditions are Common

- 32.9%, or about 1 in 3 experienced substance use disorder or mental illness (a behavioral health condition)
  - 23.1% or more than 1 in 5 experienced mental illness
  - 17.3% or more than 1 in 6 have a substance use disorder
- 1 in 2 U.S adults will experience a mental health condition at some point in their life

Source: 2022 National Survey on Drug Use and Health (NSDUH)

The Promise of Parity

Disclosure requirements/availability of plan info

Benefits in all classifications, if offered in any

No separate financial requirements or frequency limitations

Comparable non-quantitative treatment limits (NQTLs)

NQTL comparative analyses

The Promise of Parity: Proposed Regulations

- Clarified Purpose

- "Meaningful" coverage of benefits in all classifications

- New NQTL tests

- Focus on "network composition" NQTL

- Collect and analyze **outcome** data

- Corrective action plans

MH/SUD   Med/Surg
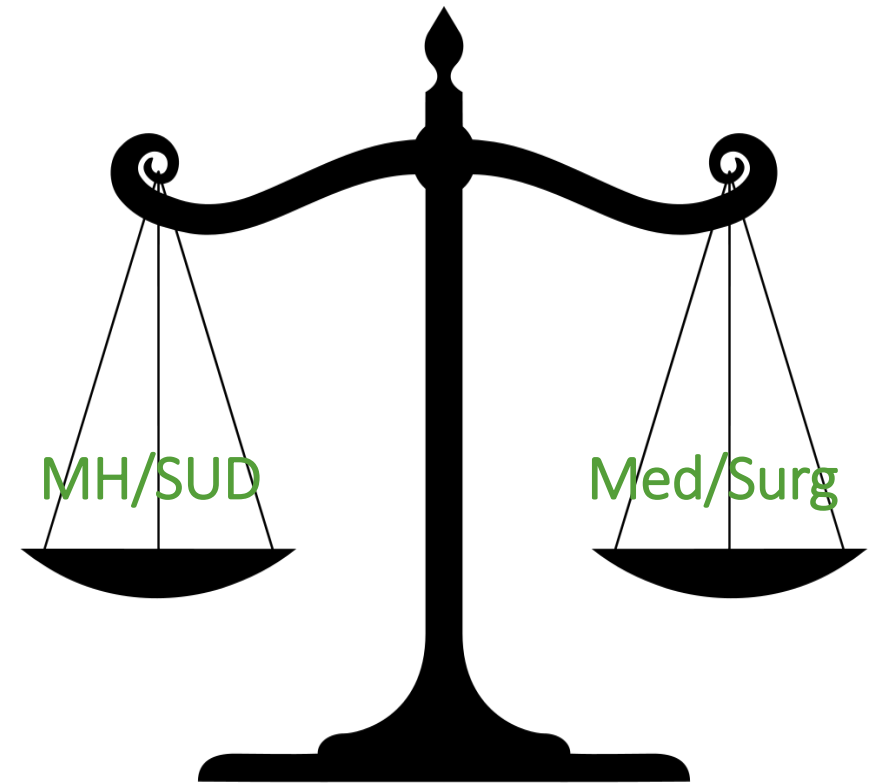
The Reality: People Struggle to Access Care

- Only **50.6%** of people with any mental illness who needed treatment received any in the last year

- Less than **1 in 4** (24%) of those with a substance use disorder who needed treatment received any in the past year

Source: 2022 National Survey on Drug Use and Health (NSDUH)

Why don't people receive treatment?

"*All of our savings is gone…How are we going to send our kids to school?...How are we going to recover from this? I don't know… "Those thoughts in your mind — there's no space for that when you are just trying to keep your child alive.*"

- <u>51.4%</u> Thought It Would Cost Too Much

Why don't people receive treatment?

"I waited six months on a wait list for a psychiatrist and almost a year for a psychotherapist. I still can only see her every three weeks as she doesn't have anymore available access."

"It took months to get an appointment for my daughter to see a psychiatrist! She was placed on a long waiting list. She needed help right away for her mental illness. No one should have to wait months for help!!"

- <u>40.7%</u> Could Not Find Treatment Program or Healthcare Professional

Why don't people receive treatment?

> "*I needed mental health therapy for several different reasons over the years and my insurance did not cover my expenses. I had to seek care out-of-network and experienced financial hardship. I was denied care and the health plan provided a vague or confusing reason; the denial letter lacked complete rationale for the reason for the denial.*"

- [34.9%](#) Thought Health Insurance Would Not Pay Enough of Costs for Treatment

The Reality: Insurance Barriers Persist

- RTI analyzed commercial insurance claims, 2019-2021 for 22 million lives.

- Out-of-network use was many times higher for behavioral health (BH) treatment than medical/surgical treatment, which created a significantly greater financial burden
  - 3.5x more often to see BH clinician
  - 8.9x more often to see psychiatrist
  - 10.6x more often to see psychologist
  - 6.2x more often for BH acute inpatient care
  - 19.9x more often for BH sub-acute inpatient care

Source: "Behavioral health parity – Pervasive disparities in access to in-network care continue"

The Reality: Lived Experiences

"they were the only one [provider] within 100 mile radius offering a specific therapy, accepting new patients, or treating my person's condition [but my plan didn't cover them]"

The Reality: Insurance Barriers Persist

- Office visit in-network reimbursement levels were much lower for behavioral health providers than for medical/surgical providers creating disincentives for behavioral health providers to participate in-network.

- Provider shortages do not explain the disparities in out-of-network utilization and reimbursement.

- These results demonstrate the need for more robust parity enforcement.

Source: "Behavioral health parity – Pervasive disparities in access to in-network care continue"

13

Key Strategies for State Regulators

Meaningful Parity Act Enforcement

Quantitative Network Adequacy Standards with Strong Consumer Protections

Standardize and Eliminate Unnecessary Utilization Management Practices

Support Community-Based Consumer Assistance Programs

1. Meaningful Parity Act Enforcement

Regulators have federal authority to request and review comparative analyses. 42 U.S.C. § 300gg-26(a)(8)(A).

Regulators can hold insurers accountable for Parity Act violations under existing mechanisms for remedies and penalties.

Examples:
1. Failure to submit timely or sufficient form filings (GA, OK)
2. Acts of discrimination and unfair trade practice (KY)
3. General sanctions pertaining to the business of insurance or other laws (CO)

1. Meaningful Parity Act Enforcement

- Reactive enforcement helps to fill gaps from what carriers may be failing to report and to identify emerging barriers to care
  - Market conduct exams
  - Review all consumer and provider complaints for potential Parity Act violations

2. Quantitative Network Adequacy Standards with Strong Consumer Protections

- States should have both standards to measure accessibility (geographic time and distance standards) and availability (appointment wait time and provider directory accuracy standards)

The 2025 Notice of Benefit and Payment Parameters requires quantitative time and distance network adequacy standards for state exchange plans to be *at least* as stringent as those for the federally facilitated exchange.

17

2. Quantitative Network Adequacy Standards with Strong Consumer Protections
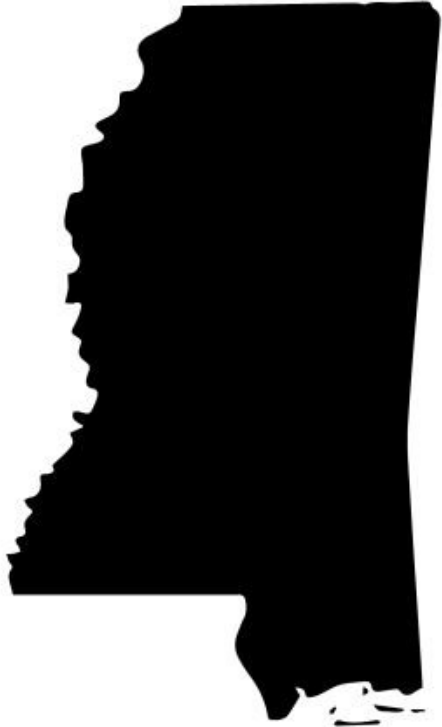
- States must couple these with strong patient protections for people who are forced to go out-of-network or travel unreasonable distances when their networks are inadequate
  - *Balance billing protections*
  - *Reimburse travel*

At least 18 states have prohibitions on balance billing by out-of-network providers (at least for MH & SUD) when networks are inadequate

3. Standardize and Eliminate Unnecessary Utilization Management Practices

- Plans should be required to use the coverage criteria and patient placement tools that treating providers use (generally accepted standards of care, such as ASAM Criteria and LOCUS)

- The process by which plans develop/design coverage criteria (as written) and apply/use them (in operation) should be evaluated by regulators for Parity Compliance

At least 15 states require specific criteria or placement tools for medical necessity criteria for SUD.

3. Standardize and Eliminate Unnecessary Utilization Management Practices

- Eliminate unnecessary prior authorizations and other utilization management practices that delay or deter access to MH & SUD treatment

  - *Policymakers have used non-legislative actions to reduce prior authorization use*
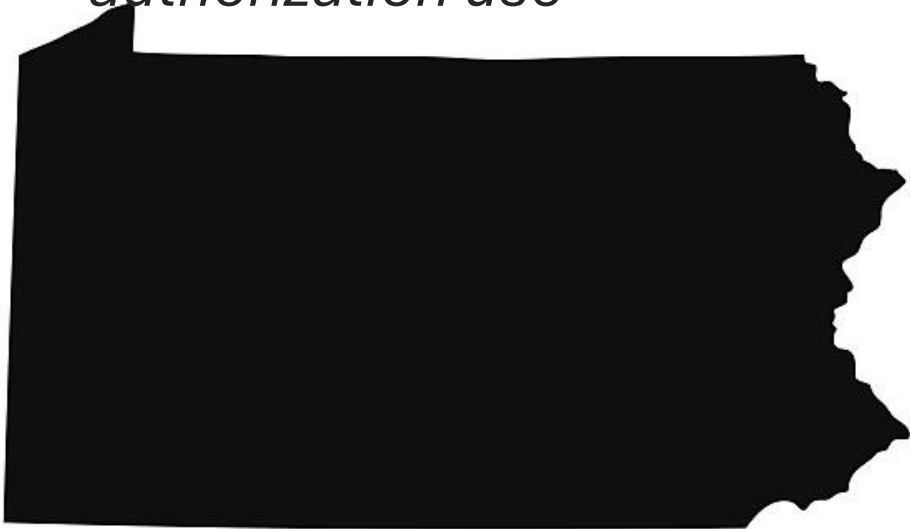
At least <u>17 states</u> limit carriers from imposing PA on SUD medications.

Example: PA and RI insurance commissioners entered into agreements with plans to remove PA requirements for OUD medications

4. Support Community-Based Consumer Assistance Programs

- People need individual support and assistance to understand and navigate insurance coverage, especially for MH & SUD care

- State regulators should partner and engage with community-based organizations:

  - *Raise awareness about consumer protections*
  - *Identify barriers to treatment*
  - *Improve policies*

- CBOs provide a critical link for education and outreach in diverse communities

Example: New York
Community Health Access to Addiction and Mental Health Project (CHAMP)

CHAMP Network Map
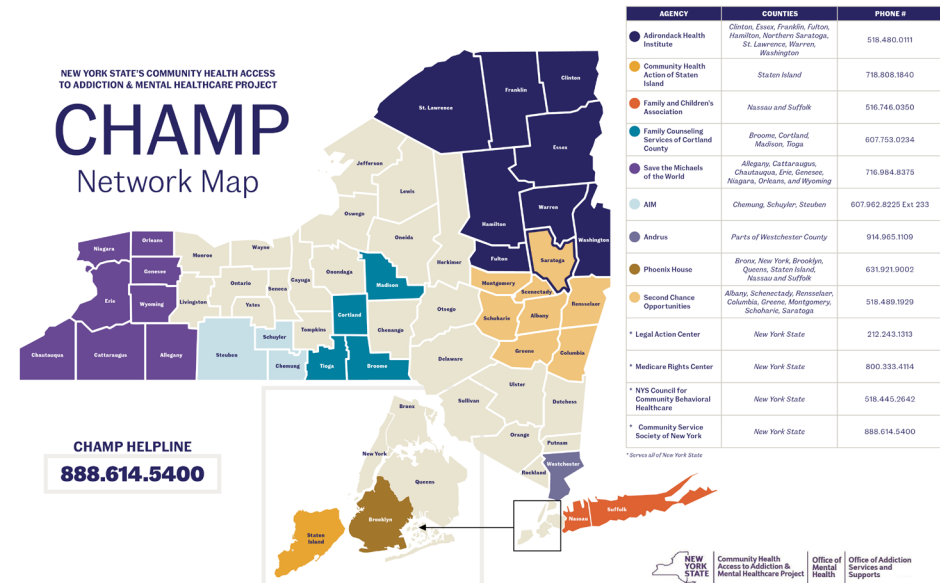
Questions

Joe Feldman, joe@covermymentalhealth.com

Jennifer Snow, jsnow@nami.org

Deb Steinberg, dsteinberg@lac.org

The Impact of the Enhanced Premium Tax Credit on Uninsurance, Premiums, and State Innovation

Claire Heyison, Center on Budget & Policy Priorities

Laura Colbert, Georgians for a Healthy Future

Timeline of the enhanced premium tax credits

March 2021

August 2023

December 31, 2025
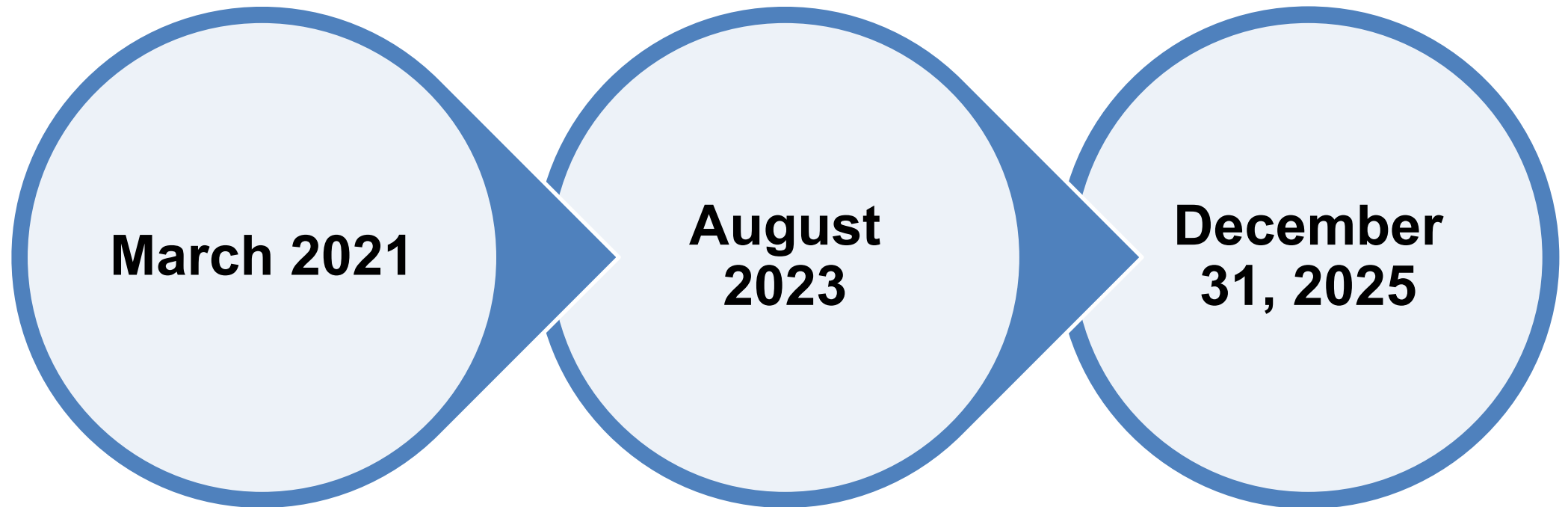
- American Rescue Plan Act (ARPA) enacted

- The Inflation Reduction Act extended the enhancements for 2023-2025

- Enhanced APTCs expire (if no Congressional action is taken)

Enhanced premium tax credits

- Lower caps on premium contributions for people of all income levels
- Allow people with incomes between 100 and 150 percent of the poverty level to pay $0 in premiums for "benchmark" silver-level plans; and
- Extend eligibility for PTCs to people with incomes above 400 percent of the poverty level if their benchmark premiums would exceed 8.5 percent of household income.

For PY 2024, 92% of marketplace enrollees qualified for PTCs.
~19.7 million Americans

Center on Budget and Policy Priorities

GEORGIANS FOR A HEALTHY FUTURE

Premium cost limits: Pre- and Post-Enhancements

Percent of Income Paid for Marketplace Benchmark Silver Premium, by Income		
Income (% of poverty)	**Pre-Enhancement**	**Post-Enhancement**
Under 100%	Not eligible for tax credits	Not eligible for tax credits
100% – 138%	2.07%	0.0%
138% – 150%	3.10% – 4.14%	0.0%
150% – 200%	4.14% – 6.52%	0.0% – 2.0%
200% – 250%	6.52% – 8.33%	2.0% – 4.0%
250% – 300%	8.33% – 9.83%	4.0% – 6.0%
300% – 400%	9.83%	6.0% – 8.5%
Over 400%	Not eligible for tax credits	8.5%

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How much have people saved?

Monthly premium costs after tax credits fell by 32% Feb. 2021 - Feb. 2024

Because of the enhanced PTC, the average enrollee saved an estimated $700 in 2024

With PTCs, nearly half (44%) of enrollees selected a plan for $10 per month or less
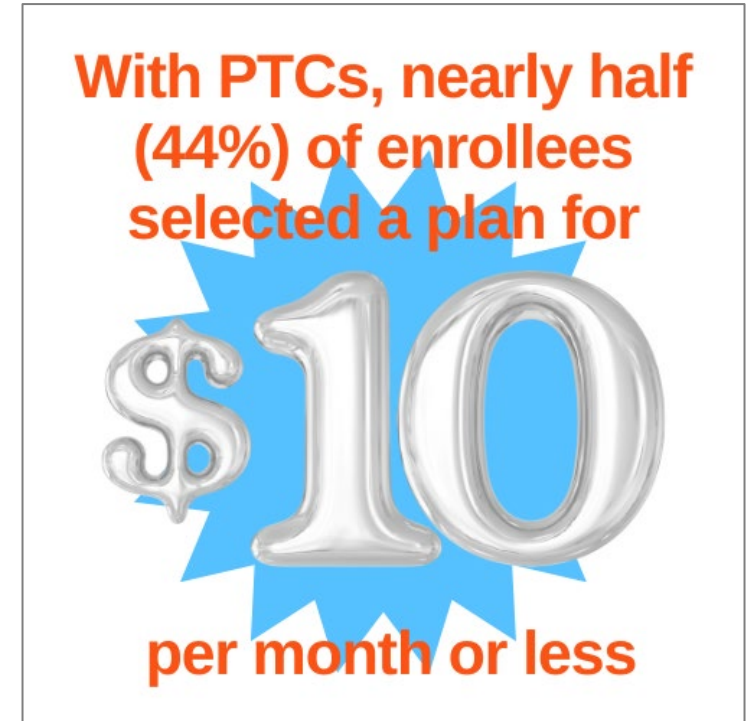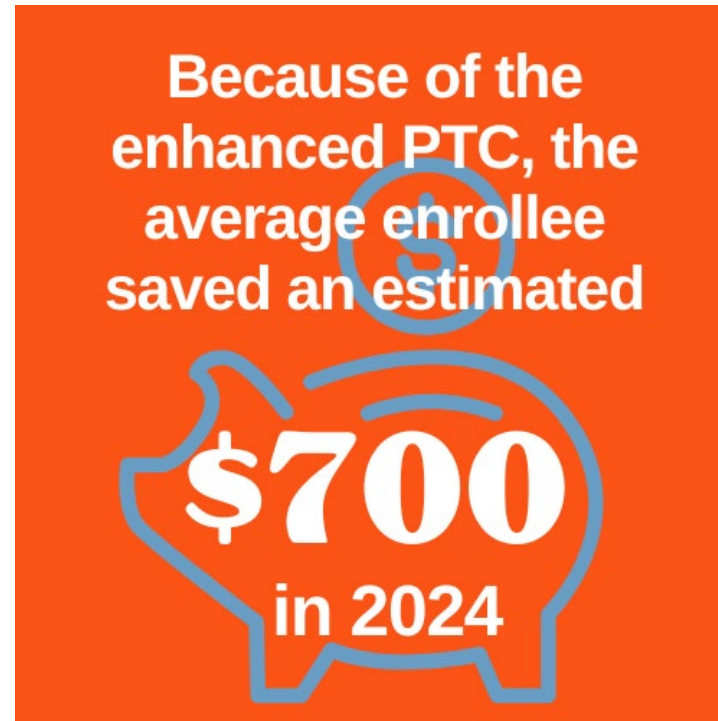
How have enhanced PTCs affected coverage?

FIGURE 2

Four Consecutive Years of ACA Marketplace Enrollment Growth, Spurred by Affordability and Outreach Efforts

Affordable Care Act (ACA) marketplace open enrollment plan selections

21.4 million

Enhanced premium tax credits began
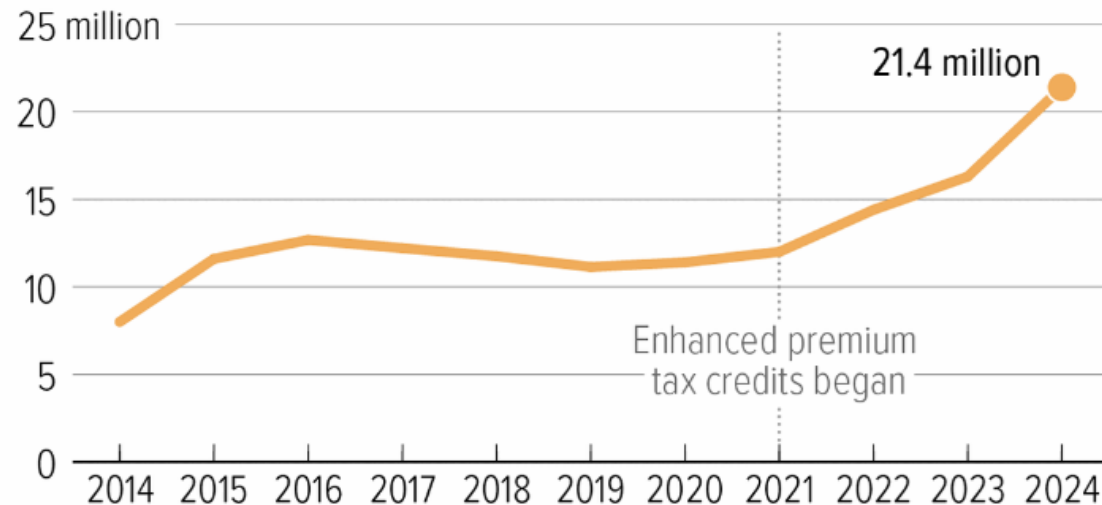
Source: Health Insurance Marketplace Open Enrollment Reports for 2014, 2015, and 2016, Office of the Assistant Secretary for Planning and Evaluation (ASPE), Department of Health and Human Services (HHS); Marketplace Open Enrollment Period Public Use Files for 2017, 2018, 2019, 2020, 2021, 2022, 2023, and 2024, Centers for Medicare and Medicaid Services (CMS), HHS.

CENTER ON BUDGET AND POLICY PRIORITIES I CBPP.ORG

- The enhancements to premium tax credits were a primary cause of large marketplace enrollment gains since 2021

- Other factors: increased outreach and enrollment assistance, extended enrollment periods, and (for 2024) the unwinding of the Medicaid continuous coverage requirement

If the enhanced PTCs expire

- Marketplace enrollees will pay more for their coverage

- More people will become uninsured

- States will have reduced resources for their affordability initiatives

If the enhanced PTCs expire: Increased premiums

Families Would Face High Premium Increases if Tax Credit Enhancements Expire

Annual premium for benchmark marketplace coverage for a family of four, based on national average premium

Legend:
- With enhancements (blue)
- Without enhancements (orange)

Chart data by annual income for a family of four:
- $45,000: With enhancements $0, Without enhancements $1,863
- $60,000: With enhancements $1,200, Without enhancements $3,912
- $90,000: With enhancements $5,400, Without enhancements $8,847
- $120,000: With enhancements $10,625, Without enhancements $18,301

Annual income for a family of four

- The vast majority of enrollees would face higher premium costs.

- Annual premium costs would **double** for people with incomes 200-300% FPL, and would **increase 5-fold** for people with incomes 150-200% FPL.

- Annual premium costs for people with incomes less than 150% of the FPL would increase from $0 to roughly $400 per person.

If the enhanced PTCs expire: Increased premiums

Premiums Would Rise Dramatically for Some Groups if Tax Credit Enhancements Expire

Annual premium increase, 60-year-old couple with income of $80,000 (405% FPL)

Legend:
- $10,000-13,999
- $14,000-16,999
- $17,000-19,999
- $20,000-24,999
- $25,000-40,000
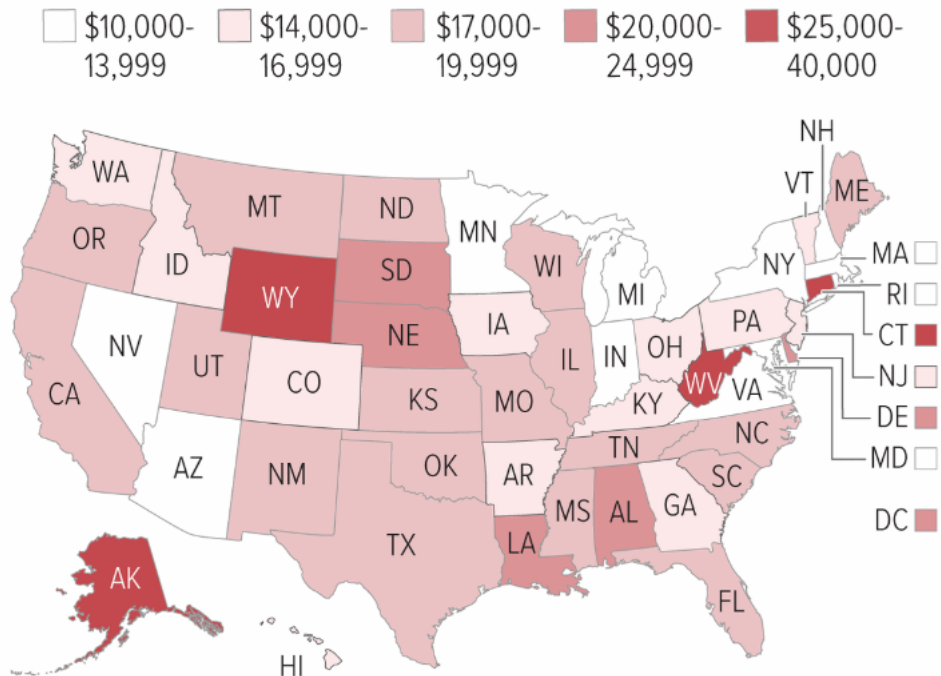
- Premiums would rise the most:
  - in states with high underlying marketplace premiums, such as West Virginia and Wyoming;
  - for older enrollees, who pay higher premiums under ACA rules than younger people; and
  - for people with incomes above 400 percent of the poverty level, who would lose subsidies entirely if the enhancements expired.

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GEORGIANS FOR A HEALTHY FUTURE

If the enhanced PTCs expire: Increased uninsurance

- Marketplace enrollment would decline by roughly 7.2 million people.
  - TX, SC, MS, LA, GA would see individual markets shrink by roughly 50 percent
- About 4 million more people would be uninsured.
  - States that have not expanded Medicaid are most likely to experience spikes in uninsurance.
- People with lower health risk are most likely to drop coverage, causing base premiums to rise.

Cassie Cox, Bainbridge, GA

"When Cassie Cox ended up in the emergency room in January, the Bainbridge, Georgia, resident was grateful for the Obamacare insurance policy she had recently selected for coverage in 2024.

Cassie qualified for an Affordable Care Act marketplace plan with no monthly premium due to her relatively low income. And after she cut her hand severely, the 35 stitches she received in the ER led to an out-of-pocket expense of about $300, she said."

Source: Andy Miller, *Presidential Election Could Decide Fate of Extra Obamacare Subsidies*, KFF Health News, May 30, 2024.

Impact on state affordability initiatives: Reinsurance

Enhanced Premium Tax Credits Benefit State Reinsurance Programs

States with reinsurance programs
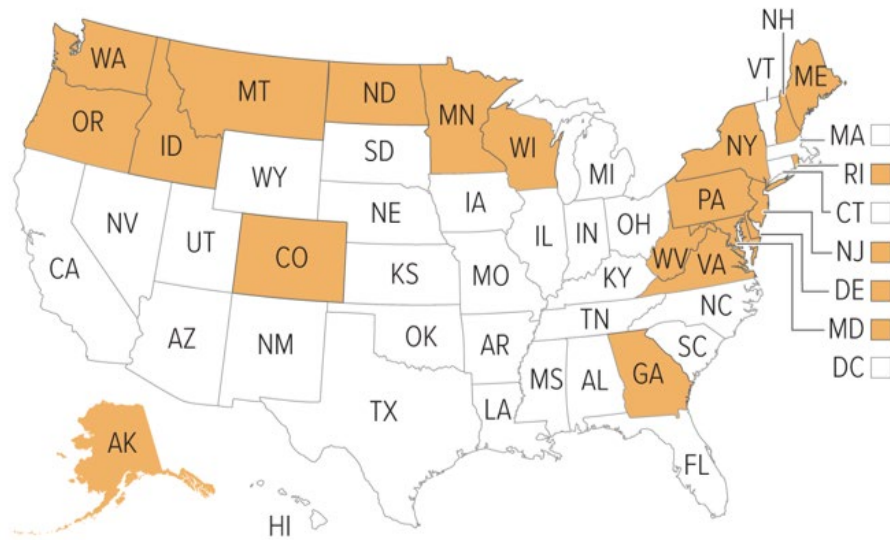
Source: CMS, "Section 1332: State Innovation Waivers," June 16, 2024, https://www.cms.gov-/marketplace/states/section-1332-state-innovation-waivers.

- 19 states operate reinsurance programs to reduce premiums in the individual market

- Lower premiums → lower federal expenditures on PTC

- States use 1332 waivers to capture these savings and reinvest them into reinsurance, as well as other affordability initiatives

- State reinsurance programs generate more savings for the federal government - and more revenue for states - under enhanced PTCs

Impact on state affordability initiatives: Premium and Cost-Sharing Assistance

Enhanced Premium Tax Credits Benefit States with Affordability Initiatives
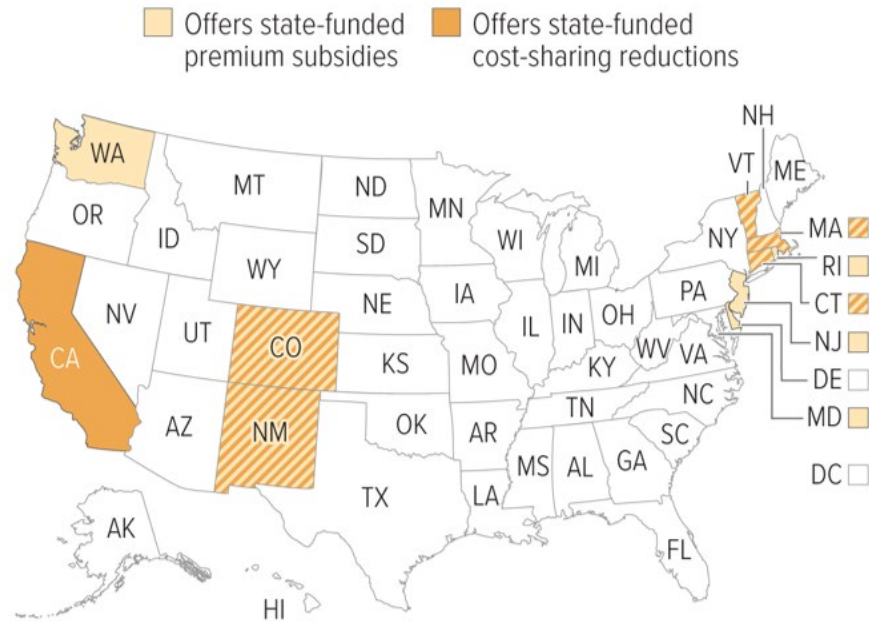
Source: Georgetown CHIR, "The Navigator Guide to all 50 States," https://navigatorguide.georgetown.edu/50-states

- Ten states provide additional, state-funded premium and/or cost-sharing assistance to some or all marketplace enrollees

  – Enhanced PTCs lower premiums and make plans with more generous cost sharing more affordable, so states contribute less to affordability initiatives

- If enhanced PTCs expire, states may decide to scale back affordability initiatives, adding to higher costs for enrollees and potentially increasing uninsurance

Timing of Needed Action

Spring 2025

Plans develop rates for PY 2026

Fall 2025

Open Enrollment begins for PY 2026

(ends January 2025)

December 2025

Enhanced APTCs Expire

January 2026

2026 coverage begins

Center on Budget and Policy Priorities

GEORGIANS FOR A HEALTHY FUTURE
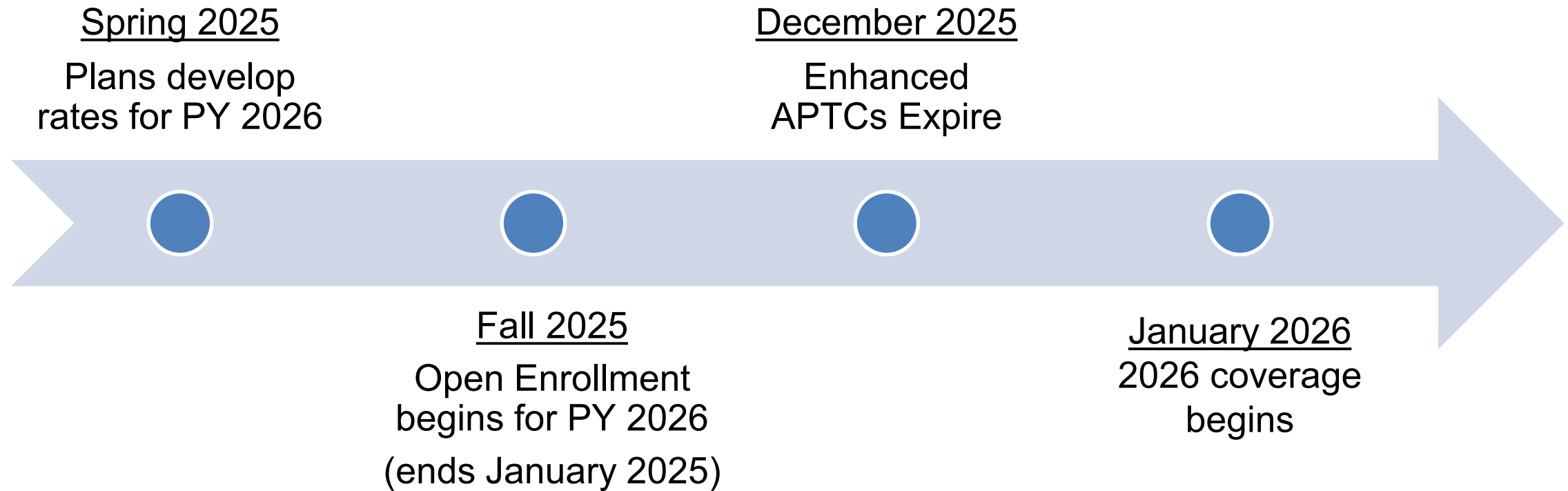
Regulators should/may consider:

- Urge your state's Congressional delegation to extend the enhanced PTCs before June 2025

- Examine data about the likely premium and uninsurance increases for your state. State-specific data:

  – Center on Budget & Policy Priorities, *Entering Their Second Decade, Affordable Care Act Coverage Expansions Have Helped Millions, Provide the Basis for Further Progress.* Appendix Table 2.

  – Urban Institute, *Who Benefits from Enhanced Premium Tax Credits in the Marketplace?*

Questions?

Claire Heyison
cheyison@cbpp.org

Laura Colbert
lcolbert@healthyfuturega.org
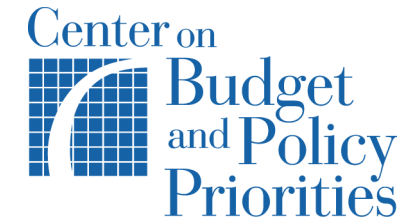
Important Changes to Essential Health Benefits in the Notice of Benefit and Payment Parameters 2025

NAIC Summer Meeting 2024, Consumer Liaison

Presented by:
- Adam Fox, Deputy Director, Colorado Consumer Health Initiative
- Wayne Turner, Senior Attorney, National Health Law Program

Background on EHB

- Pre-ACA - many plans had significant coverage gaps
  - 40% of plans did not cover maternity care
  - No coverage requirements for Rx, behavioral health, etc.

- EHBs = Set of benefits that non-grandfathered individual and small group insurance plans and Medicaid Alternative Benefit Plans must cover
  - Maximum out of pocket applies to EHB
  - Most other plans (e.g., large employer) cannot impose annual or lifetime caps on EHB

Background on EHB

Sec. 1302 of the ACA: "the Secretary **shall define** the essential health benefits, except that such benefits shall include **at least**…"

- Ambulatory patient services;
- Emergency services;
- Hospitalization;
- Maternity and newborn care;
- Mental health and substance use disorder services;
- Prescription drugs;

- Rehabilitative and habilitative services and devices;
- Laboratory services;
- Preventive and wellness services (incl. family planning) and chronic disease management;
- Pediatric services, including oral and vision care.

Streamlined EHB Benchmarking Process

- **Benchmarking Process:** Benchmark plan options:
  - ~~Selecting EHB benchmark plan used by another state in 2017~~
  - ~~Replacing one or more categories from the state's 2017 benchmark plan with the same category from another state's 2017 benchmark plan~~
  - **Selecting new benefits to create a whole new benchmark plan**
- States can select from other states, but not necessary
- Deadline for new EHB benchmark selection: First Wednesday in May
- **May 7, 2025** ➡ **PY 2027**

Procedural requirements for benchmark selection

- States **must** provide "reasonable notice and an opportunity for public comment … that includes posting…with <u>associated information</u> on a relevant state web site."

  45 C.F.R. § 156.111(c)

- CMS has discretion to reject benchmark plan selections if state fails to comply with procedural requirements

- Best practices include forming a stakeholder group, prioritizing health equity, full transparency

Generosity/Ceiling

- HHS eliminated generosity limit and substituted it with typicality

- Typicality as a range:
  - Benchmark plan may not be less generous than the least generous typical employer plan, and
  - Benchmark plan may not be more generous than the most generous typical employer plan

- Practical difference:
  - The comparison plans for the ceiling now include the largest plan by enrollment within one of the five largest large group health insurance products in the state
  - That plan may be more generous than others and therefore some states will have more room to expand

Routine Adult Dental Care

- Through regulation, HHS banned states from including non-pediatric routine oral health services as EHB

- Ban not supported by ACA design and intent

- Lack of dental care in adults is a significant contributor of health disparities

- **NEW RULE: States _may_ add routine adult dental care to their benchmark plan, as long as the proposed plan meets actuarial requirements (typicality) and CCIIO approves** (effective 2027 PY)

Oral Health and Broader Health Impacts

- Well documented connections between oral health and diabetes and cardiovascular disease

- Recent studies also link oral health with other chronic conditions such as pneumonia, Alzheimer's, and the potential for cancer

- Oral health a fundamental part of perinatal health
  - Birth outcomes
  - High maternal mortality rates

- Can no longer separate physical, mental and oral health

- An estimated $46 billion is lost in productivity every year due to oral disease

Adult dental opportunities and challenges

- Scope of benefit
  - No comparison plan required
  - ADA recommends comprehensive evaluation, periodontal maintenance, diagnostic radiographs, etc.
  - Visit limits ok, monetary caps not ok
- Does not need to fit into one of the ten categories
  - Ambulatory services, maternity care, chronic disease management
- Other EHB requirements apply
  - Nondiscriminatory benefits must be "clinically based"
  - Typicality test – actuarial range, not benefit by benefit alignment
- Networks
- Cost sharing protections

Other benefits to consider to improve equity & address health disparities through EHBs

- Gender-affirming care
- Improved mental & behavioral health coverage
  - Annual Mental Health Wellness Exam
  - Increased coverage for SUD medications/treatment
  - Coverage for peer support specialists
- Improved perinatal coverage
  - Cost-sharing free perinatal visits
  - Coverage for midwifery/doulas
  - Postpartum home visits
- Improved coverage for diabetes care/management
- Improved coverage for asthma/COPD

Non-EHB

- Common practice among health insurers and PBMs: exclude prescription drugs in excess of the minimum requirements from EHB definition

- Consequence: Many drugs, particularly more costly ones, would not be subject to cost-sharing protections, including prohibitions on annual and lifetime limits

- **Clarification: All covered drugs are considered EHBs and therefore subject to cost-sharing protections. § 156.122**

- The rule does not impact other EHB services, but we hope HHS clarifies the rule's extent in the future

Questions?

Contact:
- Adam Fox - afox@cohealthinitiative.org
- Wayne Turner - turner@healthlaw.org

Resources

- [NHeLP Letter to CCIIO on DC EHB Procedural Defect](#)

- [Essential Health Benefits: Best Practices in EHB Benchmark Selection](#)

- [NHeLP Letter to CCIIO on Legal Authorities and Regulatory Changes for Essential Health Benefits](#)

- [NHeLP letter to HHS Sec. Becerra – Re: Advancing Health Equity Through Essential Health Benefits](#)

- [CCHI letter to CMS Administrator Brooks-LaSure - Re: Request for Information; Essential Health Benefits](#)

- [CCHI Letter to HHS Sec. Becerra & CMS Administrator Brooks-LaSure - Re: Notice of Benefit and Payment Parameters for 2025](#)

We are currently working with a Baker's Dozen of current consumer complaints and litigation efforts due to the misuse of indexed life and annuity policy illustrations

Non Sequitur by Wiley Miller
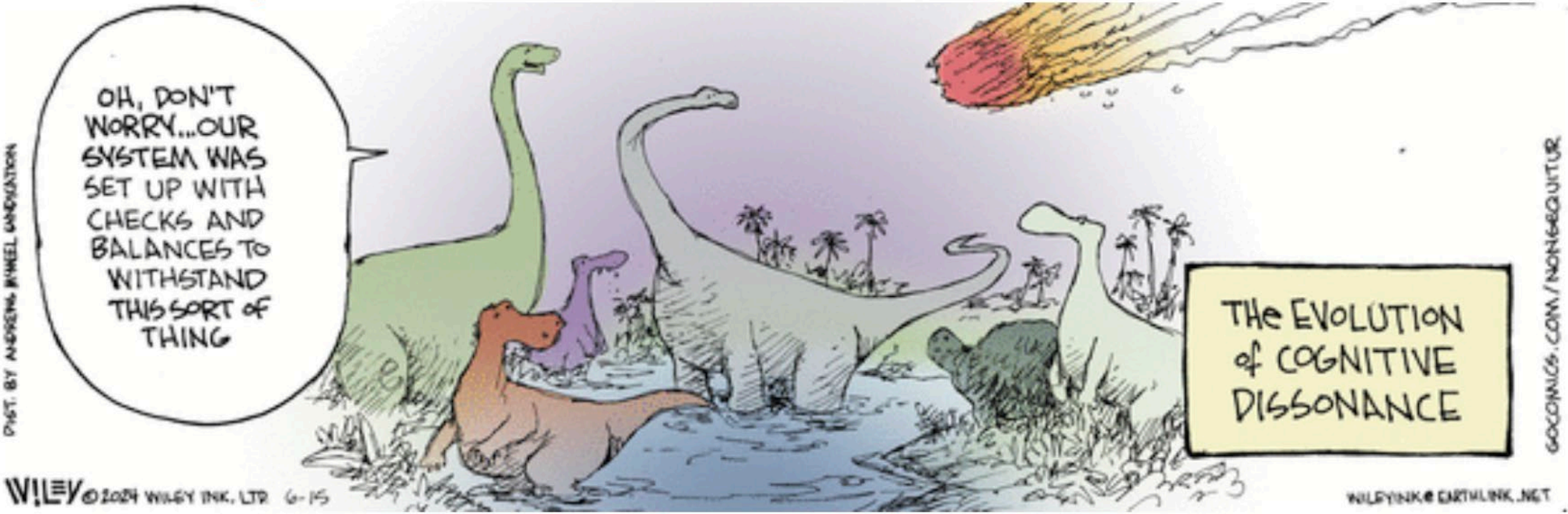
Prehistoric AG49

Registered Investment Advisor with an insurance license

Website: "There's a Power in Planning With Us. For over 20 years, we have addressed the financial needs of clients and their families. Our leadership team has over 60 years of combined experience and not only has exceptional skills for managing all aspects of our business, but the right attitude to do so. Utilizing a client service approach and a commitment to lifelong learning, we always put the needs of our clients first, encouraging them to ask questions as we address their needs, together."

Illustration Summary

- $320,000 Exchange
- $300,000 x 7 years
- Premium Financing
- Pay off financing Year 12 with policy cash values
- Tax-Free Income for up to 50 years
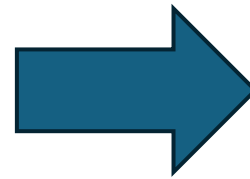
$160,000/year
Ages 70 → 120

Illustration Summary

- $320,000 Exchange
- $300,000 x **10** years
- Premium Financing
- Pay off financing Year **11** with policy cash values
- Tax-Free Income for up to 50 years
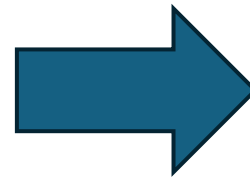
$200,000/year
Ages 70 → 120

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Will it "work?"

Will it "work?"

Monte Carlo Analysis
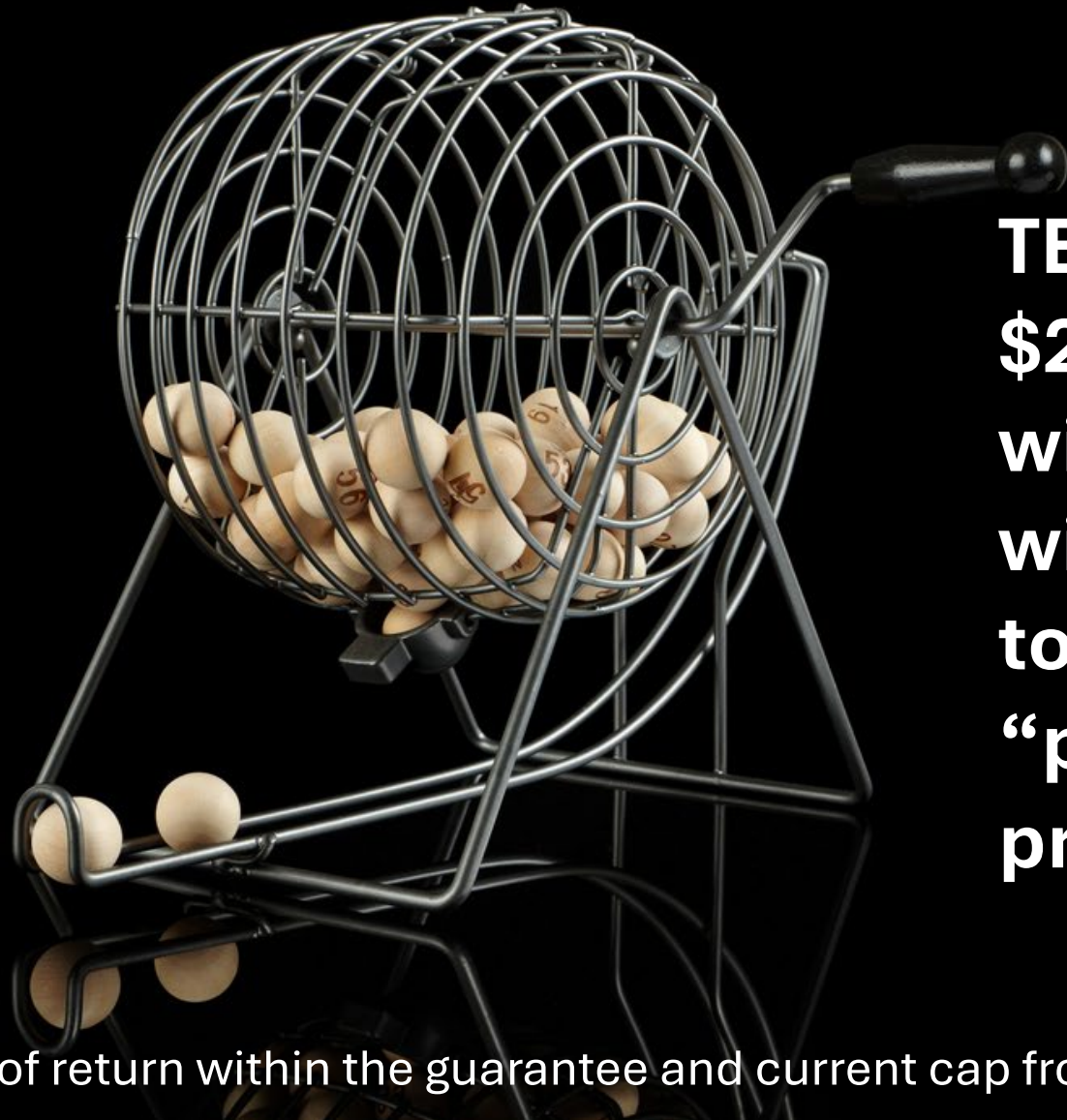
TEST the PROBABILITY $200,000 a year of withdrawals & loans will sustain the policy to at least age 100 and "pay off" the external premium loan.

Applying random rates of return within the guarantee and current cap from the customer's chosen asset clas

Will it "work?" As sold with "income"

Average LE
86

Will it "work?" As sold with "income"

Average LE 86	1st Fail 69

Will it "work?" As sold with "income"

Average LE 86	1st Fail 69	50% Fail 86
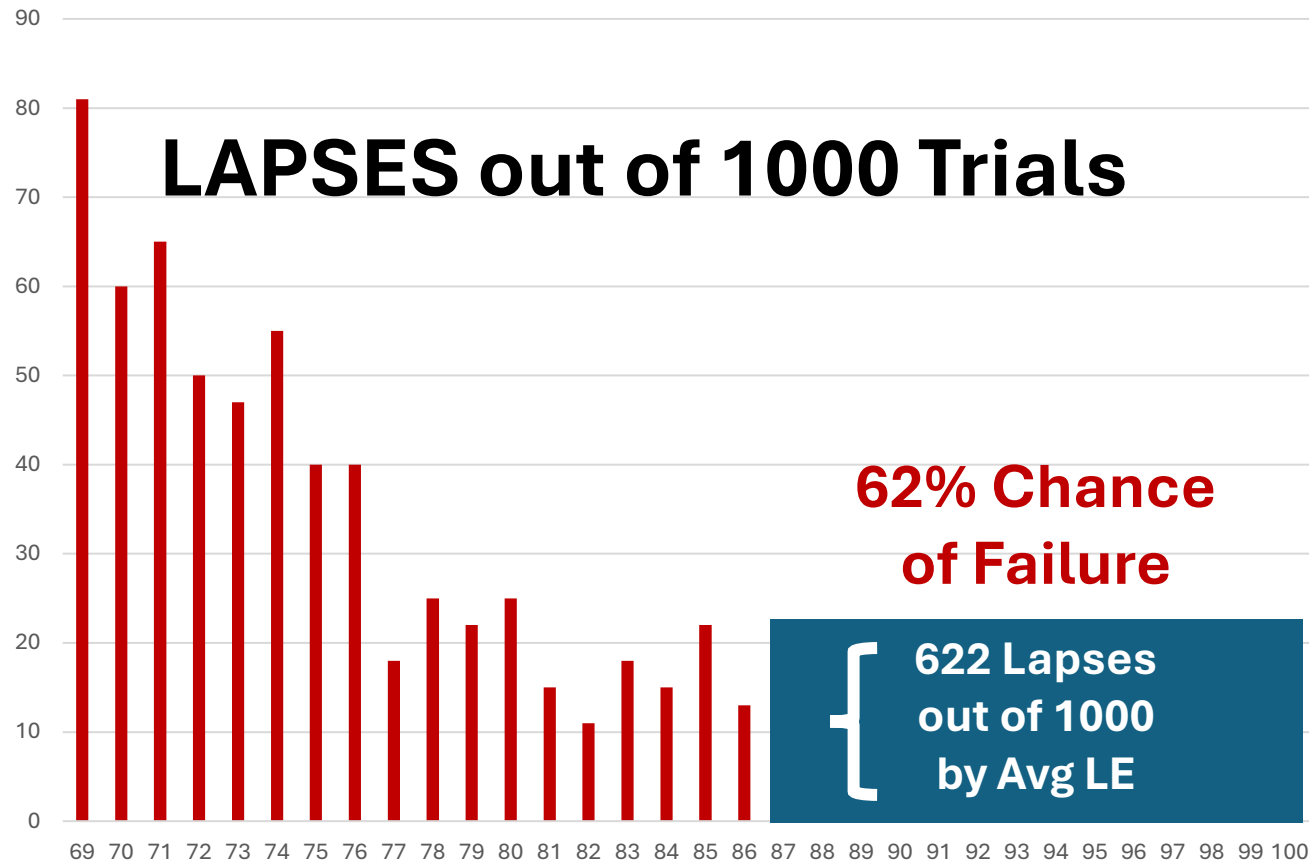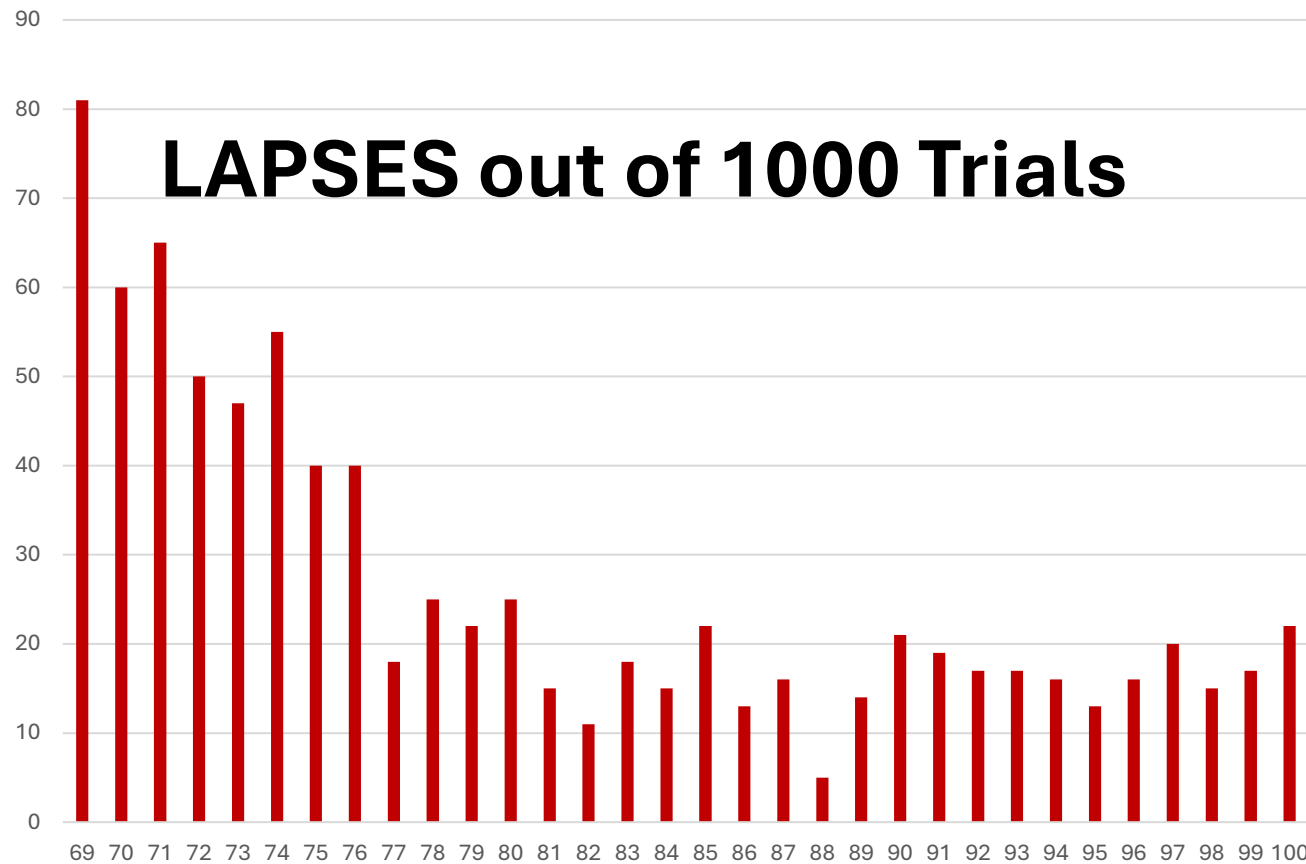
Will it "work?" As sold – NO "income"

Average LE 86	1st Fail 69	50% Fail **73**
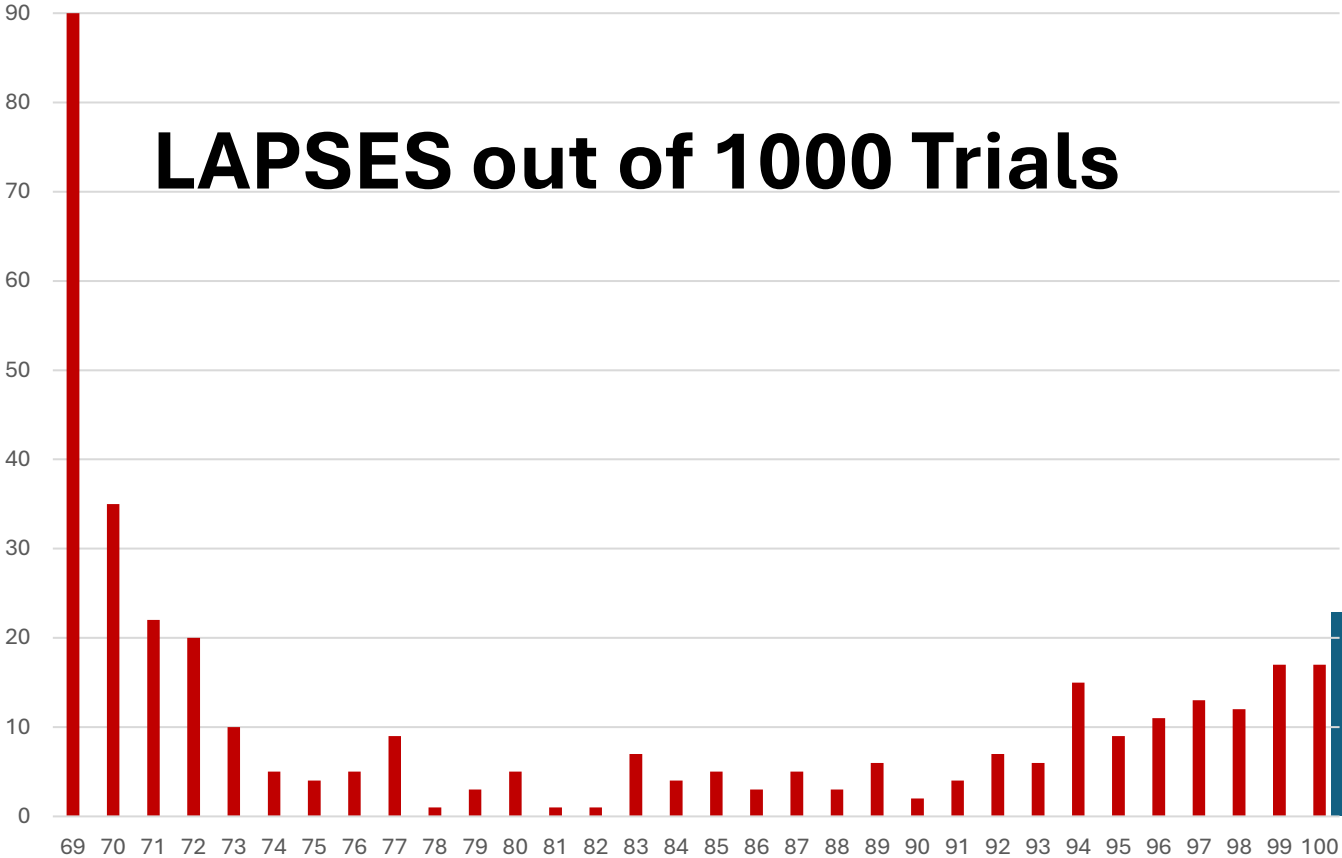
LAPSES out of 1000 Trials

28% Chance of Failure

278 Lapses out of 1000 by Age 100

Registered Representative with an insurance license

"XYZ Consulting, LLC is a business advisor to businesses. Our focus is to help business owners assess, design, and implement "excellent" solutions to grow and preserve their company and personal wealth, both now and in the future."

Illustration Summary

- $92,000 Exchange
- $2.732M Borrowed
- 'EE Split Dollar
- Interest represented as tax-deductible
- Pay off financing Year 16 with policy cash values
- Tax-Free Income for 20 years
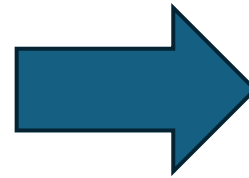
$265,000/year
Ages 69 → 88

What went wrong?

- Explanatory material was enormously confusing

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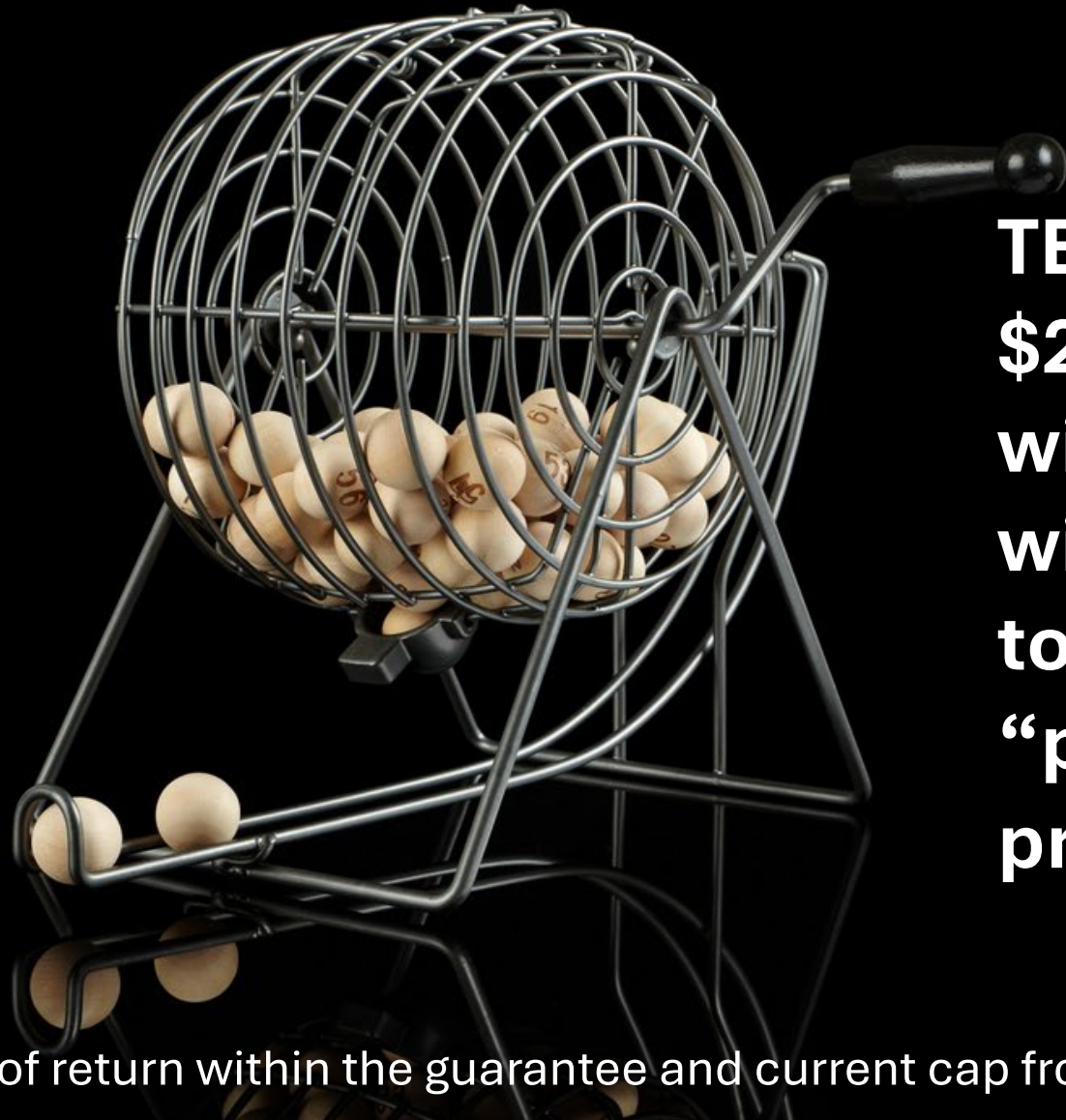- Actual policy credits were "off" by just 12.5% in 7 years

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Will it "work?"

Monte Carlo Analysis

TEST the PROBABILITY $265,000 a year of withdrawals & loans will sustain the policy to at least age 100 and "pay off" the external premium loan.
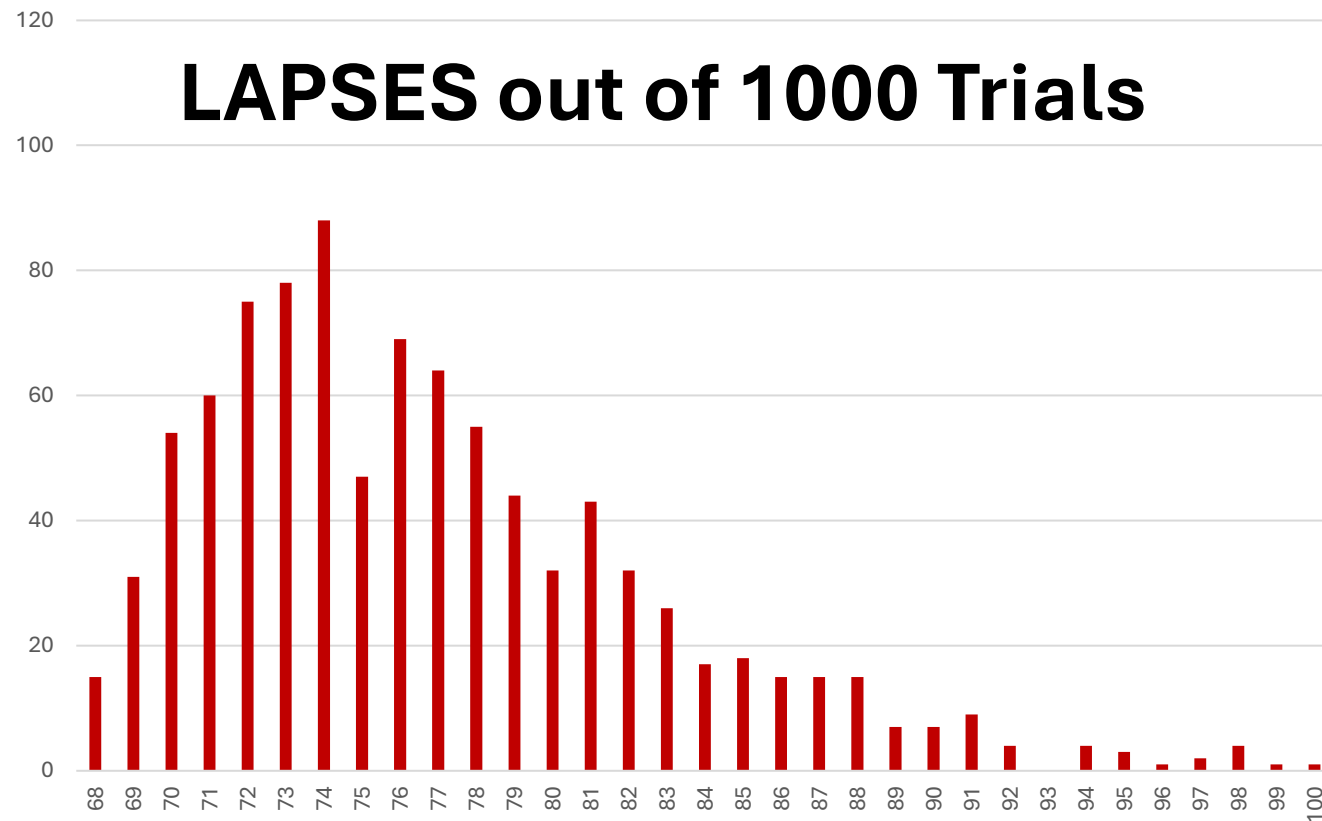
Applying random rates of return within the guarantee and current cap from the customer's chosen asset clas

Will it "work?" As sold with "income"

Average LE 88	1st Fail 68	50% Fail 76

Will it "work?" As sold with "income"

Average LE 88	1st Fail 68	50% Fail 76

LAPSES out of 1000 Trials

**94% Chance of Failure**

{ **936 Lapses out of 1000 by Age 100**

Attorney with insurance license

"Our mission is to help you develop and implement vision focused plans for minimizing taxes and maximizing benefits – for you, your family, your business, and your favorite charities."

Illustration Summary

- $2 M purchase from a retirement plan
- Private Premium Financing
- EXIT: Pay off financing with the death benefit
- Tax-Free income for up to 35 years

→
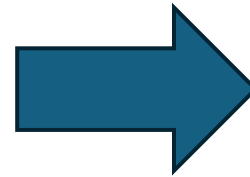
$100,000/year
Ages 65 → 100

What went wrong?

- Enormously confusing "plan" involving charitable and dynasty trusts

Here's the concept …

Got it?!

What went wrong?

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- Policy wasn't administered as described by the agent

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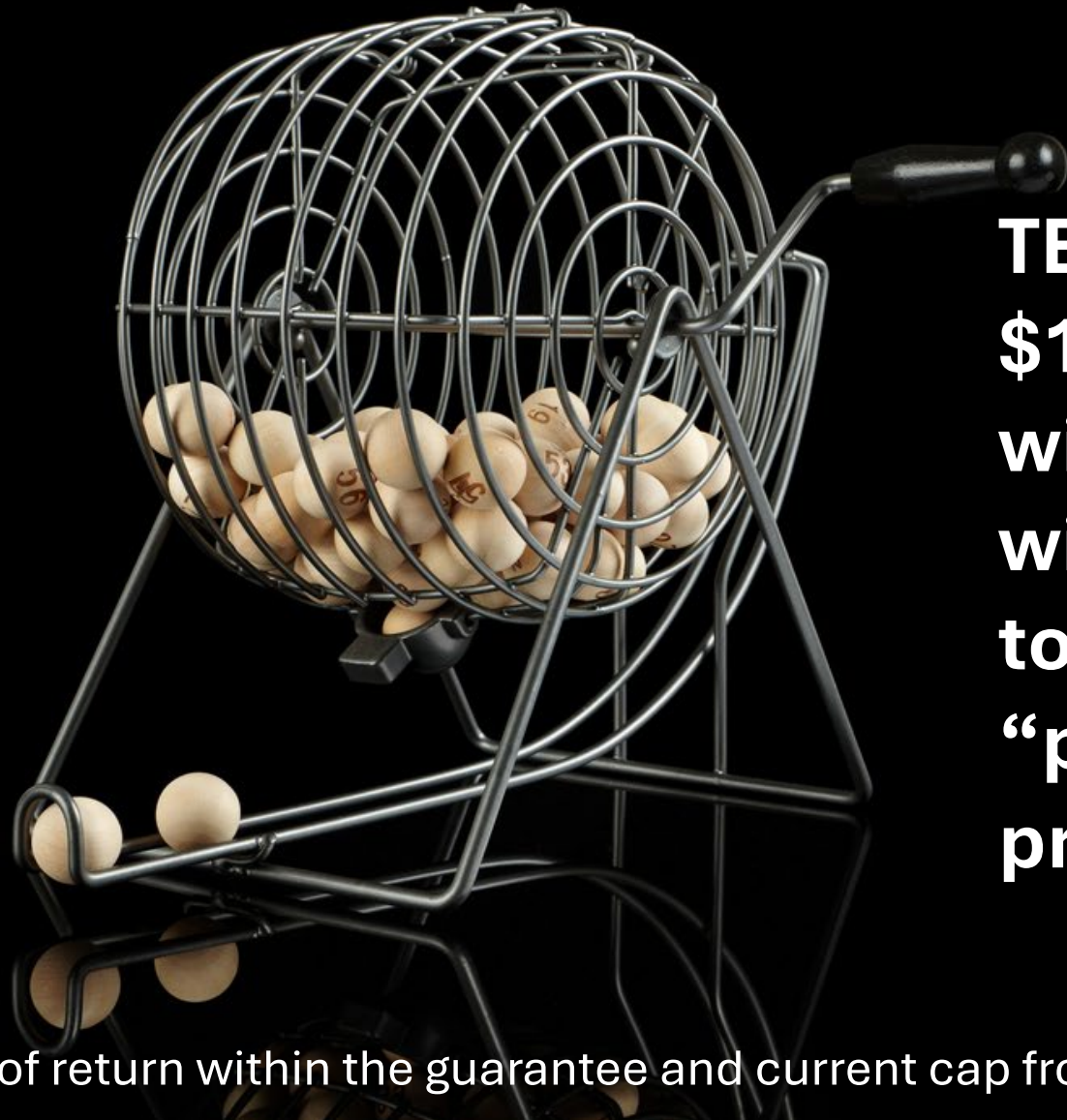
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- Enormously confusing "plan" involving charitable and dynasty trusts
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- Fixed and Indexed accounts experienced much lower rates than illustrated
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- A constant (and positive) illustrated CREDITING scenario is *deceptive*
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Will it "work?"

Monte Carlo Analysis

TEST the PROBABILITY $100,000 a year of withdrawals & loans will sustain the policy to at least age 100 and "pay off" the external premium loan.

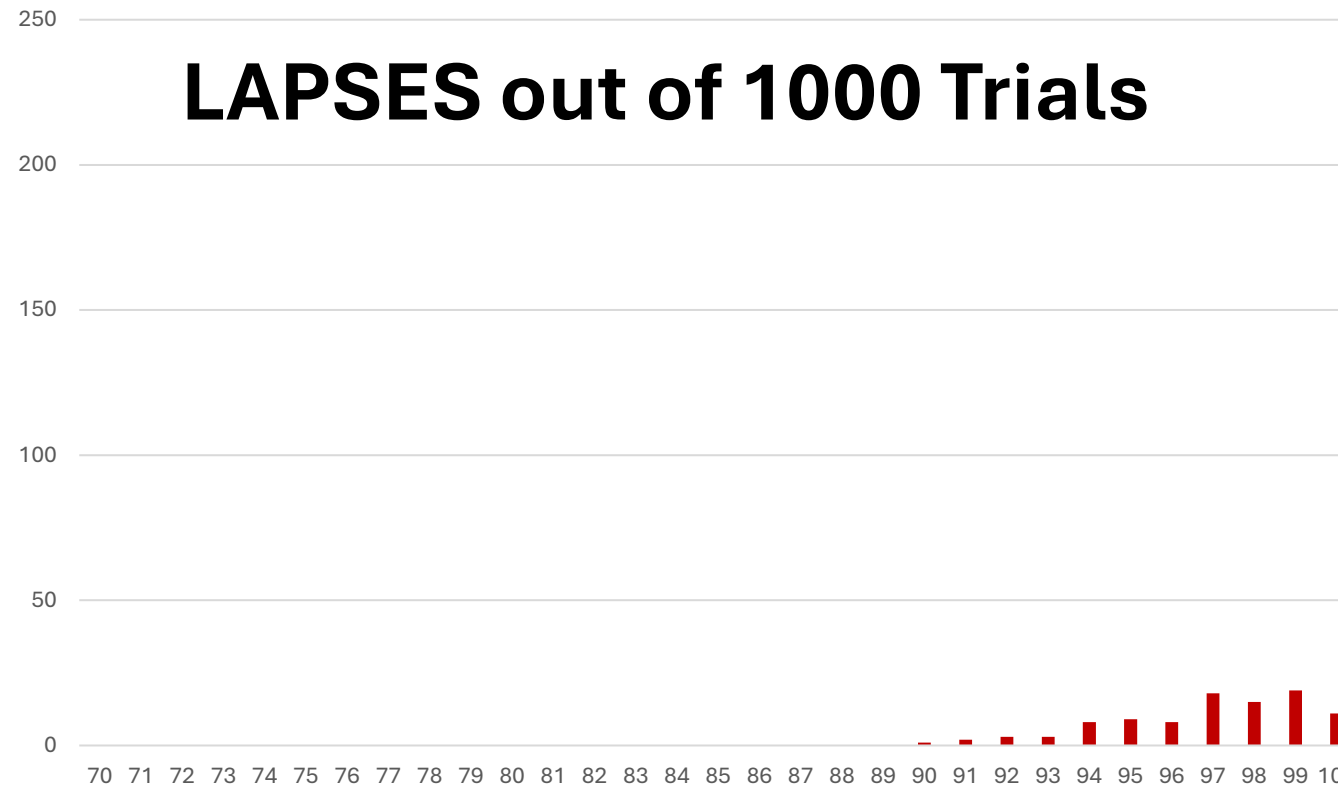Applying random rates of return within the guarantee and current cap from the customer's chosen asset clas

Will it "work?" As sold with "income"

Average LE 91	1st Fail 90	50% Fail 97

Will it "work?" As sold with "income"

Average LE 91	1ˢᵗ Fail 90	50% Fail 97

LAPSES out of 1000 Trials

10% Chance of Failure

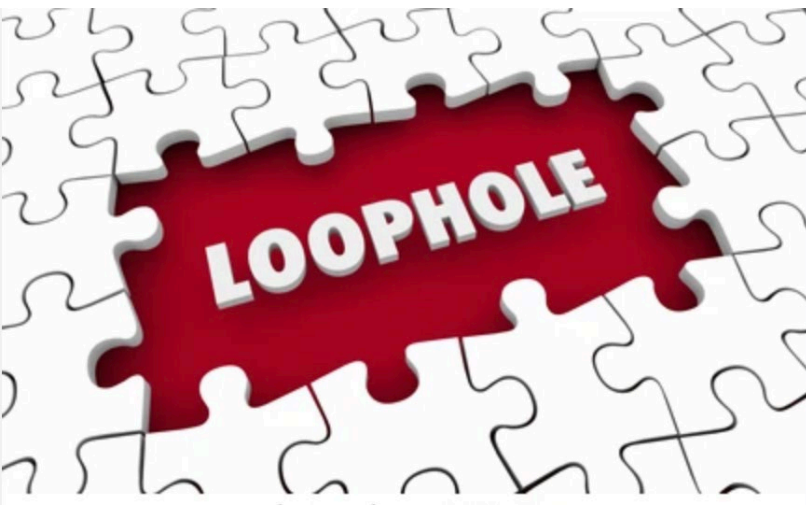{ **97 Lapses out of 1000 by Age 100**

Case #13: Whaddya think?!

NAIC Model 245 regulates annuity illustrations, but few states have adopted it.

INDEXED annuities have a LOOPHOLE.

These illustrated "projections" are misleading

Flexible Premium Fixed Index Deferred Annuity

		Product:	**F&G Power Accumulator 10**
		Prepared For:	**Valued Client**
		Initial Premium:	**$250,000 Non-Qualified**
		State of Issue:	**NJ**
		Assumed Issue Date:	**November 15, 2023**
		Issue Age:	**50**

Hypothetical Aggregate Summary Based on Current Rates (See page 5 for guaranteed values)

Contract Year	Age	Premium	Annual Withdrawal	Account Value	Account Value Interest Crediting Rate	Minimum Guaranteed Surrender Value	Surrender Value 1	Death Benefit
1	51	**$250,000**	0	272,475	8.99%	222,578	247,952	272,475
2	52		0	420,077	**51.17%**	226,473	384,723	420,077
3	53	0	0	420,077	0.00%	230,437	389,832	420,077
4	54	0	0	447,767	6.59%	234,469	419,364	447,767
5	55	0	0	507,559	13.35%	238,572	479,792	507,559
6	56	0	0	559,249	10.18%	242,747	533,824	559,249
7	57	0	0	635,647	13.66%	246,995	612,458	635,647
8	58	0	0	865,804	**36.21%**	251,318	841,737	865,804
9	59	0	0	923,078	6.62%	255,716	906,348	923,078
10	60	0	0	923,078	0.00%	260,191	914,770	923,078
		250,000	**0**					
11	61	0	0	1,002,689	8.62%	264,744	1,002,689	1,002,689
12	62	0	0	1,558,926	**55.47%**	269,377	1,558,926	1,558,926
13	63	0	0	1,558,926	0.00%	274,091	1,558,926	1,558,926
14	64	0	0	1,659,566	6.46%	278,888	1,659,566	1,659,566
15	65	0	0	1,870,947	12.74%	283,769	1,870,947	1,870,947
16	66	0	0	2,067,169	10.49%	288,735	2,067,169	2,067,169
17	67	0	0	2,338,529	13.13%	293,787	2,338,529	2,338,529
18	68	0	0	3,216,897	**37.56%**	298,929	3,216,897	3,216,897
19	69	0	0	3,420,460	6.33%	304,160	3,420,460	3,420,460
20	70	0	0	3,420,460	0.00%	309,483	3,420,460	3,420,460
		250,000	**0**					
21	71	0	0	3,702,724	8.25%	314,899	3,702,724	3,702,724
22	72	0	0	5,806,727	**56.82%**	320,409	5,806,727	5,806,727
23	73	0	0	5,806,727	0.00%	326,017	5,806,727	5,806,727
24	74	0	0	6,173,428	6.32%	331,722	6,173,428	6,173,428
25	75	0	0	6,921,406	12.12%	337,527	6,921,406	**$6,921,406**

F&G Annuity illustration

Product: F&G Power Accumulator 10
Prepared For: Valued Client
Initial Premium: $250,000 Non-Qualified
State of Issue: NJ
Assumed Issue Date: November 15, 2023
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25	75	0	0	6,921,406	12.12%	337,527	6,921,406	$6,921,406

14.25% IRR

OBSERVATIONS

1. It's not the product …

it's the ILLUSTRATION

OBSERVATIONS

2. A consumer-focused solution to IUL illustration issues requires a different illustration paradigm

OBSERVATIONS

3. With ALL illustrations - no matter the warning - customers will focus on the most favorable illustrated ("current") outcome as a projection of future values

Readability Standards in State Insurance Laws

Brenda J. Cude, Ph.D.

NAIC Consumer Representative

NAIC Consumer Liaison Committee

August 2024

Readability/Plain Language Laws

- In 2023, 47 states, the District of Columbia, and the federal government collectively have 240 readability or plain language laws that apply to the insurance sector

Source: Blasie, M. A. (2022). The rise of plain language laws. *University of Miami Law Review, 76*(2), Article 4. https://repository.law.miami.edu/umlr/vol76/iss2/4

State Insurance Readability Laws

- Objective Standard: "Score" based on number of syllables, words, & sentences

- Features Standard: Requires use of or avoiding specific writing features
  - Use frequent section headings, Avoid double negatives

- Descriptive Standard: Uses abstract terms ("plain language" or "clear and coherent") or reader descriptions ("understandable by average person") without definitions

- Hybrid Standard: Combines Objective Standard with Features or allows choice

- Authorizing Law: Directs other parties to create plain language standard

State Insurance Readability Laws (2022)

Standard	Number of Laws	Percent
Objective	57	26.9
Features	8	3.8
Descriptive	91	42.9
Hybrid	42	19.8
Authorizing law	14	6.6

Objective Readability Scores

- Calculated based on formulas that consider number of words, syllables, and sentences

- Usually stated as grade level; an **exception** is Flesch Reading Ease Score, which is on a scale of 0 to 100

Flesch-Kincaid Grade Level

BASIC   AVERAGE   SKILLED

READING LEVEL

0   2   4   6   8   10   12   14   16   18

| LEARNING TO READ BOOKS | THE GRUFFALO | HARRY POTTER | JURASSIC PARK | A BRIEF HISTORY OF TIME | AN ACADEMIC PAPER |

NEW TO READING
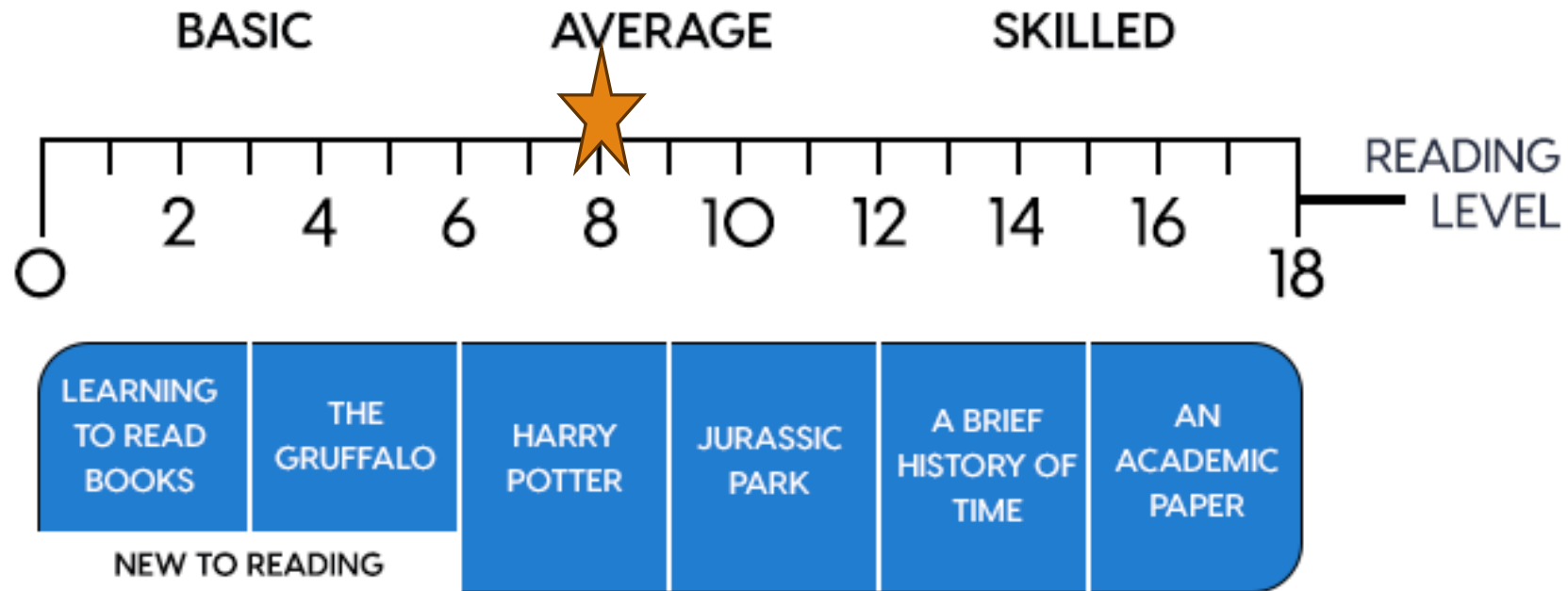
Aim for grade 8 to ensure your content can be read by 80% of Americans.

R readable

Flesch Reading Ease Score

Basic   Average   Skilled

100   70   40   0

LEARNING TO READ BOOKS

THE GRUFFALO

NEW TO READING

HARRY POTTER

JURASSIC PARK

A BRIEF HISTORY OF TIME

AN ACADEMIC PAPER
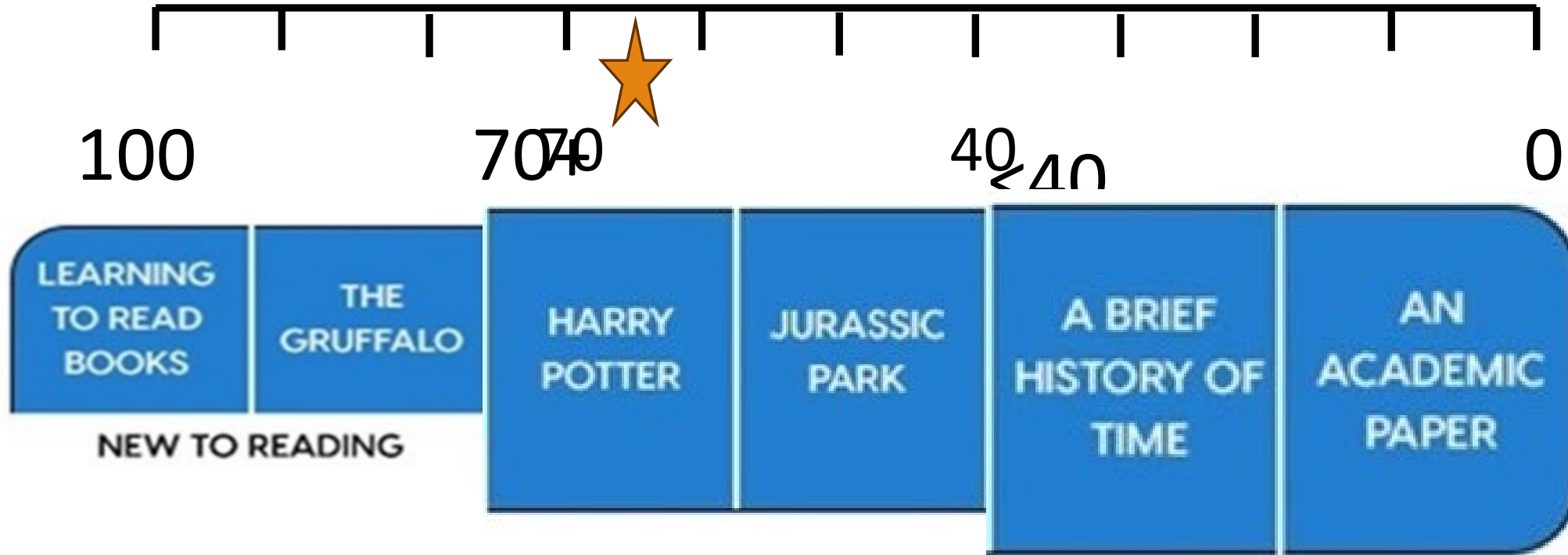
Minimum Flesch Reading Ease Scores in Insurance Laws
Source: Blasie, M. A. (2022).

Flesch Reading Ease Score

Basic   Average   Skilled

100   70   40   0
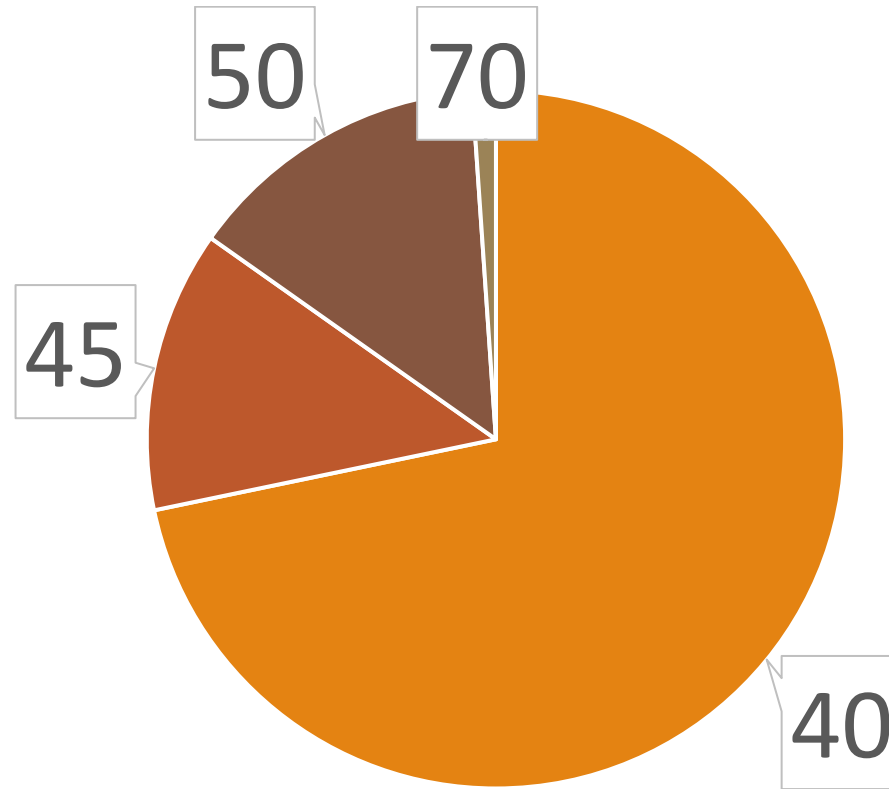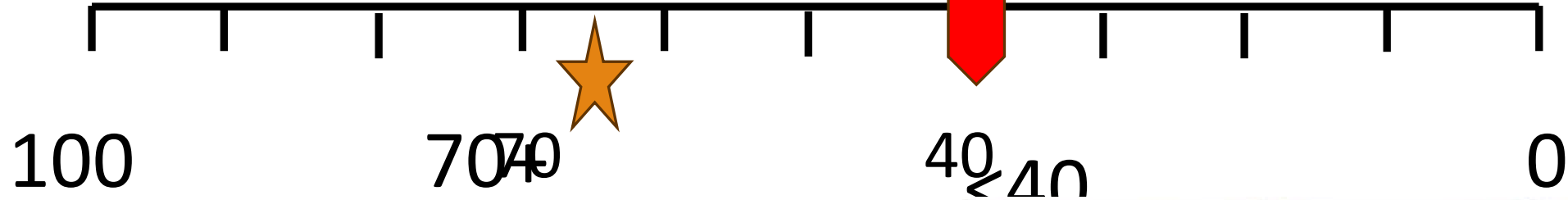
NAIC Models

- Life and Health Insurance Policy Language Simplification Model Act (1978) requires:
  - A minimum score of **40 on the Flesch Reading Ease Score** or an equivalent score on any other comparable test
  - Printed in not less than ten-point type, one point leaded
  - No undue prominence to any portion of the text
  - A table of contents

NAIC Models That Use Descriptive or Features Standards

- Long-Term Care Insurance Model Regulation: "Shall be appropriately captioned, shall appear on the first page of the policy...."

- Model Regulation to Implement the Accident and Sickness Insurance Minimum Standards Model Act: "A prominent statement by type, stamp or other appropriate means in either contrasting color or in boldface type at least equal to the size type used for the headings or captions of sections of the application and in close conjunction with the applicant's signature block on the application."

- NAIC Insurance Information and Privacy Protection Model Act: Disclosure authorization forms must be "written in plain language."

Challenges

- For NAIC

  - Evaluate existing models as they are reopened for readability standards; consider using a minimum of an 8th grade Flesch Kincaid Grade Level score as the standard

  - Query states with plain language laws re enforcement and share best practices

Challenges

- For states
  - What do you do to encourage plain language?
    - The Texas Department includes plain language resources on its [website](#)
  - What does your state require about readability? How do you enforce requirements?
  - What are the readability standards in new laws and regulations?

Questions or Comments?

Brenda J. Cude, Ph.D., NAIC Consumer Representative

bcude@uga.edu

Reference: Blasie, M. A. (2022). The rise of plain language laws. *University of Miami Law Review, 76*(2), Article 4. https://repository.law.miami.edu/umlr/vol76/iss2/4

Are Plaintiff's Lawyers the Reason Insurance Premiums Are Rising? Insights From 10 Charts.

My professional focus is on two things: Civil Litigation and Insurance

- Louis and Hermione Brown Professor of Law at California Western School of Law, where I teach Civil Procedure, Evidence, and a course focused on the intersection of insurance and natural disasters.

- Formerly a business litigation attorney—primarily defense—for over 20 years.

- NAIC consumer representative since 2018, focusing on affordability, availability, and adequacy of homeowner insurance.

- Published several scholarly papers both on insurance issues and on civil litigation issues.

The focus of this presentation is on testing the accuracy of the recent drumbeat of industry assertions that a significant factor in the recent spike in insurance premiums is a litigation crisis:

"Going back three decades, litigation and insurance was a last resort, albeit it was always at a cost. But now I think as a society, we've tended to look toward litigation more as a first step. It's just growing worse and worse...."

-Triple-I CEO Sean Kevelighan, *AM Best TV* interview (5/8/24)

"...litigation is driving up costs for everyone..."

-Triple-I. email to its membership (5/1/24)

An Opening Thought:

As a defense lawyer, it was not lost on me that I had a structural advantage—my side had time and resources, and the plaintiff's side often did not. For that reason, it was always noteworthy if the plaintiff had a highly successful and well-off plaintiff's attorney. It meant I had to advise my client that their built-in advantage was gone.

A good plaintiff's lawyer does not create an *improper* advantage, but often erases one.

In other words, more litigation and more plaintiff's verdicts may equate to more, not less, justice.

With that, let's go in search of a lawsuit crisis:

1. The frequency of filings of federal lawsuits is basically flat

Proportion of Civil Cases Filed in Relation to National Population
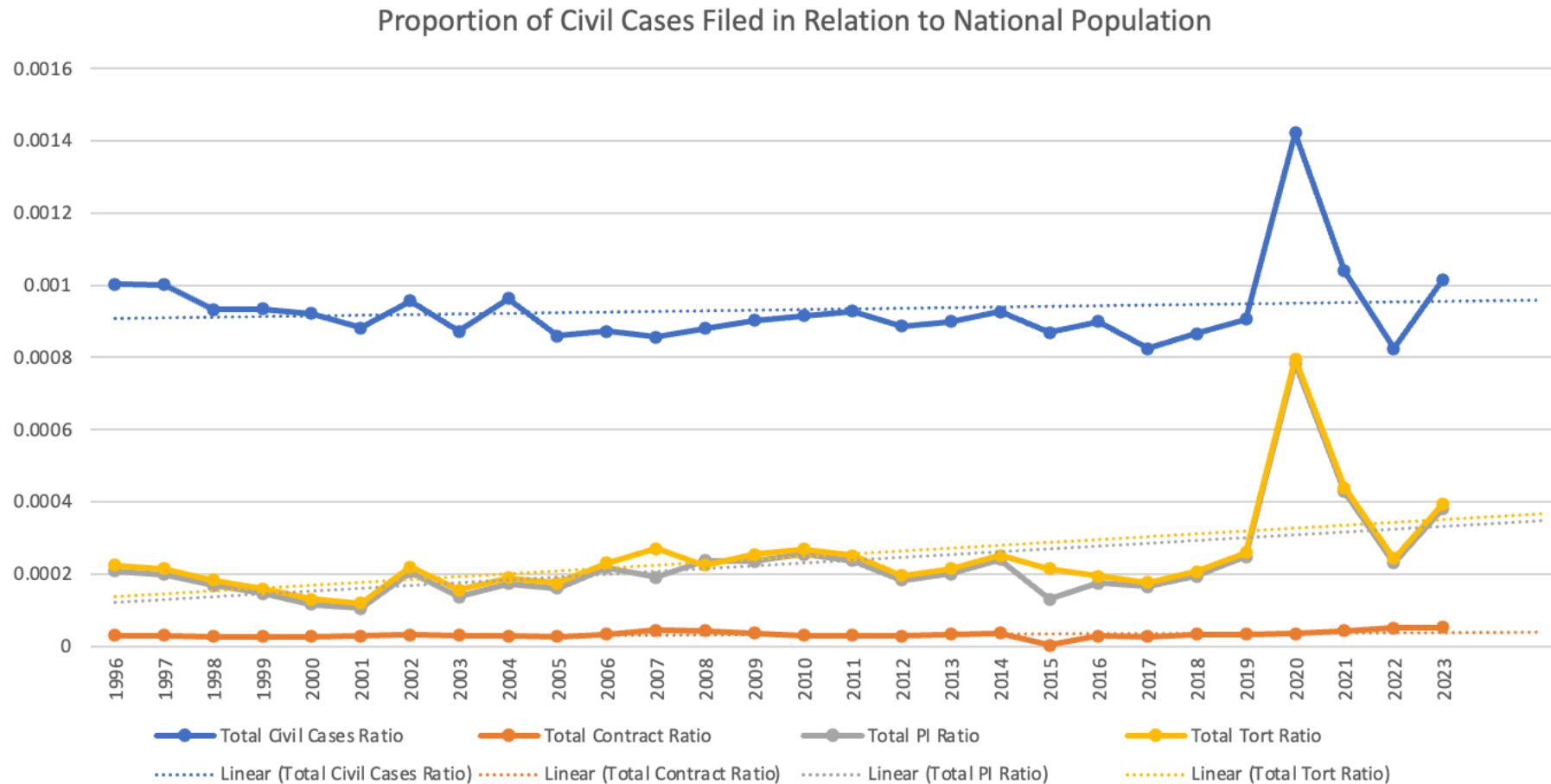
2. The frequency of filings of Florida lawsuits is basically flat or declining
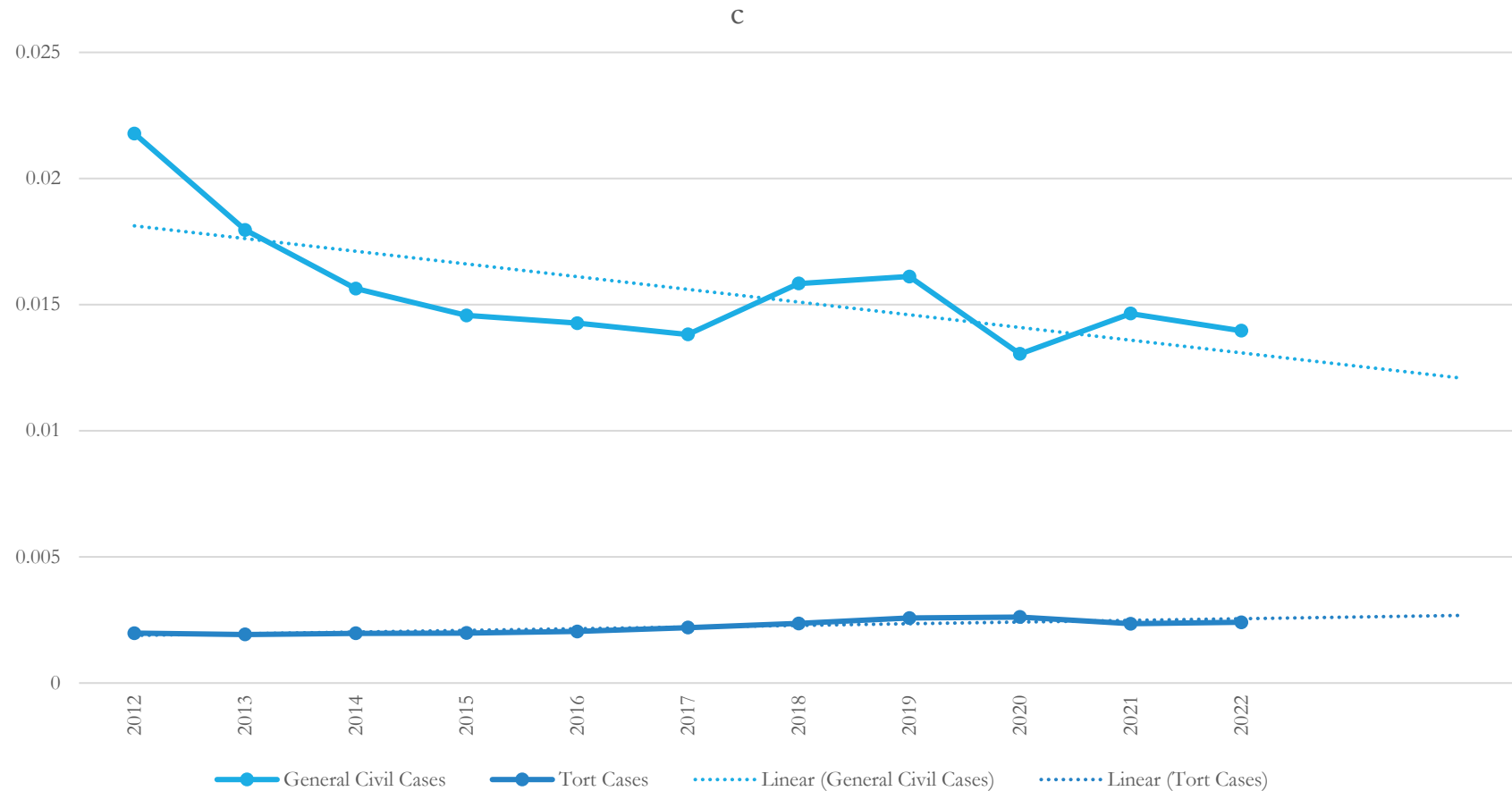
3. The frequency of filings of Louisiana lawsuits is basically flat

Frequency of civil lawsuits in Lousiana
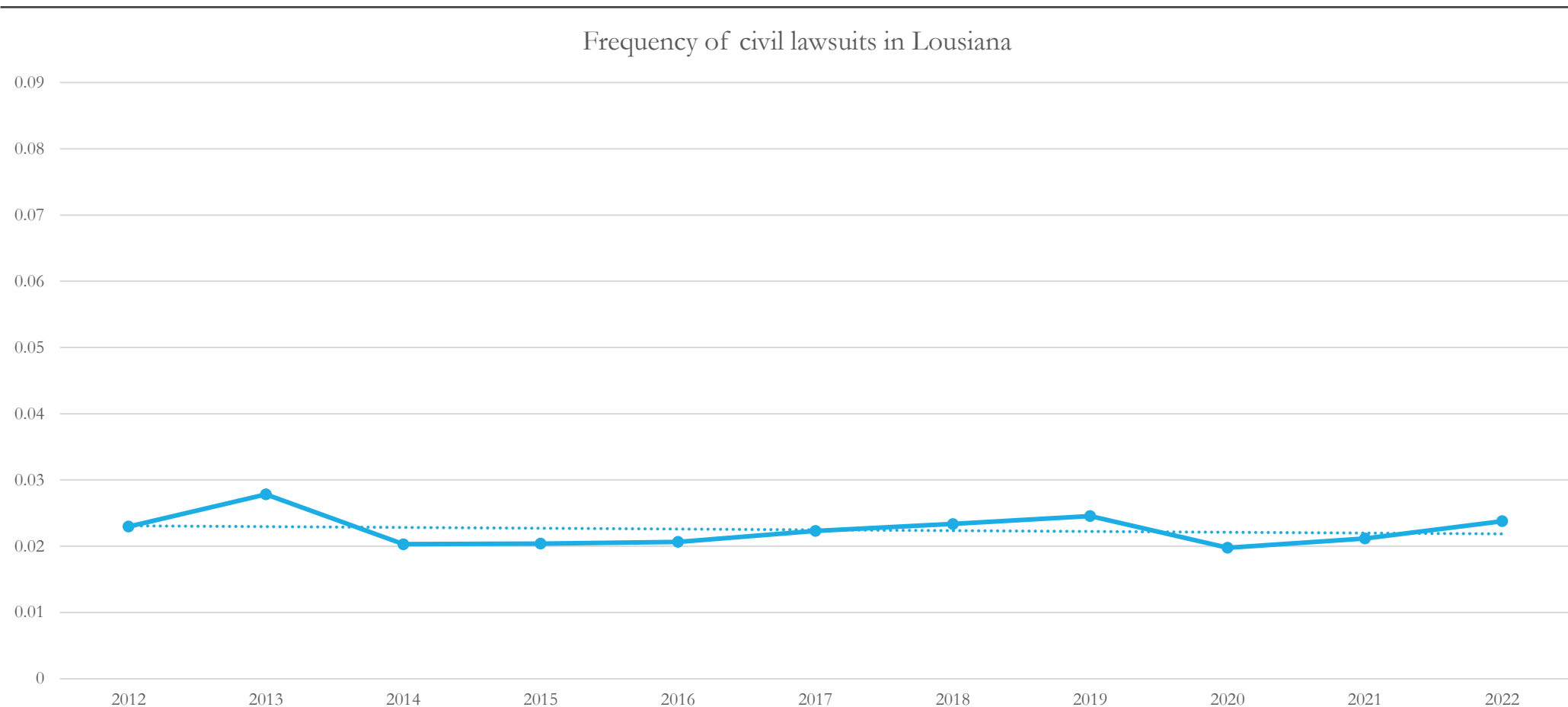
4. The average federal lawsuit verdict is essentially unchanged

Federal Courts - Average Damages

R² = 0.0312
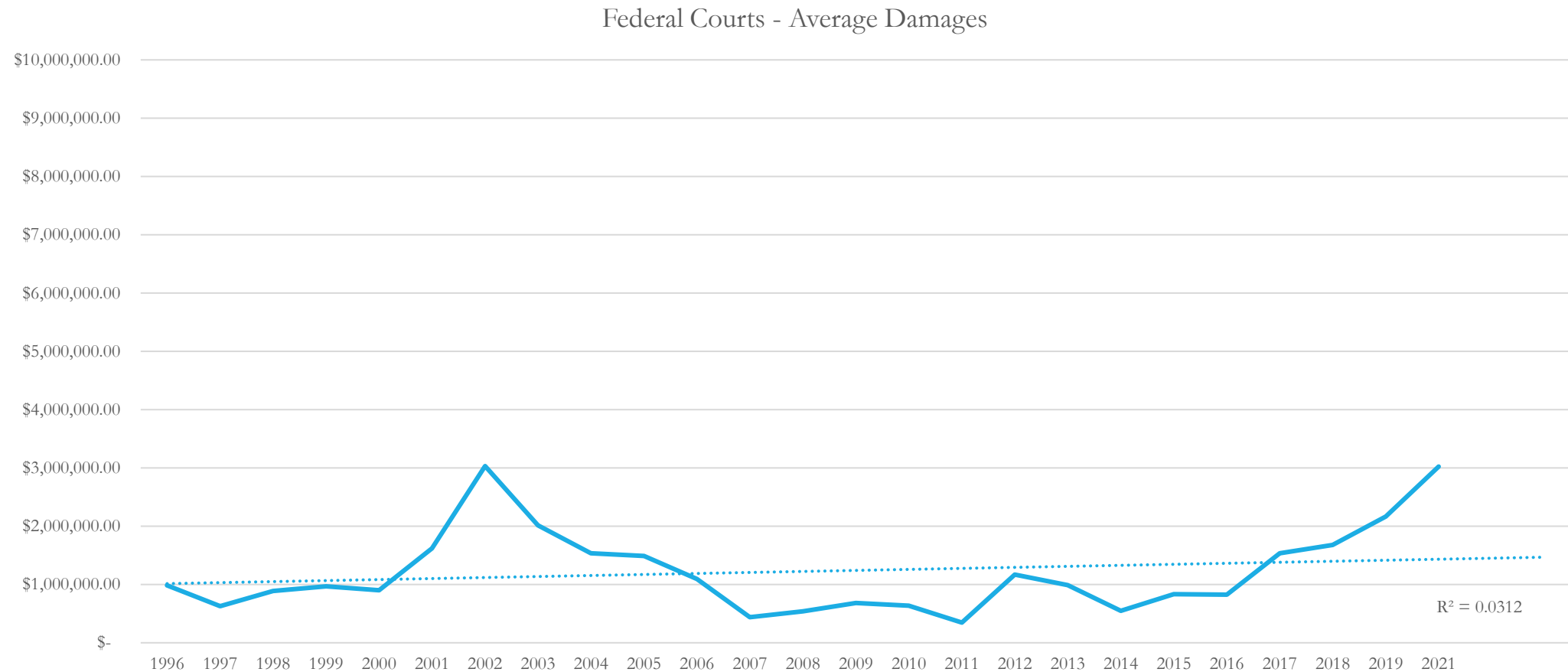
5. The median federal lawsuit verdict is essentially unchanged

Federal Court - Median Damages

R² = 0.0493
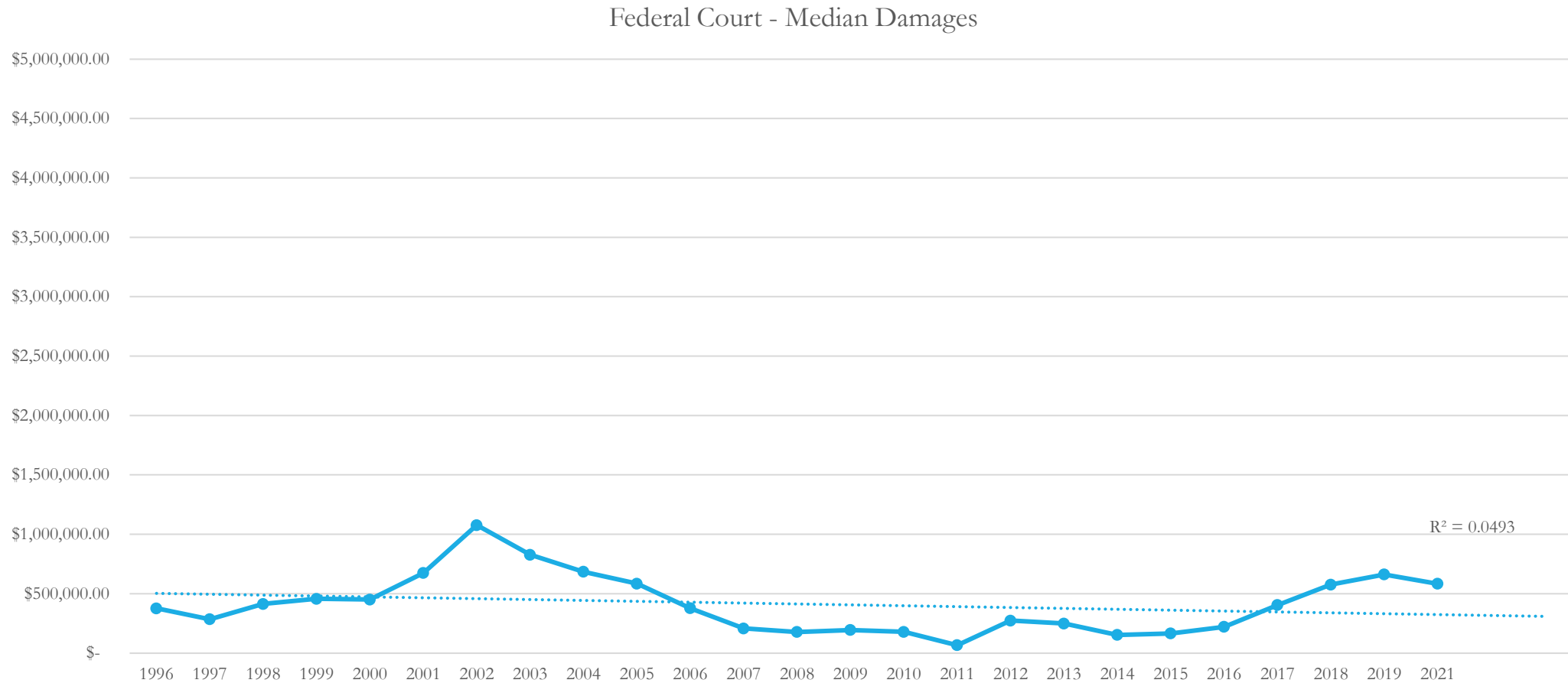
6. There are erratic but rising average Florida lawsuit verdicts

Mean Damages Awarded in Florida by Year - Adjusted for Inflation

R² = 0.2193
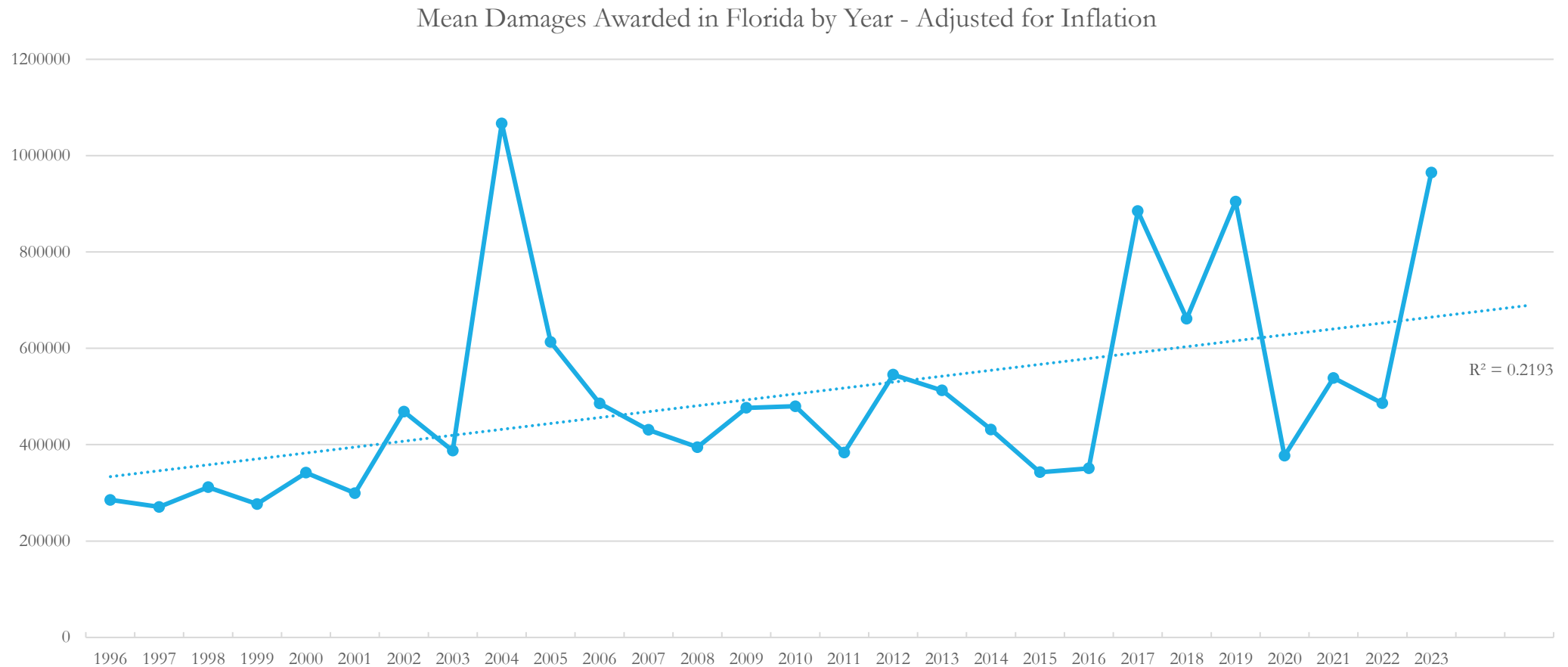
7. But the data on mean Florida lawsuit verdicts is far less dramatic, suggesting the averages are skewed by a few outlier large verdicts

Median Damages Awarded in Florida by Year - Adjusted for Inflation

$R^2 = 0.0553$
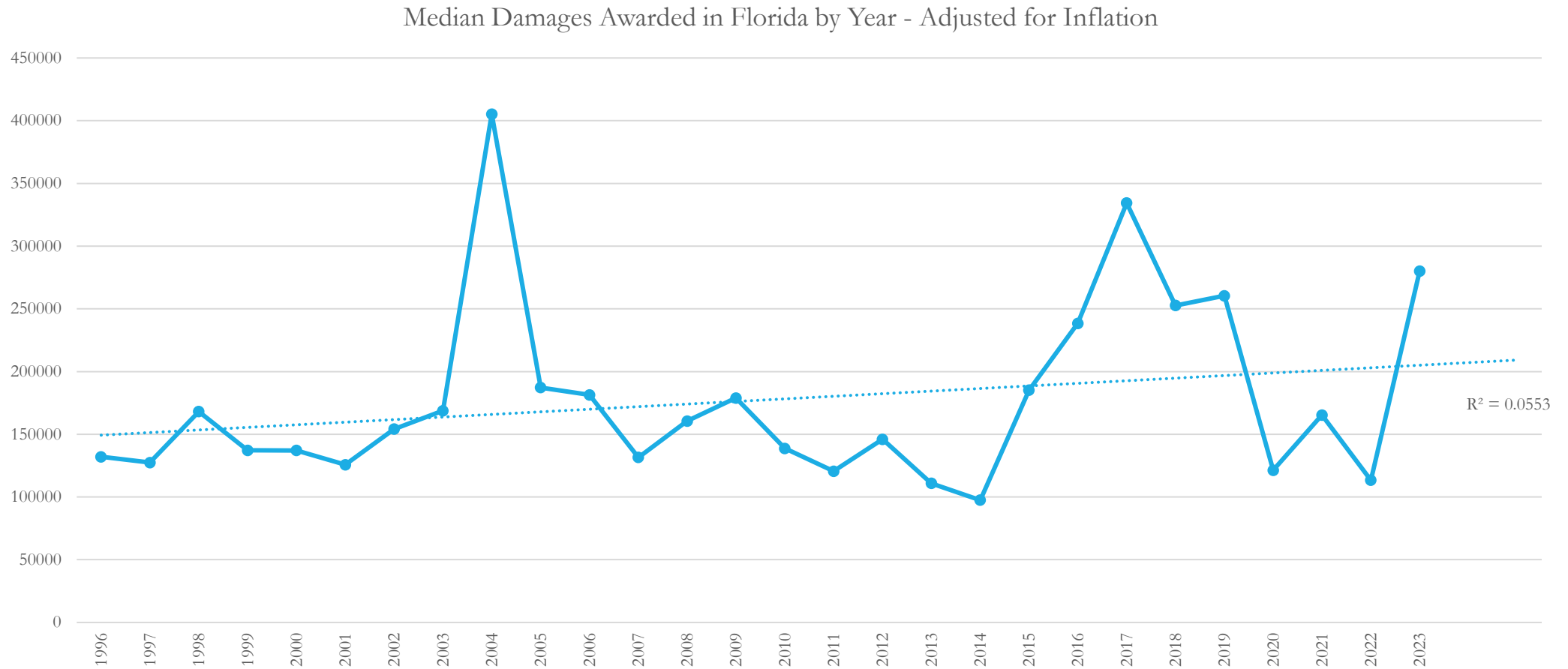
8. Industry's own data does not correlate (nationally) litigation to affordability

Cost Drivers by Affordability of Home Insurance

Red highlights show less favorable rankings; green highlights show more favorable rankings. See notes on previous pages.

	Expenditure Share	Claim Frequency (CAT)	Claim Frequency (NonCAT)	Claim Severity (CAT)	Claim Severity (NonCAT)	Weather Risk	Other Natural Hazard Risk	Expense Index	Claims Litigation
Utah	0.92	1.03	3.71	$9,255	$11,161	$21	$387	13.2%	0.23%
Oregon	0.99	0.73	2.35	$26,812	$17,563	$5	$129	12.9%	0.41%
Wisconsin	1.16	1.50	2.02	$10,939	$14,140	$174	$4	12.9%	0.20%
Washington	1.18	0.28	2.68	$10,782	$18,014	$4	$189	13.9%	0.33%
New Hampshire	1.19	0.23	1.62	$5,419	$14,714	$303	$7	13.1%	0.43%
Maryland	1.23	2.11	4.84	$9,078	$12,312	$404	$7	13.0%	0.23%
Idaho	1.25	1.14	3.91	$9,745	$12,245	$13	$326	12.6%	0.23%
Delaware	1.31	0.82	3.29	$10,238	$11,709	$303	$9	13.3%	0.27%
Alaska	1.32	0.04	2.35	$7,074	$20,325	$3	$169	13.1%	0.23%
Virginia	1.32	2.05	4.12	$8,430	$11,495	$415	$8	12.9%	0.17%
Pennsylvania	1.33	1.47	3.55	$8,778	$11,308	$139	$4	14.4%	0.65%
Arizona	1.34	0.76	3.58	$8,303	$11,804	$18	$162	13.4%	0.23%
Nevada	1.39	0.17	3.10	$7,213	$13,031	$3	$197	14.2%	0.33%
D.C.	1.46	0.69	4.52	$6,045	$12,234	$53	$1	13.7%	0.39%
Iowa	1.47	6.41	3.34	$12,379	$12,013	$436	$5	12.2%	0.15%
Ohio	1.47	2.04	3.02	$8,980	$11,499	$148	$4	13.1%	0.24%
Maine	1.49	0.52	2.24	$4,536	$14,028	$386	$5	13.1%	0.46%
Vermont	1.49	0.37	2.70	$4,784	$13,914	$117	$10	12.7%	0.33%
New Jersey	1.51	1.64	3.56	$7,399	$13,320	$311	$15	14.4%	0.79%
Illinois	1.56	4.22	2.68	$11,628	$15,131	$180	$1	12.7%	0.25%
Indiana	1.57	2.25	3.02	$9,853	$12,778	$199	$2	12.8%	0.29%
Hawaii	1.59	0.11	2.88	$49,796	$14,993	$112	$159	14.9%	0.37%
Michigan	1.60	1.59	3.22	$7,750	$13,670	$181	$3	13.0%	0.39%
California	1.65	0.92	2.47	$56,785	$21,965	$5	$209	15.7%	0.59%
South Dakota	1.77	2.36	4.77	$12,474	$10,925	$512	$144	12.2%	0.06%
North Carolina	1.78	2.73	3.80	$7,177	$10,715	$897	$13	12.5%	0.14%
West Virginia	1.80	0.56	2.93	$11,995	$15,265	$91	$32	13.8%	0.32%
Massachusetts	1.90	0.58	0.93	$5,530	$16,473	$355	$3	14.7%	0.52%
Minnesota	1.92	4.03	2.98	$17,564	$15,269	$273	$29	12.2%	0.09%
North Dakota	1.97	1.82	4.73	$11,327	$10,534	$583	$52	12.2%	
New York	1.99	1.47	2.79	$7,339	$17,533	$202	$2	14.5%	
Kentucky	2.03	2.48	4.20	$7,749	$10,116	$237	$26	13.0%	0.27%
Connecticut	2.07	2.17	3.27	$9,755	$17,155	$365	$2	13.9%	0.85%
Colorado	2.09	6.35	3.86	$12,750	$14,061	$376	$115	12.4%	0.22%
Kansas	2.12	2.98	4.23	$11,950	$11,401	$404	$29	12.3%	0.09%
Wyoming	2.14	2.71	5.00	$13,427	$13,044	$86	$121	11.8%	0.13%
Rhode Island	2.15	2.24	4.69	$6,199	$13,185	$314	$2	14.0%	0.62%
Missouri	2.16	3.18	3.29	$11,320	$13,765	$279	$12	12.5%	0.31%
Nebraska	2.20	4.46	3.90	$11,725	$9,394	$674	$13	11.9%	0.06%
South Carolina	2.20	2.25	3.50	$7,843	$11,398	$1,514	$15	13.7%	0.27%
New Mexico	2.29	1.71	4.85	$10,883	$10,130	$38	$211	12.8%	0.28%
Georgia	2.30	3.54	4.55	$8,968	$12,769	$485	$12	12.9%	0.19%
Tennessee	2.33	2.07	3.88	$12,803	$12,642	$173	$6	13.1%	0.24%
Montana	2.45	1.64	3.73	$18,356	$15,871	$39	$203	12.9%	0.33%
Alabama	2.68	2.94	4.26	$10,080	$12,651	$840	$9	13.8%	0.23%
Texas	2.86	6.88	3.75	$11,435	$12,332	$750	$48	13.6%	0.50%
Arkansas	2.91	3.03	5.24	$10,396	$11,209	$394	$43	12.4%	0.06%
Mississippi	3.64	2.45	4.45	$10,325	$12,494	$1,010	$32	12.5%	0.20%
Oklahoma	3.66	3.76	4.06	$13,023	$13,446	$509	$116	13.0%	0.26%
Florida	3.79	4.02	4.12	$15,933	$14,691	$2,291	$83	19.3%	4.39%
Louisiana	3.84	11.55	4.16	$15,335	$11,705	$1,724	$14	13.4%	3.83%

	Expenditure Share	Claims Litigation	Claim Frequency (CAT)
Florida	3.79	4.39%	4.02
Louisiana	3.84	3.83%	11.55

	Expenditure Share	Claim Frequency (CAT)	Claims Litigation
Utah	0.92	1.03	0.23%
Oregon	0.99	0.73	0.41%
Wisconsin	1.16	1.50	0.20%
Washington	1.18	0.28	0.33%
New Hampshire	1.19	0.23	0.43%
Maryland	1.23	2.11	0.23%
Idaho	1.25	1.14	0.23%
Delaware	1.31	0.82	0.27%
Alaska	1.32	0.04	0.23%
Virginia	1.32	2.05	0.17%
Pennsylvania	1.33	1.47	0.65%
Arizona	1.34	0.76	0.23%
Nevada	1.39	0.17	0.33%
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Iowa	1.47	6.41	0.15%
Ohio	1.47	2.04	0.24%
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Vermont	1.49	0.37	0.33%
New Jersey	1.51	1.64	0.79%
Illinois	1.56	4.22	0.25%
Indiana	1.57	2.25	0.29%
Hawaii	1.59	0.11	0.37%
Michigan	1.60	1.59	0.39%
California	1.65	0.92	0.59%
South Dakota	1.77	2.36	0.06%
North Carolina	1.78	2.73	0.14%
West Virginia	1.80	0.56	0.32%
Massachusetts	1.90	0.58	0.52%
Minnesota	1.92	4.03	0.09%
North Dakota	1.97	1.82	
New York	1.99	1.47	
Kentucky	2.03	2.48	0.27%
Connecticut	2.07	2.17	0.85%
Colorado	2.09	6.35	0.22%
Kansas	2.12	2.98	0.09%
Wyoming	2.14	2.71	0.13%
Rhode Island	2.15	2.24	0.62%
Missouri	2.16	3.18	0.31%
Nebraska	2.20	4.46	0.06%
South Carolina	2.20	2.25	0.27%
New Mexico	2.29	1.71	0.28%
Georgia	2.30	3.54	0.19%
Tennessee	2.33	2.07	0.24%
Montana	2.45	1.64	0.33%
Alabama	2.68	2.94	0.23%
Texas	2.86	6.88	0.50%
Arkansas	2.91	3.03	0.06%
Mississippi	3.64	2.45	0.20%
Oklahoma	3.66	3.76	0.26%

9. Industry's own data does not causally connect rising litigation to affordability even in FL & LA
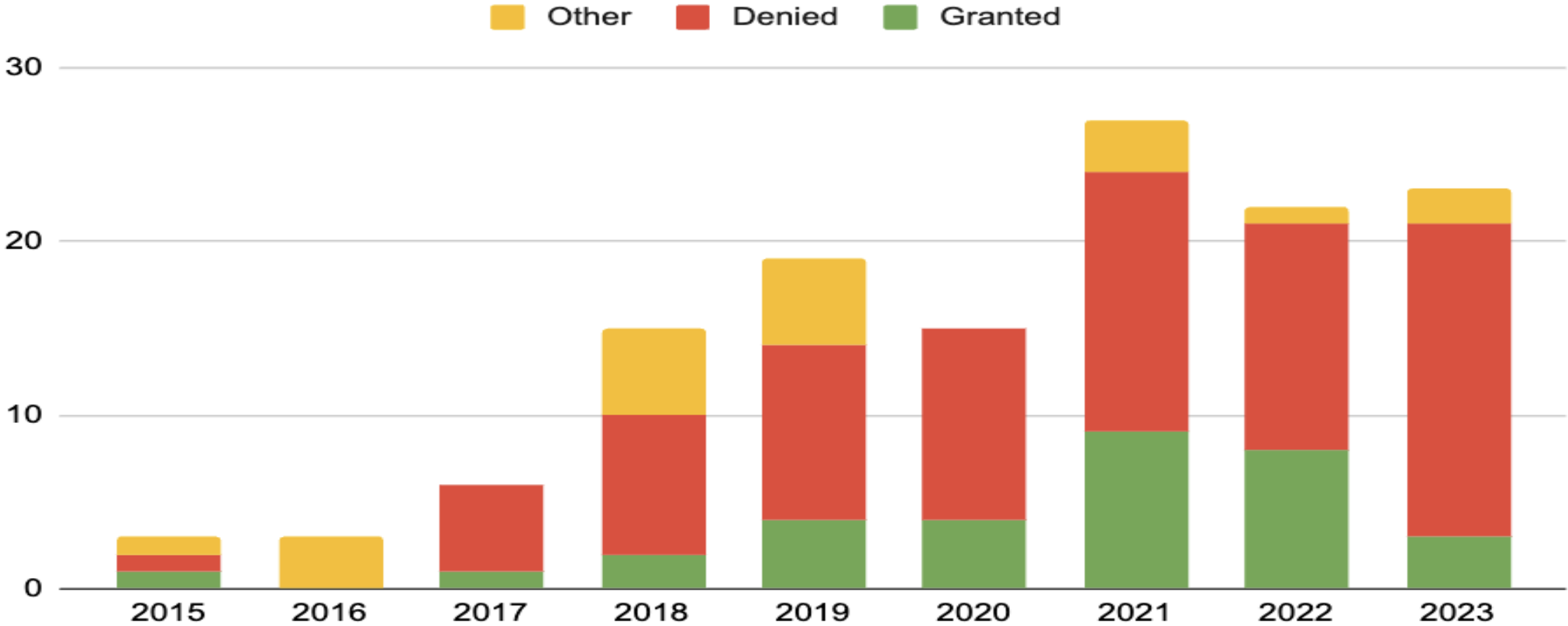

LA Homeoner claims frequency

FL Homeowner claims frequency
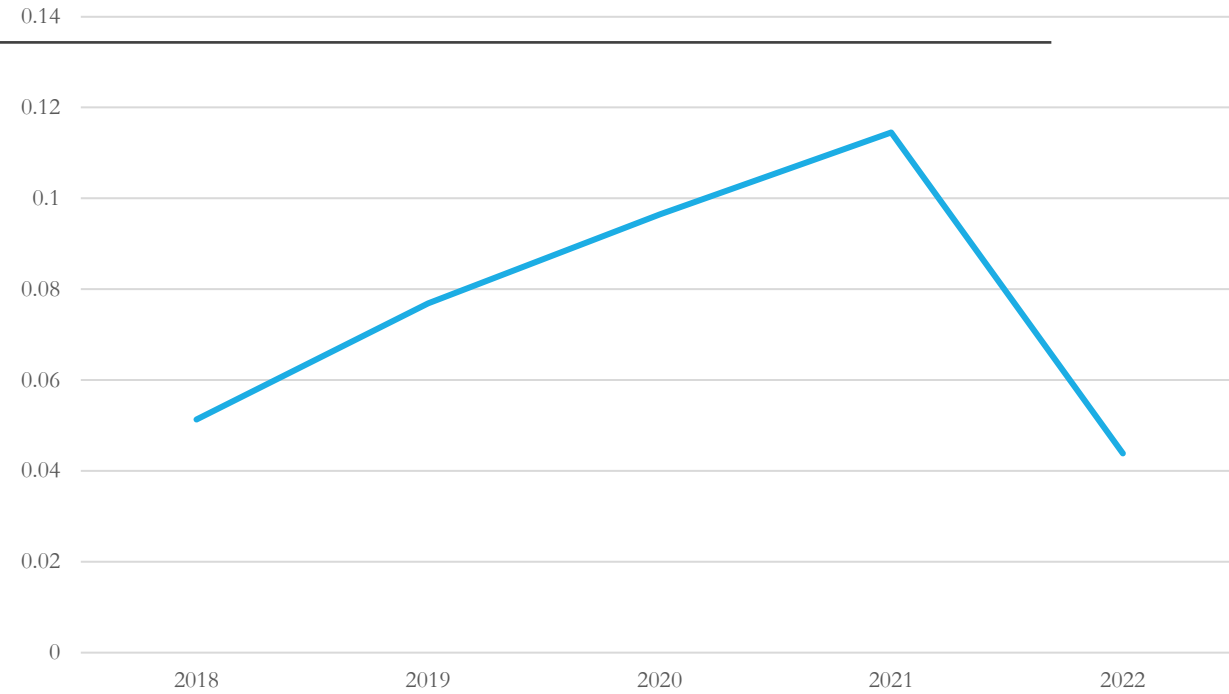
10. The fears of an avalanche of nefarious lawyer behaviors — when testable — are ill-founded

A Summary of This Data:

Nothing new and notable is occurring in recent years (there is no crisis).

There is not evidence that the frequency of litigation or the amount of LAE correlates to the affordability of insurance.

A CLOSING THOUGHT

Both nationally and at a state level there have been waves of different types of litigation reform for decades. And the broad lesson of that experience is that money always finds a way. If behavior by a class of actors (such as insurers) is creating a profit opportunity by suing them, then money will be spent to chasing that return. In other words, if insurers don't want lawyers to invest in challenging insurance claims behaviors, then don't be so investable.

Combatting post-disaster fraud but preserving coverage

Amy Bach and Brent Walker

NAIC Summer Meeting − Chicago, Illinois

UP is a 33 year old 501(c)(3) national insurance consumer non-profit

Our website, (www.uphelp.org) staff, programs, volunteers and guidance help over 500,000 people each year

The roof over your head

Structural support – The "backbone" of the house.

Keeps out the elements – Hail, high winds, tornadoes can cause broken/missing shingles, leaks, sagging spots and/or tear away portions or entire roofs. Exposure to outside elements can result in interior water damage, mold or mildew as water, snow, or ice seeps into the walls and structure. Untreated water issues can weaken the home's structural integrity, rust metal and corrode plumbing, ruin electrical systems, destroy ceilings and walls and cause health hazards.

Provides insulation – Keeps heat and AC in

Impacts your property value – The quality of a roof is a significant factor in assessing the value of real estate.

The roof is a system – Experts and some building codes traditionally require replacement if 25% or more damaged. Some local ordinances require tiles to match.

Endorsements/limits/exclusions that fall below replacement value coverage

- ACV only on roofs based on age (15 years old, 11, years old, 6 years old…)

- Separate deductible applying to roof claims

- "Cosmetic" damage exclusions. Burden on homeowner to prove damage is significant/structural

- Roof charts that reduce coverage based on roofing material/type (composition, flat, tile, etc.) and/or age

- No coverage to replace undamaged shingles to match/restore a uniform and consistent appearance

Insult to injury

"Limited Roof Surfaces Settlement Windstorm or Hail Losses" endorsement

We submit for your review and approval a form revision to our Property Program. We are introducing form H 03 64 06 22, Limited Roof Surfaces Settlement Windstorm or Hail Losses. This endorsement provides protection for roof surfaces from loss caused by windstorm or hail based on a pre-determined schedule using roof type and roof age. The insured **may** receive a reduced premium for electing this endorsement. This endorsement will be offered as on optional coverage to Homeowner policyholders with roofs aged less than 11 years. This endorsement will be mandatory for policies with roofs aged 11 years or more, except for roof type surfaces of Slate, Tile, Metal, and Shake/Wood. H 03 64 06 22, Limited Roof Surfaces Settlement Windstorm or Hail Losses was previously approved for use in the Nationwide Agribusiness Insurance Company under SERFF Filing Number NWPP-133205891.

- Several insurance companies recently amended policies to pay *only the depreciated cost* of the roof, leaving policyholders $10,000 + short on actual repair/replacement costs

- Insurers have increased deductibles

- Insurers have added cosmetic damage exclusions and are requiring customers to pay for lab tests to prove their roofs are in danger of failing

- Consumers are not aware of the changes, and many have to take out loans or live under faulty roofs until they can save enough money to cover replacement costs.

- The quiet change in industry practice may also impact the home lending market. Fannie Mae and Freddie Mac, the government-established companies that guarantee about 70% of U.S. mortgages, have policies that state they will not cover homes unless those properties are insured at replacement cost.

https://www.desmoinesregister.com/story/news/local/2024/05/31/iowa-insurers-cut-roof-coverage-customers-get-stuck-with-the-bill/73779335007/

Insurers are creating a conflict for lenders and homeowners re: Fannie Mae's important rules

- Our longstanding requirements are in place to ensure that for any home loan we purchase, insurance policies are written to provide the funds necessary for the homeowner to rebuild or repair the home at the current cost of materials and labor. There are two important aspects to this. First, the coverage amount must be sufficient, taking into consideration the property's replacement cost value (RCV). Second, claims must be settled at replacement cost, subject to the policy coverage amount – this is sometimes referred to as RCV coverage or as an RCV policy.

- We do not accept actual cash value (ACV) policies, which allow insurers to estimate the cost of depreciation factors, such as the age and wear and tear of the property, and deduct the total depreciation amount from the insurance claim payout.

- **These long-established requirements not only help protect the safety and soundness of our companies, mortgage lenders and servicers, and U.S. taxpayers, but importantly, help protect homeowners themselves**.

www.fanniemae.com/research-and-insights/perspectives/gses-protecting-homeowners-taxpayers-and-industry

These coverage reductions have gone too far

Clifford Rossi, a University of Maryland business professor and former Freddie Mac risk management director, predicted property insurance problems like slimmed-down roof coverage will upend the home-lending market for the next decade.

Insurance officials say they must scale back coverage because of increased claims from storms in recent years.

But banks and Wall Street investors, who buy Fannie Mae and Freddie Mac's mortgage-backed securities and keep the country's home-lending system flowing, say they need to know properties will be intact if homeowners default.

Insurers shouldn't jeopardize homes' structural integrity or penalize homeowners for fraud by some roofers

- AI should be helping insurers identify fraud

- State DOIs should consider rescinding approval for and disapproving policy forms that only insure roofs for ACV

- Insurers should be required to set forth deductibles at the point of sale and dec page as a specific dollar amount, not a percentage

- If ACV-only roof provisions remain in effect, a ph that accepts that option should get a premium discount

Thank you!

Committee members and meeting attendees for your time and attention

www.uphelp.org

We've got your back when insurance matters

United Policyholders (UP) is a non-profit 501(c)(3) whose mission is to be a trustworthy and useful information resource and a respected voice for consumers of all types of insurance in all 50 states. We don't take money from insurance companies. We give you the straight scoop. Guide you on buying insurance and navigating claims. Fight for your rights.

[info](mailto:info@uphelp.org)@uphelp.org | www.uphelp.org

United Policyholders 2024

Post-Disaster Fraud
The Perfect Storm

UNLICENSED CONTRACTORS
BEWARE
It is a CRIMINAL OFFENSE to ~t without a valid ~ license

What is a
PAYMENT IN ADVANCE
SCAM?

crime
fraud

INSURANCE DEDUCTIBLES
AND WHY IT'S ILLEGAL TO WAIVE THEM

Coalition Against Insurance Fraud
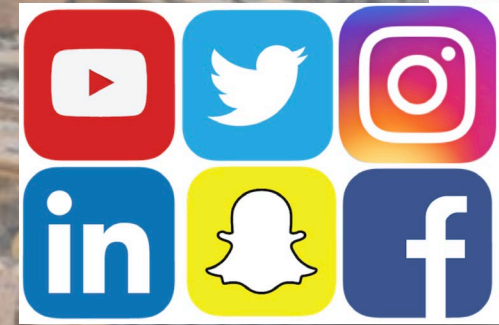
Videos & Infographics

Roofing Scams? "Hail" yes!
Don't get blown away by fraud.

Check references, licensing and get competitive estimates
Always make sure you know who you are dealing with and charges are fair.

Be cautious about promises of service and stocked materials for s especially after major
Scammers know what to say in des avoid promises sounding too go

Offering to waive deductibles may be illegal
Know your state laws, don't let a desperate situation turn into a permanent nightmare for you or your family.

Avoid dem
Reasonable demands for high

Coalition Against Insurance Fraud

PROTECT AGAINST HOME REPAIR SCAMS

Storm damages your home. You need repairs. Most contractors are honest — but watch for cons, bad repairs, insurance fraud.

The Repair Scams

Steals your downpayment, doesn't finish repairs

BILL $$$
Inflates repair bill to pump up claim

Damages your home to boost claim

Does shoddy work

Coalition Against Insurance Fraud

THANK YOU

Coalition Against Insurance Fraud

Navigating Climate Risks: Progress and Challenges in U.S. Insurance Sector Disclosures

Jaclyn de Medicci Bruneau
Ceres Accelerator for Sustainable Capital Markets
jdemediccibruneau@ceres.org@ceres.org

There is a growing international wave to consistent climate disclosure

Ceres

Importance of Climate Disclosure for Insurers

- Insurance regulators and industry have been working on climate disclosure guidelines for over a decade

- In April 2022, NAIC endorsed TCFD as international standard for climate disclosure

- For insurers representing 80% of the industry in several states (almost 500 insurers)

Core Elements of Recommended Climate-Related Financial Disclosures

1
Governance

Describe the board's oversight

Describe management's assessment and management role

2
Strategy

Describe the identification of short-, medium-, and long-term risks and opportunities

Describe the impact of risks and opportunities on the organization's businesses, strategy, and financial planning

Describe the resilience of the organization's strategy, taking into consideration the different climate-related scenarios

3
Risk Management

Describe the organization's processes for identifying and assessing risks

Describe the processes for managing risks

Describe how processes for identifying, assessing, and managing risks are integrated into overall risk management

4
Metrics and Targets

Disclose which metrics are used to assess risks and opportunities in line with the organization's strategy and risk management process

Disclose scope 1, scope 2, and — if appropriate — scope 3 greenhouse gas emissions, and related risks

Describe the targets used to manage risks and opportunities and performance against targets
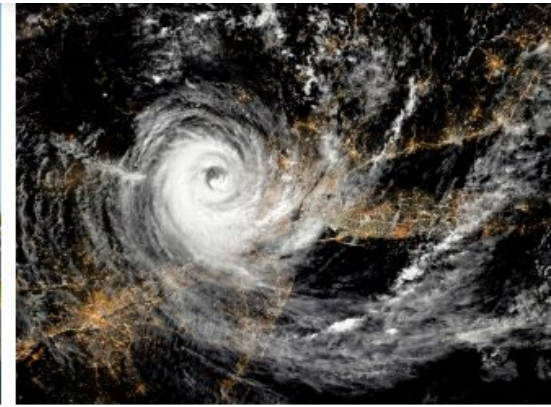
Climate risk management in the U.S. insurance sector
An analysis of climate risk disclosures

July 2023
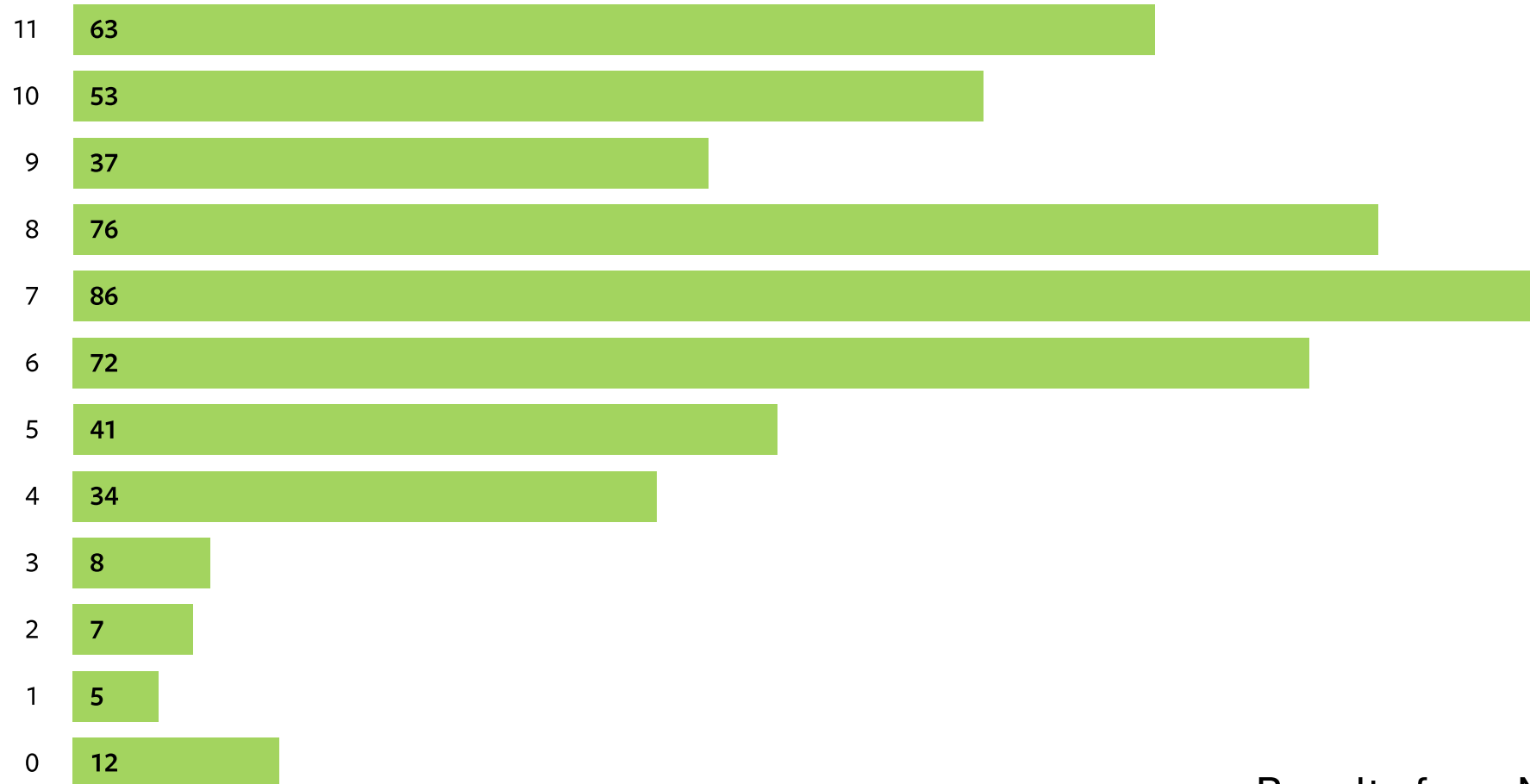
Methodology of 15 Company Deep Dive

Detailed Analysis of 15 Companies

A complementary report to the *Climate Risk Management in the U.S. Insurance Sector: An analysis of climate risk disclosures* report

Ceres
Ceres Accelerator
for Sustainable Capital Markets

July 2023
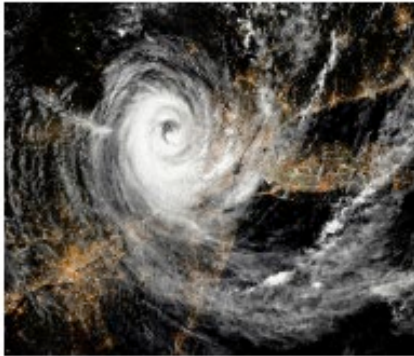
- 15 companies selected from broader 450
- Reviewed against 200 TCFD-aligned data points to assess decision-utility
- Manifest Climate groups data points into 23 "action item indicators"

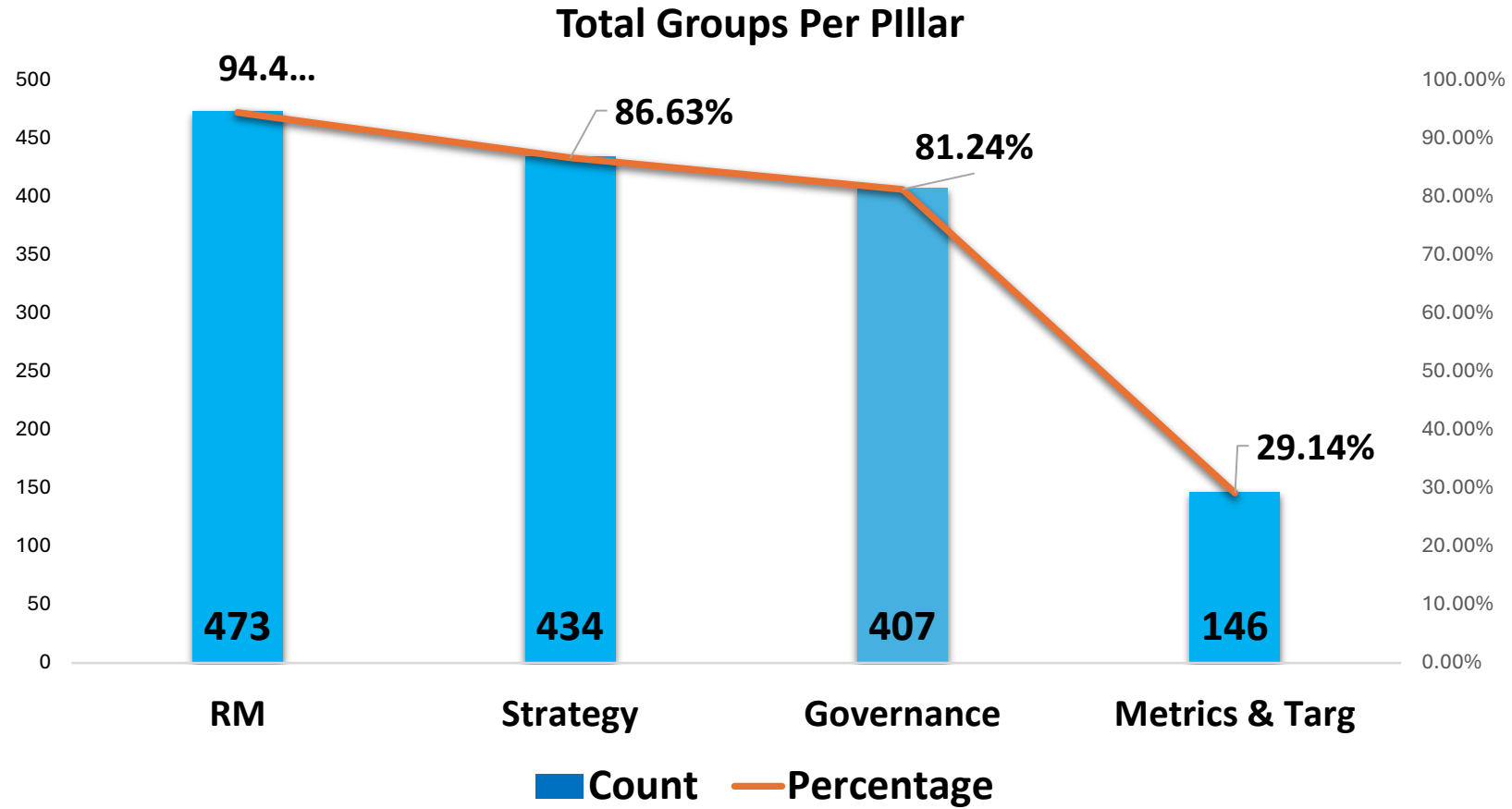|	
Board Awareness	*Establish a regular cadence for the Board review of climate-related matters*
Board Oversight	*Assign clear responsibility for climate oversight with Board members that have the right expertise*
Board Decision-Making	*Integrate climate-related matters into key areas of Board/Board Committee decision-making*
Board Workflow	*Set up a documented process to govern the Board's oversight of climate-related risks, opportunities, goals and targets*
Management Role	*Delegate appropriate and clear authority to promote management-level authority on climate matters*
Management Workflow	*Establish a clear process to inform and enable management-level authority for climate matters*
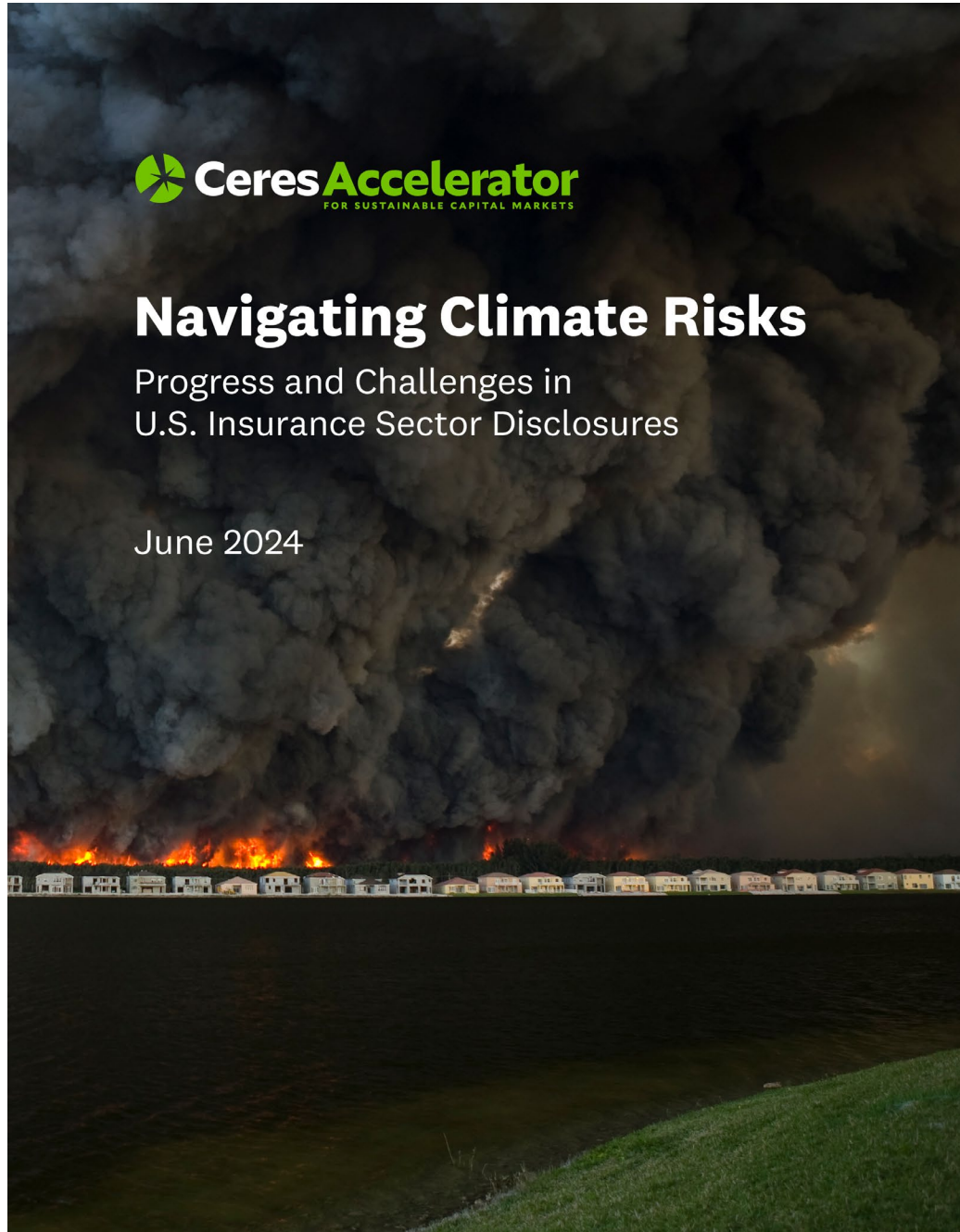
Second Year Results

- Covers 516 groups representing nearly 1,700 individual companies

- Conducted machine learning analysis of the thousands of pages

- All regulators, insurers, advocates and other stakeholders will be able to explore the dashboards and read other TCFD reports
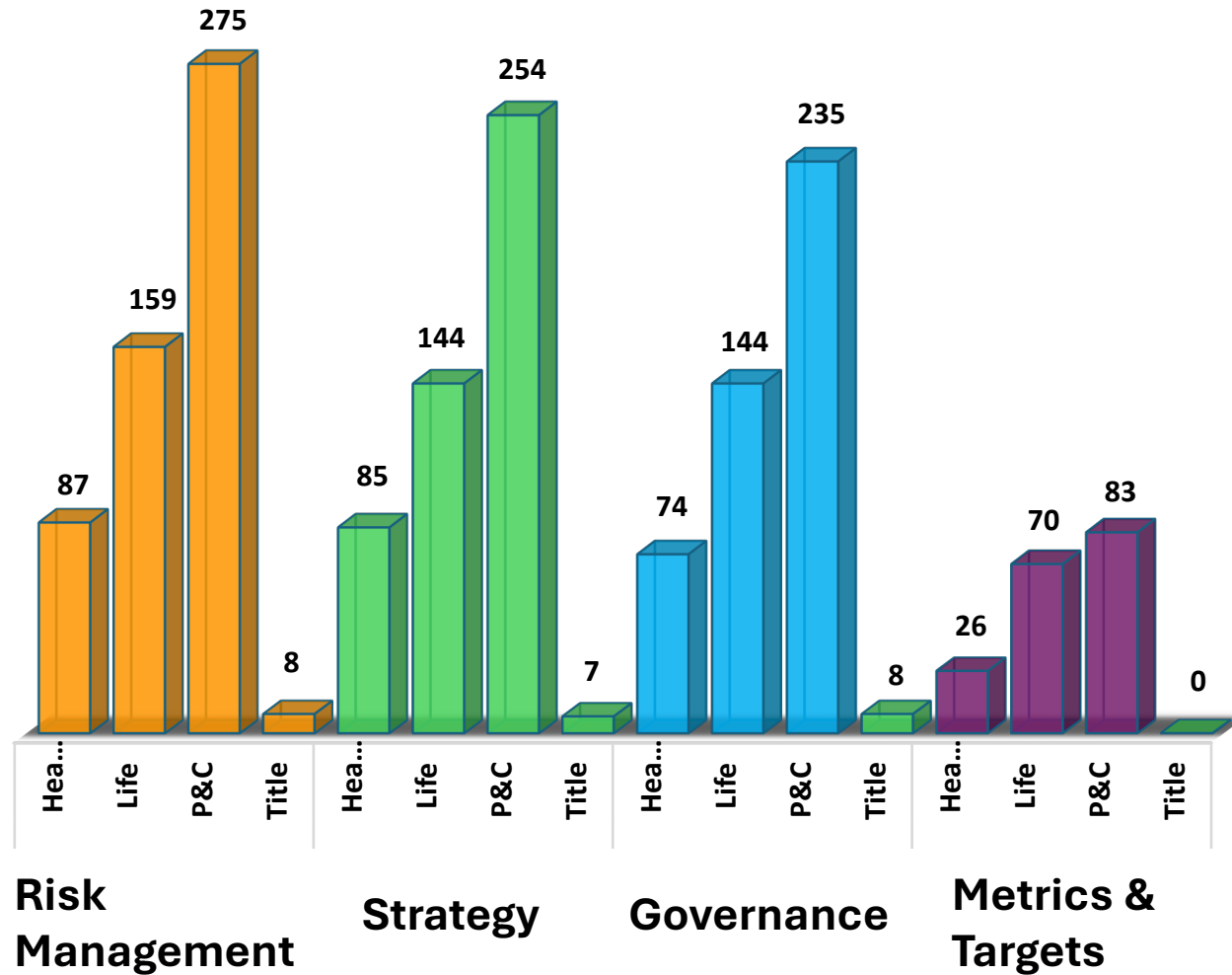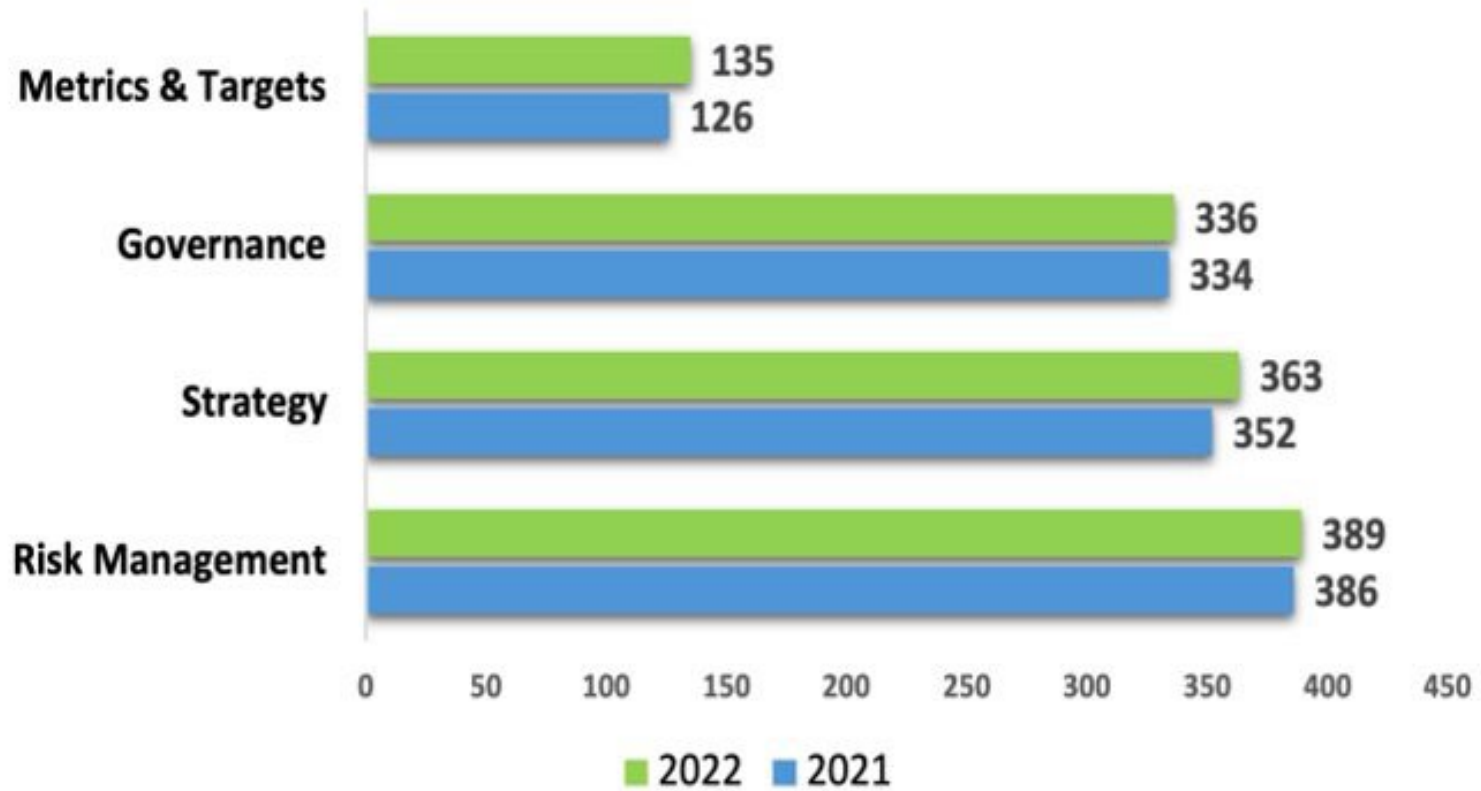
Second Year Results

Total Groups Per PIllar

Second Year Results

Pillar Index By Line of Business

	Risk Management				Strategy				Governance				Metrics & Targets			
	Hea...	Life	P&C	Title	Hea...	Life	P&C	Title	Hea...	Life	P&C	Title	Hea...	Life	P&C	Title
	87	159	275	8	85	144	254	7	74	144	235	8	26	70	83	0

Second Year Results

All Lines, 2021 vs 2022

Category	2022	2021
Metrics & Targets	135	126
Governance	336	334
Strategy	363	352
Risk Management	389	386

The Dashboard

Steven Rothstein
Managing Director, Accelerator

Jaclyn de Medicci Bruneau
Director of Insurance, Accelerator

Monica Barros
Manager, Special Projects, Accelerator

Maya Aglialoro
Program Assistant, Accelerator

14