Draft: 5/30/23

Market Analysis Procedures (D) Working Group
Virtual Meeting
May 8, 2023

The Market Analysis Procedures (D) Working Group of the Market Regulation and Consumer Affairs (D) Committee met May 8, 2023. The following Working Group members participated: Jo LeDuc, Chair (MO); John Haworth, Vice Chair (WA); Crystal Phelps (AR); Tolanda Coker (AZ); Don McKinley (CA); Tracy Garceau (CO); Steve DeAngelis (CT); Cheryl Wade (DC); Scott Woods (FL); Erica Weyhenmeyer (IL); Shannon Lloyd (KS); Mary Lou Moran (MA); Raymond Guzman (MD); Connie Mayette (ME); Jeff Hayden (MI); Troy Smith and David Dachs (MT); Robert McCullough (NE); Maureen Belanger (NH); Ralph Boeckman and Erin Porter (NJ); Hermoliva Abejar (NV); Larry Wertel (NY); Ben Hauck (OH); Landon Hubbart (OK); Karen Veronikis (PA); Matt Gendron and Brett Bache (RI); Rachel Moore (SC); Tanji J. Northrup (UT); Will Felvey and Melissa Gerachis (VA); Isabelle Turpin Keiser (VT); Darcy Paskey, Rebecca Rebholz, and Mary Kay Rodriguez (WI); and Theresa Miller (WV). Also participating was: Shane Quinlan (NC).

1. Adopted its April 10 Minutes

LeDuc said the Working Group met April 10. The Working Group discussed its charges and goals for 2023 and the standardized ratios for the Other Health Market Conduct Annual Statement (MCAS).

Haworth made a motion, seconded by Mayette, to adopt the Working Group's April 10 minutes (Attachment XX). The motion passed unanimously.

2. Discussed NAIC Market Information Systems Data

LeDuc said the Working Group is charged with assessing currently available market analysis data to identify needed improvements in the effectiveness of the data for market analysis and the predictive abilities of the market scoring systems utilizing the data. This includes looking at the predictive power of current market scoring systems, assessing how much each variable should be weighted in its productiveness, and dropping any variables that have no utility. Once the data sources are identified, the Working Group can then consider how to improve the scoring systems through the inclusion of additional data or more rigorous statistical methods, such as those accomplished through artificial intelligence (AI) technologies. To help begin the discussion, LeDuc said she, Haworth, and Randy Helder (NAIC) began drafting a list of data sources used in market analysis. She said the list includes NAIC data, state data, and non-NAIC data sources. She said the list is not exhaustive, and she invited all interested state insurance regulators and other parties to add to it. She noted that some of the NAIC data sources are used more frequently than others, and some of the state sources of data overlap with the NAIC but provide more specific detail or types of data, such as consumer inquiries in addition to complaints. She said the non-NAIC sources of market analysis data may be helpful to market analysts as state insurance regulators look to make more robust and predictive scoring mechanisms. Garceau said she appreciates having the list started, and it will help her and others to focus their efforts.

Jules Bonk (unknown affiliation) asked whether the NAIC data includes lawsuits. LeDuc said she is unaware of an NAIC source for lawsuits other than the data element in the MCAS requirement for a company to report the number of lawsuits. She said LexisNexis and Westlaw are listed in the non-NAIC sources.

Haworth suggested looking into Google Play and the Apple App Store as possible sources to obtain and review company telematics devices and applications, as well as interviewing companies concerning the reliability of the devices. He noted that there are also customer reviews of the applications on both application stores. LeDuc said these can be added to the list.

Miller suggested adding the state's data on rate and form filings.

Birny Birnbaum (Center for Economic Justice—CEJ) said this is a good list of data sources, and the Working Group is tasked with looking for what data is amenable to predictive analytics and AI applications for market analysis. He said some of the identified sources are excellent for extensive investigation, but they are not timely enough for market analysis. Regarding lawsuits, he said there are companies that track lawsuits, and there is statistical data reported to statistical agents on a quarterly basis. He said expanding this to all companies on a transactional data source would provide data amenable to predictive analytics. Additionally, he said testing in the marketplace is a good source of data. He asked how the Working Group wants to proceed. LeDuc said she is looking for feedback on whether there are sources that were missed and should be included on the list and whether the data source is effective and timely for market analysis, whether with AI or more rigorous statistical techniques. She said the lawsuit and statistical agent information would be good suggestions to add to the list.

Gendron suggested adding Demotech to the section on rating agencies. He also suggested moving the Financial Industry Regulatory Authority (FINRA) up the list next to the U.S. Securities and Exchange Commission (SEC) because it examines broker-dealers that can be affiliated with insurers and issues a report of actions against securities licensees, which can be checked against lists of insurance agents and insurance agent applications. Bache suggested adding MCAS dashboards. LeDuc said she can add that, but she said she struggles with the difference between the actual source of the data and the reports generated with the source.

LeDuc asked for comments to be sent to Helder by June 2.

3. Discussed Proposed Other Health Insurance MCAS Ratios

Rodriguez said the subject matter expert (SME) group met and began discussions on the proposed ratios. She said the SME group also considered comments received from Birnbaum and Delaware. She said the title for ratio 1 was changed for clarity. She said ratios 3 and 4 were deleted because of system issues with performing the calculations necessary for developing an average of the reported median days. She said another meeting is scheduled to review the second half of the proposed ratios. Birnbaum said he agrees with eliminating ratios 3 and 4, but he said it would be helpful to have ratios to measure the length of time to settle claims. Rodriguez agreed and said it would be looked into.

4. Discussed Other Matters

Gerachis said Virginia would like the Working Group to reconsider the MCAS exemption of fraternal insurance companies. She said there are fraternals with large premium amounts in Virginia that are not in its line of sight. LeDuc said Virginia is not alone in having fraternals with large premiums. She said historically, fraternals were exempt from MCAS because they were not regulated like insurance companies across all jurisdictions. She asked Helder if this should be considered at the Market Conduct Annual Statement Blanks (D) Working Group or with the Market Analysis Procedures (D) Working Group. Helder said the Market Conduct Annual Statement Blanks (D) Working Group is concerned with the blanks, not who is reporting to the MCAS. He said the last time fraternals were considered was by the Market Analysis Procedures (D) Working Group. LeDuc said the discussion will be on the next agenda.

Having no further business, the Market Analysis Procedures (D) Working Group adjourned.

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Potential Data Sources Used in Market Analysis

NAIC Sources

- CDS – Complaint Database System
- RIRS – Regulatory Information Retrieval System
- FAS – Financial Annual Statement
    - Financial Profile reports
    - State Page
    - MDA
    - FAST
    - RBC
    - IRIS
    - Supplement Exhibits
- MATS – Market Actions Tracking System
    - Examinations
    - Continuum Actions
- MARS – Market Analysis Review System
    - Level 1
    - Level 2
- MAPT – Market Analysis Prioritization Tool (Combines FAS, RIRS, CDS data)
- MCAS – Market Conduct Annual Statement
    - MCAS-MAPT – combine MCAS, FAS data
    - Filings
    - Dashboards
- MAMS – Market Analysis Market Share
- SERFF – System for Electronic Rates and Forms Filing
    - State Instances | IIPRC
    - Filing Documents
- PDB – Producer Database
- NAIC Bulletin Boards
    - Market Analysis
    - Market Regulation
    - Product Filing Boards – Health | Life | P&C
    - Attorneys
    - Actuary Boards – Health | Long-Term Care | CASTF
- Statistical Reports
    - Accident and Health Policy Experience Report
    - Analysis of Annuity Operations by Line of Business
    - Auto Insurance Database Report
    - Competition Database Report
    - Credit Life Insurance and Credit Accident and Health Insurance Experience Report
    - Director and Officer Insurance Report
    - Dwelling, Fire, Homeowners Owner-Occupied, and Homeowners Tenant and Condominium/Cooperative Unit Owner's Insurance
    - Long-Term Care Insurance Experience Report

  - Market Share by Line Reports
  - Market Share Reports for Groups and Companies
  - Market Share Reports for the Top 25 Property/Casualty Insurers Over 25 Years
  - Medical Malpractice Insurance Report: A Study of Market Conditions and Potential Solutions to the Recent Crisis
  - Medicare Supplement Loss Ratios Report
  - Profitability by Line by State
  - State Average Expenditures & Premiums for Personal Automobile Insurance
  - Statistical Compilation of Annual Statement Information
  - Supplemental Health Care Exhibit Report

State Data Sources

- Complaints | Inquiries
- Regulatory | Enforcement Actions
- Examination Reports
- Producer Licensing Data
- State Mandated Filings
  - Grievance Reports
  - Prompt-Pay Reports
  - ZIP Code Reports
  - Premium Comparison Survey
  - Claims Reports
- Other State Agencies/Departments/Divisions
  - Securities
  - Banking
  - Labor
  - Attorney General
- Rates and Filings
- Marketplace Testing

Non-NAIC Sources

- U.S. Centers for Medicare & Medicaid Services (CMS)
  - Health Insurance Exchange Public Use Files (Exchange PUFs) (https://www.cms.gov/cciio/resources/data-resources/marketplace-puf)
  - Health Insurance State-based Marketplaces Public Use Files (PUF) (https://www.cms.gov/cciio/resources/data-resources/sbm-puf)
  - Issuer Level Enrollment Data (https://www.cms.gov/cciio/resources/data-resources/issuer-level-enrollment-data)
  - Medical Loss Ratio Data and System Resources (https://www.cms.gov/cciio/resources/data-resources/mlr)
- U.S. Securities & Exchange Commission (SEC)
- Financial Industry Regulatory Authority (FINRA)
- U.S. Department of Labor
- FIO
- American Community Survey Data - https://www.census.gov/programs-surveys/acs/data.html
- Self-insured plan filings - https://www.efast.dol.gov/5500search/

- CMS consent Orders (https://www.cms.gov/medicare/compliance-and-audits/part-c-and-part-d-compliance-and-audits/partcandpartdenforcementactions-)
- Trade Press / Research Papers
- Social Media
    - Twitter
    - Instagram
    - Pinterest
    - Snap Chat
    - Facebook
- Insurance company materials
    - Websites – producer information
    - Insurance company manuals
- Rating Agencies
    - AM Best
    - Fitch
    - Moody's
    - Standard & Poor's
    - Weise
    - Demotech
- Lawsuits | Class Action Lawsuits
    - LexisNexis
    - Westlaw
- Better Business Bureau (BBB)
- Google Play and Apple App Store
    - Company telematic devices and reviews/complaints

Adopted by the Market Analysis Procedures (D) Working Group,

DRAFT - MCAS Ratios

Other Health

Ratio 1. **The number of claims denied, rejected or returned to the total number of claims ~~paid, denied, rejected or returned~~ closed**

$$\left(\frac{[\text{Total \# of claims denied, rejected or returned (68)}]}{\left[\begin{array}{c}[\text{\# of claims pending at beginning of period (66)}]\\ +\,[\text{\# of claims received (include non-clean claims) (67)}]\\ -\,[\text{\# of claims pending at end of period (74)}]\end{array}\right]}\right)$$

Ratio 2. **Pre-existing Condition Denials to Total Denials**

$$\left(\frac{[\#\text{of denied, rejected, or returned as subject to pre} - \text{existing condition exclusion (70)}]}{[\text{Total \# of claims denied, rejected or returned (68)}]}\right)$$

Ratio 3. **Inadequate Documentation Denials to Total Denials**

$$\left(\frac{[\text{\# of denied, rejected or returned due to failure to provide adequate documentation (71)}]}{[\text{Total \# of claims denied, rejected or returned (68)}]}\right)$$

Ratio 4. **Average Number of Days to a Decision on Denied Claims**

$$\left(\frac{\left[\begin{array}{c}[\text{Total \# of claims denied, rejected or returned (68)}]\\ *\ [\text{Average \# of days from receipt of claim to decision for denied claims (76)}]\end{array}\right]}{[(\text{Total \# of claims denied, rejected or returned (68)}]}\right)$$

- *Note: All data elements are the sum for all companies and provides an average for the state.*

DRAFT - MCAS Ratios

Ratio 5. Average Number of Days to a Decision on Approved Claims

$$\left(\frac{\begin{bmatrix}\text{[\# of claims pending at beginning of period (66)]}\\ +\text{[\# of claims received (include non-clean claims) (67)]}\\ -\text{[\# of claims pending at end of period (74)]}\\ -\text{[Total \# of claims denied, rejected or returned (68)]}\end{bmatrix} * \text{[Average \# of days from receipt of claim to decision for approved claims (78)]}}{\begin{bmatrix}\text{[\# of claims pending at beginning of period (66)]}\\ +\text{[\# of claims received (include non-clean claims) (67)]}\\ -\text{[\# of claims pending at end of period(74)]}\\ -\text{[Total \# of claims denied, rejected or returned (68)]}\end{bmatrix}}\right)$$

- *Note: All data elements are the sum for all companies and provides an average for the state.*

Ratio 6. Cancellations During Free Look Period

$$\left(\frac{\text{[\# of policies/certificates cancelled during free look period (55)]}}{\text{[\# of new policies/certificates issued during the period (50)]}}\right)$$

Ratio 7. Cancellations by Policyholder to Total Policies In-Force During the Period

$$\left(\frac{\begin{bmatrix}\text{[\# of policy/certificate terminations and cancellations initiated by the}\\ \text{policyholder/certificate holder during the period (53)}\end{bmatrix}}{\begin{bmatrix}\text{[\#of policies/certificates in force at beginning of period (47)]}\\ +\text{[\# of new policies/certificates issued during the period (50)]}\end{bmatrix}}\right)$$

Ratio 8. Cancellations by Company to Total Policies In-Force During the Period

$$\left(\frac{\begin{bmatrix}\text{\# of policies/certificates cancelled by the company}\\ \text{for any reason other than non-payment during the period (59)}\end{bmatrix}}{\begin{bmatrix}\text{[\# of policies/certificates in force at beginning of period (47)]}\\ +\text{[\# of new policies/certificates issued during the period (50)]}\end{bmatrix}}\right)$$

Ratio 9. Loss Ratio

$$\left(\frac{\text{[Aggregate dollar amount of paid claims during the period (80)]}}{\text{[Direct written premium (45)]}}\right)$$

DRAFT - MCAS Ratios

Ratio 10. **Number of Complaints received per 1,000 Policies/Certificates In Force During the Period and Claims During the Period**

$$\left(\frac{\left[\begin{array}{c}[\#\text{ of complaints received by company (other than through the DOI) (83)}]\\ +\,[\#\text{ of complaints received through DOI (84)}]\end{array}\right]}{\left[\begin{array}{c}[\#\text{ of policies/certificates in force at beginning of period (47)}]\\ +[\#\text{ of new policies/certificates issued during the period (50)}]\end{array}\right]+\left[\left[\begin{array}{c}[\#\text{ of claims pending at beginning of period (66)}]\\ +\,[\#\text{ of claims received (include non-clean claims) (67)}]\\ -\,[\#\text{ of claims pending at end of period (74)}]\end{array}\right]/1{,}000\right]}\right)$$

Ratio 11. **Number of Complaints Resulting in Claims Reprocessing to Total Complaints**

$$\left(\frac{[\#\text{ of complaints resulting in claims reprocessing (85)}]}{\left[\begin{array}{c}[\#\text{ of complaints received by company (other than through the DOI) (83)}]\\ +\,[\#\text{ of complaints received through DOI (84)}]\end{array}\right]}\right)$$

Ratio 12. **Percentage of Lawsuits Closed with Consideration for the Consumer**

$$\left(\frac{[\#\text{ of lawsuits closed during the period with consideration for the consumer (89)}]}{[\#\text{ of lawsuits closed during the period (88)}]}\right)$$

Ratio 13. **Lawsuits opened per 1,000 Policies/Certificates In Force During the Period and Claims During the Period**

$$\left(\frac{[\#\text{ of lawsuits opened during the period (87)}]}{\left[\begin{array}{c}[\#\text{ of policies/certificates in force at beginning of period (47)}]\\ +[\#\text{ of new policies/certificates issued during the period (50)}]\end{array}\right]+\left[\left[\begin{array}{c}[\#\text{ of claims pending at beginning of period (66)}]\\ +\,[\#\text{ of claims received (include non-clean claims) (67)}]\\ -\,[\#\text{ of claims pending at end of period (74)}]\end{array}\right]/1{,}000\right]}\right)$$

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Ratio 14. **Average Commission (Per Policy/Certificate Issued)**

$$\left(\frac{\left[\begin{array}{c} \text{[Commissions paid during the reporting period (101)]} \\ \text{- [Unearned commissions returned to company on} \\ \text{policies/certificates sold during the period (102)]} \end{array} \right]}{\text{[(\# of new policies/certificates issued during the period (50)]}} \right)$$

Ratio 15. **Average Commission (Written Premium)**

$$\left(\frac{\left[\begin{array}{c} \text{[Commissions paid during the reporting period (101)]} \\ - \text{ [Unearned commissions returned to company on} \\ \text{policies/certificates sold during the period (102)]} \end{array} \right]}{\text{[Direct written premium (45)]}} \right)$$

- *Note: It is unclear to what extent commissions are paid on events other than new business (e.g., such as renewals)*