

# Action Alert!

## O&P Reimbursement Could Be Frozen or Cut to Pay For the Delay of Competitive Bidding in 2008 Medicare Bill

**Please Contact Your Two Senators and Your House Member(s) Today!**

A grand push is occurring in Congress to crank out a 2008 Medicare law, to avoid a June 30, 2008 Medicare cut of about 10 % to all physicians. Senator Max Baucus (D-MT), tired of waiting for Republicans to draft a payment fix, threw up his hands about ten days ago, saying the Democrats would advance their own bill, and on Friday, he introduced Senate Bill #3101, co-sponsored by Republican Senator Olympia Snowe (R-ME). An electronic copy of the bill has not been provided by the Government Printing Office (GPO), however you can obtain a summary overview by [clicking here](#). As soon as the text of the Bill has been made available, it will be posted on AOPA's web site.

When you look at the bill summary, you would believe that there is nothing in there to threaten O&P, since we are not mentioned. But don't take a sigh of relief, as there is a drumbeat building for inclusion of the DME competitive bidding delay in a second version of the Baucus bill that is being drafted to be unveiled later this week. **This poses a huge potential threat to O&P**, even though we are not presently included in the first rounds of competitive bidding.

As to the current bill, sometime this week, it is expected that Democrats will have to find about 9-10 Republicans to vote to close debate to block a GOP filibuster of the Baucus/Snowe bill. If Senator Baucus fails to find the needed support from GOP Senators to shut off debate, his current bill will fail and it is likely that he will take another crack at hammering out a compromise with the GOP side. The big roadblocks, as usual, surround how to "pay for" this bill--any changes, such as increasing physician payments, as well as delaying DME competitive bidding implementation, must be counterbalanced by equivalent savings from elsewhere in the Medicare system.

There is already significant sympathy in the House for trying to do a DME competitive bidding fix, with every indication that the desire to do this is mounting in the Senate as well. The Bush Administration appears to oppose that move, which would be very expensive, and if enacted, would almost certainly have to be paid for through significant fee cuts either in DME only, or just as likely, **spread across all DMEPOS, including O&P**.

Key Congressional players seem to understand that the latter would be extraordinarily unfair to O&P, but say they may have to look at these broader cuts, as a last resort. The move to include the DME competitive bidding delay and the related pay-for across some or all of DMEPOS in the Senate bill could come via either a revised version of the Baucus-Snowe bill, or if that bill fails, in another bipartisan effort in the Senate. Nonetheless,

nothing is certain as yet, and the need to find "pay for" savings for the bill creates very substantial peril.

So even though there are no O&P cuts mandated in the current Baucus bill, that could change dramatically and quickly. **We need every AOPA member to communicate to their House and Senate members—"Prosthetics and orthotics is NOT included in competitive bidding, and it would be profoundly unfair for Congress to pay for a delay in competitive bidding by reducing Medicare payments to amputees and other disabled seniors, including disabled veterans, as well as disabled children."** \*\*

Even if there is not a Medicare bill by June 30, we can expect the pressures to continue for some Medicare bill, even after Congress returns from the July 4 recess, though with the political forces of an election year there will be much posturing, and no assurance that a bill of any type will pass. Stay tuned--we'll keep AOPA members advised on what you can do as our efforts to secure the O&P Medicare fee schedule from cuts continue!

\*\*This refers to veterans with non-service connected injuries who are covered by Medicare and disabled children covered under Medicare and Medicaid. In addition, it would affect all private managed care contracts that pay based upon a percentage of the Medicare fee schedule.

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To participate in the Action Alert, please visit both [www.house.gov](http://www.house.gov) & [www.senate.gov](http://www.senate.gov).

### Senate

On the Senate page ([www.senate.gov](http://www.senate.gov)), in the upper right-hand corner, you will see a section called "Find your Senator". Click on the drop down menu and select your State of residence, then click "Go". Your two Senators will appear on the next page and there will be a link for "Web Form". Click on this link and fill in your contact information. Then you will copy and paste the Call to Action information below into the "Message" box and hit "Submit".

#### Action Alert Message to Senators

**Senator, please do not permit the Senate to unfairly make prosthetics and orthotics accept Medicare fee cuts to pay for the totally unrelated problems of a DME Competitive Bidding Delay.**

**Prosthetics and orthotics are NOT included in competitive bidding, and it would be profoundly unfair for Congress to pay for a delay in competitive bidding by reducing Medicare payments to amputees and other disabled seniors, including disabled veterans, as well as disabled children, who are served under the current O&P fee schedule.**

### House

Contacting your Representative is similar to contacting your Senator. First direct your browser to [www.house.gov](http://www.house.gov). At the top of the page on the left-hand side, you will see "Write your Representative". Click this link and fill in the information that is requested and click "Contact your Representative". Your Representative's contact information will be displayed, including a link that will take you to their web site. Unfortunately there is not a direct link to their web form, so you will need to look on their website homepage for the "Contact" link. Most all Representatives have this in a prominent location on their website.

As with the Senate, provide the information requested and copy and paste the Call to Action information in the “Message” box.

#### Action Alert Message to Representatives

**Dear Representative, please do not permit the House to unfairly make prosthetics and orthotics accept Medicare fee cuts to pay for the totally unrelated problems of a DME Competitive Bidding Delay.**

**Prosthetics and orthotics are NOT included in competitive bidding, and it would be profoundly unfair for Congress to pay for a delay in competitive bidding by reducing Medicare payments to amputees and other disabled seniors, including disabled veterans, as well as disabled children who are served under the current O&P fee schedule.**

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#### Telephoning your Congressional Delegation

If you would prefer to contact your Congressional Delegation by phone, you may contact the U.S. Capitol Switchboard at **(202) 224-3121** and asked to be connected to your Member’s office. When you are connected, tell the staffer that you are calling about Baucus’s Senate Bill 3101 and you would like to speak to the Health Legislative Assistant. Then you can use the same message above, and if you need additional information, the additional talking points listed below.

#### **Additional Talking Points:**

##### Avoiding Confusion between DME and Orthotics and Prosthetics as to Competitive Bidding Proposals

- Orthotics and Prosthetics are included in DME for administrative purposes in Medicare, but unlike DME, much of what is done by orthotic and prosthetic suppliers is one of kind or custom fitted.
- While orthotic and prosthetics services could have been included in DME competitive bidding, CMS chose not to do so in Round One or Two. Additionally, CMS has told the American Orthotic and Prosthetic Association that they do not have plans to include these services and products in competitive bidding in the future because of their often one of a kind nature.
- Because a number of issues have been raised about competitive bidding and the way in which the agency implemented it, we know that some are proposing to delay Round One and Two of competitive bidding and possibly repeal it. A way to pay for this has been suggested as freezing or cutting DME payments.
- The Orthotics and Prosthetics fee schedule should not be included in a way to pay for a delay or repeal of competitive bidding since those products are not now part of competitive bidding. It would not be fair to include orthotic and prosthetic products since they are not now in competitive bidding.
- Orthotic and prosthetics has a separate fee schedule in Medicare and it would be an easy drafting error to frame the text too broadly, and include ALL of DMEPOS in the “pay for,” when in fact only the DME fee schedule should be adjusted, and there should be no impact or change on the P&O (prosthetics and orthotics) fee schedule.