

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop C3-01-24
Baltimore, Maryland 21244-1850



OFFICE OF FINANCIAL MANAGEMENT

Thomas F. Fise, J.D.
American Orthotics and Prosthetics Association
330 John Carlyle Street, Suite 200
Alexandria, VA 22314

MAR 18 2013

RE: CMS response to March 8 Correspondence regarding Prepayment Review of Prosthetic Feet in Jurisdiction D

Dear Mr. Fise:

This is in response to your organization's letter dated March 8, 2013 in which you expressed the American Orthotics and Prosthetics Association's (AOPA's) concerns about the initiation of prepayment review of high-level prosthetics in Jurisdiction D.

The Social Security Act in Section 1862(a)(1)(A) requires that Medicare only pay for services that are reasonable and necessary. Medicare statute authorizes CMS to enter into contracts with companies to conduct various types of claim review, one of which is prepayment review. The procedures for prepayment review are well-outlined in the *Program Integrity Manual* (Internet-only Publ. 100-8), primarily in Chapter 3.

I feel confident after speaking with the Durable Medical Equipment Medicare Administrative Contractors (DME MAC) Jurisdiction D contract management staff at Noridian Administrative Services (NAS) that the prepayment action announced in their bulletin articles is justified and appropriate. The review to be conducted is a wide-spread review on a limited number of claims. NAS is not implementing 100 percent prepayment review for all prosthetic claims.

The decision to conduct these reviews by NAS is supported by the following:

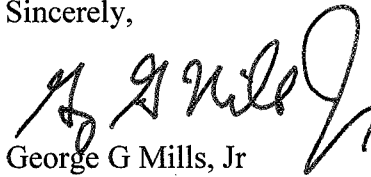
- Office of Inspector General Report, "Questionable Billing by Suppliers of Lower Limb Prostheses", August 2011,
- Associated Press article entitled "Medicare Puzzle: Big Rise in Artificial Feet Costs", February 15, 2012,
- Comprehensive Error Rate Testing program 2012 Medicare Fee-for-Service report showing a significant error rate for lower limb prostheses, and

- Findings from medical review activity being undertaken by other DME MACs showing a high rate of error.

There is no change in Medicare's policy with respect to coverage of high-level prosthetic feet. Providers are required to maintain medical documentation demonstrating that ordered items and services are reasonable and necessary; moreover, as with all durable medical equipment, prosthetics, orthotics and supplies Medicare looks to the documentation in the *treating physician records* as the primary source of information to support that the item or service is reasonable and necessary. This position is unchanged and a long-held tenet of the Medicare program. Nothing in NAS' announced prepayment review changes this dynamic.

We believe that the proposed wide-spread reviews to be conducted by NAS are appropriate. If there are specific claims you wish to bring to our attention that you do not believe are being reviewed appropriately, CMS will investigate as we have previously.

Sincerely,

A handwritten signature in black ink, appearing to read "G. G. Mills, Jr.", written in a cursive style.

George G Mills, Jr
Director
Provider Compliance Group
Office of Financial Management