**AOPA Concerns Included in Ways and Means Committee Draft Bill Addressing Medicare Fraud, RACs, and ALJ Delays**

AOPA has been anticipating that the House Ways & Means Committee will be putting forward a bill to address Medicare fraud, hospitals, RACs and the long delays for ALJ hearings. Our strategy has involved working closely with two representatives who have been working on their own bills to address RAC problems, Reps. Renee Ellmers (R-NC), author of H.R. 5083: The Medicare DMEPOS Audit Improvement and Reform (AIR) Act of 2014, and Mark Meadows (R-NC), whose bill is still being drafted. Several provisions of great importance to O&P, and language grafted from the O&P Alliance RAC Audit draft legislative language have been recommended by AOPA, with support of our Alliance partners, for inclusion in these two bills. H.R. 5083 includes language to legitimatize the prosthetist/orthotist’s notes as a legitimate part of the medical record and language to require CMS to track specific data on O&P RAC appeals, distinct from the current data spanning indiscriminately ONLY ALL of DMEPOS claims.

The strategy has been that having these provisions appear in bills already crafted by GOP legislators would make it far more likely that these provisions would find their way into the bigger Ways and Means Committee bill, which will be on a faster track for enactment.  On Thursday, November 19, Rep. Kevin Brady (R-TX), the Chair of the House Ways and Means Health Subcommittee released a 146-page working draft of his bill. This is the second draft of this bill (AOPA had provided our input on the initial draft just before our Las Vegas meeting).

This draft includes the following provisions of interest/concern to O&P professionals:

* Language to recognize the prosthetist/orthotists’ records and notes as being a legitimate part of the medical record;
* A broad provision instructing CMS to publish the specific requirements they have for payment of lower limb prosthetic claims;
* Instituting a 30-day required ‘discussion period’ between auditor and provider before an audited claim is transmitted to the DME MAC for adjustment or recoupment;
* Language is included to require collection of audit data for O&P distinct from the rest of DME data;
* Two provisions instructing CMS to develop data-driven claims resolution/ settlement offers for Part B claims like O&P, generally paralleling the settlement offers of RACs that CMS has already extended to Part A hospital claims;
* A lengthy provision to initiate a bundled payment system for several specific Medicare episodes of care (surgery and all services 90 days thereafter). While currently limited to: hip/knee joint replacement, lumbar spine fusion, coronary artery bypass graft; heart valve replacement; percutaneous coronary stenting; and colon resection, we are concerned that it would give the Secretary discretion to add additional procedures or services.

Like all legislation, there are things here that we would like, and others that give us great pause.  Clearly, the strategy AOPA has invoked to advance some of the provisions we have favored has been borne out, and clearly there is much more work to be done.  AOPA will continue working with the Ways & Means staff and legislators sympathetic on O&P issues to try to refine and remedy some of the rough edges with this draft bill. We will keep members apprised of any developments.  The 146-page bill may [accessed here](http://www.waysandmeans.house.gov/Components/Redirect/r.aspx?ID=467167-56996275). Of greatest interest are pages 38-41, 54, 62-63, and 105-133.