



March 8, 2013

Mr. George Mills
Director, Compliance Provider Group
Centers for Medicare and Medicaid Services
Room C3-09-17
7500 Security Boulevard
Baltimore, MD 21244

Subject: Calculation methodology used by Performant Recovery

Dear Mr. Mills,

The American Orthotic and Prosthetic Association (AOPA) would like to bring to your attention what we believe to be an error in the calculation methodology used to determine the maximum number of additional documentation requests (ADR) for orthotic and prosthetic claims by Performant Recovery, Inc., the contractor responsible for the Jurisdiction A RAC program.

Based on reports from several AOPA members, it appears that Performant Recovery, Inc. is applying the provider based ADR calculation methodology to DMEPOS suppliers, including suppliers who submit claims to the DME MACs for orthotic and prosthetic services. The documents in the links below, provide detailed information regarding the different methodology that should be used by RAC contractors when requesting additional documentation from providers (except suppliers and physicians) and suppliers.

http://www.cms.gov/Research-Statistics-Data-and-Systems/Monitoring-Programs/recovery-audit-program/downloads/Providers_ADRLimit_Update-03-12.pdf

<http://www.cms.gov/Research-Statistics-Data-and-Systems/Monitoring-Programs/Recovery-Audit-Program/Downloads/FY2011Limits.pdf>

According to the documents in the links above, the maximum number of ADRs for suppliers within a 45 day period is limited to 10% of all claims submitted for the previous full calendar year, divided into eight periods. While the document states that the maximum number of ADRs within a 45 day period for a single Tax ID is 250, the document does not contain any reference to a minimum number of ADRs. In fact, an example is given where the calculated limit is 16 ADRs within a 45 day period.

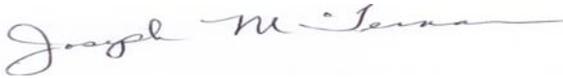
The document that addresses provider ADRs limits the requests to 2% of all claims submitted during the previous full calendar year divided by eight and contains a statement that allows Recovery Auditors to request up to 35 ADRs per 45 days even if the 2% calculation results in fewer than 35 ADRs.

Several AOPA members have received letters from Performant Recovery that uses the provider based calculation as justification for the number of ADRs requested. As providers of orthotics and prosthetics are classified as suppliers under Medicare regulations, AOPA believes that Performant Recovery should be basing its ADR requests on the guidelines established for suppliers rather than providers. Copies of these letters are available upon request.

AOPA respectfully requests that CMS review the calculation methodology that is being used by Performant Recovery, Inc. when requesting additional documentation from suppliers and provide appropriate training as necessary to ensure that it is performing its responsibilities properly.

If you require further information, please contact me at (571) 431-0811 or via e-mail at jmcternan@aopanet.org.

Sincerely,

A handwritten signature in cursive script that reads "Joseph M. Ternan".

Joseph McTernan
Director, Coding and Reimbursement Services, Education and Programming

Cc: Marilyn Tavenner, Acting Administrator, CMS