



American Orthotic & Prosthetic Association

www.AOPAnet.org

## **AOPA In Advance SmartBrief**

*Breaking News*

February 26, 2015

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### **The OTS Saga Continues**

AOPA has closely followed the issue surrounding what orthotic devices are considered to be “off the shelf” items that may be subject to Medicare competitive bidding as it has unfolded over the last several years. What began as a very small subset of HCPCS codes that represented truly off the shelf (OTS) orthotic devices that could reasonably be adjusted by the patient themselves, as stated in the law, and without any expertise from certified, trained professionals, has been repeatedly expanded through regulation and policies that are not consistent with the statute, to where we now have a set of more than 50 codes that CMS considers off the shelf, i.e., if they can be adjusted by the patient, caregiver for the patient, or by the provider of the device.

A significant development in this continuing expansion of what was considered OTS orthoses occurred when the DME MACs published revised medical policy that further defined the qualifications necessary to fit and provide custom fitted orthoses to Medicare beneficiaries. The medical policy was expanded to include the following definition of the term “substantial modification” as it relates to the provision of custom fitted orthoses.

*“Substantial modification is defined as changes made to achieve an individualized fit of the item that requires the expertise of a certified orthotist or an individual who has equivalent specialized training in the provision of orthotics such as a physician, treating practitioner, an occupational*

*therapist, or physical therapist in compliance with all applicable Federal and State licensure and regulatory requirements. A certified orthotist is defined as an individual who is certified by the American Board for Certification in Orthotics and Prosthetics, Inc., or by the Board for Orthotist/Prosthetist Certification.”*

This definition fails to recognize the scope of practice of certified orthotic fitters, whether certified by ABC or BOC, and their role in the provision of custom fitted orthoses, very typically working under the supervision of a certified orthotist. In addition, the definition that was published by the DME MACs was extracted essentially verbatim from a definition that was included in a CMS proposed rule (which when CMS published it in July, 2014 was intended to cover OTS, End-Stage Renal Disease and a range of other topics) in a DME MAC announcement before the open public comment period had concluded. Subsequently, CMS elected not to include anything relating to OTS orthotics in the final rule on several other topics that CMS ultimately published.

Despite repeated communications from AOPA and others challenging the authority of the DME MACs to memorialize this definition in policy before the proposed rule was finalized, and despite the fact that CMS chose not to include the proposed definition of “substantial modification” in its final rule, a CMS Frequently Asked Questions document that was updated on February 18, 2015, indicates that the policy guidance regarding who may provide custom fitted orthoses to Medicare beneficiaries remains in effect as the “DME MACs have discretion to define what constitutes custom fitting for accurate coding and payment of claims.”

AOPA believes that this is yet another example of CMS’ inability or convenient refusal to exercise appropriate control over the actions of its contractors. The DME MACs have repeatedly established policy without regard to the Administrative Procedures Act requirement for due process through the issuance of proposed rules with appropriate opportunity for public comment and input followed by the issuance of a final rule. When AOPA has challenged the DME MACs or CMS regarding the lack of due process, the response has always been that the contractors are acting within the right to establish local policy to govern Medicare coverage of specific items and or services. AOPA believes that that a contractor hired by the government cannot have authorities greater than the Congress has delegated and articulated for the agency that hires the contractor. In this case, if CMS initiates a rulemaking to establish what constitutes an OTS orthotic device, and who may and may deliver custom fitted orthotics, the requirement that Congress imposed on CMS, namely that such rules may only be finalized after providing the opportunity for stakeholder input, cannot be circumvented by CMS claiming that these rules do not apply if the action or rules are advanced by a contractor CMS hires. AOPA will continue to challenge this policy specifically, and more generally instances of policy overreach by contractors acting under CMS’s authority at every opportunity.

Stay informed and check out the latest on [AOPA’s Take](#)...where you go when you need to know.

## HIPAA Reminder: Report Your Breaches to HHS Office of Civil Rights

Just reminders that all HIPAA covered entities are required to submit a yearend report of all breaches of protected health information (PHI) to the Office of Civil Rights. This report must be filed by March 1, 2015 and must include any breaches which occurred between January 1, 2014 and December 31, 2014.

To file your report with the Office of Civil Rights you may visit their website [here](#). For more information on when a breach report is required and what type of information is required to be reported you may visit the Office of Civil Rights website [here](#).

## O&P PAC Corner

The O&P PAC Corner provides updates on the activities of the O&P PAC, including the names of individuals who have made recent donations to the O&P PAC and the names of candidates the O&P PAC has supported. The O&P PAC recently received donations from the following **AOPA** member(s)\*:

- Ted Muilenburg, CP, FAAOP

The purpose of the O&P PAC is to advocate for legislative or political interests at the federal level, which have an impact on the orthotic and prosthetic community. The O&P PAC achieves this goal by working closely with members of the House, Senate and other officials running for office to educate them about the issues, and help elect those individuals who support the orthotic and prosthetic community.

In order to participate in and receive information about the O&P PAC, federal law mandates that you must first sign an authorization form.

[Click here to view and sign an O&P PAC authorization form.](#)

The O&P PAC recently made contributions to the following members of Congress:

- Rep. Mike Thompson (D-CA). Rep. Thompson is a member of Ways & Means, Subcommittee on Health and one of the original sponsors of the O&P Improvements Act in the 113<sup>th</sup> Congress.
- Rep. Glenn Thompson (R-PA). Rep. Thompson was one of the original sponsors of the O&P Improvements Act in the 113<sup>th</sup> Congress
- Rep. Dutch Ruppersberger (D-MD). Rep. Ruppersberger is a member of the Appropriations Committee and was a co-sponsor on key pieces of O&P legislation in the 113<sup>th</sup> Congress.

\*Due to publishing deadlines this list was created on 02/19/2015 and includes only donations received between 02/02/2015 and 02/19/2015. Any donations received on/or after 02/19/2015 will be published in the next issue of the *SmartBrief*.

Questions? Contact Devon Bernard at [dbernard@AOPAnet.org](mailto:dbernard@AOPAnet.org) or (571) 431-0854

## Mobility Saves Keeps Growing!



The Mobility Saves Facebook campaign has reached over 5,000 followers and we can't express our gratitude and appreciation at this supportive community. This is YOUR community. Please keep passing along the Mobility Saves message to your colleagues and friends. The purpose of this campaign

is to raise awareness, provide support, and most of all educate payers, regulators, referral sources, practitioners, and consumers that the research shows Mobility Saves!

1. Visit [MobilitySaves.org](http://MobilitySaves.org) to learn more and utilize the cost-effectiveness study! Download the brochures, PowerPoints, and white papers.
2. Follow Mobility Saves on [Facebook](#), [Twitter](#), [YouTube](#), and [LinkedIn](#)!
3. Spread the word to practitioners, payers, and referral sources!
4. Submit Testimony [here](#), in the form of a video clip, photo, or personal story.



*Spread the good word about the valuable benefits of O&P Care*

**Get Social with #MobilitySaves**



## Call for Papers: Deadline is March 10, 2015



The AOPA National Assembly Planning Committee has issued a call for papers for the 98<sup>th</sup> Annual AOPA National Assembly to be held October 7-10, 2015 in San Antonio, Texas. The submission deadline is March 10, 2015.

Share your expertise and advance your career by being part of the country's oldest and largest meeting for the orthotic, prosthetic and pedorthic profession.

- Papers are being accepted for podium, poster and/or symposium sessions for each of the five concurrent education tracks (orthotic, prosthetic, pedorthic, technician, and business). For more information or to submit a paper [click here](#).
- All submission must be submitted electronically.
- Before submitting a paper, please review the model for the abstract format which also provides additional information about the submission process. The model abstract is [available here](#).

### For general information about the Assembly

**Visit:** <http://www.aopanet.org/education/2015-assembly/>

**Email:** [Assembly@AOPAnet.org](mailto:Assembly@AOPAnet.org)

**Contact:** Tina Moran at (571) 431-0808

Don't miss this unique, fun learning experience.



## AOPA Announces 2015 RFP's

AOPA has prepared RFPs inviting research proposals in multiple areas. Grants range in size from up to \$15,000 to up to \$60,000 and possibly higher amounts. Subject areas will include:

### **Comparative Effectiveness Studies. (Jointly Funded - \$ Open)**

- Prosthetic Feet, emphasis on lower function
- Cranial Remolding
- OTS vs Custom Fit and Custom Made AFO's

### **Systematic Reviews (up to \$60k each)**

- Cost Efficacy for TT Interventions
- Adolescent Idiopathic Scoliosis.
- Alternate assessment tools or category systems - candidacy for prosthetic technology.
- Partial Foot in the Diabetic Population, is TTA a better and more viable option?

### **Small Pilot Grant Topics ( a maximum of four can be funded up to \$15k each)**

- Microprocessor Knee – Stumble Recovery Benefit for Non-Variable Cadence Ambulators, and Does Restricted Access for K-1 and K-2 to Hydraulic Controls Adversely Impact Patient Safety?
- TLSO/LSO: Utilization and comparative effectiveness of TLSO/LSO. Pre and post operative use.  
Efficacy of custom vs OTS relating to clinical outcome, analyses of providers credential.
- Socket Interface: Methods for Measuring Proper Socket Fit and Alignment.
- Vacuum-Assisted Socket Suspension Systems
- AFO/KAFO: Utilization and comparative effectiveness of custom vs OTS AFOs and KAFOs. Investigation and analyses of patients who receive custom orthosis subsequent to OTS AFO fitting.
- L0631 bracing—Performance and Outcomes Data That Differentiate Patient Results from What Could be Achieved with an OTS Orthosis that is Provided without any Fitting, Trimming or Clinical Care?
- Quality of Life, Wellness, Patient Satisfaction and/or Outcomes Studies of Patients Who Have Received O&P Care vs. Those Who Have Not.
- Outcomes Measures, Evaluation and Quality of Life Metrics Related to Orthotic Management (Note: Submissions Should be Pathology and/or Condition Related, e.g. Stroke, Cerebral Palsy, Multiple Sclerosis, Polio, OA)
- Open Topics – Beyond the Above Priorities, Top Quality Clinical O&P Research Topics Considered.

For details and complete RFP's go to <http://www.aopanet.org/resources/research/>

Submission deadlines range from April 1, 2015 (larger grants) to April 30, 2015 (small pilot grants)

## Take the Lead: Policy Forum 2015

The 2015 O&P Policy Forum will be held March 23-24, 2015 with post-conference educational events being held March 24-25 at the Renaissance Hotel, 999 Ninth Street, NW, Washington, DC.

The Policy Forum is your best opportunity to learn the latest legislative and regulatory details and how they will affect you, your business and your patients. Once you are armed with the facts, we as a profession will educate our Members of Congress to offer common sense solutions and share how the O&P profession restores lives and puts people back to work. Your Congressional appointments will be organized by AOPA staff and lobbyists. You will be well prepared to meet with your member of Congress after day 1. On day 2 each state delegation will go on appointments together as time allows.

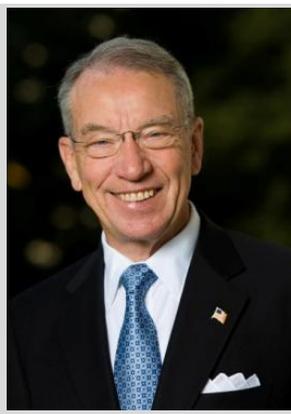
**Why should you attend?** Educate your lawmakers on the issues that are important to YOU:

1. Recognition of the Orthotist/Prosthetist's notes as part of the medical record
2. RAC /Medicare Contractor audit practices that harm honest providers and don't prevent fraud
3. Preventing the Expansion of the Off-the-Shelf Orthoses Category and Competitive Bidding
4. Equitable reimbursement for medically necessary services
5. The value of O&P professionals as allied health providers, and enforcing rules limiting Medicare reimbursement to licensed and/or accredited facilities-certified professionals
6. How O&P care can save Medicare money
7. Distinguish O&P from DME – endorse legislation that recognizes that you are more than a supplier

### Speaker Highlights



Welcome and Insight into Health Care in the New Congress –  
*Representative Brett Guthrie (R-KY)*



2015 and Beyond—The Good and the Bad—  
*Senator Charles Grassley (R-IA)*



Congressional Perspective—What Is the Future of Health Going to Look Like, 2014-2016—  
*Representative Mark Meadows (R-NC)*

Maximize your time away from the office by taking advantage of the post-forum modules. Customize your schedule and register for the additional modules you are most interested in.

**AOPA Extended Educational Sessions: Module I, Tuesday, March 24, 2015**

**Tuesday, March 24, 2015, 5:00 to 8:00 pm -- A. Special Business and Clinical Educational Program Begins, A Closer Look at How Washington WILL Impact Your Business -- Separate Subscription Required & Buffet Dinner Served**

1. Competitive Bidding—Winners, Losers and Determining If You Want to Play

*Joseph McTernan, Director of Coding & Reimbursement Services, Education and Programming*

2. A Surgeon's Perspective on O&P --

To be announced

3. With Wal-Mart as a Health Insurer, and Amazon Delivering Orthotic Braces within Four Hours: Who are Your Friends and Who Are Your Enemies—A Fresh Look at O&P Partners and Competitors

*Thomas F. Fise, JD, Executive Director, AOPA*

**AOPA Extended Educational Sessions: Module II, Wednesday, March 25, 2015**

**Wednesday, March 25, 8:30 am to 1:00 pm, B. Special Business and Clinical Educational Program Begins: Coding, RAC, OTS Coding, Appealing to the ALJ & FDA Educational Program Segments -- Separate Subscription Required**

Breakfast

1. Coding and Reimbursement Segment – *Joseph McTernan, Director of Coding & Reimbursement Services, Education and Programming, AOPA*

- a. Primer: Steps You Can Take to Avoid RAC/Pre-Payment Audits and Succeed If You Get Them
- b. Current Impact of OTS orthotic Codes on Your Business: A Review of Recent Audit Results
- c. Turning Challenges into Opportunities: Strategies to Increase Revenue without Breaking the Rules

2. FDA and Your O&P Business: *Speaker to be announced*

3. Prosthetics & Orthotics, Five Year Fast Forward: Getting the Answers Needed to Preserve and Grow vs. De-Valuing the Core of O&P

*Thomas F. Fise, JD, Executive Director, AOPA*

More Information: <http://www.aopanet.org/2015/01/save-the-date-for-the-2015-policy-forum/>

Registration: <https://aopa.wufoo.com/forms/2015-policy-forum-registration/>

Hotel Reservation: <https://aws.passkey.com/g/45902216>

## AOPA Helps You Save

As an AOPA member, you are eligible to save up to 30% off UPS Next Day Air®, 2nd Day Air®, and UPS 3 Day Select®?

Take advantage of special savings on UPS shipping offered to you as an AOPA member. Through our extensive network, UPS offers you access to solutions that help you meet your special shipping and handling needs.

AOPA members can save:

- Up to 30% off UPS Next Day Air® and Next Day Air Saver®
- Up to 23% off UPS 2<sup>nd</sup> Day Air® and 2<sup>nd</sup> Day Air A.M.®
- Up to 18% of UPS 3 Day Select®
- Up to 19% on UPS Worldwide Express®/Saver®/Expedited® Import and 3.5% on UPS Standard® Export Import to and from Canada.

Your actual discount is calculated on a sliding scale, determined by your total weekly shipping charges.

Sign up at [www.savewithUPS.com/aopa](http://www.savewithUPS.com/aopa) and start saving on select UPS shipping options. Sign up for a new UPS account or use your existing account.

Who doesn't want to save money?

## Sign Up for the Next Webinar

### Monthly Webinar Series

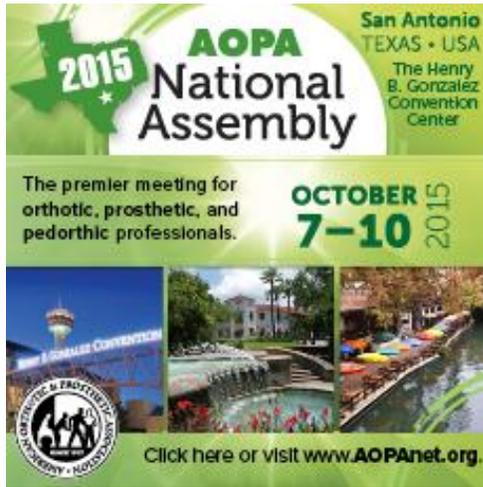
What is it? This is Regulatory and Business education that you can count on. No one in the O&P profession knows the ins and outs of Medicare, coding, billing or VA contracting like AOPA.

[Sign up](#) for all 2015 Webinars for only \$990 for members... that's 2 free webinars! If you missed one, we will send you the recording. The monthly Webinars are a great way to bring your staff together for lunchtime learning by AOPA experts.

<a href="#">January 14</a>	Fill In the Blanks: VA Contracting and the New Template
<a href="#">February 11</a>	Tips, Strategies and Understanding the Appeals Process
<a href="#">March 11</a>	Who Gets the Bill: A Look at Medicare Inpatient Billing
<a href="#">April 8</a>	Lower Limb Prostheses Policy: Learn the Policy Inside and Out
<a href="#">May 13</a>	The New Player in Town: Understand the RAC Contract
<a href="#">June 10</a>	Building a Medicare Approved Compliance Plan
<a href="#">July 8</a>	Who's on First? Medicare as a Secondary Payer
<a href="#">August 12</a>	OTS vs. Custom Fit: The True Story
<a href="#">September 9</a>	Prior Authorization, How Does it Work
<a href="#">October 14</a>	Understanding the LSO/TLSO Policy
<a href="#">November 11</a>	Make a Good Impression: Marketing Yourself to Referrals
<a href="#">December 9</a>	Bringing in the New Year: New Codes and Changes for 2016

## Save the Date for AOPA's National Assembly

Make plans now to attend the 2015 National Assembly, Oct. 7-10, 2015 in San Antonio.



The 2015 Assembly will be held at the Henry B. Gonzalez Convention Center, located on San Antonio's famous riverwalk.

San Antonio's River Walk is one of the most visited sites in Texas, providing scenic pathways and waterways for the city's cultural and historic sites, as well as a picturesque link between restaurants, hotels and shops. The [San Antonio River Walk](#) is a verdant oasis of cypress-lined paved paths, arched stone bridges and lush landscapes. It gently winds through the city center, providing millions of visitors each year with easy access to the city's cultural hot spots, historic sites and other attractions.

Plan ahead and take these four easy steps to get the most of your trip to San Antonio. ,

1. Go to Visit San Antonio.com <http://visitsanantonio.com/> to sign up for San Antonio's official newsletter and learn more about what interests you most. Whether it is the Arts, Music, Festivals, Family, Local Attractions or Shopping you will find a calendar of events and local information at VisitSanAntonio.com
2. Request a Free Visitors Guide – Learn about local attractions and things to do. *Request your guide* here <http://visitsanantonio.com/english/Leisure-Guide-Request-Form>
3. Download SAVE coupons from the San Antonio Vacation Experience. Get exclusive deals and discounts. <http://visitsanantonio.com/VisitSanAntonio/media/vsa-media/SAVE%20Coupons/2014-SAVE-WebCoupons.pdf>
4. Download a copy of the riverwalk map to see all the great places you will want to visit within walking distance to the convention center. [http://visitsanantonio.com/VisitSanAntonio/media/vsa-media/maps/SAT09\\_SA\\_River\\_Walk.pdf](http://visitsanantonio.com/VisitSanAntonio/media/vsa-media/maps/SAT09_SA_River_Walk.pdf)



See you in San Antonio!

## Upcoming AOPA Events

- March 10, 2015      *Deadline for National Assembly Call for Papers*  
[Learn more and apply online here](#)
- March 11, 2015      *Who Gets the Bill: A Complete Look at Medicare Inpatient Billing*  
Webinar Conference  
[Learn more or register online here](#)
- March 23-25          *AOPA Policy Forum*  
Washington, DC  
[Learn more or register online here](#)
- April 8, 2015        *Lower-Limb Prostheses Policy: Learn the Policy Inside and Out*  
Webinar Conference  
[Learn more or register online here](#)
- April 13-14          *Essential Coding & Billing Techniques Seminar*  
Seattle, WA  
[Learn more or register online here](#)