



American Orthotic & Prosthetic Association

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Breaking News

March 6, 2018

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Update on Clinicians' Notes Provision
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So Congress (and the federal law) now says our orthotist/ prosthetist notes are officially part of the medical record for purposes of medical necessity determinations... now what?

What the new law says

The statute, as enacted, is comprised of one sentence which states:

*SEC. 50402. ORTHOTIST'S AND PROSTHETIST'S CLINICAL NOTES AS PART OF THE PATIENT'S MEDICAL RECORD. Section 1834(h) of the Social Security Act (42 U.S.C. 1395m(h)) is amended by adding at the end the following new paragraph.

"(5) DOCUMENTATION CREATED BY ORTHOTISTS AND PROSTHETISTS.-For purposes of determining the reasonableness and medical necessity of orthotics and prosthetics, documentation created by an orthotist or prosthetist shall be considered part of the individual's medical record to support documentation created by eligible professionals described in section 1848(k)(3)(B).".

Some Interim Suggestions for Submitting Claims

The sentence is unmistakably clear, to the point that it should be self-actuating, becoming actively in force as of the time of enactment. Since there were no regulations changed when the DME MACs

changed policy by introducing the August 2011 "Dear Physician" letter, there does not seem any need for regulations to revert back to the previous policy. That being said, CMS often sees things through their own lens, so there is no assurance they won't issue a regulation of some kind regarding this issue.

That said, it seems CMS believes it needs to advise its contractors, in this case, the DME MACs, whenever there is a policy change. But before we get to that, here are some general suggestions- not based precisely in the law (which is only one sentence), but some common sense considerations as you submit claims in the interim until the major questions are resolved by some CMS announcement.

You should consider submitting a copy of the provision with every claim where you include copies of your notes. There is no clarity on timing from Congress. The new law clearly applies to prostheses and orthoses you fit and bill going forward. While the law is mute on intent to retrospective application, we believe it applies to all pending and new claims and appeals. CMS may, or may not announce their comparable view. There is nothing in the provision that says that, so it may take some battles with DME MACs to resolve the retrospective question, but we do have the high ground with a brand new provision.

Legally, the provision puts things back to where they were before the August 2011 "Dear Physician" letter. Then, the O/P practitioner notes could corroborate and provide additional details consistent with the physician records. The O&P notes cannot alone be the basis for satisfying the Medicare requirements of the prescription- they never could before and can't now. So, if the physician notes state that an orthotic patient's symptoms indicate likelihood of knee instability, and the O/P notes say our examination confirmed knee instability, that is probably fine. But if the physician makes no mention of knee instability, legally, the orthotist/prosthetist notes, standing alone, can't fill in that void.

The bottom line is while the jury is still out on how this law will ultimately be implemented, there is absolutely no harm in operating under the assumption that the law applies to outstanding appeals. Anything that will increase the chances of acceptance of practitioner records as relevant to payment decisions is a good thing.

Then, the DME MACs started showing this slide at a training session:



Pre-submitted Q & A Prosthetist and Orthotist Records

- HR 1892
 - "...documentation created by an orthotist or prosthetist shall be considered part of the individual's medical record...."
- As contractors we require CMS instructions before implementing new legislation

While many were surprised and disillusioned by this slide, this is what government contractors do when faced with change. They don't want to take direct responsibility, and put their multi-million

dollar contracts at risk. Rather, they say, "we're not making any changes, unless and until CMS tells us."

AOPA Outreach to CMS

AOPA is obviously interested in getting unresolved questions resolved, and for CMS to get out word to CMS contractors, and to get things moving as Congress intended.

On Friday, February 23, AOPA sent a letter from AOPA President Jim Weber and Executive Director Tom Fise to CMS Administrator Seema Verma requesting that the agency resolve the contractor's questions in order to get the law operational. [\(Read the letter.\)](#) We expect that this AOPA letter will not be the only one going to the CMS Administrator, because several Members of Congress who helped write and expect Section 50402 to be implemented smoothly and efficiently may also weigh in. We will continue to keep you informed as these actions unveil further.



Join us at the 2018 Policy Forum to advocate for the other provisions of the Medicare O&P Improvement Act, Veterans' choice, and more. The 2018 AOPA Policy Forum will be in March 7-8 in 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. [Learn more and](#)

[register now.](#)

AOPA Announces Requests for Proposals for Separate Research Grants

The American Orthotic & Prosthetic Association is proud to announce 5 Requests for Proposals for separate research grants.

As part of AOPA's Orthotics 2020 initiative, we are committed to making a major leap forward in clinical research that can answer some of the most important and profound issues about Orthotics. AOPA, together with its many partners among O&P manufacturers, patient care companies, and others entities committed to an evidence-driven future for O&P, will be funding one grant for each topic below in amounts of up to \$60,000-\$75,000, varying by topic - see each RFP for the specifics of the grant.

1. [Orthotic Treatment for Stroke Patients](#)
2. [Back Bracing](#)
3. [Osteoarthritis of the Knee](#)
4. [Orthotic Treatment for Plagiocephaly in Pediatric Patients](#)

In partnership with the Center for O&P Learning & Evidence-Based Practice (COPL), AOPA is accepting applications for pilot grants for up to \$15,000-\$30,000 for ten O&P topics, including an open topic (multiple grants will be funded).

- [Pilot Grant RFP](#)

The deadline for all proposals is April 30, 2018.

If you have any questions, please contact Yelena Mazur at ymazur@AOPAnet.org or 571/431-0876.

Low Volume Appeals (LVA) Initiative Has Begun

For those suppliers whose NPI numbers end in an even number (0, 2, 4, 6, 8) and have fewer than 500 appeals pending at Administrative Law Judge level or higher and each appeal has a total billed amount of \$9,000 or less you may file an expression of interest for a limited settlement agreement. The agreement will result in a timely one-time partial payment of 62% of the net Medicare approved amount of the appeals in question.

If your NPI number ends in an even number and you wish to take part in the LVA your [expression of interest](#) must be filed by March 9, 2018. Suppliers with an NPI ending in an odd number (1, 3, 5, 7, and 9) your opportunity to take part in the LVA will begin March 12, 2018.

Just as a reminder - the new Medicare ID cards will be issued and mailed to beneficiaries starting in April 2018. Be sure you are prepared and ready for the new cards. To review what to expect with the new ID cards and what you can do to prepare please read the [November 2017 issue of the O&P Almanac](#).

Questions? Contact Joe McTernan at jmcternan@AOPAnet.org or Devon Bernard at dbernard@AOPAnet.org.

Attend the San Antonio Coding & Billing Seminar April 30-May 1

When: April 30 – May 1

***Location: The San Antonio Marriott Riverwalk
889 E Market St
San Antonio, TX 78205***

AOPA experts provide the most up-to-date information to help O&P Practitioners and office billing staff learn how to code complex devices, including repairs and adjustments, through interactive discussions with AOPA experts, your colleagues, and much more. Meant for both practitioners and office staff, this advanced two-day event will feature breakout sessions for these two groups, to ensure concentration on material appropriate to each group.

At this seminar you will:

- Receive up-to-date information on Prior Authorization and other Hot Topics
- Ensure your Proof of Delivery meets Medicare Requirements
- Learn how to assess risk areas in your practice
- Learn successful appeal strategies and hints to avoid claim denials
- Practice coding complex devices, including repairs and adjustment
- Attend break-out sessions for practitioners and office staff
- Earn 14 CEs



Register Now

Book your hotel by April 6 for the \$179/night rate by calling 800/648-4462 or [online](#). Register by March 30 for early bird rate. Questions regarding the seminar may be directed to Joe McTernan at (571) 431-0811 or Devon Bernard at (571) 431-0854.

DME MACs Issue a Correct Coding Bulletin for Diabetic Shoe Inserts

On February 1, 2018 the four Durable Medical Equipment Medicare Administrative Contractors (DME MACs) issued a correct coding bulletin that addresses proper coding of diabetic shoe inserts described by HCPCS codes A5512, A5513, and the recently created K0903 which describes custom fabricated, total contact inserts that are manufactured through a direct milling process that utilizes a digital model of the patient's foot to direct a CAM based system in the fabrication of the insert.

The correct coding bulletin indicates that the PDAC coding redetermination review project, which was initially announced in August of 2017 and scheduled to be completed by June 1, 2018 has been extended to a new completion date of August 1, 2018 to allow manufacturers and central fabricators additional time to submit applications for their respective products. All diabetic inserts billed to Medicare using A5513 or K0903 must be listed on the PDAC product classification list no later than August 1, 2018. Inserts that are not included on the PDAC list by August 1, 2018 must be coded as A9270 and will be considered non-covered by Medicare.

Direct milled inserts described by K0903 must be billed using K0903 for dates of service on or after April 1, 2018, the effective date of the code regardless of how they are currently listed on the PDAC product classification list. In addition, manufacturers and central fabricators of direct milled inserts must submit their product(s) to PDAC for review no later than April 1, 2018. While K0903 is effective for date of service on or after April 1, 2018, the Centers for Medicare and Medicaid Services (CMS) has not yet issued the Medicare fee schedule amount for K0903. As AOPA previously reported, the FAQ document that accompanied the announcement of the proposed changes to the DMEPOS quality standards that included direct milled, custom fabricated diabetic inserts in the definition of "molded to patient model" included a proposed 14% reduction in the Medicare fee schedule for direct milled inserts. AOPA has challenged this proposal based on several bases, including provisions within CMS' own instructions to contractors that require the direct crosswalk of established Medicare fee amounts when a single code is exploded into two or more similar codes, and final decision on the fee schedule amount is still pending within CMS leadership. AOPA believes that this instruction applies to the creation of K0903 as it is similar to existing code A5513. AOPA will continue to monitor CMS resources for information regarding the Medicare fee schedule for K0903 and will communicate any new information to AOPA members as soon as possible.

The DME MAC correct coding bulletin may be viewed by [clicking here](#).

Questions regarding this issue may be directed to Joe McTernan at jmcternan@AOPAnet.org or Devon Bernard at dbernard@AOPAnet.org.

CMS and Veteran's Administration Announce Partnership to Strengthen Prevention of Waste, Fraud, and Abuse Efforts

On January 23, 2018, the Centers for Medicare and Medicaid Services (CMS) and the US Department of Veterans Affairs (VA) announced a new partnership in which they will share data,

data analytics and best practices in an effort to improve both agencies efforts to combat waste, fraud, and abuse in their respective healthcare delivery systems.

The VA and CMS represent the two largest public-private healthcare organizations in the country. According to the press release, the partnership will allow the VA to take advantage of gains in data analytics developed by CMS through its Center for Program Integrity.

While the press release discussed general efforts to improve efforts to eliminate waste, fraud, and abuse and made no specific mention of orthotics and prosthetics, the announcement is a clear indication that the VA will be placing increased scrutiny on all providers in the future. While AOPA supports efforts to eliminate fraud and abuse within the healthcare sector, it must be done in a manner that does not inadvertently lead to unnecessary restriction to access to medical y necessary care for veterans and Medicare beneficiaries. The CMS/VA press release may be reviewed by [clicking here](#).

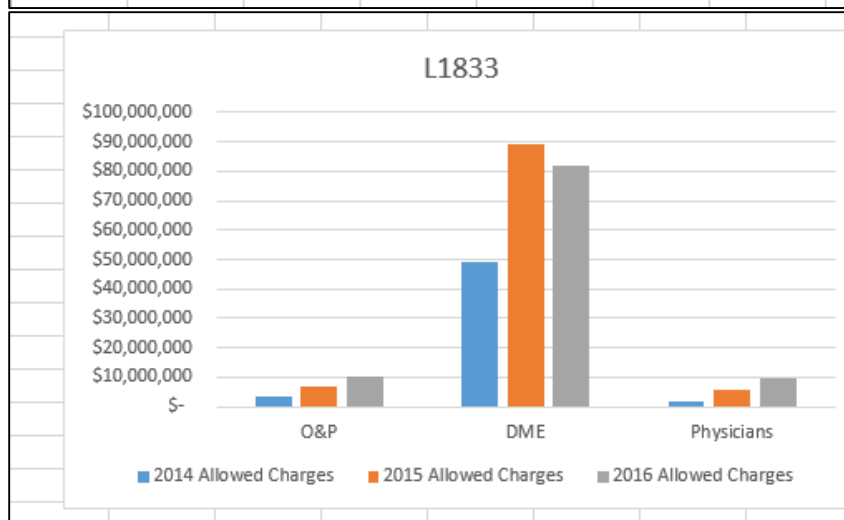
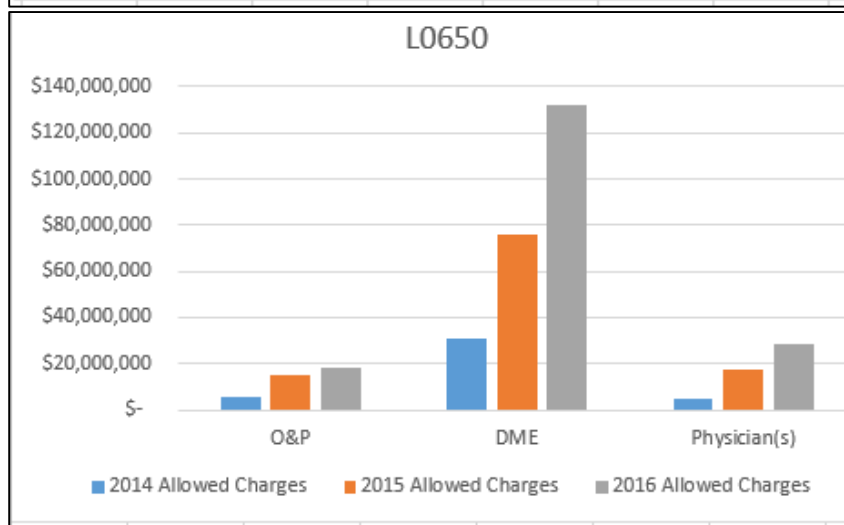
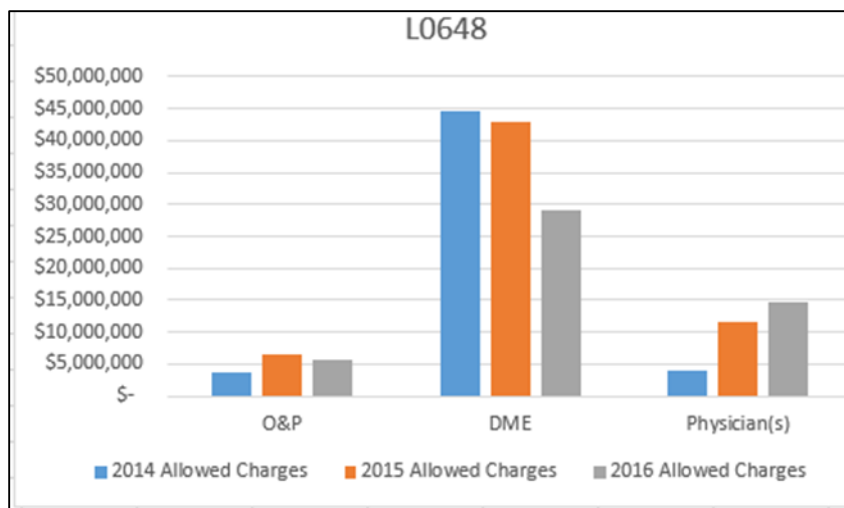
Questions regarding this issue may be directed to Joe McTernan at jmcternan@AOPAnet.org or Devon Bernard at dbernard@AOPAnet.org.

OIG Work Plan Targets OTS Spinal and OTS Knee Orthoses

As part of its update to its 2018 work plan, the Department of Health and Human Services Office of Inspector General (OIG) announced that, based on abnormally high utilization and unusually high improper payment rates, two off the shelf (OTS) HCPCS codes that describe lumbar sacral orthoses (L0648 and L0650) and one OTS knee orthosis code (L1833) will be added as an area of focus for investigation by the OIG. All three codes identified by the OIG are part of the split code set created by CMS in 2014 that differentiated OTS orthoses from those that require the expertise of a certified orthotist or an equivalently trained professional.

In its announcement the OIG reported that, since 2014, claims for the three OTS codes have grown by 97% with allowed charges rising to \$349 million in 2016. The OIG plans to explore questionable billing practices for these three codes including the lack of medical necessity documentation from referring providers and instances where no patient/physician encounter occurred within the 12 months prior to provision of the orthosis.

Based on Medicare utilization data from 2014 until 2016 AOPA has determined that less than 10% of the OTS devices described by L0648, L0650, and L1833 were provided by traditional O&P companies. The vast majority of these devices, over 65%, were provided by DME suppliers without certified O&P professionals on staff. The graphs below show the overall utilization of each code by O&P providers, DME providers, and physicians.



While traditional O&P providers represent a small percentage of the overall utilization of these three codes, it remains wise to make sure that, when providing OTS orthoses described by these codes and any other codes, proper medical necessity documentation is maintained by the ordering physician and all Medicare policy requirements have been met. While L0648, L0650, and L1833 have not previously been identified as approved for RAC review, the outcome of the OIG review may possibly lead to additional audit activity by the RAC and other contractors. [See the OIG Work Plan.](#)

Call for Papers Deadline Extended to MARCH 9 for the 2018 National Assembly



Gain International Recognition * Advance Your Career * Improve Patient Care

AOPA is seeking high-quality educational and research content for the 2018 AOPA National Assembly, September 26-29 in Vancouver, BC, Canada. **All submissions are due March 1, 2018.**

Your submissions will set the stage for a broad curriculum of high-value clinical and scientific offerings at the National Assembly. All free paper abstracts must be submitted electronically. Abstracts submitted by e-mail or fax will not be considered. All abstracts will be considered for both podium and poster presentations. The review committee will grade each submission via a blind review process, based on the criteria below and reach a decision regarding acceptance of abstracts.

- Relevance, level of interest in topic
- Quality of Scientific Content
- Quality of Clinical Content



Clinical Free Papers - Present an Orthotic, Prosthetic or Pedorthic Free Paper. The top scoring papers will compete for the prestigious Thranhardt Award.

Technician Program - Submit your Technical education paper for submission the Technical Track.

Symposia - If you are interested in organizing a Symposium.

Business Education Program - The top papers will be considered for the prestigious Sam E. Hamontree, CP (E) Business Education Award.

Pedorthic Program - Healthcare professionals with an interest in Pedorthics should use this form. [Learn more.](#)

Easy day trips and tours in Vancouver!



Join us for the 2018 AOPA National Assembly in Vancouver, BC, Canada, September 26-29 and take advantage of the wonderful location to take easy daytrips and tours of the region. AOPA has partnered with Landsea Tours & Adventures to offer AOPA Assembly attendees, and their travelling companions, special rates on sightseeing tours of Vancouver and the surrounding areas. Landsea is offering 7 different tours, from a four hour tour of Vancouver city highlights, to longer trips to Capilano Suspension Bridge Park, Whistler, Victoria, the Sea to Sky Gondola, and more. [See the tour options.](#) Don't forget to renew your passport if necessary!

Upcoming AOPA Events	
March 7-8, 2018	AOPA Policy Forum Washington, D.C. Learn more here
March 14, 2018	<i>Medicare Coding Guidelines: MUEs, PTPs, PDAC, etc.</i> AOPA Webinar Learn more and register here
April 30 – May 1, 2018	Coding & Billing Seminar San Antonio, Texas Learn more and register here

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