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**American Orthotic &  
Prosthetic Association**

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## **Facts about Orthotics and Prosthetics and Competitive Bidding**

### **Background**

Some have suggested that Medicare savings could be achieved by including orthotics and prosthetics in competitive bidding. AOPA believes that current law, which includes only orthotics that need “minimal **self** adjustment” (emphasis added) to be used by an individual, provides the appropriate balance and inclusion of products that are similar enough to be included in competitive bidding. AOPA and the Amputee Coalition, the largest advocacy group for amputees believe, and have communicated to all Congressional offices that any misdirected effort to expand competitive bidding beyond off-the-shelf orthotics to include other O&P devices would be extraordinarily detrimental to patient care because it would deny Medicare beneficiaries with limb loss and limb impairment access to the clinical care, the cost of which is now included in the fee Medicare pays for most O&P devices.

1. When Competitive Bidding was authorized, “off the shelf” orthotics were designated as appropriate for possible inclusion in competitive bidding. These are orthotics that are used with “minimal self adjustment.”
2. CMS has not yet included in competitive bidding these ‘off-the-shelf’ orthotics, those for which minimal self adjustment by the individual patient (and this is, and should remain the only contingent of O&P devices eligible for possible competitive bidding)..
3. Prosthetics and more complex orthotics were not included in competitive bidding because these items are customized to fit an individual and need more specialized tailoring to the individual’s body and needs. For example, in building an artificial limb many factors have to be taken into consideration including the patient’s weight, height, what kind of work they perform, hobbies they may have that require certain components to allow for long walks or hikes, etc. Orthotics that are more complex, like braces, require fitting, adjustment, trimming, clinical steps that cannot be adjusted by an untrained individual to ensure they fit properly.
4. Prosthetics and orthotics are not part of Durable Medical Equipment and have a separate Medicare fee schedule.
5. Unlike many products in competitive bidding, a prescription is needed for prosthetics and more complex orthotics. The IRS found that most prosthetics and their component parts are exempt from the device tax because they fit the retail sales exemption as do eye glasses and hearing aids which were specifically exempted by statute and because like prosthetics, they are sold at retail for individual use and require a prescription.
6. Competitive Bidding works best when applied to products and services that cost very little and require little if any expertise on the part of the provider. Most prosthetics and orthotics are made to fit a specific individual and therefore are not comparable or produced on a scale needed to make competitive bidding work.

*(over please for recommendation)*

## **Recommendation**

The Congress was very specific in specifying that only those Off-the-Shelf Orthotics that can be used by the patient with “minimal self adjustment” by the individual user could be considered for competitive bidding. The O&P community must continue to educate legislators and their staff that CMS does have a proposed list of OTS devices that CMS deems, at least in its preliminary analysis, as appropriate for competitive bidding and that AOPA has conducted a clinical review of those devices. That review found that only 14 of the 60 devices CMS identified as being potentially appropriate for competitive bidding meet the statutory definition. Competitive bidding in O&P would be hardly worth the cost that CMS would incur in administering a program.

**For more information contact the American Orthotic & Prosthetic Association (AOPA) at (571) 431-0876 or [www.AOPAnet.org](http://www.AOPAnet.org).**