Chronology of
AOPA Actions Related to RAC
Other Audits and Prepayment Reviews

August 11, 2011 – DME MAC Medical Directors release “Dear Physician” letter changing the physician documentation requirements for lower limb prosthetics
September 7, 2011 - AOPA CRC writes to DME MAC Medical Directors challenging issues from the Dear Physician letter
September 6, 2011 -- O&P Alliance sends letter to then CMS Administrator Donald Berwick challenging CMS acquiescence in OIG report and adverse impact on amputee patient care
September 6, 2011 - O&P Alliance writes OIG Director Daniel Levinson challenging several discrepancies in his report and seeking a meeting
September 7, 2011 - AOPA send letter to CMS Program Integrity head, Dr. Peter Budetti challenging OIG report and seeking a face-to-face meeting
November 1, 2011 – AOPA outreach to physicians
November 1, 2011 – Jurisdiction A cites 86% denial rate and 96% absence of documentation of medical necessity in O&P prosthetic claims
November 9, 2011 – AOPA and O&P Alliance Partners meeting with Dr. Peter Budetti (Program Integrity)
February 2012 – O&P Alliance meeting with OIG staffers responsible for preparation of the report
February 15, 2012 – AP article, arising from OIG report data, challenging 30+% in prosthetic foot costs released (AOPA President and Executive Director had multiple conversations with AP reporter trying to correct his misstatements/misunderstandings
February 16, 2012 – AOPA prepares “Talking Points” made available to members on the AP article and the OIG report more generally
March, 2012 – AOPA Executive Director monthly letter addresses issues in physician documentation
March 8, 2012 – AOPA secures letter from Senator Cardin to CMS Administrator Tavenner expressing concern about impact on Medicare patient care
March, 2012 – AOPA establishes ‘back channel’ communication with CMS Administrator Tavenner’s office
April, 2012 – During a 30-minute planned ‘meet and greet’ with O&P Alliance representative, CMS Administrator Tavenner raises documentation audits and states need for “middle ground”
April 20, 2012 – Jurisdiction A reports claims denial rate on O&P prosthetic claims has reached 90.9%.
April, 2012 – AOPA receives unofficial word from CMS Program Integrity staff that while they agreed with AOPA about physician documentation, others at CMS did not agree, so the issue would need to be resolved at the CMS Administrator level
May 8, 2012 – O&P Alliance meeting with George Mills, Deputy Director responsible for audit contractors and the DME MAC supervision to try to clarify key points on audits and physician documentation. Dr. Susan Miller agreed with the position that the prosthetist's records/notes, when they are entered into the doctor's patient file legitimately become part of the medical record, and she promised to correct the position to the contrary that had been conveyed by DME MAC Medical Directors. Dr. Miller also invited AOPA to submit some examples of some claims reviews which AOPA believed were particularly egregious.

June, 2012 – AOPA begins advertising on physician documentation/audits issue to policy makers in the D.C market.

June 8, 2012 – House Energy and Commerce Committee conducts a hearing about complains generally about RAC audits.

June 27, 2012 – AOPA submits position paper, draft questions and examples of egregious claims to Senate Finance Committee

June 7, 2012 – CMS revises aspects of its response to OIG—release of MLN—“if a supplier is replacing an old prosthesis and there is no upgrade in the model, the supplier does not need a physician order. Also, the “ordering “physician need not be a surgeon and may be the beneficiary’s primary care physician.

June 12, 2012 – AOP submits letter to CMS on face-to-face physician meeting requirement.

May, 2012 – AOP issues member bulletin outlining changes included in the June 7 MLN.

July 30, 2012 – AOPA submits 8 egregious claims to CMS’ Dr. Susan Miller.


February 13, 2012 – O&P Alliance meeting with Laurence Wilson, CMS Chronic Care chief

August 16, 2012 - Plan for briefing call with Marwood and M. Carkhuff

August 21, 2012 - Report for DME MAC Jurisdiction A shows reduction in error rate from 90% to 75%

August 22, 2012 - AOPA initial contact with Winston Strawn seeking brief summary of litigation options

August 22, 2012 - Fise email to CMS Administrator Tavenner seeking meeting, she responds agreeing to meet.

August 28, 2012 - AOPA advice from Scully on seeking press coverage of patients. Care denied/delayed

August 31, 2012 - O&P Alliance submits letter to CMS on face-to-face physician meeting requirement.

August 31, 2012 - AOPA requests cost estimate on litigation option

September 10, 2012 - Fise meeting set with Rep. Brett Guthrie (R-KY)

September 11, 2012 - Follow-up (2nd) Exec Dir letter on audits released to AOPA members

October 1, 2012 - AOPA prepares materials explaining Medicare Extended Repayment Plan for recoupments to members

October 3, 2012 - AOPA reviews/circulates ann. data released by CMS on success rates of RAC audits

October 3, 2012 - OIG Releases its 2013 Work Plan indicating continued O&P focus and displaying fundamental misunderstandings of how O&P care is delivered. Topic added to Tavenner meeting agenda

October 4, 2012 - Jurisdiction B Manual highlights plans for addition of major prepayment audits

October 5, 2012 -- AOPA secure letter from Rep. Guthrie to CMS Administrator Tavenner expressing concern about impact on Medicare patient care

October 9, 2012 - Call set with Messrs. Kritter and Oros to plan for Tavenner meeting

October 10, 2012 - AOPA conference call with Mills, Miller of CMS on egregious audits—CMS upholds claims

October 15, 2012 - Meeting with Administrator Tavenner-summary of meeting and documents provided by AOPA reps
October 19, 2012 - Materials received from Al Kritter as part of follow-up materials promised to Tavenner

October 22, 2012 - AOPA circulates chapter 29 of the Medicare Claims Processing Manual. This chapter clearly outlines exactly how each level of appeal is supposed to be handled.

November 1, 2012 - AOPA report on AHA suit against CMS over hospital RAC audits, received legal summary.

November 13, 2012 - AOPA communication with House Ways & Means Committee staff over H.R. 6575—hospital backed legislation on RACs targeting hospitals.

November 14, 2012 - AOPA provides summary of H.R. 6575, pros and cons of hospital bill for AOPA members.

November 27, 2012 - AOPA lobbyist L.F. Payne contacts Tavenner office on meeting follow-up pending 12/1.

December 5, 2012 - AOPA provides assessment on prospects of: (1) rulemaking on quality provider (80%); (2) moratorium of some type on new/retroactive audits (50/50); (3) AOPA litigation (35%)

December 13, 2012 - AOPA member summary—What Is AOPA Doing About RAC Audits?

December 13, 2012 - AOPA provides selected materials and summary to non-member to rebut multiple misconceptions conveyed on the O&P List Serv.

December 14, 2012 - Subgroup of AOPA Board sets meeting for discussion of further options.

December 14, 2012 - AOPA Counsel, Winston & Strawn delivers legal letter to CMS Adm Tavenner summarizing all deficiencies that could be subjected to legal challenge.

December 18, 2012 - AOPA receives communication from office of House W&M Cte member Rep. Roskam (R-IL) seeking meeting as follow-up on expression of constituent concerns on RACs.

December 19, 2012 - AOPA Board Subgroup meets.

December 20, 2012 - Result of AOPA Board Subgroup, materials from some companies circulated.

January 2, 2013 - AOPA considers prospect of information to members on resources for Assist with ALJ.

January 13, 2013 - AOPA provides information on OIG report relating to Premier Prosthetics.

January 13, 2013 - AOPA lobbyists L.F. Payne renews contact with Tavenner office, including reminder that she said in meeting that if their data shows that there is a large % of these audit findings that are reversed upon appeal to ALJ, that would be a strong indicator of need to change.

January 14, 2013 - AOPA begins process for special survey of members in Jurisdiction B on pre-pay audits.

January 15, 2013 - AOPA prepares/releases overview of RAC audit limits-response to excess # of claims review.


January 21, 2013 - AOPA/Alliance receive word of AAHomeCare with GAO about RAC audits, outreach to GAO.

January 22, 2013 - First conference call of AOPA litigation subcommittee with Winston & Strawn.

January 22, 2013 - Follow-up materials to Winston & Strawn about DME MAC communications of documentation requirements.

January 24, 2013 - Jurisdiction B releases new policy info on K levels.

January 25, 2013 - Jurisdiction D releases new info on prepayment audits of selected high-end prosthetic codes.


January 25, 2013 - Training material provided by NHIC Region A on October 6, 2011 shared with legal counsel.

January 25, 2013 - AOPA prepares a few samples of business/cash flow impact of audits to be shared with CMS Administrator’s office.

January 30, 2013 - AOPA begins process of trying to assemble info on patient impact for Amputee Coalition on delays and/or reduced quality of care for Medicare beneficiaries.
January 31, 2013 - AOPA decides to initiate a renewed RAC audit survey, expanded to gather some new information
February 1, 2013 - AOPA Board members provide Winston & Strawn with more cases of retrospective audits
February 4, 2013 - AOPA Member request results in visit to Rep. Quigley
February 5, 2013 - AOPA Member request to Rep. Chabot
February 6, 2013 - CMS releases report asserting $940 million Medicare savings via RACs
February 7, 2013 - AOPA emails info on 2 topics: (1) the CMS press report on $940 million savings and (2) history on AOPA's providing questions, cases and position paper to Senate Finance Committee in 6/12
February 7, 2013 - AOPA determines and communicates to AOPA members that Jurisdiction A RAC using incorrect formula to set RAC audit limits on number of claims audited.
February 8, 2013 - Second version of RAC Audit Re-Survey approved and finalized for distribution
February 10, 2013 - AOPA submits proposed agenda for meeting with CMS Deputy Director of Payment Policies on RACs and Impact on O&P Businesses' Cash Flow
February 11-15, 2013 - AOPA Exec Director's meetings with staffs of Reps. Quigley (IL), Chabot (OH), Griffen (AR), Whitfield (KY), Blackburn (TN) and Senator Harkin (IA)
February 25, 2013 – Fise Meeting with Senator Cornyn’s office
March 1, 2013 - AOPA 2nd RAC Audit Survey Report
March 8 – 2013 -AOPA Files 4 Letters to CMS’ George Mills (responsible for auditor and DME MAC supervision) on: (1) Jurisdiction B statements on prosthetist’s note not in medical record; (2) Jurisdiction D. pre-payment audits’ discriminatory impact; (3) Jurisdiction B—K-level standard is discriminatory against patients; (4) limits on # of Additional Documentation Requests for O&P
March 11, 2013 - Communications with Senator Cornyn’s office
March 11-12, 2013 – AOPA Policy Forum and 350 appointments with legislators and staff telling RAC Audit horror stories.
March 15, 2013 - Communications with Senator Hatch’s office; Communications with Senator Rubio’s office; AOPA prepares, submits to Senate possible questions for Tavenner Confirmation
March 18, 2013 - Tom Fise meets with Aryana Khalid, Chief of Staff to Administrator Tavenner who makes first mention to AOPA about a new CMS physician template in process for O&P; CMS Staff tell TN Senate staffers that CMS has been working with AOPA on a physician template draft; AOPA receives responses from CMS’ George Mills on AOPA letters on Jurisdiction D Pre-Payment Audits being discriminatory, and inappropriate auditor calculation of ADR limits.
March 18, 2013 – Fise meeting with Sen. Gillibrand staff; CMS affords special admin. relief to hospitals on RACs; AOPA lobbyist, Tom Scully, speaks directly with CMS Administrator Tavenner to urge solution.
March 26, 2013 - AOPA mounts member outreach to legislators on Duckworth-Guthrie sign-on letter to Secretary Sebelius; Tom Fise and Dennis Williams of Fillauer participate in meeting with staffers from both TN Senators
            - AOPA publishes 9-point history of flaws with OIG report, “Dear Physician” letter and audits
April 3, 2013 - CMS reduces maximum number of Additional Documentation Requests (ADRs) for O&P audits, in response to AOPA letter

April 10, 2013 - AOPA prepares input to Appropriations Committee on audit issue George Mills responds to AOPA letters (re: Jurisdiction B) on legitimate role of prosthetist’s notes, and K-level, AOPA responds.

April 11, 2013 – CMS reverses position form MLN on June 7, 2013 – physician order required for all replacement prostheses, even if no change from patient’s prior prostheses.

April 11, 2013 - Tom Fise and Dennis Williams of Fillauer participate in meeting with staffers from both TN Senators, George Mills and other CMS staff.

April 13, 2013 - CMS’ George Mills responds to AOPA email of April 10

April 15, 2013 – Joint letter to HHS Secretary Sebelius and Administrator Tavenner authored by Rep. Duckworth (D-IL) and Rep. Guthrie (R-KY) also signed by 35 colleagues.

April 18, 2013 - Amputee Coalition issues Position Statement on Audits.

April 19, 2013 – AOPA meeting with Rep. Duckworth’s staff

April 15, 2013 – Final Winston Strawn Attorney Mills Letter to Administrator Tavenner

May 6, 2013 - AOPA prepares new, updated one-pager for Hill on RACs, pre-payment audits

May 8, 2013 – AOPA/O&P Alliance Meeting with Administrator Tavenner

May 13, 2013 – AOPA files lawsuit against CMS seeking relief from audits

Access the Compendium of Relevant Documents here.

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