

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop C4-25-02
Baltimore, Maryland 21244-1850



The Orthotic and Prosthetic Alliance
1501 M Street, NW
7th Floor
Washington, DC 20005

JAN 08 2014

Dear Drs. Prusakowski, Miller, McClellan, Kirk, and Kenney:

Thank you for your letter to the Inspector General Daniel R. Levinson dated May 23, 2013, regarding custom orthotic and prosthetic (O&P) devices. As you may know, the Department of Health and Human Services Office of Inspector General (OIG) is separate from and independent of the Centers for Medicare & Medicaid Services (CMS). Therefore, I cannot respond to your concerns on behalf of the OIG. However, CMS appreciates your interest in this important matter.

In your letter, you asserted that allowing for physician self-referral of O&P care, whether through the in-office ancillary services (IOAS) exception to the federal physician self-referral statute (section 1877 of the Social Security Act) or allowing for joint ventures, does not serve to improve beneficiary access to or quality of O&P care. Your letter stated that you believe that the views found in the 2013 Special Fraud Alert published by the Office of Inspector General (OIGs) regarding physician owned distributorships should be applied equally to physician ownership of O&P laboratories. Also, you suggested the existence of a "loophole" in the IOAS exception that allows physicians to refer services to O&P laboratories which they own or have a financial interest and recommended that this application of the exception should be eliminated. The information you have provided is helpful as we continue to consider physician self-referral policy options.

If you have questions about this letter, please contact Catherine Bernstein of my staff at (410) 786-6887 or via email at catherine.bernstein@cms.hhs.gov. CMS appreciates your insights into this matter as we work toward our mutual goal of strengthening the Medicare program for all beneficiaries.

Sincerely,

A handwritten signature in blue ink that reads "Laurence D. Wilson". The signature is stylized, with a large initial "L" and a distinct "W".

Laurence D. Wilson
Director
Chronic Care Policy
Center for Medicare