



**American Orthotic &
Prosthetic Association**

AOPA 3rd Quarter 2012 Staff Report

To: AOPA Membership

From: Thomas F. Fise, Executive Director

Date: October 10, 2012

Subject: The Challenges Continue Unabated!

RAC Audit Update

RAC audits are bedeviling the O&P field with patients suffering and practitioners suffocating under the financial burden based on claw backs, appeals, delays and the irony that most denials appealed all the way up to the Administrative Law Judge level end up in favor of the O&P professionals. Meanwhile, wait, wait and wait for claw back money to come back to you.

AOPA's survey on RAC audits revealed that 75 percent of the more than 200 responding companies were currently dealing with a RAC audit and 88 percent were appealing denied claims. 18 percent said they were not successful in appealing the claims; 25 percent claimed success; and 57 percent said they were still in the appeals process.

This issue is the top priority for AOPA's advocacy effort and no stone has been left unturned to find a solution. An October 15th meeting with CMS Administrator Tavenner, who has previously acknowledged the problem needs a solution, elicited a promise to cycle back to AOPA with ideas for solutions within six weeks. We will await that date anxiously in hopes of arriving at a fairer result. Members received a special email from AOPA with more meeting details on October 16th.

Steps taken so far were outlined in my August Executive Director letter and included AOPA's immediate action in challenging the DME MAC Medical Directors' interpretation on physician documentation that asserted prosthetists' observations and notes were no longer considered part of the patient's physician medical record. CMS subsequently reversed the DME MAC Medical Directors on that one, and returned the prosthetists' notes to their rightful place as part of the patient medical record. A subsequent DME policy clarification acknowledged a like-kind lower limb replacement did not require the physician documentation. AOPA joined with O&P Alliance partners in a letter to then CMS Administrator, Don Berwick and the HHS Office Inspector

General, Daniel Levinson, pointing out specific errors in the OIG Report that triggered the audit barrage and requested prompt intervention. A meeting with Dr. Budetti, head of the CMS fraud and program integrity section brought agreement that little if any fraud appears in these paperwork discrepancies, and that most patients don't rely very much on their physicians for intricate knowledge about the prosthesis, its maintenance and its components.

AOPA also brought the matter to the attention of Sen. Ben Cardin (D-MD) resulting in a letter to the newly appointed CMS Administrator, Marilyn Tavenner. Sen. Cardin questioned the new policy and expressed concerns over the disruption of timely care to Medicare amputee beneficiaries. Rep. Brett Guthrie (R-KY) wrote a similar letter to the CMS Administrator.

It should be noted that the HHS OIG staff expressed surprise at both the instantaneous reaction of the DME MAC audit contractors, as well as the ways in which the OIG Report had prompted a change in the standards of care by mandating physician visits where there had never been mandatory visits before and in the face of no statutory requirement for a physician visit. So minor victories can be counted on two issues – (1) that the same kind of replacement prosthesis requires neither a physician visit nor order, and (2) there is no statutory requirement for a face-to-face visit to obtain a prosthesis or orthosis.

The story isn't over by a long ways but progress is being made and AOPA's commitment to you is to continue our fight for a resolution using every means at our disposal to achieve fairness for our patients and members.

AOPA Submits Public Comments on Medicare Face-to-Face Visit Proposed Rule

On September 1, 2012, AOPA submitted comments on a proposed rule that would require, for certain items of Durable Medical Equipment (DME), that a physician must have documented and communicated to the DME supplier that the physician or a physician assistant, nurse practitioner, or a clinical nurse specialist has had a face-to-face encounter with the beneficiary no more than 90 days before the order is written or within 30 days after the order is written. The proposed provision which appeared in the annual physician fee schedule rulemaking specifically stated that CMS was not, through the current proposed rule, implementing a face-to-face visit requirement for delivery of orthotic and prosthetic services. The proposed rule continued to state that a future rulemaking process would determine what, if any orthotic and prosthetic devices would be subject to a face-to-face visit requirement.

AOPA's comments supported the CMS decision to not include a requirement for a face-to-face visit for O&P devices and reiterated the existing regulatory and legislative resources that exist to help curb fraud, waste, and abuse in the delivery of O&P services.

AOPA will continue to work with CMS to ensure the proper delivery of O&P services to Medicare beneficiaries through qualified providers. Access AOPA's comments regarding the rule at http://www.aopanet.org/AOPA_Comments_FacetoFace-Rule

Washington on Leave!

The Presidential and Congressional election campaigns add just more inertia to the prevailing gridlock in Washington. Congress is adjourned until after the election, the outcome of which will either mean some post election bold moves or more inertia. In either event, AOPA is laying the groundwork for S. 2125 and H.R. 1958 (O&P Medicare Improvements Act) and other O&P favored legislation to be introduced in the 113th Congress when it convenes in January, if these measures are not enacted before this Congress adjourns. The slate is wiped clean on all legislative proposals as each Congress adjourns so all pending bills in the 112th Congress must be re-introduced in 113th Congress in order to gain any further opportunities for enactment.

But the time leading up to the November 6th election provides a unique opportunity for AOPA members to form or build on their relationships with prospective members of the 113th Congress. Attending and supporting fundraisers, volunteering for campaign duties and hosting an event in your own facility are all activities that can help make sure you receive some responsiveness when O&P issues need Congressional attention next year. The same goes for your state election candidates, as you can be sure there will be efforts to roll back Medicaid services in many states as they try and balance state budgets. O&P could be a casualty unless efforts are made to block such cuts.

Another reason for cultivating state level legislators is the need for connections to all state-wide legislative and policy maker types to make sure O&P is included in the definition of “essential health benefits” in whatever benchmark plan is selected in your state. AOPA commissioned a study earlier this year that compiles state-by-state information on the HHS recommended benchmark plans in each state as to their inclusion of O&P benefits. Members can use this study to help make sure the decision makers are only considering plans that include O&P. For access to the study, go to AOPA’s home page at www.AOPAnet.org and at the far left click on EHB Report for Members, or email info@AOPAnet.org and request the EHB State Report. You’ll need your username and password for this members’ only document.

If you choose to contribute to either of the presidential campaigns, please code your check or contribution to make sure the O&P community is also identified with your contribution. The code for the Obama campaign is 4702570 and 5767 is the code for the Romney campaign. Earlier this year, several politically active AOPA members encouraged setting up some tracking identity with each campaign, hence the codes which identify your contributions as being associated with the O&P community. AOPA secured the codes to strengthen access opportunities to Administration officials, regardless of the winner.

History in the Making at the Boston National Assembly

Start with the huge turn-out of 2,317 O&P professionals making the recent Boston meeting the best attended National Assembly in AOPA’s history. Exhibitor participation also broke records with 182 exhibitors occupying 428 booths.

Kicking off the opening General Session on Friday, September 7th, Max H. Bazerman, PhD, led the audience through the steps of successful negotiations – a must “know how” for successful participation in Accountable Care Organizations (ACOs) and other aspects of the Affordable Care Act.

There were more CE’s awarded than any other year, as well as very spirited interest as evidenced by practitioners encountering many standing room only sessions, both in clinical and business programming. Special tracks for pedorthic and mastectomy education drew strong attendance as did the Technical Summit.

The 5th Annual O&P Political Action Committee sponsored Wine Tasting and Auction raised \$27,000 for the O&P PAC and the \$5,000 cash prize give-away sponsored by Arizona AFO made Peter Bentley of C.N. Waterhouse Leather Company, a supplier member and exhibitor, that much richer. Another \$5,000 in various prizes, contributed by exhibitors, ranging from iPads to tool sets, gift cards, and brief cases provided more and more reasons to visit the exhibit booths.

Another first in making history was the Orthotic and Prosthetic Technical Association (OPTA) joining with co-sponsors AOPA, ABC, Cascade-USA and Ottobock to create the first competition for creating a swim prosthesis. There were separate 1st, 2nd and 3rd place cash prizes for professionals and for residents which were announced at the Saturday, September 8th General Session and Annual Business Meeting.

Bylaw Changes Improve AOPA Governance

The changes to the AOPA Bylaws ratified at the September 8th Annual Business Meeting brought AOPA into the 21st century by authorizing electronic voting and refining the composition of the Board of Directors to more directly reflect the membership’s mix and needs. The changes provide for two supplier directors instead of the current one; the number of designated directors based on size was adjusted to three categories, rather than the current five; and at-large directors reduced from three to two. Additional expertise was added to the Board by creating a Clinical Director seat and one for a Health Care Director, each of whom would serve a two-year term and need not be members of AOPA. The Health Care Director may be a compensated seat, recognizing that there may be competition for the type of “world view” expertise sought in the Health Policy Director position. The AOPA Board selects the Health Care Director under the new bylaws but members continue to elect all other directors. After a transition period allowing for current Board members’ expiring terms, the size of the Board will remain at fourteen.

AOPA Strategic Initiatives Updated to New Survival Imperatives

The July Board Meeting undertook a thorough review of AOPA’s strategic initiatives drawn from the 2010 member survey, updated them and then consolidated all the relevant activities into four newly identified Survival Imperatives. The action was largely triggered by the growing understanding of patient-driven care and how O&P is likely to be affected.

Guiding the thought process and adding authenticity to the review process were three experts from the insurance and public policy sectors. Charles Birmingham, Vice President of Corporate Development at CareMore Health Plan, Karl Rebay, Director of the Health Care Consulting Group at Moss Adams, LLP; and Larry Vernaglia, J.D., MPH, Chair of the Health Industry Team at Foley & Lardner, LLP, provided the broad view impact of how the dramatically changing healthcare picture will affect O&P.

What emerged was the Orthotic and Prosthetic Survival Initiatives (OPSI) and four basic priority areas designed to help meeting the new challenges. **(1) Outcomes** topped the list with a need to focus on outcomes through developing a standard intake form for each diagnostic category and accumulating a database through a patient registry as well as indentifying/supporting both additional comparative effectiveness studies in O&P as well as episodes of care and standards of practice. Included in the final component of this imperative is the need for a literature review for specific diagnostic categories.

(2) Education of payers and others, through cost-effectiveness and comparative effectiveness research and best practices statements, would also include educating members on the new delivery models.

(3) Alliances were felt to play a major role for O&P's future which requires a determination of who else is similarly situated in the healthcare delivery chain that may be potential partners in defining the new delivery models and who else has a shared risk in the various episodes of care.

(4) Risk was the final imperative identified with the conclusion that AOPA must develop a flexible template for members that will define various shared risk payment methodologies for Accountable Care Organizations (ACOs), Diagnosis Related Groups (DRGs), Post Acute Bundling (PAB) and capitation models.

Board members have been assigned to each imperative to generate work product in each of the survival areas and to develop plans of action on how to move forward. Stay tuned for more information on this massive project designed to make sure O&P is not left behind in the coming world of healthcare change.

Center for O&P Learning Pilot Grant Research Awards

Four recipients of the 2012 research grants recommended by the Center for O&P Learning and Evidence-Based Practice (COPL) and funded by AOPA were authorized by the AOPA Board at their July meeting. The grants were increased to the \$15,000 level in 2012 compared with \$7,500 in previous years. All of the projects are expected to provide initial justification for expanded funding by government or private resources for more comprehensive research. Awards were approved for the following research projects:

1. A. \$15,000 grant to Jason Maikos, PhD, Principal Investigator, Gait and Motion Laboratory for a study titled "The Biomechanical and Functional Evaluation of a Microprocessor Controlled Knee Paired with a Powered Ankle-Foot Prosthesis".

2. A \$15,000 grant to Laurent Frossard, PhD, Principal Investigator, University of Quebec in Montreal for a study titled “The Effects of Prosthetic Components on Actual Functional Outcome of Individuals with Lower Limb Loss”.
3. A \$15,000 grant to Jeffrey Heckman, DO, Principal Investigator, NYU Langone Medical Center-Rusk Institute of Rehabilitation Medicine for a study titled “Developing an Evidence Based Approach to Address Functional Level Change in Persons Following Transfemoral Amputation”.
4. A \$15,000 grant to Sean Deeny, PhD, Principal Investigator, Rehabilitation Institute of Chicago for a study titled “Cognitive Workload During Prosthetic Use: A Quantitative EEG outcome measure”.

The research projects are required to be completed within one year from the date of the award and the researchers have been invited to present their findings in 2013, at the AOPA World Congress, September 18th-21st at the Gaylord Palms Resort in Orlando, Florida.

AOPA Research Efforts Further Expanded

A much expanded cost-effectiveness research project commissioned by the Amputee Coalition and funded by AOPA is tracking two separate cohorts of patients with the same diagnoses. One cohort of Medicare beneficiaries received timely O&P intervention and the other cohort did not. Preliminary results indicated higher long term costs for those who did not receive timely O&P care. The database furnished through CMS to AOPA’s consultant, Dobson DaVanzo, has now been expanded to include 35 percent of orthotic care beneficiaries over a four-year period and 100 percent of prosthetic care beneficiaries. The results are expected later this year and the project will serve as a template for future studies on other diagnoses. This is the kind of data that payers and other stakeholders are demanding in this era of rising health care costs.

AOPA is also funding, along with several manufacturers, two comparative effectiveness studies involving prosthetic feet and knees. The Microprocessor versus Non-microprocessor knee project has completed its pilot phase and is conducted by the University of Pittsburgh which should issue its final report about one year from now. The Dynamic versus Non-dynamic foot project conducted by the British Columbia Institute of Technology is also on track with a final report expected at the end of 2013.

Supreme Court Affordable Care Act Decision Sets Future Course

Implementation of the Affordable Care Act, barring Congressional repeal, goes forward with many provisions effective January 1st, 2013 and 2014 that affect O&P. Final regulations are expected soon on implementing the 2.3 percent Medical Device Excise tax with optimism that the final regulations will reflect the O&P exemption provided in the proposed regulations published earlier this year. The exemption language for O&P in the proposed regulations was the direct results of AOPA appeals to the U.S. Treasury and the IRS that O&P medical devices qualify for the same exemption the law extends to hearing aids, eyeglasses and contact lenses.

While concerns still abound regarding O&P’s inclusion in the definition of essential health benefits (EHB) because of HHS Secretary Sebelius’s decision to delegate

definition responsibilities to the states – O&P appears to be well-situated to achieve status as a universally accepted essential health benefit. As noted earlier in this report, AOPA’s investment in a comprehensive state-by-state study of the HHS designated benchmark plans that states can adopt in crafting their definition of EHB, provides members with a tool to help influence decision makers in their states as to which benchmark plan to adopt.

Veterans Administration Issues Continue as Key AOPA Advocacy Effort

Mixed signals on the VA’s “choice of provider” policies continue to dominate AOPA conversations with VA officials. An October 9th meeting with Lucille Beck, PhD, Acting Chief Consultant, Prosthetics and Sensory Aids Service and Fred Down’s successor, is an opportunity for more clarification and hoped for consistency in the way O&P providers are treated in the system.

Hearings July 31st by the House VA subcommittee on health policy addressed these issues but many questions were left unanswered. AOPA was represented by board member Michael Oros, CPO, FAAOP, and Catriona Macdonald, AOPA’s consultant on appropriated research funding and the effort to seek government support for expanding the number of O&P educational institutions.

Frank Snell, chair of the AOPA’s Veterans Affairs Committee, posed several concerns to Joseph A. Miller, PhD, MS, CP on procurement, reimbursement and patient choice issues at the September 7th meeting of the committee in Boston.

PAC Donors Helping Fight the Good Fight

AOPA’s Political Action Committee continues as an essential part of the advocacy effort enabling the O&P community to support candidates who share our concerns about quality O&P patient care. Contributors for 2012 are noted below by their category of support.

PRESIDENT'S CIRCLE (\$1,000 - \$5,000). Michael Allen, CPO, FAAOP; Robert Arbogast; Kel Bergmann, CPO; Maynard Carkhuff; Ronald Cheney, CPO; Thomas DiBello, CO, FAAOP; Mike Fenner, CPO, BOCPO, LPO; Tom Fise, JD; Rick Fleetwood, MPA; Michael Gozola, CP; Russell Hornfisher, MBA; Harry Layton, CPO, LPO; Jon Leimkuehler, CPO; Robert Leimkuehler, CPO; Mark Maguire, CPO; Gary Mahler; Patty Petersen; Walt Racette, CPO; John Roberts, Jr., CPO; Scott Schneider; Gordon Stevens, CPO, LPO; Paulette Vaughn; Bernie Veldman, CO; Frank Vero, CPO; James Weber, MBA and James Young, Jr., CP, LP, FAAOP.

SENATOR'S TABLE (\$500 - \$999). J. Martin Carlson, CPO; Glenn Crumpton, CPO, C.Ped.; Edward DeLatorre; Ed Gildehaus III, CPO, C.Ped., FAAOP; Michael Hamontree, MBA; Al Kritter, CPO, FAAOP; Ellen Leimkuehler; William Leimkuehler, CPO; Marlon Moore, CO; Ted Muilenburg, CP; Rodney Pang, CPO; Gerri Price, CFom, C.Ped.; Ashlie White and Jeffrey Yakovich, CO.

CHAIRMAN'S TABLE (\$100 - \$499). Robert Biaggi, CPO; Rudy Becker, Sr.; Jeffrey Brandt, CPO; George Breece; Terri Bukacheski, CP, LP; Alan Burke, BOCO; Erin Cammarata, RTO; Ken Cornell, CP; Charles Dankmeyer, CPO; Don DeBolt; William DeToro, Jr., CPO; Mark Devens, CPO; Martin Diaz, BOCO, C.Ped.; Ted Drygas, CPO; David Falk, CPO; Jim Fenton, CPO; Michael Hall, CPO; Joe Huntsman, MBA, MA; Fran Jenkins; Marc Karn, CP; John Kenney, CPO, FAAOP; Tom Kirk, PhD.; Eileen Levis; Pam Lupo, CO; Ann Mantelmacher; Lee Mantelmacher, CPO; Clyde Massey, CPO; Brad Mattear, CPA, CFo; Steve McNamee, CP, BOCO, FAAOP; Steven Mirones, CO, C.Ped.;

Michael Oros, CPO; James Price, CPO, C.Ped.; Jon Ruzich, CP, LP; Mark Smith, CP; Chris Snell; Peter Thomas, Esq.; Joan Weintrob, CPO; Steven Whiteside, CO, FAAOP; Jon Wilson, CPO and Claudia Zacharias, MBA, CAE.

1917 Club (Up to \$99) J. Laurence Allen, CPO; David Bow, CPO; Jim Campbell, CO, FAAOP, PhD.; Maureen Canter; Frank Caruso, CO; Melvin Cunningham; Joe Davant; Jason Eddy; Jeff Erenstone, CPO; Troy Fink; John Galonek, CO; Carey Glass, CPO, FAAOP; Eddy Gosschalk, CPO; Garrett Griffith; April Groves, CO; Rita Hammer; David Johnson, CO; Rahul Kaliki, PhD; Paul Macy; Salvatore Martella, CPO; Kathy Mascola, BOCPO, CO, LPO; Kevin Mathhews, CO; Sean McKale, CO; Nina Miller; George Newton, CPO; Daryl Reuter; Eric Schopmeyer, CO; Anthony Squicciarini, CPO, C.Ped. and Jeff Wensman, CPO.

AOPA World Congress Planning Begins in Orlando

A “who’s who” list of global O&P leaders convene in Orlando October 12th-14th to begin the challenging task of building clinical programs, business management sessions and networking events for the AOPA sponsored World Congress, September 18th-21st, 2013. Chaired by David Boone, PhD, of the USA, the planning committee’s twenty-three representatives from ten countries, including China, Italy, Africa, Colombia and India, will dedicate themselves to crafting the program content and marketing efforts to make the first O&P global conference in the western hemisphere a landmark event. Exhibit space reservations already send a strong signal that O&P suppliers are enthusiastically endorsing the effort.

For more details, please go to www.opworldcongressusa.org

And In Conclusion

Once again we’re pleased to publish and thank AOPA’s own roll call of leaders who help sharpen our advocacy tools through their support of the PAC. This list was as of September 30th, 2012, so if we’ve missed your name, please accept my apologies and email me at tfise@AOPAnet.org. Please do the same if you have any thoughts about how we can serve you better. We’re here to make your life and business experience of the highest quality so be sure and let us know what we can do to make that happen for you.

Sincerely,



Thomas F. Fise, JD
Executive Director