AOPA In Advance SmartBrief
Breaking News
April 16, 2019

AOPA Headlines:

Statement from Eve Lee, Executive Director of AOPA on DOJ Operation Brace Yourself

On March 28, 2019, the American Orthotic and Prosthetic Association (AOPA) released a statement strongly criticizing the use of lead generation marketing to deliver orthotic devices to patients covered by Medicare or other insurances. This practice puts patients at risk as it does not provide clinical care by a qualified orthotic professional and could lead to providing medically unnecessary orthoses with no instruction on the proper fitting, care, or use.

On April 9th, less than two weeks after this, the United States Department of Justice (DOJ) announced multiple indictments against 24 individuals responsible for more than $1.2 billion in losses to the Medicare program through fraudulent schemes involving the use of lead generation marketing to deliver orthoses that were not medically necessary or not wanted by the beneficiary. Simultaneously, the Centers for Medicare and Medicaid Services (CMS) announced the immediate suspension of Medicare payments to 130 Medicare enrolled Durable Medical Equipment suppliers suspected of participating in the scheme and responsible for more than $1.7 billion in Medicare claims and more than $900 million in Medicare reimbursement.
AOPA is highly encouraged by both the DOJ indictments and the administrative action taken by CMS. We are hopeful that this sweeping action will drive this criminally negligent activity out of the orthotic and prosthetic marketplace. AOPA first expressed concern about potential fraud and

abuse involving off-the-shelf (OTS) orthoses when CMS identified a complete set of OTS codes that, according to its own policy, required little to no fitting by properly certified or licensed orthotic professionals to deliver and bill to Medicare. We have continued to voice our concern at every opportunity.

Most recently, AOPA has pursued legislation that will ensure that Medicare patients continue to have access to clinically appropriate orthotic care delivered by properly educated, certified and/or licensed professionals. AOPA, with the support of its O&P Alliance partners, is preparing legislation which contains several provisions that would further guarantee that criminal elements such as those uncovered by DOJ will no longer be able to use OTS orthoses to generate illegal profits through exploitation of the Medicare program and its beneficiaries. AOPA is currently meeting with key members of Congress to discuss potential sponsorship. The hope is for the bill to be introduced prior to the 2019 AOPA Policy Forum taking place May 7-8, 2019 in Washington, DC. During the Forum, AOPA members will meet with members of Congress to encourage them to take action that protects patients.

Questions? Please contact Joe McTernan, at 571/431-0811 or jmcternan@AOPAnet.org.

Round 2021 Competitive Bidding: Getting Ready

The bidding process for Round 2021 of the competitive bidding program, which includes 23 off-the-shelf orthoses, is slated to open in June 2019. If you are in a competitive bidding area (CBA) and you intend to enter the program, there are a few things you may do to get ready for June 2019:

1) Make sure you are licensed and accredited
2) Obtain your competitive bidding surety bond(s)
3) Create a user ID and password with the CMS Enterprise Portal
4) Make sure your Medicare enrollment is up-to-date and correct
5) Compile your finical information

This is not an all-inclusive list, but it is a starting point. For more information about Round 2021 of the competitive bidding program, and some helpful tools be sure to visit the AOPA website and the Round 2021 Competitive Bidding page.

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

Medicare Announces New Proposed RAC Audit for Reasonable Useful Lifetime for Upper Extremity Orthosis

The Center for Medicare and Medicaid Services (CMS) posts a list of topics monthly that have been proposed, but not yet approved, for RACs to review. The RAC contractors may not audit any items/services unless they have been reviewed and approved by CMS; and they place the audit on their website under approved issues. The listing of a proposed topic by CMS is one of the first steps in identifying an approved issue for the RAC contractors.

For April CMS announced the proposed topic of an automated review for reasonable useful lifetimes and upper extremity orthosis described by codes: L3650, L3660, L3670, L3671, L3674, L3675, L3677, L3678, L3702, L3710, L3720, L3730, L3740, L3760, L3761, L3762, L3763, L3764,

L3765, L3766, L3806, L3807, L3808, L3809, L3900, L3901, L3904, L3905, L3906, L3908, L3912, L3913, L3915, L3916, L3917, L3918, L3919, L3921, L3923, L3924, L3929, L3930, L3931, L3956, L3960, L3961, L3962, L3967, L3971, L3973, L3975, L3976, L3977, L3978, L3980, L3981, L3982, L3984 and L3995.

At this time the proposed automated review has not been approved by CMS, and Performant, the RAC contractor for Region 5 (which includes all O&P claims), has not listed the topic as an approved issue for review on their website.

View the proposed topic here.

AOPA Releases Statement Regarding Delivery of Orthoses through Lead Generation Marketing

Earlier today AOPA issued a statement announcing that it is strongly opposed to the model for delivery of orthoses that relies on what is known as lead generation marketing to identify and recruit potential patients for treatment with orthoses.

Lead generation marketing uses broad stroke advertising such as television ads, websites, and social media to encourage potential patients to contact a call center which then provides the "leads" to a select group of physician referral sources and medical equipment suppliers who facilitate the delivery of one or more orthoses to the patient, often without the patient ever seeing the referring physician or the supplier of the device. This model of delivery is of great concern to AOPA as it does not include any fitting of the orthoses by health care professionals such as a certified and/or licensed orthotist. It also includes no patient education on the proper care and use of the orthosis, no follow up care to ensure that the orthosis is providing its intended benefit and lacks any kind of patient evaluation to determine the clinical appropriateness of the prescribed orthosis. This model of delivery is not one that is interested in the provision of clinically appropriate orthoses by properly trained, educated, and certified or licensed orthotic professionals. It is simply an opportunity for unscrupulous providers to take advantage of loopholes in the Medicare claims processing system to generate as much revenue as possible without regard to the medical need of the orthoses they are marketing. In addition, lead generation marketing of orthoses typically relies on a limited number of physician referral sources who often have no relationship with the patient prior to their brief consultation, usually over the telephone, upon referral from the lead generation company. These physicians are often fully aware of their role in this process and are often compensated by the lead marketing company on a per prescription basis. This practice is clearly not in the best interest of Medicare beneficiaries.

Recent reports published by the Department of Health and Human Services Office of Inspector General (OIG) have confirmed that there have been increased instances of fraud and abuse involving knee and spinal orthoses. AOPA believes that lead generation marketing strategies may be a significant contributor to this increase in fraud and abuse investigations. The orthoses that have been highlighted in the OIG reports have shown significant increases in utilization since the first appearance of the online and televised advertisements produced by lead generating marketing companies. It is not a coincidence that the largest increases in Medicare spending for orthoses represent the high cost orthoses that are being marketed to unsuspecting Medicare beneficiaries.

AOPA firmly believes that Medicare beneficiaries deserve to receive the highest quality, most clinically appropriate orthotic care available and that it is in the best interest of the Medicare

program to ensure that the delivery of all orthoses must be coordinated through the physician or practitioner who is treating the patient's orthopedic condition and a properly trained and educated orthotic provider, such as a certified or licensed orthotist. Alternative models, such as those that use lead generation marketing, will continue to facilitate increased fraud and abuse, unnecessary costs and utilization, and the delivery of ill-fitting orthoses that m-ay not be medically necessary without any clinical care, patient follow up, or patient education.

Questions? Please contact Joe McTernan, at 571/431-0811 or jmcternan@AOPAnet.org.

AOPA & COPL Announce 2019 Request for Proposals

The American Orthotic & Prosthetic Association, working in conjunction with the Center for Orthotic and Prosthetic Learning and Outcomes/Evidence-Based Practice (COPL) and its Board of Directors, is proud to announce a Request for Pilot Grant Proposals in 10 potential areas of Orthotic and Prosthetic (O&P) research including an open topic. For 2019-2020, the association is seeking proposals at two funding levels for one-time grants; $15,000 and up to two exceptional proposals for $30,000 for one year.

AOPA and the Center will give preference to grants that address evidence-based clinical application in orthotics and prosthetics. Please post this RFP and share it with your colleagues.

View the complete RFP topics and guidelines.

The deadline for all proposals is May 31, 2019.

If you have any questions, please contact Ashlie White at awhite@AOPAnet.org or 571/431-0812.

Both the PROPRIO FOOT and PRO-FLEX PIVOT are available with and without Unity, Össur's sleeveless vacuum suspension system. To learn more about the products, visit http://info.spsco.com/ossur-partnership.

Register for RehabWeek 2019 – June 24-28

Early Bird Registration is now open for RehabWeek 2019. RehabWeek is a week-long event that brings together different conferences in the field of rehabilitation technology at the same time and place to foster cross-disciplinary communication and the development of relationships between different players.

RehabWeek includes common keynote lectures and other mutually organized sessions, such as panel discussions and poster sessions. In addition, each conference also organizes its own, conference specific sessions. Visitors can freely choose which conference to attend at any given time.

Multi-Society Conference (ISPO, IFESS, ICORR, IISART, ACRM, & RESNA) Toronto, Canada
Members of ISPO, AOPA, and PAC eligible for the member rate! Indicate your association as "ISPO" in the registration details. Contact ispocanada@gmail.com with any questions. Register Now!

Thank You to AOPA's 2019 Policy Forum Sponsors!

Medicare Announces New Proposed RAC Audit for Reasonable Useful Lifetime for KO's

The Center for Medicare and Medicaid Services (CMS) monthly posts a list of topics that have been proposed, *but not yet approved*, for RACs to review. The RAC contractors may not audit any items/services unless they have been reviewed and approved by CMS; and they place the audit on their website under approved issues. The listing of a proposed topic by CMS is one of the first steps in identifying an approved issue for the RAC contractors.

For March, CMS announced the proposed topic of an automated review for knee orthosis (KO) described by codes L1810, L1812, L1820, L1830, L1831, L1832, L1833, L1834, L1836, L1840, L1843, L1844, L1845, L1846, L1850, L1851, L1852 and L1860. The purpose of the proposed topic is to identify claims for KOs with dates of service within 90 days of the date of service of a previously paid KO for the same knee; because the reasonable useful lifetime requirements have not been met.

At this time the proposed automated review for KO reasonable useful lifetime has not been approved by CMS and Performant, the RAC contractor for Region 5 (which includes all O&P claims), has not listed the topic as an approved issue for review on their website.

View the proposed Knee Orthosis topic here.

Performant Announces New RAC Audit

Performant, the recovery audit contractor for all O&P claims, recently announced a new approved RAC audit issue for review. Performant has begun complex medical reviews for off-the-shelf knee orthoses described by codes: L1812, L1820, L1830, L1831, L1833, L1836, L1848, L1850, l1851 and L1852. The reviews will determine if the OTS knee orthoses is reasonable and necessary for the beneficiary's condition based on the documentation in the medical record. The review will have a three year look back window and will begin with claims with a date of service on or after October 1, 2015.

This review represents the fifth approved issue under review by Performant. To view this new issue, issue number 0144, or any of the previous issues click here.

CMS Announces Product Categories and Timeline for Competitive Bidding 2021

On March 7, 2019, The Centers for Medicare and Medicaid Services (CMS) announced the final product categories and timeline for the Medicare DMEPOS Competitive Bidding Program that will begin for dates of service on or after January 1, 2021.

As expected, certain off-the-shelf (OTS) knee orthoses and spinal orthoses will be included in the 2021 competitive bidding program. A total of 16 OTS spinal orthosis codes and 7 OTS knee orthosis codes will be included in the program. The specific codes that have been identified by CMS are listed below.

OTS Spinal Orthosis Codes Included in Competitive Bidding 2021

L0450, L0455, L0457, L0467, L0469, L0621, L0623, L0625, L0628, L0641, L0642, L0643, L0648, L0649, L0650, L0651

OTS Knee Orthosis Codes Included in Competitive Bidding 2021

L1812, L1830, L1833, L1836, L1850, L1851, L1852

One knee orthosis code (L1848) has been removed from the list as it represents an orthosis that policy states is never medically necessary.

While DMEPOS competitive bidding is in a temporary "gap" period until 2021, the process of soliciting, analyzing, and awarding bids, as well as implementing the program takes approximately 18 months. The CMS announcement on March 7, 2019 sets the following timeline to assure that Competitive Bidding 2021 will begin on time.

March 7, 2019

- CMS begins pre-bidding supplier awareness program

May 2019

- CMS announces dates for registration and bidding
- CMS begins bidder education program

June 2019

- Bidder registration period begins
- Bid windows open

AOPA will be developing several resources to educate its members about the competitive bidding program. In the meantime, general information regarding Competitive Bidding 2021 may be found by clicking here or here.

Upcoming AOPA Events

May 7-8, 2019	*AOPA Policy Forum* Ritz Carlton, Arlington, VA Learn more and register here
May 8, 2019	*Are You Compliant? Know the Supplier Standards* AOPA Webinar Learn more and register here
June 3-4, 2019	*Coding & Billing Seminar* Indianapolis, IN Learn more and register here