



American Orthotic & Prosthetic Association

www.AOPAnet.org

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***Breaking News***  
**August 1, 2019**

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**CMS Releases Proposed Rules for ESRD PPS & Gap-Filling Methodologies**

The Centers for Medicare and Medicaid Services (CMS) recently released a [proposed rule](#) to update the End Stage Renal Disease (ESRD) Prospective Payment System (PPS), and included in the proposed rule were major changes to the gap-filling methodology. Gap-filling is the current procedure for how new introduced products and HCPCS codes receive a fee schedule amount.

AOPA staff is currently reviewing the proposed rule in more detail.

Questions? Contact Joe McTernan at [jmcternan@AOPAnet.org](mailto:jmcternan@AOPAnet.org) or Devon Bernard at [dbernard@AOPAnet.org](mailto:dbernard@AOPAnet.org).

## Competitive Bidding Window Now Open

This is a reminder that the bidding window for the Round 2021 Competitive Bidding Program, which includes 23 off-the-shelf orthoses, opens on July 16, 2019. The bidding window will remain open until September 18, 2019.

The next two important dates in the timeline for Round 2021 are August 16, 2019 and August 19, 2019. Registration for DBidS (the portal for submitting all bids) closes on August 16, and August 19 is the deadline for financial documents to be uploaded, if you want to be eligible for a covered document review.

Take note that you do have until September 18, 2019 to submit your financial documents. However, if you submit the documents by August 19 they will be reviewed and you will be notified of any missing required documents, and given time to provide the missing documents.

Questions? Contact Joe McTernan at [jmcternan@AOPAnet.org](mailto:jmcternan@AOPAnet.org) or Devon Bernard at [dbernard@AOPAnet.org](mailto:dbernard@AOPAnet.org).

## Medicare DME QIC Contract to Transition from C2C to Maximus

The contract to serve as the Medicare Qualified Independent Contractor (QIC), which processes Medicare reconsideration requests, will transition from C2C Innovative Solutions, Inc. to Maximus Federal by the end of 2019. C2C will hold its last re-opening discussion on September 15<sup>th</sup> and all pending reconsideration requests will be completed by December 31, 2019. Information regarding when MAXIMUS will begin accepting Medicare reconsideration requests has not yet been released.

C2C spearheaded a popular telephone re-opening process during its tenure as the QIC which drastically reduced the number of reconsideration denials. It is not yet known whether MAXIMUS will continue this process as part of its QIC contract.

AOPA will continue to follow this story and provide updates on the transition as they are available. Questions regarding this issue may be directed to Joe McTernan at [jmcternan@AOPAnet.org](mailto:jmcternan@AOPAnet.org) or Devon Bernard at [dbernard@AOPAnet.org](mailto:dbernard@AOPAnet.org).

## Don't Sleep on the Latest AOPA Member Resource

Are you utilizing your AOPA membership? Attend the upcoming live tutorial to learn about one of the best resources available for O&P practices, the [AOPA Co-OP](#).

A Wikipedia for all things O&P, the Co-OP is a one-stop resource for information about reimbursement, coding, and policy. It is searchable database that provides up-to-date information on developments in Medicare policy, state-specific legislation, private-payer updates, and more. Members can access detailed information on everything from modifiers to product-specific L Codes and associated policies. Additionally, members can share information and insights on developments impacting the entire O&P profession.

If you haven't signed up for the Co-OP yet, this is your opportunity to learn about O&P's most comprehensive resource for coding, billing, and reimbursement. AOPA's Director of Strategic Initiatives, Ashlie White will demonstrate how to use the Co-OP and answer all your questions.

Register now:

- [Friday, August 9 at noon ET](#)

## **The Disability and Rehabilitation Research Projects Funding Program**

[The Disability and Rehabilitation Research Projects \(DRRP\)](#) funding program supports projects that carry out one or more of the following activities: research, development, demonstration, training, dissemination, utilization, and technical assistance.

The purpose of the DRRP program is to plan and conduct research, demonstration projects, training, and related activities to develop methods, procedures, and rehabilitation technology that maximize the full inclusion and integration of individuals with disabilities into society, employment, independent living, family support, and to promote economic and social self-sufficiency and improve the effectiveness of services authorized under the Rehabilitation Act.

NIDILRR funds several types of DRRPs, including:

1. [Knowledge Translation projects](#)
2. [Model Systems in traumatic brain injury and burn injury](#) (Note: SCI Model System is not included with the other model systems as a DRRP because it has its own statutory authority)
3. [ADA National Network projects](#)
4. [Section 21 Program](#)
5. Individual research projects.

The first four types of DRRPs are managed as separate programs and the above hyperlinks point to a separate page for each program. Therefore, only individual research DRRPs are described here under the general DRRP heading.

DRRPs differ from RRTC's and RERC's in that they generally do not provide training and technical assistance. Awards range in length from three to five years.

## **Ohio Policymakers Introduce Legislative Initiative that Could Impact O&P in the State**

Last week, Ohio State Senator Rob McColley (R-Napoleon) and Ohio Lt. Governor Jon Husted [announced](#) a legislative initiative called [The Common Sense Initiative \(CSI\)](#). The CSI includes language that will give flexibility to the Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers (OTPTAT) Board to give permission to those who research and develop prosthetics using 3-D printing technology.

AOPA is working on obtaining the full proposal language so that we can do an analysis of the impact it will have on Ohio licensure and O&P practitioners. Without it, it is hard to know what the exact impacts are, but we know at the very least it is an opportunity to educate elected officials on the O&P profession as we continue to work with them in the future.

We will continue to keep you updated as appropriate. Should you have any comments or additional information about this proposal please email, Ashlie White at [awhite@AOPAnet.org](mailto:awhite@AOPAnet.org), Joe McTernan at [jmcternan@AOPAnet.org](mailto:jmcternan@AOPAnet.org), and Devon Bernard at [dbernard@AOPAnet.org](mailto:dbernard@AOPAnet.org).

## Preliminary Program now Available for the AOPA National Assembly

Catch the Wave, Register Now for the 2019 National Assembly

The 2019 National Assembly has it all...

- The best in business education and advanced clinical programming
- The largest O&P exhibit hall in the U.S.
- Networking with the most influential people in the profession
- Must attend events
- The opportunity to earn more than 40 CE credits
- And the legendary weather, beautiful beaches and friendly, laid-back vibe of our host city, San Diego

[Learn more and register. Together we will drive the waves of change.](#)

*AOPA is proud to partner with the California Orthotics and Prosthetics Association (COPA) to bring you the 2019 National Assembly.*

## CMS Adds L0650 to the Master List of Items Subject to Medicare Prior Authorization

On April 22, 2019, The Centers for Medicare and Medicaid Services (CMS) published an announcement in the *Federal Register* that added four HCPCS codes to the master list of Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) items that are subject to inclusion in the Medicare Prior Authorization program. One of the four HCPCS codes that were added to the master list is L0650 which describes an off the shelf (OTS) lumbar-sacral orthosis (LSO). L0650 was added because it meets the criteria necessary for inclusion on the prior authorization master list. Specifically, the average Medicare allowable for L0650 exceeds \$1,041 and L0650 was listed in the *2018 Medicare Fee for Service Supplemental Improper Payment Report*.

The inclusion of L0650 on the Medicare prior authorization master list does not mean that claims for L0650 are subject to prior authorization currently, it just means that Medicare can choose to require prior authorization for L0650 in the future. The inclusion of L0650 is a significant development as it represents the first orthotic code to be identified and included in the Medicare prior authorization master list. Previously, all the codes on the master list described prosthetic devices.

AOPA will continue to follow developments related to the Medicare DMEPOS Prior Authorization program and will communicate any changes regarding the master list or proposed implementation of prior authorization for O&P services.

## 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 9<sup>th</sup>, 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.

### **AOPA Releases Statement Regarding Delivery of Orthoses through Lead Generation Marketing**

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 may not be medically necessary without any clinical care, patient follow up, or patient education.

#### Upcoming AOPA Events

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| August 14, 2019       | <i>Are You Ready for the Worst: Contingency Planning</i><br>AOPA Webinar<br><a href="#">Learn more and register here</a>                    |
| September 11, 2019    | <i>Veteran Affairs Updates: Contracting, Special Reports and Other News</i><br>AOPA Webinar<br><a href="#">Learn more and register here</a> |
| September 25-28, 2019 | AOPA National Assembly<br>San Diego, CA<br><a href="#">Learn more and register</a>  |