AOPA In Advance SmartBrief
Breaking News
October 1, 2019

AOPA Headlines:

AOPA Participates in MedPAC Public Meeting

On September 5, 2019 AOPA staff attended the monthly public meeting of the MedPAC Commission which is charged with advising the Congress on issues regarding Medicare policy. AOPA was represented by Justin Beland, Director of Government Affairs and Joe McTernan, Director of Coding and Reimbursement, Education, and Programming. A topic of discussion on the MedPAC agenda was a review of the Medicare DMEPOS Competitive Bidding Program, specifically the national competitive bidding program for mail order diabetic test strips. While the session began with a focus on diabetic test strips, the commissioners quickly began discussing the DMEPOS Competitive Bidding program in general, including its relative success in achieving significant savings for the Medicare program without significant patient issues. MedPAC staff presented data that supported the premise that competitive bidding did not result in significant patient access issues. The commissioners discussed the potential expansion of DMEPOS competitive bidding and discussed how competitive bidding could potentially be expanded beyond DMEPOS into other areas of the Medicare program.

AOPA offered verbal comments during the public comment section of the session and cautioned the commission on the concept of expanding competitive bidding into non-commodity services such as custom fitted and custom fabricated orthoses and prostheses. AOPA stressed the importance of ensuring that Medicare beneficiaries continue to have access to high quality clinical care provided by properly certified and/or licensed practitioners. AOPA also asked the commission to continue to support an exemption from competitive bidding for orthotists and prosthetists as mentioned in its June 2018 report to congress.

Reconsideration Request Contact Information Update

As previously reported the new Qualified Independent Contractor (QIC) contractor is Maximus Federal Services, Inc and they will be replacing C2C Innovative Solutions. As of September 1, 2019, all Reconsideration requests, level two appeals, should be submitted to Maximus Federal Services, Inc. Requests can be submitted in writing to the following address:

Maximus Federal Services, Inc.,
Medicare DME,
3750 Monroe Avenue, Suite 777,
Pittsford, NY 14534-1302

Reconsideration requests may also be submitted via the QIC Appeals Portal at https://qicappeals.cms.gov.

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

Thank You to Our National Assembly Title Sponsors

Revised Medical Necessity Criteria for MPK's

BCBS Illinois, BCBS Montana, BCBS New Mexico, BCBS Oklahoma, BCBS Texas, HCSC: Lower Limb Prosthetics, Including Microprocessor-Controlled Prosthetics - Med Policy

Released revised draft policy with the following proposed changes to criteria and supporting information.

Revised medical necessity criteria for microprocessor-controlled and powered knee (MPK); replaced K-PAVET score requirement with Medicare's classification of functional level (MFL) K2, K3, or K4; revised criterion regarding physical ability to add strength and balance as examples.

Removed experimental, investigational, and/or unproven policy statement for the Genium Bionic Prosthetic System microprocessor-controlled knee.

Revised not medically necessary policy statement for MPK to replace K-PAVET scores with MFL 0.

Revised medically necessary policy statement for a four-axis, hydraulic or pneumatic hip joint (e.g., Helix 3D Hip [OttoBock]) to replace K-PAVET score requirement with MFL K3 or higher, and change use in conjunction with the OttoBock C-leg from a requirement to an option.

Added table of Medicare's classification of functional levels to the coverage section.

Removed all scoring information for the K-PAVET guide from the coverage section.

Updated notes in the coverage section. Updated description, rationale, and references sections.

Draft posted: 08/01/2019.
Comment period ends: 08/16/2019.

View Full Policy - Payer Website

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 or Devon Bernard at 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 15th 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 or Devon Bernard at 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 for FREE:

- Friday, October 18 at noon ET
- Friday, November 8 at noon ET
- Friday, December 6 at noon ET

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 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.

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 m-ay not be medically necessary without any clinical care, patient follow up, or patient education.

Upcoming AOPA Events

October 9, 2019	*Performance Reviews: How is Your Staff Doing?* AOPA Webinar Learn more and register here
November 3-9, 2019	Corporate Ethics & Compliance Week AOPA Learn more
November 4-5, 2019	*Coding & Billing Seminar* Las Vegas, NV Learn more and register here