AMERICAN ACADEMY OF ORTHOTISTS AND PROSTHETISTS

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Academy Talking Points on CMS proposed prior authorization rule

The Academy has serious concerns about the application of CMS's proposed prior authorization process to orthotic and prosthetic clinical care. Specifically, we believe that CMS should exempt all lower limb prostheses from the any prior authorization requirement because the proposed regulation would hinder a patient's ability to receive timely and appropriate orthotic and prosthetic care, and the proposed rule inappropriately treats the O&P profession similar to the DME industry. Instead, CMS should simply implement and enforce Section 427 of the Medicare, Medicaid, SCHIP Benefits Improvement and Protection Act of 2000 which permits CMS payment of custom orthotics and prosthetic only to qualified practitioners and suppliers, thereby addressing potential overutilization.

We do believe, however, that a proposed prior authorization requirement may be workable in narrow circumstances, but only if CMS incorporates the recommendations listed below. Specifically, CMS should:

- First implement a pilot prior authorization demonstration project for lower limb prostheses listed in the proposed rule, which will allow prosthetists to acclimate to the new claim reimbursement procedures and provide CMS and its contractors time to develop best practices before they implement the prior authorization requirement nation-wide.

- Delineate clear standards regarding which documents must be provided in order to obtain provisional prior authorization, and ensure that documentation created by prosthetists are considered part of the medical record for purposes of determining the reasonableness and medical necessity of the prosthetic device.

- Prohibit all Medicare contractors from reviewing the medical necessity of the furnished lower limb prosthesis if the prosthesis received provisional prior authorization, unless there are credible allegations of fraud.

- Require that the response timeframe for rendering a prior authorization decision on both an initial and a resubmitted request be established as five business days. In the event that CMS fails to respond within that time frame, the request for prior authorization should be deemed to be granted.

- Establish a secure electronic or facsimile submission process for all prior authorization requests and delay the enforcement of prior authorization until such process is implemented.

- Provide the O&P practitioner with a sufficient and detailed reason for denying any prior authorization request and require that disputes concerning medical necessity documentation be resolved through a discussion between the O&P practitioner and the applicable contractor's medical director following two denied resubmission requests.

- Elaborate on circumstances where patients will receive expedited review of prior authorization requests such as when the standard time frame would "seriously jeopardize the life or health of the beneficiary or the beneficiary's ability to regain maximum function." Treatment plans that have been approved under prior authorization which must then be modified due to patient needs should be subject to expedited review.

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- Narrow the proposed criteria for inclusion on the Master List, including increasing the payment threshold for lower limb prosthetic items by at least double or triple the proposed amounts.

- Exclude all prosthetic lower limb base codes from the Master List and confine prior authorization to a narrow subset of prosthetic components.

- Explicitly establish that items subject to prior authorization may be removed from the Master List in less than the 10-year time frame set forth in the proposed rule.

For these reasons, we urge CMS to reevaluate and revise the proposed prior authorization regulation. Access to timely and appropriate orthotic and prosthetic care is a critical aspect of an amputee's treatment. Although we believe that prior authorization is not appropriate in a orthotic and prosthetic care setting, CMS should ensure that any prior authorization requirement applied to orthotics and prosthetics comports with the recommendations listed above in order to safeguard proper orthotic and prosthetic patient care.

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