



**American Orthotic &
Prosthetic Association**

April 1, 2013

Mr. James S. Toedtman
Editor-in-Chief & Vice President
AARP Bulletin
601 E. St., NW
Washington, DC 20049

Dear Mr. Toedtman:

We read with great interest the article by HHS Inspector General Daniel Levinson published in the March 2013 edition of the *AARP Bulletin*. The American Orthotic and Prosthetic Association (AOPA) concurs that fraud and waste must be eliminated to make our health system efficient and responsive to the needs of American citizens, including our Medicare beneficiaries, who have contributed to the system and deserve quality health care. We also believe however, that fairness, accuracy, and completeness in examining the system must occur, otherwise the Medicare beneficiaries will bear an unnecessary burden through reductions in the care they need. Only after all facets of the issues have been explored can logical decisions be made regarding the balance among cost reduction, quality health care and patient satisfaction.

For example, the HHS OIG report on Medicare payment for back braces described by procedure code L0631 referenced in Mr. Levinson's article makes three somewhat irreconcilable observations and recommendations. First, that devices which could be bought on the internet for \$191 were billed to Medicare for an average of \$919; second that the "price was supposed to include fitting, yet in one-third of the claims, this was not provided," and third that the obvious solution to this problem is that Medicare should only reimburse providers for the acquisition cost of the brace (\$191). Alternatively, the report suggests that these devices should be obtained for Medicare beneficiaries only via a competitive bidding process.

The facts, however, which AOPA noted in a letter of January 8, 2013 to Mr. Levinson to which he has not yet responded, are: (a) the price Medicare pays for the device is not simply the price for a commodity (the brace) but it includes a more significant component for the cost of the original and ongoing clinical care of the patient by a certified orthotist or other qualified healthcare professional (fitting, trimming, adjusting, patient training, etc.); (b) if, as the report indicates, one-third of the time those clinical services were not delivered then the OIG would be justified in taking action against those providers who did not provide services for which they were paid and (c) the increases in utilization of these back braces were led by billings by physicians and therapists, which ran 50% higher than the increases by certified orthotists and medical supply facilities.

Mr. James S. Toedtman

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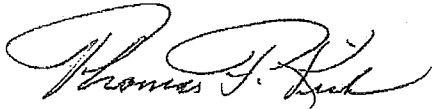
Both of the OIG's proposed solutions to the "waste problem" —

- either having Medicare pay ONLY the acquisition cost of the orthosis or
- obtain the brace for Medicare patients ONLY via competitive bidding (where all devices for the entirety of the U.S. would be sold by a limited number of low cost providers without regard for the beneficiaries' locations and would most likely be drop shipped to the Medicare beneficiary),

would effectively eliminate the clinical care component necessary to ensure the proper fit and functioning of the orthosis/brace. Furthermore competitive bidding for this device would actually violate the law in which Congress said that **only** off-the-shelf orthotics devices could be competitively bid, and defined that category as limited to devices that could be used by the patient with "minimal *self*-adjustment." (Emphasis added).

We recognize that the problems of our costly health care system are complex and defy simple solutions. They demand the best insights of fully knowledgeable experts from all perspectives before allegations of fraud or waste are leveled, and before any specific proposals are made to remedy deficiencies. A rush to judgment will deprive Medicare beneficiaries of the clinical care they so desperately need for their effective treatment. In fact, this type of reaction is likely to increase costs by worsening or extending the patient recovery. We believe that all of us, including our patients have a role to play in diagnosing areas for real potential savings and implementing the steps to bring those savings to fruition.

Very truly yours,



Thomas F. Kirk
President