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**American Orthotic &  
Prosthetic Association**

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**Chronology of  
AOPA Actions Related to RAC  
Other Audits and Prepayment Reviews**

- August 11, 2011 – DME MAC Medical Directors release “Dear Physician” letter changing the physician documentation requirements for lower limb prosthetics
- August 28, 2011 – OIG releases its report “Questionable Billing Practices in Lower Limb Prosthetics”
- September 7, 2011 - AOPA CRC writes to DME MAC Medical Directors challenging issues from the Dear Physician letter
- September 6, 2011 -- O&P Alliance sends letter to then CMS Administrator Donald Berwick challenging CMS acquiescence in OIG report and adverse impact on amputee patient care
- September 6, 2011 - O&P Alliance writes OIG Director Daniel Levinson challenging several discrepancies in his report and seeking a meeting
- September 7, 2011 - AOPA send letter to CMS Program Integrity head, Dr. Peter Budetti challenging OIG report and seeking a face-to-face meeting
- November 1, 2011 – AOPA outreach to physicians
- November 1, 2011 – Jurisdiction A cites 86% denial rate and 96% absence of documentation of medical necessity in O&P prosthetic claims
- November 9, 2011 – AOPA and O&P Alliance Partners meeting with Dr. Peter Budetti (Program Integrity)
- February 2012 – O&P Alliance meeting with OIG staffers responsible for preparation of the report
- February 15, 2012 – AP article, arising from OIG report data, challenging 30+% in prosthetic foot costs released (AOPA President and Executive Director had multiple conversations with AP reporter trying to correct his misstatements/misunderstandings)
- February 16, 2012 – AOPA prepares “Talking Points” made available to members on the AP article and the OIG report more generally
- March, 2012 – AOPA Executive Director monthly letter addresses issues in physician documentation
- March 8, 2012 – AOPA secures letter from Senator Cardin to CMS Administrator Tavenner expressing concern about impact on Medicare patient care
- March, 2012 – AOPA establishes ‘back channel’ communication with CMS Administrator Tavenner’s office
- April, 2012 – During a 30-minute planned ‘meet and greet’ with O&P Alliance representative, CMS Administrator Tavenner raises documentation audits and states need for “middle ground”
- April 20, 2012 – Jurisdiction A reports claims denial rate on O&P prosthetic claims has reached 90.9%.
- April, 2012 – AOPA receives unofficial word from CMS Program Integrity staff that while they agreed with AOPA about physician documentation, others at CMS did not agree, so the issue would need to be resolved at the CMS Administrator level

May 8, 2012 – O&P Alliance meeting with George Mills, Deputy Director responsible for audit contractors and the DME MAC supervision to try to clarify key points on audits and physician documentation. Dr. Susan Miller agreed with the position that the prosthetist's records/notes, when they are entered into the doctor's patient file legitimately become part of the medical record, and she promised to correct the position to the contrary that had been conveyed by DME MAC Medical Directors. Dr. Miller also invited AOPA to submit some examples of some claims reviews which AOPA believed were particularly egregious.

June, 2012 – AOPA begins advertising on physician documentation/audits issue to policy makers in the D.C market.

June 8, 2012 – House Energy and Commerce Committee conducts a hearing about complains generally about RAC audits.

June 27, 2012 – AOPA submits position paper, draft questions and examples of egregious claims to Senate Finance Committee

June 7, 2012 – CMS revises aspects of its response to OIG—release of MLN—“if a supplier is replacing an old prosthesis and there is no upgrade in the model, the supplier does not need a physician order. Also, the “ordering “physician need not be a surgeon and may be the beneficiary’s primary care physician.

June 12, 2012 – AOP issues member bulletin outlining changes included in the June 7 MLN.

May, 2012 – AOPA develops and makes available OIG Talking Points

July 30, 2012 – AOPA submits 8 egregious claims to CMS’ Dr. Susan Miller.

August 20, 2012 – Executive Director’s memo “Is It Legitimate for CMS Auditors to Hold O&P Facilities to Ramped Up Physician Documentation Requirements as to Claims Field before the Release of the OIG Report on August 28, 2012—set process in motion to consider legal challenge to CMS/contractor actions

February 13, 2012 – O&P Alliance meeting with Laurence Wilson, CMS Chronic Care chief

August 16, 2012 - Plan for briefing call with Marwood and M. Carkhuff

August 21, 2012 - Report for DME MAC Jurisdiction A shows reduction in error rate from 90% to 75%

August 22, 2012 - AOPA initial contact with Winston Strawn seeking brief summary of litigation options

August 22, 2012 - Fise email to CMS Administrator Tavenner seeking meeting, she responds agreeing to meet.

August 28, 2012 - AOPA advice from Scully on seeking press coverage of patients. Care denied/delayed

August 31, 2012 - O&P Alliance submits letter to CMS on face-to-face physician meeting requirement.

August 31, 2012 - AOPA requests cost estimate on litigation option

September 10, 2012 - Fise meeting set with Rep. Brett Guthrie (R-KY)

September 11, 2012 - Follow-up (2<sup>nd</sup>) Exec Dir letter on audits released to AOPA members

October 1, 2012 - AOPA prepares materials explaining Medicare Extended Repayment Plan for recoupments to members

October 3, 2012 - AOPA reviews/circulates ann. data released by CMS on success rates of RAC audits

October 3, 2012 - OIG Releases its 2013 Work Plan indicating continued O&P focus and displaying fundamental misunderstandings of how O&P care is delivered. Topic added to Tavenner meeting agenda

October 4, 2012 - Jurisdiction B Manual highlights plans for addition of major prepayment audits

October 5, 2012 -- AOPA secure letter from Rep. Guthrie to CMS Administrator Tavenner expressing concern about impact on Medicare patient care

October 9, 2012 - Call set with Messrs. Kritter and Oros to plan for Tavenner meeting

October 10, 2012 - AOPA conference call with Mills, Miller of CMS on egregious audits—CMS upholds claims

October 15, 2012 - Meeting with Administrator Tavenner-summary of meeting and documents provided by AOPA reps

October 19, 2012 - Materials received from Al Kritter as part of follow-up materials promised to Tavenner

October 22, 2012 - AOPA circulates chapter 29 of the Medicare Claims Processing Manual. This chapter clearly outlines exactly how each level of appeal is supposed to be handled

November 1, 2012 - AOPA report on AHA suit against CMS over hospital RAC audits, received legal summary

November 13, 2012 - AOPA communication with House Ways & Means Committee staff over H.R. 6575—hospital backed legislation on RACs targeting hospitals.

November 14, 2012 - AOPA provides summary of H.R. 6575, pros and cons of hospital bill for AOPA members

November 27, 2012 - AOPA lobbyist L.F. Payne contacts Tavenner office on meeting follow-up pending 12/1

December 5, 2012 - AOPA provides assessment on prospects of: (1) rulemaking on quality provider (80%); (2) moratorium of some type on new/retroactive audits (50/50); (3) AOPA litigation (35%)

December 13, 2012 - AOPA member summary—What Is AOPA Doing About RAC Audits?

December 13, 2012 - AOPA provides selected materials and summary to non-member to rebut multiple misconceptions conveyed on the O&P List Serv

December 14, 2012 - Subgroup of AOPA Board sets meeting for discussion of further options

December 14, 2012 - AOPA Counsel, Winston & Strawn delivers legal letter to CMS Adm Tavenner summarizing all deficiencies that could be subjected to legal challenge

December 18, 2012 - AOPA receives communication from office of House W&M Cte member Rep. Roskam (R-IL) seeking meeting as follow-up on expression of constituent concerns on RACs

December 19, 2012 - AOPA Board Subgroup meets

December 20, 2012 - Result of AOPA Board Subgroup, materials from some companies circulated

January 2, 2013 - AOPA considers prospect of information to members on resources for Assist with ALJ

January 13, 2013 - AOPA provides information on OIG report relating to Premier Prosthetics

January 13, 2013 - AOPA lobbyists L.F. Payne renews contact with Tavenner office, including reminder that she said in meeting that if their data shows that there is a large % of these audit findings that are reversed upon appeal to ALJ, that would be a strong indicator of need to change.

January 14, 2013 - AOPA begins process for special survey of members in Jurisdiction B on pre-pay audits

January 15, 2013 - AOPA prepares/releases overview of RAC audit limits-response to excess # of claims review.

January 15, 2013 – Fise attends Rep. Duckworth Welcome to Washington Reception

January 18, 2013 - AOPA begins sharing with Winston & Strawn cases of retrospective audits

January 21, 2013 - AOPA/Alliance receive word of AAHomeCare with GAO about RAC audits, outreach to GAO

January 22, 2013 - First conference call of AOPA litigation subcommittee with Winston & Strawn

January 22, 2013 - Follow-up materials to Winston & Strawn about DME MAC communications of documentation requirements

January 24, 2013 - Jurisdiction B releases new policy info on K levels

January 25, 2013 - Jurisdiction D releases new info on prepayment audits of selected high-end prosthetic codes

January 25, 2013 - AOPA shares into in new Jurisd. B and D policies with the Amputee Coalition

January 25, 2013 - Training material provided by NHIC Region A on October 6, 2011 shared with legal counsel

January 25, 2013 - AOPA prepares a few samples of business/cash flow impact of audits to be shared with CMS Administrator's office

January 30, 2013 - AOPA begins process of trying to assemble info on patient impact for Amputee Coalition on delays and/or reduced quality of care for Medicare beneficiaries

January 31, 2013 - AOPA decides to initiate a renewed RAC audit survey, expanded to gather some new information

February 1, 2013 - AOPA Board members provide Winston & Strawn with more cases of retrospective audits

February 4, 2013 - AOPA Member request results in visit to Rep. Quigley

February 5, 2013 - AOPA Member request to Rep. Chabot

February 6, 2013 - CMS releases report asserting \$940 million Medicare savings via RACs

February 7, 2013 - AOPA emails info on 2 topics: (1) the CMS press report on \$940 million savings and (2) history on AOPA's providing questions, cases and position paper to Senate Finance Committee in 6/12

February 7, 2013 - AOPA determines and communicates to AOPA members that Jurisdiction A RAC using incorrect formula to set RAC audit limits on number of claims audited.

February 8, 2013 - Second version of RAC Audit Re-Survey approved and finalized for distribution

February 10, 2013 - AOPA submits proposed agenda for meeting with CMS Deputy Director of Payment Policies on RACs and Impact on O&P Businesses' Cash Flow

February 11-15, 2013 - AOPA Exec Director's meetings with staffs of Reps. Quigley (IL), Chabot (OH), Griffen (AR), Whitfield (KY), Blackburn (TN) and Senator Harkin (IA)

February 25, 2013 – Fise Meeting with Gary Andres, Majority Staff Director, Energy & Commerce Committee.

February 25, 2013 – Fise meeting with Reps. Tom Price (R-GA) and Marsha Blackburn (R-TN)

February 26, 2013 – Fise Meeting with Rep. Todd Young (R-IN) and staff

February 27, 2013 - O&P Alliance conference call with GAO on RACs

March 1, 2013 - AOPA 2<sup>nd</sup> RAC Audit Survey Report

March 8, 2013 – Fise meeting with Rep. Jenkins (R-KS)

March 8 – 2013 -AOPA Files 4 Letters to CMS' George Mills (responsible for auditor and DME MAC supervision) on: (1) Jurisdiction B statements on prosthetist's note not in medical record; (2) Jurisdiction D. pre-payment audits' discriminatory impact; (3) Jurisdiction B—K-level standard is discriminatory against patients; (4) limits on # of Additional Documentation Requests for O&P

March 11, 2013 - Communications with Senator Cornyn's office

March 11-12, 2013 – AOPA Policy Forum and 350 appointments with legislators and staff telling RAC Audit horror stories.

March 15, 2013 - Communications with Senator Hatch's office; Communications with Senator Rubio's office; AOPA prepares, submits to Senate possible questions for Tavenner Confirmation

March 18, 2013 - Tom Fise meets with Aryana Khalid, Chief of Staff to Administrator Tavenner who makes first mention to AOPA about a new CMS physician template in process for O&P; CMS Staff tell TN Senate staffers that CMS has been working with AOPA on a physician template draft; AOPA receives responses from CMS' George Mills on AOPA letters on Jurisdiction D Pre-Payment Audits being discriminatory, and inappropriate auditor calculation of ADR limits.

March 18, 2013 – Fise meeting with Megan Spindel, Legislative Director for Rep. Guthrie.

March 19, 2013 - Tom Fise follow-up conference with Sen. Gillibrand staff; CMS affords special admin. relief to hospitals on RACs; AOPA lobbyist, Tom Scully, speaks directly with CMS Administrator Tavenner to urge solution.

March 20, 2013 - AOPA prepares letter to Rep. Shimkus, follow-up on Policy Forum

March 21, 2013 – Fise attends Rep. Duckworth fundraiser

March 26, 2013 - AOPA mounts member outreach to legislators on Duckworth-Guthrie sign-on letter to Secretary Sebelius; Tom Fise and Dennis Williams of Fillauer participate in meeting with staffers from both TN Senators

March 27, 2013 - AOPA prepares letter to Rep. Pingree, follow-up on Policy Forum  
- AOPA publishes 9-point history of flaws with OIG report, "Dear Physician" letter and audits

March 29, 2013 - AOPA prepares letter to Rep. Kingston, follow-up on Policy Forum

April 3, 2013 - CMS reduces maximum number of Additional Documentation Requests (ADRs) for O&P audits, in response to AOPA letter

April 10, 2013 - AOPA prepares input to Appropriations Committee on audit issue George Mills responds to AOPA letters (re: Jurisdiction B) on legitimate role of prosthetist's notes, and K-level, AOPA responds.

April 11, 2013 – CMS reverses position form MLN on June 7, 2013 – physician order required for all replacement prostheses, even if no change from patient's prior prostheses.

April 11, 2013 - Tom Fise and Dennis Williams of Fillauer participate in meeting with staffers from both TN Senators, George Mills and other CMS staff.

April 13, 2013 - CMS' George Mills responds to AOPA email of April 10

April 15, 2013 – Joint letter to HHS Secretary Sebelius and Administrator Tavenner authored by Rep. Duckworth (D-IL) and Rep. Guthrie (R-KY) also signed by 35 colleagues.

April 18, 2013 - Amputee Coalition issues Position Statement on Audits.

April 19, 2013 – AOPA meeting with Rep. Duckworth's staff

April 15, 2013 – Final Winston Strawn Attorney Mills Letter to Administrator Tavenner

May 6, 2013 - AOPA prepares new, updated one-pager for Hill on RACs, pre-payment audits

May 8, 2013 – AOPA/O&P Alliance Meeting with Administrator Tavenner

May 13, 2013 – AOPA files lawsuit against CMS seeking relief from audits

**[Access the Compendium of Relevant Documents here.](#)**

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