

# Competitive Bidding, Threat Quietly Awaits Chance to Strangle O&P Profession and Business

- ▶ What the Statute Says, and CMS Efforts to Enlarge the Envelope
- ▶ The CMS Off-the-Shelf List, Response by AOPA and Others—Memos, Meetings
- ▶ CMS “Exploding the Codes” Approach—Responses and Timing
- ▶ How the Data Builds the AOPA Position
- ▶ Whether Next Year or Five Years from Now, Litigation May be Necessary

# Competitive Bidding

- ▶ In August 2013, CMS published its “final” list of OTS devices
  - Cites OIG report on Lo631
  - *“Exploding codes such as Lo631 into two codes...(new code) for which custom fitting is not necessary.”*
- ▶ The scorecard on CMS OTS list
  - 55 codes CMS considers OTS
  - 23 codes to be “exploded” in two separate codes; re-clinical care
  - 32 codes always OTS
  - CMS removed 6 codes (one other dropped from HCPCS)
- ▶ CMS rejected comments and literature on 85-90% of codes
- August 26 O&P Alliance meeting with CMS
  - Clinical codes - impossible without BIPA 427 rule
  - 23 exploded codes still violates “minimal self-adjustment”
  - CMS rejected virtually all comments & July “show and tell”
  - CMS showed they did not know
    - Who could determine when clinical care required for 23
    - How that health professional would be paid (ABN?)
    - How absence of clinical care would impact patient health