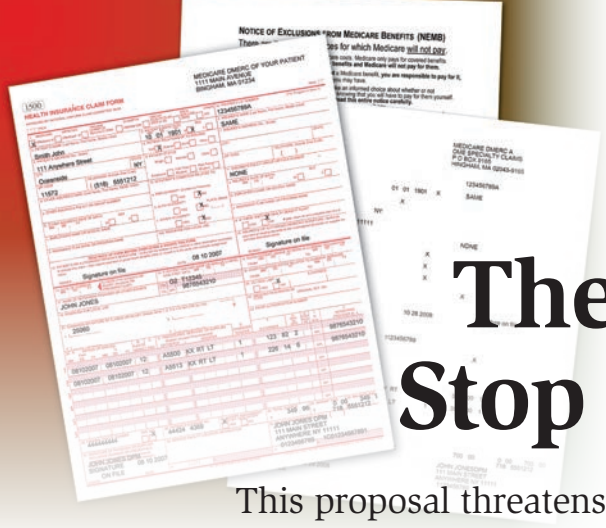

The Fight to Stop CMS 6012

This proposal threatens your ability to provide foot orthotics.

BY PAUL KESSELMAN, DPM

Leave it up to the Federal Government to resurrect a proposed policy buried almost two decades ago and now first seek public comment(s). CMS 6012 requires all suppliers (physicians including MD/DO/DPM and non-physicians) to be accredited and/or certified in order to provide certain types of custom fabricated devices. The comment period for submitting comments to CMS has long expired (March 13, 2017), but it remains a relevant issue. It is of particular importance to those who did not submit comments to Medicare to understand the implications that this proposal may have on their practices and to communicate their disapproval. Simultaneously, great commendation is deserved by those readers who did follow through and contacted CMS by the March 13 deadline. However, there is still much work which remains to be done by all podiatric physicians.

CMS 6012 "Special Payment Provisions and Requirements for Qualified Practitioners and Qualified Suppliers of Prosthetics and Custom-Fabricated Orthotics" would require Medicare to develop a list of devices which would only be reimbursed to a few select supplier types accredited by specific boards made up primarily of non-physician providers. Some of the suggested boards currently written into the policy include the American Board for Certification in Orthotics and Prosthetics, Inc. (ABC) and the Board for Orthotist/Prosthetist Certification Intl. (BOC). Some of the devices included in the proposal include all custom foot orthotics (L3000-L3020) and many AFOs provided by podiatrists (e.g., L1970). It is important to understand that these two boards currently have no bylaws to allow DPMs, MDs or DOs to be accredited or certified.

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Stop sign photo by Christopher Donoghue • www.chrisdonoghue.com

At first glance, many readers may not have any interest in this as they may not provide any ankle foot orthotic devices, and Medicare does not cover foot orthotic devices anyway and they do not accept insurance on foot orthotic devices. But the objection(s) *all* readers, regardless of their clinical scope of practice or insurance participation, should have to this proposal are that:

1) As Medicare policy goes so do the private payers;

2) The proposed regulations imply your scope of practice and clinical training should not include foot orthot-

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ics if you are not certified by one of the non-physician boards suggested in the proposed policy (I hear plaintiffs' attorneys lining up);

3) This proposal is in clear conflict with your state scope of practice; and

Should Medicare enact this policy, your ability to provide foot orthotics to non-Medicare, cash-paying patients may be severely compromised.

4) This proposal is unduly biased towards one provider type which has yet to provide credentialing to another (MD/DO/DPM) and is contrary to Medicare policy of equal pay for equal work by those "licensed to perform".

Any of these reasons should be sufficient to anger you sufficiently to write an objection to this proposed regulation. On the chance that many readers are either not APMA members or did not read the APMA newsletters, a marketing campaign to assist you in responding was begun in early March by several manufacturers who have always supported our profession, enabling the reader in a few clicks to easily submit your comments to CMS. While the deadline to submit comments to CMS has technically passed, sending comments to your Federal Congressional delegation may still provide you with an opportunity to object to this policy.

At the deadline, only 4,000 comments were submitted to CMS. The overwhelming majority were comments opposing the proposal, but there were several which were strongly in favor of this policy. It is thus imperative that one become more familiar with this proposal, which is easily accessible at:

https://www.cms.gov/Newsroom/MediaReleaseDatabase/Fact-sheets/2017-Fact-Sheet-items/2017-01-11.html.

One can also read previously submitted comments on this issue (including those submitted by the author, APMA, and many others) at: https://www.cms.gov/Newsroom/MediaReleaseDatabase/Fact-sheets/2017-Fact-Sheet-items/2017-01-11.html

Even if 4,000 comments were submitted opposed to this proposal (there is no way to know exactly how many were in favor and how many were against), there are over 14,000 licensed podiatrists in the USA. Every reader who has not taken the time to write a simple letter opposing this regulation should take five minutes to do so. This can be done by writing your own brief letter, copying letters from some back issues of *PM News* http://podiatrym.com/pmnewsissues.cfm?pubdate=03/09/2017 or courtesy of several vendors who have supported the podiatry profession for many years. The URL noted below includes extensive information on the subject with templates to simply copy and paste into your own letters. This information is available through at least the remainder of 2017 at: https://www.podactivate.org/

One may easily contact and submit comments to your Congressional representative(s) by using any of the above methods or by logging onto the APMA.org members website and following the links under the "APMA Working for You/Federal Advocacy Page" and selecting the links for the policy 6012P. You may also submit comments directly to your representatives via the following link: https://www.govtrack.us/congress/members/map.

Should Medicare enact this policy, your ability to provide foot orthotics to non-Medicare, cash-paying patients may be severely compromised. The financial health of your practice is dependent on your taking some action regardless of whether you bill Medicare for DME or not. **PM**

Dr. Kesselman is in private practice in NY. He is certified by the ABPS and is a founder of the Academy of Physicians in Wound Healing. He is also a member of the Medicare Provider Communications Advisory Committee for several Regional DME MACs (DMERCs). He is a noted expert on durable medical equipment (DME) for the podiatric profession, and an expert panelist for Codingline.com. He is a medical advisor and consultant to many medical manufacturers.