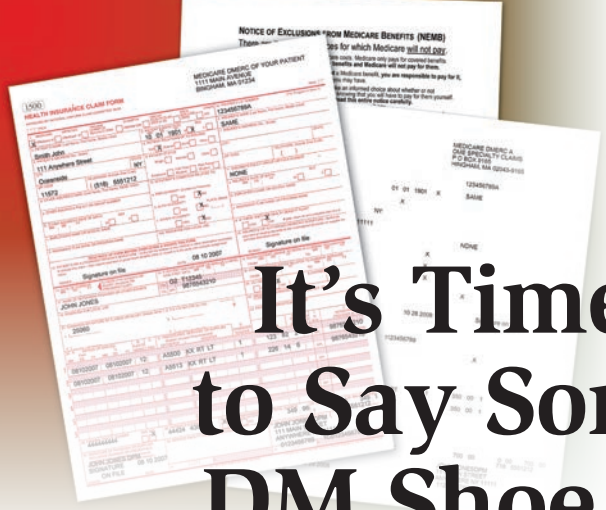

It's Time for Podiatry to Say Something About DM Shoe Requirements

This issue also affects other specialists.

BY PAUL KESSELMAN, DPM

For as long as one can recall, the Therapeutic Shoe Program has been mired in paperwork. Unfortunately, many suppliers, podiatrists, and others have dropped out of the program. In some areas of the country, there are no DMEPOS suppliers willing to participate in the Therapeutic Shoe Program. This leaves many patients with the need to travel long distances or simply go without this needed service.

A recent *PM News* discussion entitled "When Will Podiatry Finally Do Something about Diabetic Shoe Requirements?", offered comments and suggested that "we podiatrists" had not done enough to resolve the policy problems. Having read the posting, many, including this author, felt compelled to set the record straight on this issue. This month's article will provide more information on how our profession (and others) have in many ways attempted to do "something about this."

More than two decades ago, with all the tumult surrounding therapeutic shoes and other DME issues, the APMA formed a sub-committee that met from time to time on DME issues. With all the problems associated with DME billing and audits, this has morphed over the last decade (or more) into a standing workgroup, a subdivision of the APMA Health Policy Committee.

The problems surrounding the Therapeutic Shoe policy have also garnered the interest of other medical associations, including those representing orthotists and prosthetists (AOPA), pedorthists (PFA) and others. These organizations have worked together not with the sole purpose of resolving issues with the Therapeutic Shoe policy, but with forming a cohesive union to improve patient access to care and reduce the paperwork burden for all DMEPOS suppliers. Many of these meetings have included representatives from a myriad of contractors, including CERT, RAC, OIG, HHS, FBI, SMRC and others.

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many other DMEPOS issues as well. Our organizations have met countless times and our efforts often complement each other quite well.

APMA is now represented regularly by all four DME MAC Provider Outreach and Educational Councils, Jurisdictional Councils, as well with regular meetings with the National Supplier Clearinghouse. These meetings allow for a free exchange of ideas with carrier medical directors and many other contractor supervisory personnel.

The value of the connections and contacts established as the result of representation at these meetings cannot be overstated. Over the past decade, podiatrists have been represented at dozens of in-person and virtual meetings all with main goal of

It is understandable that many may not be aware of all the hard work which APMA and the members of the DME Workgroup have undertaken, all of which takes time away from their practices. These members have answered the call and have worked judiciously on every DME issue pertinent to the podiatric profession.

The fact is that associations representing medical practitioners as well as DMEPOS suppliers do not control CMS or third-party payers. Despite the best efforts of many well-versed individuals, from medicine, law and DMEPOS, CMS and the third-party payers always have the final say.

As for the therapeutic shoe re-

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quirements, the biggest obstacle remains the requirement for the eligible prescriber's notes to be co-signed (and dated) by the supervising entity who is treating the DM. This, by the way, is not a parity issue for DPMs with MD/DOs. The fact is, if an orthopedist, vascular surgeon, or any MD/DO prescribes a shoe/insert, those notes must also be attested to and agreed to by the supervising practitioner who is treating the patient's DM. Presently, the DME MAC refuses to allow the eligible prescriber's notes to stand on their own without directives from CMS. Past meetings of APMA, AOPA, and others with CMS on numerous occasions have all resulted in CMS' refusal to change the signature requirements on the eligible prescriber's notes without Congressional action.

APMA has included provisions to allow the eligible prescriber's notes to "stand alone" in the HELLP Act, which is still tied up in Congress along with other healthcare improvement legislation.

CMS has been repeatedly informed that patients are being deprived of the needed benefit of shoes in some areas of the country simply because there are no providers willing to provide these services. Yet CMS seems unwilling to move forward without a Congressional directive.

Recently, the DME MAC has moved on the issue of Nurse Practitioners (NP) and Physician's Assistants (PA) being eligible to serve, with some limitations, as the supervising entity. That initiative came from CMS, not from the DME MAC, due to pressure from medical associations such as the American Academy of Family Physicians and others. In the past, the DME MAC claimed that an NP/PA could not perform the function of the supervising MD/DO because it was codified in statutes requiring Congressional action. Apparently that was not the case, and to some degree, it has now been modified.

As for the eligible prescriber issue, ask yourself, why would a physician of any specialty ever want to sign off and "agree" with the findings of another specialist? As one cardiologist who was treating a patient's DM once said to me, "Why do I have to sign off on your notes; you are the foot specialist, not me." And that makes perfect sense! Does the MD/DO have to agree with the findings of an ophthalmologist if the specialist's opinion is that the patient requires eye surgery? Can you imagine the inherent liability in doing so?

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The requirements of a generalist or other specialist signing off on another's recommendation is an archaic requirement. It has never been proven to be a deterrent to abuse or fraud within the Therapeutic Shoe policy. If the MD/DO treating DM does not want to certify the patient, they can simply choose not to do so.

As for the medical records of the supervising physician being an obstacle, that is illogical. Numerous legal citations support the notion that a healthcare provider must provide copies of their medical records to another healthcare provider upon request of the patient. The notion that obtaining the medical records for a patient from the PCP, endocrinologist, etc. who is treating the DM should be a non-issue.

The timelines are also straightforward: 90 days for certification and six months for supervising MD/DO notes and that of the eligible prescriber. Those are not anywhere in the Congressional Federal Register or Statute; they are policy stipulations. The DME MAC can and should make these more flexible, especially during the pandemic.

So what can and should be done? APMA and state and local associations should continue to work collaboratively with other medical organizations noted above, as well as AMA, AOA, the Society for Vascular Surgery, AAOS, etc. This again is NOT a podiatry issue. It is an issue wherein the eligible prescriber, be it a DPM or another medical specialist not treating the DM, must have their note signed by the MD/DO treating the DM. All medical practitioners should continue to petition their congressional delegations to move on this issue, based on patients being denied the medical services they are entitled to. Most legislatures are composed of attorneys and certainly they will recognize the antiquated, illogical, and libelous nature of the requirement of different specialists having to sign off on one another's notes.

The frustrations of those writing to *PM News* on this issue are not new and are understandable, but at the same time are blatantly unfair and show a lack of what has previously transpired. Most are from podiatrists who are not involved in their local, state, or national associations. No medical association is perfect and can respond to the absolute needs of all its individual members. But if you have no "skin in the game", there really is nothing for you to complain about.

Get involved with your local, state and possibly national association. Creative thinkers are certainly welcome! **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.