

MOA MEMBERS
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DMEPOS UPDATE: AOA BUILDS ON 2006 REGULATORY WIN TO SECURE CHANGES TO PROPOSED RULE

In 2003, in response to reports from across the nation concerning Medicare fraud and to address specific and widespread abuse by companies involved in the sale of power mobility scooters for seniors, Congress directed the Centers for Medicare and Medicaid Services (CMS) to develop new guidelines and quality standards for suppliers of durable medical equipment, prosthetics, orthotics, supplies (DMEPOS). Congress's objective for the agency was to address fraud and waste in the program while preserving Medicare beneficiaries' convenient access to DMEPOS supplies, and to maintain established provider/patient relationships.

Over the last 5 years, the AOA has actively monitored CMS's development of new DMEPOS regulations and, as necessary, raised objections – both separately and as part of a large coalition of health provider groups – about unintended consequences that would harm ODs and their patients.

In 2006, after a sustained campaign led by AOA and other provider organizations, CMS officials reversed course and announced that physicians (including ODs) would not be required to participate in a new DMEPOS competitive bidding process that the agency had announced as a requirement 9 months earlier. This has meant that “prosthetic devices that aid vision (glasses and contacts) are not among the items and services subject to competitive bidding,” a major regulator victory for optometry.

In January 2008, CMS issued new proposed regulations concerning DMEPOS supplier enrollment. Although the AOA had earlier urged CMS officials to avoid a “one size fits all” approach to accreditation for DMEPOS suppliers and to fully recognize the unique role of licensed health providers like ODs, that's just what the agency did. CMS' plan would impose unrealistic and unworkable accreditation requirements on physician suppliers for whom DMEPOS products – while essential to patient care – are a relatively small share of services.

Since the January announcement, the AOA – joined by the American Medical Association and groups representing ophthalmologists, orthopedic surgeons, podiatrists, occupational therapists and physical therapists – have opposed the final implementation of this regulation based both on its substantive deficiencies and its unworkable timeframe. Following two joint statements to CMS officials and an initial meeting with them on April 16th, the AOA and the like-minded groups have pushed for a follow-up meeting at CMS headquarters that is now set for May 16th.

In addition, the AOA has briefed concerned Members of Congress on the supplier enrollment issue and will provide testimony at two upcoming Capitol Hill hearings called to examine the disconnect between Congress's directives to CMS and the impact of DMEPOS regulations on physicians.

The AOA's message to CMS and concerned Members of Congress remains clear: With burdensome new supplier regulations, ODs – as well as a range of other health providers – could be faced with being unable to provide Medicare-covered DMEPOS products to their patients at the point of care. As such an outcome would prove to be harmful to physicians and patients, it must be avoided through revised regulations.

AOA members with questions or concerns about this are asked to contact Kelly Hipp, AOA Director of Professional Relations, at 1-800-365-2219 x1346 / khipp@aoa.org.