

# LCD UPDATE: COUNTDOWN TO PUBLIC COMMENT MEETING

## LCD ON LOWER LIMB PROSTHESES

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NAAOP Webinar

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# Overview

- History and circumstances of LCD
- Reaction from the O&P Profession and Rehab Groups
- Reaction from O&P Patients and General Public
- Action Plan to Address the LCD
  - Challenges on procedure
  - Challenges on the evidence base
  - Substantive challenges
  - Public comment meeting
  - Submission of written comments
  - Media and Congressional support
  - HHS/CMS strategy and end game

# History and Circumstances of LCD

- BIPA Section 427 still unregulated
- Prior authorization regulation in final clearance at OMB
- Dear Physician Letter and audits of O&P claims
- Joint effort with AAPMR, Amputee Coalition, and O&P Alliance to reinstate O&P clinical notes as part of the medical record
- Legislative approaches to these and related O&P priorities

# Reaction to LCD from O&P Profession

- Unprecedented reaction from entire O&P community
- Immediate development of multi-pronged Action Plan
- NAAOP sought to help educate profession
- O&P Alliance formed Prosthetic Care Subgroup
  - Line-by-line response to LCD
  - Development by Hanger researchers of White Papers
  - Preemptive Alliance letter to CMS Administrator Slavitt seeking:
    - Immediate rescission of policy and new dialogue to address concerns
    - Indefinite suspension while in-depth dialogue
    - Delay at least until publication and integration with Prior Auth Rule

# Reaction from Rehab Groups

- Rehab physicians, rehab hospitals, disability groups, and rehab provider associations were alerted
- Coalitions were educated such as ITEM, Coalition to Preserve Rehab, and CCD Health Task Force
- Individual leaders in amputee rehabilitation expressed serious alarm
- Multiple contacts to CMS and DME MACs revealed the LCD primarily originated with the Medicare contractors.

## Reaction from Patients and General Public

- NAAOP created “We the People” Petition on White House website
  - All Alliance organizations heavily promoted the petition as well as the Amputee Coalition and others
  - NAAOP developed [www.SaveProsthetics.org](http://www.SaveProsthetics.org) to expedite signing of petition and submission of comments
  - This landing page contains links to White Papers, AOPAvotes and MobilitySaves.org
- Petition exceeded 100,000 signatures in 17 days
- White House now obligated to respond
- [www.NAAOP.org](http://www.NAAOP.org) is now fully loaded with educational materials on LCD issue. Visit our site today!

# Action Plan to Address the LCD

- Comprehensive response to LCD is massive undertaking
- Challenge is to convey implications of this complex and detailed policy that is understandable to laypersons
- Understanding real impact of LCD on all prosthetic patients, not just Medicare patients, is key

# Challenges on Procedure

- This is an NCD masquerading as an LCD
- LCDs have specific limitations: They must address coverage, not coding and payment levels
- The LCD makes major coding changes, collapsing codes, creating new, more general codes, and deleting codes
- This will undoubtedly affect reimbursement
- The DME MACs have also usurped the authority of the HCPCS Coding Workgroup
- Motivation for the LCD is unclear: Medicare spending is down every year since 2010

# Challenges on the Evidence Base

- LCDs must start with a review of the scientific literature
- Must be based on a hierarchy of evidence
- The LCD was issued with no evidence cited
- A subsequent bibliography offered weak evidence with few clinical articles offering specific support for provisions in the LCD.
- The LCD shifts the burden to the profession/public to refute through evidence its unsupported assertions

# Substantive Challenges

- Total re-write of the Medicare lower limb benefit
- Sets amputees back to 1970's standards of care
- Multiple barriers erected to obtain any prosthetic care, let alone modern prostheses
- Potential Function is eliminated from determining K levels
- Comorbid conditions become screens to access
- Use of assistive devices reduces access to technology
- Appearance of a “natural gait” is required
- Multiple rules that restrict care plans and even eliminate coverage such as elevated vacuum.

# Substantive Challenges (cont)

- The LCD sets up a system of Darwinian prosthetics
- It stacks the deck against the amputee
- LCD is penny wise and pound foolish
- It takes a simplistic view of prosthetic care
- The LCD puts Medicare in the position of practicing medicine
- The LCD further marginalizes the role of the prosthetist
- It also undercuts the rehab team approach to prosthetic care

# Public Comment Meeting

- DME MACs will take public comment on Wednesday, August 26<sup>th</sup> in Baltimore
- Likely to take place at the Weston Hotel starting at 7:30 but three other LCDs will be heard first
- Many attendees at the public meeting are expected to attend or participate by phone.
- Multiple speakers are planned.
- Register: Go to [www.naaop.org](http://www.naaop.org) to register TODAY! Deadline at close of business. No more speakers.
- Speakers should focus on the policy itself.

# Submission of Written Comments

- CRITICAL that everyone submits a written statement to Dr. Stacy Brennan, DME MAC Region B Medical Director
- Deadline for comments is August 31, 2015
- To file comments: Go to [www.naaop.org](http://www.naaop.org)
- Templates can help you or your patients file comment letters: NAAOP, AC, and AOPA all have draft letters
- Keep the letters focused on the policy and try to make constructive suggestions for improvement
- Discuss implications of the changes on patients

# Media and Congressional Support

- AOPA and the Amputee Coalition are coordinating a press conference to brief media on Tuesday, August 25<sup>th</sup>
- Numerous news outlets, both print and TV, are picking up this story
- Senator Bob Kerrey, Jordan Thomas, and Adrienne Haslet-Davis are all helping to lead the media attention
- Sen. Kerrey letter to HHS Secretary Burwell will become an opinion editorial
- Congressional letters to HHS Secretary are starting to flow. Committee of jurisdiction are being pursued.

# HHS Strategy and End Game

- AOPA and Alliance counsel met with CMS Deputy Director
- Amputee Coalition met with the coverage office
- O&P Alliance is pursuing meetings with other CMS officials and White House regarding petition
- All levels (WH/Secretary/CMS/General Counsel/and multiple offices within CMS) are being contacted
- Short term goal: Rescission. Can't put lipstick on a pig.
- Long term goal: Dialogue with CMS and stakeholders on their concerns and create reasonable policy changes, as well as recognition of professionalism of the prosthetist