



The American Orthopaedic Society for Sports Medicine

*A world leader in sports medicine education,
research, communication, and fellowship.*

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August 19, 2014

The Honorable Marilyn Tavenner
Administrator
Centers for Medicare and Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244

Dear Administrator Tavenner:

On behalf of more than 3,000 board-certified orthopaedic surgeons who specialize in sports medicine, the American Orthopaedic Society for Sports Medicine (AOSSM) welcomes the opportunity to comment on the CMS Proposed Rule: Medicare Program: End-Stage Renal Disease Prospective Payment System, Quality Incentive Program, and Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS).

We are troubled by the proposed rule because it would unnecessarily add restrictions that would prevent clinicians currently working under the direct supervision of the physician to fit custom-fitted orthotics, and therefore the devices would have to be considered off-the-shelf. Sports medicine doctors rely on medical assistants, athletic trainers, orthopedic technicians, cast technicians and others to fit devices under our supervision, and under this rule, we would no longer be able to do so. While we recognize and appreciate that physicians, treating practitioners (physician assistants, nurse practitioners, and clinical nurse specialists), occupational therapists, and physical therapists would be considered in a class of professionals that has the requisite specialized training to provide custom orthotics, we strongly disagree with the exclusion of assistants, fitters, and manufacturer representatives from that class.

This proposed policy would interfere with common arrangements under which orthopaedic surgeons and other physicians delegate custom fitting to their own staff, as well as other trained professionals, including manufacturer representatives who have undergone extensive education and are experts on the specific orthotics to be furnished. Disrupting these successful arrangements could disrupt the doctor-patient relationship.

Moreover, AOSSM considers state licensure boards to be best equipped to establish the proper training for fitting custom devices. While there are differing standards at the state level, we know of no evidence to suggest that beneficiary care has ever been compromised due to varying state licensure policies. CMS has accommodated a wide range of state licensure policies for the full range of Medicare-covered DMEPOS—it is our position that CMS should do the same with regard to custom-fitted orthotics.

Ultimately, the AOSSM believes that a more reasonable policy would be to include in the definition of “individual who has specialized training” an individual who is qualified to provide custom-fitted orthotics under his or her state license, or a trained individual operating under the supervision of a physician. We encourage CMS to modify any rule changes accordingly.

We thank CMS for considering our suggestions and hearing our concerns. We look forward to working with CMS and other stakeholders to continue to advance the science of sports medicine and continuously improve patient care and outcomes.

Sincerely,

A handwritten signature in black ink, reading "Robert A. Arciero". The signature is written in a cursive style with a large, stylized initial 'R'.

Robert A. Arciero, MD
President
American Orthopaedic Society for Sports Medicine