July 28, 2014

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attn: CMS-6050-P
Mail Stop C4-26-05
7500 Security Boulevard
Baltimore, MD 21244-1850

RE: Medicare Program; Prior Authorization Process for Certain Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) Items

On behalf of the American Academy of Physician Assistants (AAPA), which represents the more than 95,000 certified physician assistants (PAs) throughout the country, we appreciate the opportunity to submit comments on the Centers for Medicare and Medicaid Services' (CMS) proposed rule that would establish a prior authorization process for certain durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS).

The PA profession was created nearly fifty years ago in response to a shortage of primary care physicians. Today, PAs provide high quality, cost effective medical care in virtually all health care settings and in every medical and surgical specialty. PAs are one of three health care professionals providing primary medical care in the U.S.

By design, PAs practice in teams with physicians, extending the reach of medicine and the promise of improved health to the most remote and in-need communities in our nation. Within the framework of that team-based care model, PAs deliver medical services with a high degree of autonomy in making medical decisions and developing treatment plans for patients. It is within that context of improving access to care for Medicare beneficiaries that we offer our comments regarding the proposed rule.

AAPA understands the legitimate concern noted by CMS regarding the high error rate that was observed in the ordering of DMEPOS. CMS made an important distinction in describing that error rate in terms of the order not containing appropriate documentation to meet program requirements, as opposed to assuming or characterizing the order as fraudulent.

At the same time, there have been many instances of fraudulent behavior related to ordering DMEPOS. We believe that the agency has the responsibility to assure that Medicare funds are being spent in a manner consistent with both the program's regulatory requirements and in keeping with principles of medical efficacy. CMS would be prudent to initiate an extensive education and training process for health care professionals to clarify program requirements and expectations for medical necessity and documentation for DMEPOS orders. At the same time, appropriate enforcement activities are a suitable remedy for those ordering health professionals and suppliers who actively seek to defraud the Medicare program.

AAPA and the PA profession agree with CMS regarding the importance of assuring that DMEPOS ordered items are medically appropriate and that the financial integrity of the Medicare program is preserved. It is essential, however, that Medicare beneficiaries not be forced to "pay the price of delayed care" as part of the CMS effort to implement a prior authorization process for DMEPOS.

AAPA
American Academy of Physician Assistants

While the proposed master list of DMEPOS items that are subject to prior authorization appears to be reasonable and we note that, at least initially, CMS does not plan to require prior authorization for every item on the proposed list, we have concerns about the process of adding additional items to the list. Utilizing studies or reports performed by the Government Accountability Office and the Office of the Inspector General that meet the CMS definition of being "national in scope" along with an internal selection process not open to public review to determine which DMEPOS item will be added to the master list is extremely subjective. Opportunities for stakeholder input would be appropriate.

AAPA appreciates the fact that the prior authorization process does not create new clinical documentation guidelines. The same type of information that has always been requested for DMEPOS orders will be used for prior authorization, but simply earlier in the ordering process. However, any additional administrative requirements (i.e., resubmissions of prior authorization orders) will likely place an additional burdens on the health professional ordering the DMEPOS and the DMEPOS supplier who processed the prior authorization.

Based on the specific items currently on the master list of DMEPOS subject to unnecessary utilization, 10 calendar days (with the option for an expedited review in 2 business days) may be a reasonable time frame for prior authorization approval. However, we have concerns about the ability of CMS to complete the prior authorization process in the specified time frame. Failure to process these authorizations in a timely manner could lead to substantial delays in Medicare patients having access to needed medical equipment and supplies. However, the proposed rule indicates that the agency or its contractors would make "reasonable efforts to communicate the decision within 10 days of receipt of all applicable information." This suggests the real possibility of a longer approval process based on the number of pending prior approval applications, carrier staffing and other issues.

Also, if other more urgent DMEPOS items are ever added to the list the time frame and approval process will not be workable.

Due to the potential for unintended consequences that could harm patient care and increase administrative burdens on health professionals and suppliers, CMS needs to implement this prior authorization process with great care with ongoing monitoring regarding the program's impact on patient access to DMEPOS.

If we can provide additional information regarding our comments on this proposed rule or any other aspect of healthcare delivery please do not hesitate to contact Michael Powe, AAPA's vice president for Reimbursement and Professional Advocacy at michael@aapa.org.

Sincerely,

John McGinnity, MS, PA-C, DFAAPA
President