

## **S. 829, THE MEDICARE ORTHOTICS AND PROSTHETICS IMPROVEMENT ACT OF 2015**

### **Purpose**

To amend title XVIII of the Social Security Act to apply accreditation and licensure requirements to providers and suppliers for Medicare payment purposes, to modify the designation of accreditation organizations for orthotics and prosthetics, to recognize orthotics and prosthetics suppliers as independent professional providers of medical care for Medicare beneficiaries, and other purposes.

### **Section 1. Short title; table of contents.**

The title of the legislation is the “Medicare Orthotics and Prosthetics Improvement Act of 2015.”

### **Section 2. Modification of requirements applicable under Medicare to designate organizations for accreditation of suppliers of orthotics and prosthetics.**

This section modifies the requirements for designation of accreditation organizations for suppliers of prosthetic devices and orthotics and prosthetics, for purposes of quality standards, by requiring such organizations to be either the American Board for Certification in Orthotics and Prosthetics, Inc., the Board for Orthotist/Prosthetist Certification, or a program that the Secretary determines has accreditation and approval standards that are essentially equivalent to those of the Board. It specifies that physicians, occupational therapists, and physical therapists who otherwise are licensed and regulated by a State are not required to comply with such quality standards.

### **Section 3. Application of existing accreditation and licensure requirements to certain prosthetics and custom-fabricated or custom-fitted orthotics.**

This section applies to custom-fitted orthotics the special payment rules that apply currently to custom-fabricated orthotics, and it makes minor amendments to those rules. It exempts off-the-shelf orthotics furnished on or after January 1, 2016 furnished in a competitive bidding area from these payment rules applying to custom-fabricated orthotics.

### **Section 4. Eligibility for Medicare payment for orthotics and prosthetics based on supplier qualifications and complexity of care.**

This section adds a new paragraph that directs the Secretary to take into account the complexity of an item of orthotics or prosthetics and the qualification of the supplier when determining whether payment may be made for the item of orthotics and prosthetics. Any new supplier qualifications will not apply to physicians, occupational therapists, or physical therapists who are licensed or otherwise regulated by the States in which they practice, or to qualified suppliers eligible to receive payment for the provision

of orthotics and prosthetics before January 1, 2016. The Secretary is directed to consult with accreditation organization when modifying such qualifications.

**Section 5. Orthotist's and prosthetist's clinical notes as part of the patient's medical record.**

This section reaffirms in a new provision that an order or other document that is created by a treating orthotist or prosthetist is part of the patient's medical record for purposes of determining whether an item or service is reasonable and medically necessary.

**Section 6. Distinguishing orthotists and prosthetists from suppliers of durable medical equipment and supplies.**

This section establishes requirements for an orthotist or prosthetist for purposes of Medicare payment that are distinct from existing requirements for suppliers of durable medical equipment and supplies. It defines the terms "orthotist or prosthetist" to mean an individual who is specially trained and educated in the provision of prosthetics and custom orthotics and in patient care and management related to those items, and who is licensed and/or accredited for such purposes. This section removes the terms "orthotics" and "prosthetics" from the definition of "medical equipment and supplies" and creates a new section with requirements for suppliers of orthotics and prosthetics. The requirements for suppliers of orthotics and prosthetics are similar to current requirements for suppliers of durable medical equipment and supplies, but they address issues that are specific to orthotists and prosthetists and their training and qualifications. For example, information that an orthotist or prosthetist provides on an order may include diagnosis codes, a description of the beneficiary's medical and functional condition, and information about the need for the orthotic or prosthetic.

This section also specifies that off-the-shelf orthotics furnished by a licensed and/or certified orthotist or prosthetist to his or her own patients as part of a professional service shall be exempt from a Medicare competitive bidding program.

**Section 7. Clarification about minimal self-adjustment for off-the-shelf orthotics.**

This section would clarify that the "off-the-shelf orthotics" that continue to be subject to a Medicare competitive bidding program are those that require minimal self-adjustment by the patient and not another person in order to fit the patient. It also would add a conforming definition elsewhere in the Social Security Act.

**Section 8. Regulations.**

This section directs the Secretary, within 120 days of the Effective Date, to promulgate regulations to implement the provisions of the Medicare Orthotics and Prosthetics Improvement Act of 2015, and also to promulgate regulations to implement Section 427 of BIPA.