

Report in Brief

Date: January 2019

Report No. A-09-17-03030

U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES
OFFICE OF INSPECTOR GENERAL



Why OIG Did This Review

From January 1, 2015, through March 31, 2017 (audit period), Medicare paid approximately \$1.3 billion for back, knee, and ankle-foot braces (selected orthotic braces) provided to Medicare beneficiaries. During our audit period, the Centers for Medicare & Medicaid Services found that orthotic braces were among the top 20 items of durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS) with the highest improper payment rates. Prior OIG reviews found that some DMEPOS suppliers billed for orthotic braces that did not comply with Medicare billing requirements. After analyzing Medicare claim data, we selected for review Kelley Medical Equipment and Supply, LLC (Kelley Medical), an orthotic braces supplier in Durant, Oklahoma.

Our objective was to determine whether Kelley Medical complied with Medicare requirements when billing for selected orthotic braces.

How OIG Did This Review

For our audit period, Kelley Medical received almost \$6.7 million in Medicare Part B payments for selected orthotic braces provided to 7,189 Medicare beneficiaries. After excluding certain claims, we grouped the remaining claims by beneficiary and reviewed a stratified random sample of 100 beneficiaries. We provided copies of Kelley Medical's supporting documentation to a medical review contractor to determine whether claims for orthotic braces met Medicare requirements.

Kelley Medical Equipment and Supply, LLC, Received Unallowable Medicare Payments for Orthotic Braces

What OIG Found

Kelley Medical did not always comply with Medicare requirements when billing for selected orthotic braces. For 24 of the 100 sampled beneficiaries, Kelley Medical complied with the requirements. However, for the remaining 76 beneficiaries, it did not comply with the requirements. Specifically, Kelley Medical billed for orthotic braces that were not medically necessary for 67 beneficiaries and could not provide medical records for 9 beneficiaries.

These deficiencies occurred because Kelley Medical did not always obtain sufficient information from the beneficiaries' medical records to assure itself that the claims for orthotic braces met Medicare requirements. On the basis of our sample results, we estimated that Kelley Medical received at least \$4 million in unallowable Medicare payments for orthotic braces.

What OIG Recommends and Kelley Medical Comments

We recommend that Kelley Medical (1) refund to the durable medical equipment Medicare administrative contractors \$4 million in estimated overpayments for orthotic braces; (2) exercise reasonable diligence to identify and return any additional similar overpayments outside of our audit period, in accordance with the 60-day rule, and identify any returned overpayments as having been made in accordance with this recommendation; and (3) obtain as much information from beneficiary medical records as it determines necessary to assure itself that claims for orthotic braces meet Medicare requirements.

Kelley Medical disputed our findings and recommendations. Regarding our first recommendation, Kelley Medical disputed that it received Medicare overpayments for orthotic braces and stated that it obtained appropriate documentation at all times, HHS's regulations are unequally applied and have no rational basis, and the extrapolated results are flawed. Regarding our second recommendation, Kelley Medical disputed that it was "in violation of any overpayment." Regarding our third recommendation, Kelley Medical disputed that it had failed to meet its obligations for the reasons given in its response to our first recommendation.

We maintain that our findings and recommendations remain valid. If the information in a beneficiary's medical record does not adequately support medical necessity, the supplier is liable for the payment amount of the orthotic brace. In addition, our report clarifies that OIG recommendations do not represent final determinations by Medicare but are recommendations to HHS action officials.