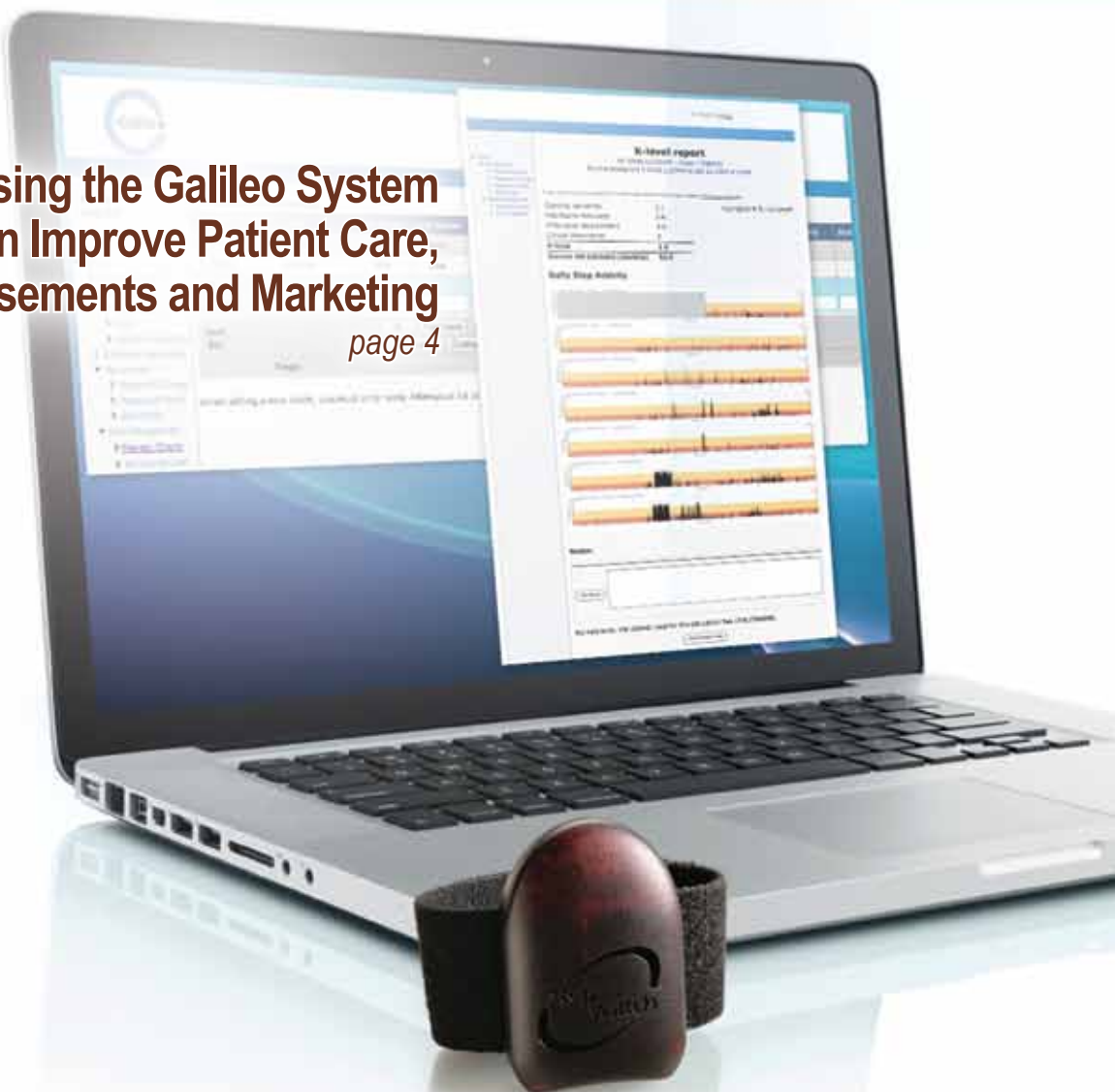


THE **opga:** CONNECTION

OPGA Member Magazine

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Dealing with Fraud and Abuse in Payment for Lower Extremity Prostheses Calls for New Policies and New Technologies

Over the past decade, increased attention has been paid to Medicare fraud associated with lower limb prostheses. Cases of microprocessor-controlled prosthetic devices billed to non-amputee beneficiaries have been featured by the media in spectacular fashion. Adoption of new policies by payers and utilization of newly available technologies could contribute significantly to preventing such abuses.

HOW FRAUD OCCURS

The lack of objective standards and the failure to require documentation of compliance with such standards to support payment, allows fraud and abuse to occur. This situation is further complicated by lack of familiarity with prostheses on the part of the payer's review staff. Nurses, physicians and payers rarely have a good working knowledge of artificial limbs. Prosthetics claims are relatively uncommon and, despite their high cost, are not a high priority item. This empowers fraudsters to submit claims that would be questioned or rejected by knowledgeable reviewers or better review systems. Direct fraud operates in several different ways:

SIMPLE FALSE CLAIM, PROSTHESIS WITHOUT AMPUTATION

This is the most blatant and, in some ways, the simplest type of fraud: submission of claims for a subscriber who does not need a prosthesis. The subscriber may never have undergone amputation, or may even be dead. One significant step in reducing this fraud would be to ensure that payments only go to licensed and/or accredited orthotics and prosthetics providers. Requiring this level of qualification would immediately eliminate numerous bad actors and protect legitimate businesses and organizations that represent highly qualified and skilled providers. This policy change was issued by Medicare, but never implemented. Implementation would prevent random entities from applying for and receiving a Medicare provider number for their operations where no medical devices or supplies may ever be provided. AOPA has estimated that such a step could save \$100 million in the Medicare system alone.

UPCODING

A more subtle fraud may be perpetrated through falsification of the grading of an amputee's activity to justify a more expensive prosthesis. Patient activity levels are graded from K0 through K4. Each level from 1 through 4 is associated with a more complex prosthesis to allow for the full potential to ambulate further, over increasingly difficult terrain. The definitions of increasing potential to ambulate and the documentation of such actual or potential activity level have not been outlined by payers in a manner that can be quantified and documented. This situation allows fraud by upcoding (knowingly claiming

a more complex and expensive prosthesis than the patient was furnished or needs), for financial gain by the provider.

UTILIZING NEW TECHNOLOGY TO MEASURE, DOCUMENT AND JUSTIFY NEED

Current medical policy utilizes definitions of K-levels that are too vague to support good patient care and appropriate payment. Terms such as "baseline and faster than baseline rate of walking," "long distance" and "variable rates" are subjective. Self-report questionnaires can be influenced by coaching. And even prosthetists who are genuinely trying to provide appropriate care for their patients may understand these terms differently, producing significantly different approaches to treating similarly situated patients.

Now, Orthocare Innovations has developed a new technology to provide objective, quantitative analysis of cadence and gait. The Galileo system provides a functional level of assessment as an objective measure of amputee subscriber activity levels. It will establish a consistent, generally accepted standard of the activity level to be assigned to each K level, and simplify K level assignment. With this technology, it is now possible to identify objectively and document which patients can utilize increasingly sophisticated prostheses. The Galileo system will facilitate provision of the appropriate prosthesis for the patient, and also protect payer funds from improper payments.

Delivering Medicare payments only to qualified orthotic and prosthetic providers would be a significant step in reducing fraud and abuse in the Medicare system. In the meantime, through the use of independently derived, objective, quantitative measurement of activity in lower limb prostheses, it is possible for all payers—government and private alike—to move from "pay and chase" to "review and approve" or "review and deny." The current, cumbersome prior approval system might not be necessary if claims submissions were supportable by independent analysis of the amputee's functional level assessment through Galileo technology, and correct payment could be based on such documentation. All responsible providers of orthotic and prosthetic devices—and all taxpayers—should welcome such changes.

Dr. Kenneth M. Nelson's health care experience spans more than 30 years including 20 years as the medical adviser, Office of Inspector General, US Department of Health and Human Services and ten years in leadership positions in government contractors Palmetto Government Benefits Administrators, an entity responsible for the coding of items of durable medical equipment, orthotics, prosthetics, and supplies as these relate to the Medicare program. There, he served as medical director for the Statistical Analysis Durable Medical Equipment Regional Carrier concerns at TriCenturion. In this role, Dr. Nelson focused on program integrity and compliance issues. At SADMERC, he was intimately involved in the coding, coverage and pricing of durable medical equipment.