

**Department of Health and Human Services**

**DEPARTMENTAL APPEALS BOARD**

**Civil Remedies Division**

*In re CMS LCD Complaint: Services That Are Not Reasonable and Necessary (L31686).*

Docket No. C-12-94

Decision No. CR2532

Date: May 1, 2012

**DECISION DISMISSING LCD COMPLAINT**

The Centers for Medicare and Medicaid Services (CMS) contractor, Novitas Solutions Inc.,<sup>1</sup> has filed notice that the portions of the Local Coverage Determination (LCD) listed in the title of this case concerning noncoverage of Posterior Tibial Nerve Stimulation (PTNS)<sup>2</sup> shall be retired. Pursuant to 42 C.F.R. § 426.444(b)(6), I must dismiss any complaint upon notification that the LCD provisions are no longer in effect.

Accordingly, this LCD complaint is dismissed. Pursuant to 42 C.F.R. § 426.420(a), retiring the LCD provisions under review has the same effect of an ALJ decision finding a LCD not valid under the reasonableness standard. Specifically, the aggrieved party is entitled to have her claims for coverage of PTNS reviewed. 42 C.F.R. § 426.460(b). Because the CMS contractor has retired the LCD provisions under review, this decision is not subject to appeal. 42 C.F.R. § 426.465(d).

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/s/  
Joseph Grow  
Administrative Law Judge

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<sup>1</sup> Formerly known as Highmark Medicare Services Inc.

<sup>2</sup> The remaining portions of the LCD were not being challenged by the Aggrieved Party, are not being retired and remain in effect.