

Department of Health and Human Services

DEPARTMENTAL APPEALS BOARD

Civil Remedies Division

In re CMS LCD COMPLAINT: Ankle-Foot/Knee-Ankle-Foot Orthosis (L142)

Contractor: Noridian Administrative Services

Docket No. C-10-774

Decision No. CR2240

Date: September 9, 2010

DECISION DISMISSING CASE

This Local Coverage Determination (LCD) appeal is before me based on a June 4, 2010 letter filed by Felix Sigal, D.P.M., a treating physician for the Aggrieved Party.¹ In the letter, Dr. Sigal seeks appeal of the LCD denial of continued callus debridement treatment for the Aggrieved Party for less than a 60-day treatment interval.

This appeal was docketed and originally assigned to Administrative Law Judge Alfonso J. Montaña. Judge Montaña reviewed the complaint and on July 14, 2010 issued a letter to Dr. Sigal explaining that the June 4, 2010 complaint was not an “acceptable” complaint challenging a LCD for the following reasons: its failure to provide a copy of the written authorization to represent the Aggrieved Party; failure to identify why the callus debridement was “needed” or “medically necessary”; its failure to explain why the LCD is incorrect; and its failure to provide copies of clinical or scientific evidence to support the complaint. The July 14, 2010 letter outlined for Dr. Sigal the specific information required in order to file an “acceptable” complaint to challenge an LCD, and afforded Dr. Sigal one opportunity to amend the complaint. *See* 42 C.F.R. § 426.410(b) and (c).

¹ The names of Medicare beneficiaries are not listed in published decisions in order to protect their privacy. 68 Fed. Reg. 63,691, 63,709 (2003).

