
42 C.F.R. § 426.410

Docketing and evaluating the acceptability of LCD complaints.

(a) *Docketing the complaint.* The office designated by CMS does the following upon receiving a complaint regarding an LCD:

(1) Dockets the complaint.

(2) Determines whether the complaint is—

(i) The first challenge to a particular LCD; or

(ii) Related to a pending LCD review.

(3) Forwards the complaint to the ALJ that conducts the review. In cases related to pending reviews, the complaint generally is forwarded to the ALJ who is conducting the review.

(b) *Evaluating the acceptability of the complaint.* The ALJ assigned to the LCD review determines if the complaint is acceptable by confirming all of the following:

(1) The complaint is being submitted by an aggrieved party or, in the case of a joint complaint, that each individual named in the joint complaint is an aggrieved party. (In determining if a complaint is acceptable, the ALJ assumes that the facts alleged by the treating physician's documentation regarding the aggrieved party's (or parties') clinical condition are true.)

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