



ASSISTANT SECRETARY OF DEFENSE  
WASHINGTON, D. C. 20301

HEALTH AFFAIRS

5 January 1979

MEMORANDUM FOR ACTING DIRECTOR, OCHAMPUS

SUBJECT: FINAL DECISION: Appeal Case  
(OASD(HA) Appeal File 03-78)

The Hearing File of Record, the tape of the oral testimony presented at the hearing and the CHAMPUS Hearing Officer's Recommended Decision (along with the memorandum of concurrence from OCHAMPUS) on the Appeal Case have been reviewed.

PRIMARY ISSUE IN DISPUTE

The decision of this Office is that the Hearing Officer's recommendation (i.e., that CHAMPUS benefits be denied for inpatient stay at Brentwood Psychiatric Hospital for the period 1 September 1976 through 10 November 1976) be accepted as the FINAL DECISION. This is based on the following review findings:

1. That the record did not support the medical necessity for an inpatient hospital setting, i.e., the hospital did not represent an "appropriate level of care."
  - . The inpatient stay was essentially for "protective custody";
  - . The hospital services consisted primarily of custodial/domiciliary care and secondarily educational services;
  - . The monitoring of anticonvulsant medication regimen for his epileptic seizure disorder could have been (and routinely is) monitored adequately outside the inpatient hospital environment; and
  - . As repeatedly stated in the record, the child belonged in a residential training school for slow learners where he was eventually placed. (If placement could not be made immediately, assuming the parental home was unsuitable, he should have been referred to the appropriate social service agency for custody and temporary placement by the state.)

2. That conditions are irreversible and could not be expected to improve in the hospital environment.
  - . His seizures could be adequately controlled by periodic monitoring of his anticonvulsant medications.
  - . His mental retardation requires training in a special school specifically structured to handle slow learners with behavior problems.
3. While the fact that the required management plan for long term care was not submitted by Brentwood Psychiatric Hospital further reinforces the finding that this case was inappropriate for that facility, its lack did not impact on the FINAL DECISION.

#### RELATED ISSUE

Review of the record also revealed the fact that entire inpatient stay at Brentwood Psychiatric Hospital represented an inappropriate level of care and thus not eligible for consideration under CHAMPUS. The contractor extended benefits in error for the period 1 April 1976 through 31 August 1976, apparently acting on the basis of inadequate medical documentation. Brentwood Psychiatric Hospital, the attending psychiatrist, M. D., and the CHAMPUS Contractor, Mutual of Omaha, should be so advised. However, because of the time lapse due to implementation of the formal appeal mechanism, it is recommended that the requirement to initiate recoupment of the erroneous payments from Brentwood Psychiatric Hospital and the attending psychiatrist be waived. (Since waiver is subject to the provisions of the Government Claims Collection Act of 1966 rather than the CHAMPUS Regulation, if the amount of erroneous payments is in excess of \$20,000, OCHAMPUS General Counsel is directed to obtain concurrence of the appropriate agency.)

#### SUMMARY

This FINAL DECISION in no way implies that did not need care and attention for his multiple problems. He did. However, his primary needs were social and educational, neither of which qualify for benefits under the CHAMPUS Basic Program. Since is a dependent of a retiree, his case is not eligible for consideration under the Program for the Handicapped.

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A copy of the notice of FINAL DECISION as transmitted to the Appealing Party, the sponsor (on behalf of the beneficiary) and the contractor is to be provided to this Office.



Vernon McKenzie  
Acting Assistant Secretary of Defense  
(Health Affairs)