ASSISTANT SECRETARY OF DEFENSE
WASHINGTON, D. C. 20301

HEALTH AFFAIRS

BEFORE THE OFFICE, ASSISTANT SECRETARY

OF DEFENSE (HEALTH AFFAIRS)

UNITED STATES DEPARTMENT OF DEFENSE 8 JUN 1982

Appeal of	)	
	)	OASD(HA) File 80-04
Sponsor:	)	
	)	FINAL DECISION
SSN:	)	
	)	

This is the FINAL DECISION of the Assistant Secretary of Defense (Health Affairs) in the CHAMPUS Appeal OASD(HA) Case File 80-04 pursuant to 10 U.S.C. 1071-1089 and DoD 6010.8-R, chapter X. The appealing party in this case is the beneficiary, represented by the sponsor. The hearing file of record, the tapes or oral testimony presented at the hearing, the Hearing Officer's Recommended Decision and the memorandum of concurrence from the Director, OCHAMPUS have been reviewed. The amount in dispute is approximately $1,700 in hospital charges. It is the Hearing Officer's recommendation that CHAMPUS coverage for inpatient care for alcoholism in excess of 21 days be denied as no serious physical complications otherwise requiring an inpatient stay were documented by the record. The Director, OCHAMPUS concurs in the recommended decision and recommends its adoption as the FINAL DECISION of the Acting Assistant Secretary of Defense (Health Affairs).

The Acting Assistant Secretary of Defense (Health Affairs) after due consideration of the appeal record, concurs in the recommendation of the Hearing Officer to deny CHAMPUS payment and hereby adopts the recommendation of the Hearing Officer as the FINAL DECISION.

The FINAL DECISION of the Acting Assistant Secretary of Defense (Health Affairs) is therefore to approve CHAMPUS coverage for inpatient care for alcoholism from June 26 through July 16, 1978, and to deny coverage from July 17 through August 8, 1978. The decision to deny coverage of inpatient care for alcoholism in excess of 21 days is based on the findings that such care was not medically necessary and above the appropriate level of care.

FACTUAL BACKGROUND

The beneficiary was admitted to Nebraska Methodist Hospital, Eugene C. Eppley Complex, Omaha, Nebraska on June 26, 1978, with a diagnosis of "depression with acute alcoholism. Unrelated: essential hypertension." The hospital records reveal the beneficiary was ambulatory, oriented to time, place and date, and appeared intoxicated at the time of admission. She admitted to blackouts and denied hallucinations, convulsions, and delirium tremens. Blood pressure upon admission was 180/120.

Physical examination on June 27, 1978 revealed the beneficiary to be well-developed, well-nourished, slightly obese, alert and oriented and presenting a generally normal mental status although the examining physician noted the beneficiary was "somewhat nervous as though detoxing." Vital signs were reported as normal with a blood pressure reading of 130/82. The examination did not indicate any physical problems other than hypertension by history.

The beneficiary was placed in the detoxification unit on admission and was transferred to the regular care unit on June 27, 1978, less than twenty-four hours after admission. Medications prescribed during the hospitalization included Librium during detoxification (terminated on June 28, 1978) and Inderal and Dyazide on a daily basis for hypertension. Blood pressure readings were made on a daily basis through July 18, 1978, and thereafter on a twice weekly basis. The beneficiary's blood pressure ranged from 180/120 at admission to 130/82 during the hospitalization. Hospital records do not indicate any treatment regimen, except for medication, was initiated for hypertension.

The beneficiary's hospital course was essentially uneventful. Rehabilitation began on the second day and consisted of assignment of a counselor, group therapy, meetings, lectures, films and family encounters. Routine diagnostic testing was performed including urinalysis, blood count, serology, blood chemistries, chest x-ray, EKG and blood enzymes. Results were reported to be within normal limits for all diagnostic studies.

The medical records indicate the beneficiary progressed slowly through the rehabilitation steps, had difficulty sharing her feelings, remained angry and at one point considered leaving the program. No medical problems were noted except for the treatment for hypertension with oral medication.

The counselor's notes indicate discharge to a halfway house was discussed as early as July 17, 1978. The beneficiary initially refused, but finally accepted the suggested discharge on July 26, 1978.

She was discharged to the Santa Monica Halfway House on August 8, 1978. Diagnosis at discharge was chronic alcoholism; prognosis was noted to be good if patient would be more open and form better personal relationships. The total length of hospitalization was 43 days.

A CHAMPUS participating claim was filed by Nebraska Methodist Hospital, totaling $3,332.65, with the CHAMPUS Fiscal Intermediary for Nebraska, Mutual of Omaha Insurance Company. Mutual of Omaha initially allowed twenty-nine days of the inpatient stay for detoxification and rehabilitation (June 26 through July 24, 1978) and denied the remaining period from July 25 through August 8, 1978. Payment was issued to the provider in the amount of $2,175.35.

Informal Review and Reconsideration decisions by Mutual of Omaha reduced the coverage from twenty-nine to twenty-one days of hospitalization. Medical review at Mutual of Omaha recommended cost-sharing on only the first twenty-one days as there was no evidence of complications justifying a longer stay.

The beneficiary, as represented by her sponsor, appealed to OCHAMPUS. The OCHAMPUS Formal Review affirmed the Informal Review and Reconsideration decisions based on the absence of documentation of medical complications requiring care beyond the twenty-one day normal limit for alcoholism inpatient care under Department of Defense Regulation 6010.8-R, the applicable regulation governing CHAMPUS.

The beneficiary appealed and requested a hearing which was held at Omaha, Nebraska on May 12, 1980, before Michael T. Marcotte, Hearing Officer. The Hearing Officer has submitted his recommended decision. All prior levels of administrative appeal have been exhausted and issuance of a FINAL DECISION is proper.

ISSUES AND FINDINGS OF FACT

The primary issues in this appeal are whether the inpatient hospitalization for treatment of alcoholism beyond twenty-one days was (1) medically necessary and (2) was the appropriate level of care for the treatment of alcoholism?

Medically Necessary

Under DoD 6010.8-R, chapter IV, A.1., the CHAMPUS Basic Program will cost-share medically necessary services and supplies required in the diagnosis and treatment of illness or injury, subject to all applicable limitations and exclusions. Services which are not medically necessary are specifically excluded (chapter IV, G.1.). Under chapter II, B.104, medically necessary is defined as:

"... the level of services and supplies (that is, frequency, extent, and kinds) adequate for the diagnosis and treatment of illness or injury..."

This general concept of "medically necessary" is further defined in relation to the extent of CHAMPUS coverage of inpatient care for alcoholism by DoD 6010.8-R, chapter IV, E.4., as follows:

"4. Alcoholism. Inpatient hospital stays may be required for detoxification services during acute stages of alcoholism when the patient is suffering from delirium, confusion, trauma, unconsciousness and severe malnutrition, and is no longer able to function. During such acute periods of detoxification and physical stabilization (i.e., "drying out") of the alcoholic patient, it is generally accepted that there can be a need for medical management of the patient, i.e., there is a probability that medical complications will occur during alcohol withdrawal, necessitating the constant availability of physicians and/or complex medical equipment found only in a hospital setting. Therefore, inpatient hospital care, during such acute periods and under such conditions, is considered reasonable and medically necessary for the treatment of the alcoholic patient and thus covered under CHAMPUS. Active medical treatment of the acute phase of alcoholic withdrawal and the stabilization period usually takes from three (3) to seven (7) days.

"a. Rehabilitative Phase. An inpatient stay for alcoholism (either in a hospital or through transfer to another type of authorized institution) may continue beyond the three (3) to seven (7) day period, moving into the rehabilitative program phase. Each such case will be reviewed on its own merits to determine whether an inpatient setting continues to be required.

"EXAMPLE"

"If a continued inpatient rehabilitative stay primarily involves administration of antabuse therapy and the patient has no serious physical complications

otherwise requiring an inpatient stay, the inpatient environment would not be considered necessary and therefore benefits could not be extended.

"b. Repeated Rehabilitative Stays: Limited to Three (3) Episodes. Even if a case is determined to be appropriately continued on an inpatient basis, repeated rehabilitative stays will be limited to three (3) episodes (lifetime maximum); and any further rehabilitative stays are not eligible for benefits. However, inpatient stays for the acute stage of alcoholism requiring detoxification/stabilization will continue to be covered. When the inpatient hospital setting is medically required, a combined program of detoxification/stabilization and rehabilitation will normally not be approved for more than a maximum of three (3) weeks per episode.

"c. Outpatient Psychiatric Treatment Programs. Otherwise medically necessary covered services related to outpatient psychiatric treatment programs for alcoholism are covered and continue to be covered even though benefits are not available for further inpatient rehabilitative episodes, subject to the same psychotherapy review guidelines as other diagnoses."

Therefore, under CHAMPUS, coverage of inpatient treatment of alcoholism consists of a detoxification phase of from three to seven days followed by a rehabilitation phase. The combined program will not normally be approved for more than a maximum of three weeks per episode. The alcoholism provision specifically notes inpatient care for alcoholism during acute periods is considered reasonable and medically necessary because of the "... probability that medical complications will occur during alcohol withdrawal necessitating the constant availability of physicians and/or complex medical equipment ..." (emphasis supplied). Inpatient care may continue into the rehabilitative phase; however, as this office has determined in a prior FINAL DECISION (OASD(HA) 02-80), it is the presence of severe medical effects of alcohol that qualify the rehabilitative phase to be conducted on an inpatient basis. Therefore, to extend CHAMPUS coverage for inpatient care beyond twenty-one days, the specified Regulation norm, the hospitalization must be necessary for treatment of medical complications associated with alcohol withdrawal.

The medical records in this appeal indicate the beneficiary was treated for hypertension during the hospitalization. The patient was known to have hypertension which was under outpatient treatment prior to admission. Treatment of hypertension was continued throughout hospitalization but was limited to administration of oral medications daily and monitoring of blood pressure on a daily basis through July 18, 1978; thereafter, blood pressure readings were taken only twice per week. As noted by the Hearing Officer, the decreased monitoring of blood pressure subsequent to July 18, 1978, is not evidence of a serious physical complication which required an inpatient setting. Had hypertension been considered by the attending physician to be a serious problem, we would not expect decreased monitoring and, further, would expect additional steps (e.g., a controlled diet, etc.) to have been implemented. The record does not reveal any additional treatment of the hypertension.

The appeal record includes peer review opinions by the Colorado Foundation for Medical Care and the American Psychiatric Association. As discussed in the Hearing Officer's Recommended Decision, specialists in internal medicine associated with the Colorado Foundation opined there is no evidence of complications with hypertension nor any other medically documented complications which would require hospitalization beyond the first seven days of detoxification. As the Colorado Foundation physicians did not consider the rehabilitative phase of the alcoholism treatment, review was also requested from psychiatrists associated with the American Psychiatric Association.

In the opinion of two of the reviewing psychiatrists, as noted by the Hearing Officer, no physical complications, including hypertension, were present requiring an inpatient stay. The third reviewer did not render an opinion on the issue of medical complications. Various lengths of stay for alcoholism treatment were preferred by the three reviewing psychiatrists; however, as noted by one of the reviewers, CHAMPUS regulations specify a norm of twenty-one days for a combined program of detoxification/stabilization and rehabilitation. The opinions on the preferred length of alcoholism treatments are therefore not relevant to this appeal in the absence of medical complications as required by Regulation.

Based on the above evidence, the Hearing Officer found hypertension was not a physical complication that required an inpatient stay beyond twenty-one days. I concur in and adopt this finding. Two additional conditions are suggested by the record as potential complications requiring hospitalization. In a statement submitted by the attending physician, it was claimed

that continued hospitalization was necessary because of sedative use. In his Recommended Decision, the Hearing Officer concluded the attending physician's statement was not confirmed by the medical records. In fact, the admission summary notes no significant drug history except for a capsule for sleeping twice a month.

The appealing party stated that even when the alcohol problem became manageable, the patient remained mentally unstable. In addition to the appealing party's statement, the original CHAMPUS claim submitted by the hospital noted "depression" as one of the diagnoses. There is, however, no statement from the attending physician indicating a psychiatric condition of "depression" diagnosed for the beneficiary or stated as a reason for the continued hospitalization. On the contrary, the physical examination of June 27, 1978, noted a generally normal mental status. In addition, the hospital records do not indicate any psychiatric evaluation was suggested or conducted during hospitalization or that any specific medication was prescribed or administered for depression. I must, therefore, conclude there is no documentation of any mental condition that justified continued inpatient care.

The Hearing Officer concluded the evidence of record reveals no physical complications which required an inpatient setting. This finding is supported by the peer review opinions and I adopt this finding in this FINAL DECISION.

In reviewing the appeal record, I have noted the statement of the attending physician that treatment for forty-three days was required to complete the rehabilitative program. As discussed above, the medical records reveal the beneficiary was resistive to treatment initially and made slow progress through the five treatment phases. She was reluctant to share in group sessions and was observed to be very defensive and angry. Her need to be more open and form better personal relationships was noted by the attending physician in his discharge summary. From the evidence of record, I conclude this beneficiary had greater difficulty in accepting treatment and that is the primary reason for the length of the inpatient stay. Her reluctance to accept transfer to a halfway house on July 18, 1978, (the twenty-third day of treatment) supports this premise and certainly prolonged inpatient care. The plan of treatment prescribed and conducted after the twenty-first day of the combined detoxification and rehabilitation program was of a type that did not require retention in an acute hospital setting. Therapy could have been adequately performed on an outpatient basis.

The beneficiary's representative (sponsor) and the Offutt AFB Health Benefits Advisor urged that the use of the word "normally" in reference to the twenty-one day Regulation limitation implies a permissive reading which should be read in

favor of the beneficiary. The Hearing Officer concluded the word "normally" is already used in a permissive sense in the Regulation. The exception to a "normal" twenty-one day limit is the existence of severe medical effects of alcohol medically requiring a continued inpatient setting. In the absence of a medically required inpatient setting, CHAMPUS coverage is limited to twenty-one days.

In summary, I find the inpatient treatment to be medically necessary for the treatment of alcoholism and within the CHAMPUS regulatory criteria, as above cited, from June 26 through July 16, 1978, (twenty-one days). The record supports CHAMPUS coverage for the normal period authorized by the Regulation for a combined program of detoxification and rehabilitation. I further adopt, as above indicated, the findings of the Hearing Officer regarding the record's failure to document the presence of a physical complication that required the inpatient care beyond the twenty-first day; therefore, I find the inpatient care from July 17 through August 8, 1978, not to be medically necessary and not within the Regulation's criteria for coverage of alcoholism inpatient care. CHAMPUS cost-sharing of the inpatient care from July 17 through August 8, 1978, is denied.

Appropriate Level of Care

Under DoD 6010.8-R, chapter IV, B.1.y., the level of institutional care authorized under the CHAMPUS Basic Program is limited to the appropriate level required to provide the medically necessary treatment. Services and supplies related to inpatient stays above the appropriate level required to provide necessary medical care are excluded from CHAMPUS.

The Hearing Officer found that, as the inpatient stay was not medically necessary, the care could have been provided on an outpatient basis. From the appeal record, it appears transfer to a halfway house was discussed with the beneficiary on July 17, 1978. It was not until July 26, 1978, that she agreed to this disposition. In view of this information, care at a lower level of care (halfway house) was available for this beneficiary. Again, it appears the beneficiary's basic inability to accept her problem prevented an earlier discharge from the inpatient setting. The absence of physical complications requiring the continued inpatient stay also forces the conclusion an inpatient setting was not required beyond the normal twenty-one day allowance.

In view of the above, I adopt the Hearing Officer's finding that inpatient care beyond twenty-one days was not medically necessary and could have been provided on an outpatient basis. Therefore, the inpatient care beyond twenty-one days was above the appropriate level of care and excluded from coverage under CHAMPUS.

SECONDARY ISSUES

Knowledge of the Regulations. At the hearing, the representative expressed his concern that, as a "consumer," he cannot know all the rules and regulations pertaining to CHAMPUS. As concerns this case, the representative was unaware of the regulation provision on alcoholism (the twenty-one day normal limit) until he read the provision after the care was rendered.

In support of the representative, the Health Benefits Advisor testified he advised the sponsor that inpatient alcoholism treatment was a CHAMPUS benefit. However, the Health Benefits Advisor was apparently aware of the "normal" twenty-one day limit as he urged a permissive interpretation favoring the beneficiary.

While I realize the Department of Defense Regulation governing CHAMPUS is lengthy and detailed, the precise reason for the depth and specificity of the Regulation is to provide as much information regarding CHAMPUS as is reasonably possible. The Department of Defense strongly encourages CHAMPUS beneficiaries and their sponsors to be knowledgeable regarding CHAMPUS and to seek advice from their Health Benefits Advisor. Unfortunately in this case, the sponsor did not consult the Regulation until after the care was rendered and, perhaps, the Health Benefits Advisor did not fully explain the clear limitations of the alcoholism benefit. As noted by the Hearing Officer, the lack of knowledge cannot change the context and substance of the Regulation. I cannot alter the regulatory requirements on this basis.

Burden of Evidence. The beneficiary's representative (sponsor) additionally argued he had no control over the quality and depth of documentation in the hospital records, and that, if the records are inadequate, he cannot establish the necessity for the hospitalization. I recognize the difficulty associated with poorly documented medical records in establishing coverage with any third-party payor; however, it is incumbent upon the appealing party to produce evidence sufficient to establish CHAMPUS coverage under the Department of Defense Regulation governing CHAMPUS. CHAMPUS coverage must be established by documentation of record or oral testimony.

It was the representative's opinion that the hospital record did not present a clear picture of the mental disturbance suffered by the patient. At least one of the reviewing psychiatrists also believed the records to be limited. Documents in the record do, however, contain the observations and comments of the attending physician, nurses, counselors, and hospital staff relating to this patient. Had there been symptoms of serious physical or mental disorder in the patient,

as claimed by the sponsor, it must be assumed that the records would have contained some information regarding the symptoms, the suspected disorder and the recommended treatment. In the absence of this type of documentation, it cannot be established that the inpatient care from July 17 through August 8, 1978, qualifies as authorized CHAMPUS care.

SUMMARY

In summary, it is the FINAL DECISION of the Acting Assistant Secretary of Defense (Health Affairs) that the inpatient care from June 6 through July 16, 1978, was medically necessary and met CHAMPUS criteria for coverage as inpatient treatment of alcoholism. I further find the inpatient care from July 17 through August 8, 1978, was (1) not medically necessary as there were no physical complications associated with alcohol withdrawal that required inpatient treatment, and (2) above the appropriate level of care required for the treatment of alcoholism as care could have been provided at a lower level of care or on an outpatient basis. Therefore, the inpatient care subsequent to July 16, 1978, is not covered under CHAMPUS. The appeal of the beneficiary is therefore denied. As the fiscal intermediary initially issued payment for twenty-nine days of inpatient care, this FINAL DECISION results in an overpayment to the provider of eight days of inpatient care. OCHAMPUS is directed to refer this matter to the Office of General Counsel, OCHAMPUS for consideration of recoupment action. Issuance of this FINAL DECISION completes the administrative appeals process under DoD 6010.8-R, chapter X, and no further administrative appeal is available.

John Beary

John F. Beary, III, M.D.
Acting Assistant Secretary