

ASSISTANT SECRETARY OF DEFENSE

WASHINGTON, D. C. 20301

OCT 15 1982

HEALTH AFFAIRS

BEFORE THE OFFICE, ASSISTANT
SECRETARY OF DEFENSE (HEALTH AFFAIRS)
UNITED STATES DEPARTMENT OF DEFENSE

Appeal of)
Deceased)
Sponsor:) OASD(HA) File 82-08
SSN:) FINAL DECISION
)

This is the FINAL DECISION of the Assistant Secretary of Defense (Health Affairs) in the CHAMPUS Appeal OASD(HA) Case File 82-08 pursuant to 10 U.S.C. 1071-1089 and DoD 6010.8-R, chapter X. The appealing party originally was the beneficiary. Subsequent to the hearing, the beneficiary expired. The appealing party is now the sponsor. The appeal involves the denial of two claims and a request for preauthorization for dental services of root canal therapy, fluoride treatment, and fillings provided the beneficiary during 1977-78. The amount in dispute involves claimed charges of \$368.50 and a request for preauthorization for an additional \$1,183.00 in dental care. The appeal file reflects actual dental care received during 1977-78 totaled \$1,658 with an estimated \$1,500-2,000 in additional work to be performed. No claim has been filed for any charges other than \$368.50.

The Hearing File of Record, the tape of oral testimony and argument presented at the hearing, the Hearing Officer's Recommended Decision and the Memorandum of Concurrence from the Director, OCHAMPUS have been reviewed. It is the Hearing Officer's recommendation that the claims and request for preauthorization be denied. The Hearing Officer found the dental care was not necessary for the treatment of a covered medical condition, was not an integral part of treatment of a medical condition and, therefore, did not qualify as covered adjunctive dental care. The Hearing Officer additionally found the dental treatment had been either for prevention of a condition or restoration due to damage as a result of treatment and was not covered under CHAMPUS. The Director, OCHAMPUS concurs with the recommendation of the Hearing Officer.

The Acting Assistant Secretary of Defense (Health Affairs) after due consideration of the appeal record adopts the recommendation of the Hearing Officer to deny CHAMPUS cost-sharing for the dental treatment.

The FINAL DECISION of the Acting Assistant Secretary of Defense (Health Affairs) is, therefore, to deny CHAMPUS coverage for the dental care provided December 22, 1977 to January 13, 1978, and February 2-28, 1978, as well as the request for preauthorization of additional dental treatment dated February 28, 1978, based on a determination the care does not qualify as covered adjunctive dental care.

FACTUAL BACKGROUND

The beneficiary underwent treatment in November 1976 for carcinoma of the supraglottic larynx, including radiation therapy. As a result of this therapy, she developed radiation caries with attendant problems requiring extensive dental treatment and restoration. Two CHAMPUS claims were submitted for examination and x-rays, oral hygiene instructions, root canal therapy, fluoride treatment and composite filling performed during December 22, 1977 to January 12, 1978, and February 2-28, 1978, totaling \$368.50. The stated diagnosis was extreme decay due to radiation treatment for cancer. A preauthorization request dated February 28, 1978, was also filed with the CHAMPUS Dental Fiscal Intermediary, Blue Shield of California. Approval was requested for extensive root canal therapy, fillings and attendant services with an estimated cost of \$1,183.00. The beneficiary apparently received the additional dental care subsequent to the request for preauthorization although no claims were filed for the additional care. The preauthorization request and the claims were denied by Blue Shield of California. This denial was affirmed upon informal review on the basis restorative dental care was not a covered benefit. Reconsideration review also affirmed the denial and the beneficiary appealed to OCHAMPUS. The OCHAMPUS formal review determination also denied the payment and authorization of the dental care. A hearing was requested by the beneficiary. The hearing was held at Austin, Texas on January 8, 1980, before Mary Ellen Felps, Hearing Officer. The Hearing Officer has submitted her recommended decision. All prior levels of administrative review have been exhausted and issuance of a FINAL DECISION is proper.

ISSUES AND FINDINGS OF FACT

The primary issue in this appeal is whether the dental care received and requested adjunctive dental care under CHAMPUS. In resolving this issue, it must be determined (1) whether the dental care received and requested by the beneficiary was medically necessary in the treatment of an otherwise covered medical (not dental) condition, was an integral part of the treatment of the medical condition and was essential to the control of the primary medical condition;

(2) whether the dental care was essentially preventive, involved only the teeth or their supporting structures, or was restorative?

Adjunctive Dental Care

The CHAMPUS program does not include a dental benefit. Under 10 U.S.C. 1079, benefits are available only for dental care required as a necessary adjunct to medical or surgical treatment. The implementing regulation, DoD 6010.8-R, chapter IV, E.10 defines adjunctive dental care as:

"... that dental care which is medically necessary in the treatment of an otherwise covered medical (not dental) condition, is an integral part of the treatment of such medical condition and is essential to the control of the primary medical condition."

Under DoD 6010.8-R, chapter IV, E.10.b., adjunctive dental care specifically does not include the following:

"(1) Dental care which is essentially preventive and (even if performed to prevent a potential medical condition) which is not an integral part of the treatment of a medical (not dental) condition, does not qualify as adjunctive dental care for the purposes of CHAMPUS. An example would be routine dental care provided a rheumatic heart patient as a "preventive" measure.

(2) Adjunctive care does not include dental services which involve only the teeth and/or their supporting structure, even if the result of an accident. An example would be the child who falls and breaks, chips or loosens a tooth.

(3) Adjunctive dental care does not include restoration or peridontal splinting of teeth and/or dental prosthesis, whether permanent or temporary and whether required as a result of an accidental injury or whether injured, affected or fractured during the medical or surgical management of a medical condition.

...."

Therefore, under these statutory and regulatory authorities, to constitute CHAMPUS covered services, dental

care must relate directly to the treatment of a medical condition. Dental care alone is not a covered benefit. Further, dental care must be other than preventive or restorative and must involve more than the teeth and their supporting structure to qualify as covered adjunctive dental care.

The beneficiary in this appeal has submitted statements for the record from her attending physicians and dentists. These opinions state the radiation therapy received by the beneficiary affected the salivary glands to the extent that the glands did not produce the washing and protective effect over the teeth. The result was extensive damage to the teeth and gums. She developed cellulitis over the left maxillary area and had several abscesses. There is also evidence the cobalt treatment directly damaged the teeth. The beneficiary's previous medical history reveals one attack of congestive heart failure due to cor pulmonale, as well as chronic conditions of emphysema, bronchitis, and hypothyroidism.

The basic contention of the beneficiary's medical and dental providers is that the radiation carries offered a source of infection which, due to the complicated medical history, was a serious threat to the beneficiary's health. Treatment was opined to be mandatory to prevent further deterioration or loss of teeth. The evidence of bone loss due to osteoradionecrosis is also cited as a contributing reason for the dental care. At the hearing, the beneficiary also submitted a medical opinion from her psychiatrist citing the direct relationship between the beneficiary's mental condition and her apprehension over the deterioration of her teeth and jaws and her difficulty in mastication. The dental treatment is, therefore, opined to be adjunctive to both her mental and physical condition.

From the evidence in this appeal, there are three potential medical, including mental conditions to which the dental care is said to be adjunctive. Each of these contentions are addressed below.

While the beneficiary does not contend the dental care is adjunctive to the treatment of cancer of the larynx, medical opinion in the appeal file does relate the treatment to the dental care. Therefore, I have considered this issue. It is clear from the record, the beneficiary received radiation therapy in the treatment of her disease and that this treatment damaged her teeth. It is important to note the cancer did not damage the teeth; the treatment precipitated the damage. It is equally important to note the medical statement submitted by the beneficiary does not opine the dental care constitutes medically necessary treatment for the cancer. The relationship of the dental care to overall health is stated but it is not related in these opinions to a specific medical condition.

The appeal file reflects peer reviews by a physician (internal medicine) and a dentist (oral surgery), associated with the Colorado Foundation for Medical Care. The initial review opined the dental treatment was medically necessary in the treatment of a primary medical condition of post-surgical squamous carcinoma of the supraglottic larynx, but that the dental treatment was not essential to the control of the primary medical condition. Because of the obvious inconsistency of this opinion, a clarification was requested by OCHAMPUS. This clarification states the dental treatment will have no effect on or control the cancer but is considered medically necessary in an overall treatment program for the patient.

While the overall health of the beneficiary is a cogent medical reason for treatment, I am constrained by statutory and regulatory authorities to adjudicate the adjunctive dental care benefit on the basis of specific criteria. If a medical condition is not affected by proposed dental care, it cannot be considered adjunctive for purposes of CHAMPUS cost-sharing. Herein, there is no documentation the cancer would be (or was) affected by the dental care. The Hearing Officer found the dental treatment was not related directly to any of the pre-existing medical conditions including cancer and I concur in this finding. The medical evidence relates the dental care only to overall health not to a primary medical condition of cancer. Therefore, I find the dental care is not medically necessary in the treatment of cancer, is not an integral part of the treatment and is not essential to its control.

The beneficiary and her sponsor contend the dental care is adjunctive to her medical conditions of cor pulmonale, emphysema, bronchitis and hypothyroidism. The record does not support this contention. There is no medical opinion directly relating the dental treatment to the treatment of these conditions. The aggravation of these conditions through infection from the teeth and gums is clearly stated. However, the treatment must be more than potential aggravation; it must be essential to the control and an integral part of treatment for these medical conditions. There is no documentation to that effect and I must again agree with the hearing officer that the speculative aggravation of these problems does not qualify as adjunctive dental care. Therefore, I find the dental care is not adjunctive to the above cited medical conditions.

The third area to be considered as a primary medical condition is the beneficiary's mental problems. The appeal file indicates she had multiple hospitalizations due to her mental condition diagnosed as manic depressive. Her psychiatrist contends her mental problems are precipitated and aggravated by unattended physical problems. Her fear of

choking, difficulty in mastication and deterioration of her teeth is specifically cited as precipitating a psychosis. The dental care is therefore linked to her mental condition according to her psychiatrist. Again, however, the potential aggravation of a mental condition cannot qualify as a primary medical condition. There is no documentation that her pre-existing mental condition can be controlled by dental treatment.

Her mental problems pre-exist the dental problems. Even her psychiatrist does not take the position the dental treatment alone is essential to the control of the psychosis. Further, I do not believe the presence of a mental condition could qualify as a primary medical condition. It is clear from the regulatory provisions that physical problems are contemplated in the definition of adjunctive dental care. In any event, I find the dental care is not essential to the control of her mental condition and fails to qualify as adjunctive dental care.

Final consideration of the dental care as adjunctive requires inquiry into the preventive and restorative nature of the care and the involvement of the teeth only. Under the previously cited regulatory provisions, preventive and restorative dental care is specifically excluded from adjunctive dental care. As noted above, the dental care herein has been tied to the aggravation of various physical and mental problems. The preventive nature of the care is well established by the beneficiary's attending physicians and dentists. Elimination of a source of infection, and prevention of osteoradionecrosis and removal of stressful physical problems are cited. As essentially preventive care, the dental care is specifically excluded from CHAMPUS coverage.

The restorative nature of the care is also evident from the record. Root canals and fillings are restoration of the teeth and supporting structure. Such treatment is excluded even if the teeth on supporting structures were injured or affected during the medical or surgical management of a medical condition, as is clearly the case herein. The dental care is also excluded as it involves only the teeth and supporting structures. The Hearing Officer found the care to be preventive, restorative and involving only the teeth and thereby excluded. I agree and adopt the Hearing Officer's findings on these issues.

In this FINAL DECISION, I have considered a prior decision by this office on a factually similar case. In OASD(HA) Appeal File 02-79, June 29, 1979, the beneficiary's teeth deteriorated as a result of radiation therapy following surgery for lung cancer. The Acting Assistant Secretary of Defense (Health Affairs) held the dental care was not adjunctive as it was required as a result of medical treatment and thereby was excluded.

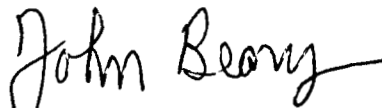
Preauthorization

Under DoD 6010.8-R, chapter IV, E.10., preauthorization of adjunctive dental care is required for CHAMPUS coverage. The record in this appeal reflects the beneficiary received \$368.50 in dental care prior to the date of the request for preauthorization of additional dental care. Preauthorization is waived only where the adjunctive dental care involves an emergency medical (not dental) condition. As the appeal file does not document such an emergency medical condition, I must find the services incurred prior to February 28, 1978, the date of the preauthorization request, to be specifically excluded from CHAMPUS.

SUMMARY

In summary, it is the FINAL DECISION of the Acting Assistant Secretary of Defense (Health Affairs) that the dental services provided the beneficiary during December 22, 1977 through February 22, 1978, as well as the treatment included in the request for preauthorization do not qualify as covered adjunctive dental care under CHAMPUS. First, all services received prior to February 28, 1978 are specifically excluded under CHAMPUS as no preauthorization was requested as required by regulation. Second, while the entire dental treatment program may have been necessary for the beneficiary, the dental care does not meet the statutory and regulation requirements for CHAMPUS coverage of adjunctive dental care. The dental services were not medically necessary in the treatment of a covered medical condition; were not an integral part of treatment of a covered medical condition; nor essential to the control of the primary medical condition. Further, the dental services were preventive, restorative and involved only the teeth and supporting structure, and are, therefore, specifically excluded as a CHAMPUS benefit. The CHAMPUS law and regulation would have to be amended before CHAMPUS could pay for dental care necessary in the treatment of damage to teeth and supporting structures resulting from treatment of a medical condition.

Therefore the claims for dental services and the request for preauthorization are denied. 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 F. Beary, III, M.D.
Acting Assistant Secretary