



ASSISTANT SECRETARY OF DEFENSE
WASHINGTON, D. C. 20301

HEALTH AFFAIRS

SEP 29 1983

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

Appeal of)
Sponsor:) OASD(HA) File 83-22
SSN:) FINAL DECISION

This is the FINAL DECISION of the Acting Assistant Secretary of Defense (Health Affairs) in the CHAMPUS Appeal OASD(HA) Case File 83-22 pursuant to 10 U.S.C. 1071-1089 and DoD 6010.8-R, chapter X. The appealing party is the beneficiary, the spouse of a retired enlisted member of the United States Air Force. The appeal involves the denial of CHAMPUS cost-sharing for inpatient care for treatment of alcoholism in excess of 21 days as not medically necessary and above the appropriate level of care. The total inpatient stay was 23 days. The amount in dispute is \$356.00 in hospital charges and \$28.00 for the physician hospital visits for the last two days of inpatient care for a total of \$384.00.

The hearing file of record, the tape of oral testimony and argument presented at the hearing, the Hearing Officer's Recommended Decision and the Analysis and Recommendation of the Director, OCHAMPUS, have been reviewed. It is the Hearing Officer's recommendation that the OCHAMPUS denial of cost-sharing beyond 21 days of inpatient care be upheld. The Director, OCHAMPUS, concurs in the Recommended Decision and recommends adoption of the Recommended Decision as the FINAL DECISION.

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 cost-sharing 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 deny CHAMPUS cost-sharing for inpatient care for treatment of alcoholism beyond 21 days of inpatient care as not medically necessary and an inappropriate level of care.

FACTUAL BACKGROUND

The beneficiary received inpatient treatment for alcoholism at Medical Center, , Colorado, from May 3 to May 26, 1980. The medical records reflect the beneficiary reported a 30-year history of alcohol problems and was previously hospitalized for alcohol treatment in 1962. Upon admission to Medical Center, she was observed to be well-developed and well-nourished, in no acute distress, but had received some sedation. Nurses' notes reveal the beneficiary was tremulous upon admission. General physical examination was unremarkable except for a slightly enlarged liver. Diagnostic impressions included acute alcohol withdrawal, chronic alcoholism and hepatomegaly. Liver function studies performed during the inpatient treatment were normal except for a slightly elevated GGT. The beneficiary had a blood alcohol level of 180 upon admission and was admitted to the special care unit for detoxification. Routine detoxification orders were given. The beneficiary was transferred to the alcohol rehabilitation program on May 4, 1980. Review of the progress notes reveal no problems or complaints were observed or reported by the beneficiary. Cholesterol continued high although the beneficiary was placed on a low cholesterol diet. During the 22-day inpatient rehabilitation program, the beneficiary was seen frequently by an alcoholism therapist; attended group meetings; participated in recreation activities - crafts and golf; attended family conferences; received passes on May 17, 18, 19, 24, and 25; and attended AA meetings. The beneficiary was discharged to home on May 26, 1980, after successfully completing the rehabilitation program. No serious physical complications were noted in the nurses' notes, progress notes, or discharge summary.

A CHAMPUS claim was filed by Medical Center for 23 days of inpatient care totaling \$4,788.71. After deduction of the beneficiary's cost-share, the amount claimed was \$3,591.53. The beneficiary also submitted a claim for professional services by the attending physician, Dr. , in the amount of \$426.00. The CHAMPUS Fiscal Intermediary for Colorado, Mutual of Omaha Insurance Company, initially denied both claims advising that inpatient treatment for alcoholism was a covered benefit only if the patient was in an acute stage of alcoholism at the time of admission. This determination was affirmed upon Informal Review and Reconsideration by Mutual of Omaha. The beneficiary appealed to OCHAMPUS. OCHAMPUS reviewed the record and determined, in accordance with a change in policy which authorizes CHAMPUS coverage of inpatient alcohol rehabilitation care in the absence of acute stage of alcoholism, the inpatient care from May 3 to May 23, 1980, would be cost-shared; however, the last two days of care were denied coverage as the medical necessity of the care had not been documented.

Subsequently, OCHAMPUS issued a supplemental First Level Appeal decision which also authorized the physician's services for May 3 to May 23, 1980; the physician's services from May 24 to May 26, 1980, were denied coverage as justification for the continued care was not documented.

Mutual of Omaha issued payment to the hospital for \$3,589.66 which erroneously included the last two days of inpatient care for which payment had been denied by OCHAMPUS. The beneficiary testified she received \$256.50 from Mutual of Omaha as payment for the physician charges; however, the file does not reflect if this payment includes cost-sharing of the last two visits by the physician on May 24-25, 1980. The beneficiary appealed the OCHAMPUS denial and requested a hearing. The hearing was held on March 24, 1983, in Aurora, Colorado, before Hearing Officer. The Hearing Officer has issued her Recommended Decision and issuance of a FINAL DECISION is proper.

ISSUES AND FINDINGS OF FACT

The primary issues in this appeal are whether the inpatient treatment for alcoholism beyond 21 days was medically necessary and the appropriate level of care.

Medically Necessary And Appropriate Level of Care

Under the Department of Defense regulation governing CHAMPUS, DoD 6010.8-R, chapter IV, A.1., the basic program will pay for medically necessary services and supplies required in the diagnosis and treatment of illness or injury. Services which are not medically necessary are specifically excluded. (See DoD 6010.8-R, chapter IV G.1.) Medically necessary is defined in chapter II B.104. as:

"... the level of services and supplies (that is frequency, extent, and kinds) adequate for the diagnosis and treatment of illness or injury Medically necessary includes the concept of appropriate medical care."

The Regulation at DoD 6010.8-R, chapter IV, G.3. specifically excludes:

"Services and supplies related to inpatient stays in hospitals or other authorized institutions above the appropriate level required to provide necessary medical care."

In conjunction with the above requirement for medically necessary services, chapter IV, E.4. provides criteria for coverage of inpatient rehabilitation treatment for alcoholism. The criteria is as follows:

"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 [for detoxification], 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 (life-time 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."

As stated above, the period in issue in this appeal is May 24-26, 1980. Under the above cited authorities, CHAMPUS will cost-share this inpatient care and attendant professional charges only if the care represented treatment of an illness at the appropriate level, i.e., inpatient. If no treatment was provided during this period or such treatment could have been provided on an outpatient basis, CHAMPUS cannot cost-share the care. In further definition of the concepts of medically necessary and appropriate level of care in alcoholism treatment, the above-quoted provision on rehabilitative care clearly indicates CHAMPUS coverage is limited to 21 days for a combined program of detoxification and rehabilitation unless additional factors are present justifying the continued inpatient care; for example, a serious physical complication.

As the Hearing Officer has correctly noted in her Recommended Decision, this office has previously decided appeals involving the 21 day rule. In OASD(HA) 02-80, a medical need was required for cost-sharing beyond 21 days. In OASD(HA) 04-80 this office concluded:

"The exception to a 'normal' twenty-one day limit is the existence of severe medical effects of alcohol medically requiring a continued inpatient setting."

More recently, I determined in OASD(HA) 83-05 that care beyond 21 days was not medically necessary and above the appropriate level of care when no serious physical complications were present and there was no showing the care could not have been provided on an outpatient basis.

Applying these authorities to the present appeal, the Hearing Officer found the inpatient care from May 24 to May 26, 1980, could have been provided on an outpatient basis. I concur in this conclusion. As discussed by the Hearing Officer, the medical records do not document any specific medical complication being treated in the final two days of care and there is no evidence that any medication other than thyroid was given to the beneficiary (which she could administer to herself). As the Hearing Officer noted, the medical records also reveal the beneficiary was on pass for five hours on both May 24 and May 25, 1980, and could have attended the AA meetings (the only documented activity) as an outpatient on Saturday evening and Sunday morning. In summary, the hospital records reveal no medical care or evaluation was rendered during the last two days. The Hearing Officer concluded the records did not document a medical need for the continued inpatient care, and I agree.

The alcoholism therapist provided a statement for the appeal record advising the two 5-hour passes were provided to assess the patient's "readiness" to return to the home situation. In reviewing the records in this appeal, the OCHAMPUS Medical Director, a psychiatrist, opined:

"While a temporary leave of absence might be justified prior to discharge - as a specific individualized clinical treatment plan - to assess readiness for discharge, a general policy cannot be justified, particularly where there is no pre-leave or post-leave assessment or documentation noted which would reflect a specific professional determination."

The Medical Director opined that care beyond 21 days cannot be justified as medically necessary and that no active psychosocial rehabilitative care was rendered subsequent to May 23, 1983.

The attending physician, Dr. _____, also provided a statement for the hearing record, advising that:

"By strict medical criteria, that is, of life threatening nature, the truth is that by those criteria she (the beneficiary) could have been discharged much sooner. The fact is that the treatment program as set up and defined and approved, is 21 days and [the beneficiary] did complete these 21 days."

However, from the record, the program for this beneficiary was 23 days including one day of detoxification.

Dr. _____ also stated that CHAMPUS has never recognized that the hospital treatment program consists of three weeks of intensive inpatient treatment following detoxification. In response to these statements, I can reply only that CHAMPUS will not cost-share inpatient care where no treatment is provided or treatment could have been performed on an outpatient basis. CHAMPUS coverage will not be extended simply because a provider has established a program of a certain length and attempts to shield itself from questions of medical necessity by reference to a standardized program. Medical necessity is a concept of individualized, not group, care.

I have also noted the beneficiary's concern that she had no choice when she would leave the hospital and her testimony that she was told the physician decided when she could leave. The Hearing Officer responded to this issue correctly; the decision before the Department of Defense is whether the last two days of inpatient care will be cost-shared by CHAMPUS. The patient, of course, bears the responsibility of receiving or refusing proffered medical care.

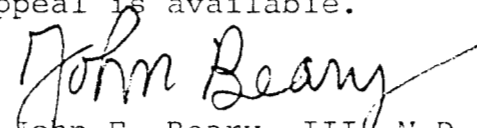
The Hearing Officer has recommended the OCHAMPUS First Level Appeal determination be upheld denying cost-sharing for inpatient care and physician charges beyond 21 days. This recommendation is based on her findings the care after May 23 could have been provided on an outpatient basis and there was no showing of medical need to justify continued inpatient treatment. Following my review of the record in this appeal, I adopt these findings and Recommended Decision as the FINAL DECISION of the Acting Assistant Secretary of Defense (Health Affairs).

SUMMARY

In summary, it is the FINAL DECISION of the Acting Assistant Secretary of Defense (Health Affairs) that CHAMPUS cost-sharing of the inpatient care for alcoholism at Mercy Medical Center and physician charges from May 24 to 26, 1980, be denied as not medically necessary and above the appropriate level of care. This conclusion is based on findings there was no medical need, e.g., physical complications, justifying the continued inpatient care and the care received could have been provided on an outpatient basis.

As discussed above, the CHAMPUS fiscal intermediary paid the entire hospital claim including charges for May 24-25, 1980. As

a result of this decision, the payment for May 24-25, 1980, is determined to be erroneous. Further, the appeal record reflects a payment was made on the physician's claim; however, the record does not indicate if the last two days of physician charges were cost-shared. Therefore, the matter is referred to the Director, OCHAMPUS, to determine if payment was made for the last two physician visits and consideration of recoupment action of all erroneous payments, as appropriate, under the Federal Claims Collection Act. The 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