ASSISTANT SECRETARY OF DEFENSE

WASHINGTON, D.C. 20301

HEALTH AFFAIRS

DEC 9 1983

BEFORE THE OFFICE, ASSISTANT

SECRETARY OF DEFENSE (HEALTH AFFAIRS)

UNITED STATES DEPARTMENT OF DEFENSE

Appeal of	)	
	)	
Sponsor:	)	OASD(HA) Case File 83-38
	)	FINAL DECISION
SSN:	)	

This is the FINAL DECISION of the Assistant Secretary of Defense (Health Affairs) in the CHAMPUS Appeal OASD(HA) Case File 83-38 pursuant to 10 U.S.C. 1071-1089 and DoD 6010.8-R, chapter X. The appealing party is the beneficiary, the son of a retired officer of the United States Army; at the time of treatment, the sponsor was an active duty officer. The appeal involves (1) the OCHAMPUS denial of cost-sharing for psychotherapy by , M.D., in excess of five 1-hour therapy sessions in any 7-day period during four hospitalizations at Hospital, , ., between May 6, 1980, and May 26, 1981; and, (2) the denial of cost-sharing for inpatient hospitalization at Brentwood Hospital from April 20, 1981, to May 26, 1981. The amount in dispute for the therapy sessions in excess of five 1-hour sessions in any 7-day period involves billed charges of $2,170.00. The amount in dispute for the denied cost-sharing of the inpatient hospitalization from April 20, 1981, to May 26, 1981, involves billed charges of $8,248.00. In addition, the record shows a claim for 10 therapy sessions was denied by the fiscal intermediary for late filing. Two of the 10 sessions were also denied by OCHAMPUS for being in excess of five sessions in any 7-day period; the other eight sessions are considered in this appeal, which adds $240.00 to the amount in dispute.

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 First Level Appeal Determination issued December 14, 1981, denying cost-sharing for inpatient psychotherapy sessions in excess of five sessions in any 7-day period be upheld on the basis that there is no documentation to support the medical necessity for crisis intervention. In addition, it is the recommendation of the Hearing Officer that the OCHAMPUS First Level Appeal Determination issued August 23, 1982, denying cost-sharing of the

inpatient psychiatric hospitalization from April 20, 1981, to May 26, 1981, be reversed. The Director, OCHAMPUS, concurs in the Recommended Decision and recommends adoption of the Recommended Decision as the FINAL DECISION.

The Acting Principal Deputy Assistant Secretary of Defense (Health Affairs), acting as the authorized designee for the Assistant Secretary, after due consideration of the appeal record, concurs in the recommendation of the Hearing Officer and hereby adopts the recommendation of the Hearing Officer as the FINAL DECISION.

The FINAL DECISION of the Assistant Secretary of Defense (Health Affairs) is, therefore, to deny CHAMPUS cost-sharing for psychotherapy sessions in excess of five sessions in any 7-day period on the basis there is no documentation to show any medical necessity for crisis intervention during the beneficiary's four hospitalizations. The inpatient psychiatric hospitalization from April 20, 1981, to May 26, 1981, will be cost-shared by CHAMPUS as medically necessary and appropriate care.

FACTUAL BACKGROUND

The appealing party was admitted as an inpatient to Brentwood Hospital in Shreveport, Louisiana, on four occasions between May 6, 1980, and May 26, 1981. The beneficiary's initial admission to Brentwood Hospital was from May 6, 1980, to June 20, 1980. His diagnosis was adjustment reaction of adolescence. A clinical psychologist described the patient as: "His level of impulsiveness [is] high enough that [the beneficiary] must be considered a possible danger either to himself or others." This hospitalization was cost-shared by CHAMPUS. The billings by the treating psychiatrist, , M.D., were cost-shared with the exception of her billings in excess of five 1-hour therapy sessions in any 7-day period.

The beneficiary's second admission was from September 30, 1980, to December 20, 1980. The admitting diagnosis for the September 30, 1980, admission was adjustment reaction of adolescence. The discharge diagnosis was bipolar affective disorder, manic psychotic. He was hospitalized because of an inability to function in a familial, academic, or social situation and because of potential danger to himself. Hospitalization continued because of a failure to respond to medication and continued self-destructive behavior.

In an October 14, 1980, consultation during this admission, , M.D., opined that:

> "[The beneficiary] shows definite deterioration over his previous admission . . . . He is definitely in need of long-term structured rehabilitation treatment as he would not be able to function on an outpatient basis. He will probably need three to six month's hospitalization with medication. If the major antipsychotic

> medications are not effective within a short period of time, I would suggest considering a two to three week trial on Lithium therapy. The prognosis appears poor without a period of inpatient treatment followed by prolonged outpatient treatment."

The discharge summary by Dr. for this second admission described the hospital course as follows:

> "While in the hospital the patient was placed on the adolescent Behavior Modification Program, a program by which an adolescent may move from Level 1, the lowest level, to Level 4, the highest level, at weekly intervals by demonstrating age appropriate behavior and assuming more responsibility for himself. With each rise in level, the patient receives additional privileges and rewards. [The beneficiary's] course in the hospital initially was very sporadic and unpredictable. He became quite angry on occasions and literally 'tore up the room' and had to be transferred to the special care unit. Initially, he had frequent hospitalizations in the special care unit, an area of the hospital that is confining and has an increased ratio of nursing personnel to patient population."

The type of discharge was described as routine; however, the record makes clear that the discharge on December 20 was intended for an extended holiday pass with the beneficiary's family. This was brought out at the hearing and in the discharge summary for the April 15, 1981, discharge.

The September 30 to December 20, 1980, hospitalization was cost-shared by CHAMPUS. The billings by Dr. , with the exception of psychotherapy sessions in excess of five 1-hour therapy sessions in any 7-day period were also cost-shared. (One claim covering ten sessions was denied because it was received after the established claim filing deadline.)

The beneficiary's third admission was from January 2, 1981, to April 15, 1981. The admitting diagnosis was bipolar affective disorder, manic psychotic. The discharge diagnosis was bipolar affective disorder, manic psychotic (in partial remission). The summary states the beneficiary was hospitalized because of an inability to function in a familial, academic, or social situation without further hospitalization and because he represented a potential hazard or danger to his health as well as to others. Hospitalization was continued because: "1) There is noted some response to medication but not as fully as would be desired in order for him to continue to be maintained outside of a residential setting. 2) Though he has modified considerably

his self-destructive behavior, it remains a threat. 3) His runaway tendencies are present though modified." The discharge summary for the third hospitalization explicitly states that:

> ". . . it was deemed to be in his best interest and to assist in continuing with his recovery to allow him to go out with his family on an Easter holiday pass, therefore, he was discharged . . . with the understanding that after a holiday with the family he would return to be readmitted to Brentwood for his continued treatment in an attempt to bring about a complete satisfactory remission in order that he would be able to resume normal activities at home with his parents or in a school . . . ."

The CHAMPUS fiscal intermediary continued to deny psychotherapy sessions in excess of five 1-hour sessions in any 7-day period and denied cost-sharing for the hospitalization after March 25, 1981. The August 23, 1982, OCHAMPUS First Level Appeal Determination allowed cost-sharing of the entire period of the third hospitalization.

The fourth and last hospitalization was from April 20, 1981, to May 26, 1981. The discharge summary by Dr. states: "Hospitalization was indicated as a continuation of his therapy inasmuch as he continued to represent some danger to himself as well as to others." It goes on to state: "However, after his return to the hospital in April following the Easter holiday break with his family, [the beneficiary] began to show some progress, more than he had previously." Dr. also stated the beneficiary "had some difficulty in the initial phase of this hospitalization, which began on April 20, 1981, and he had a few episodes during which time he had some difficulty with his temper and with his angry outbursts, but he soon began to learn a coping mechanism. He learned to ask for medications when he felt like he was getting ready to become unmanageable . . . ." The fiscal intermediary denied cost-sharing of this admission. It was also denied by the OCHAMPUS First Level Appeal Determination.

The initial issue appealed was the denial of psychotherapy sessions in excess of five 1-hour sessions in any 7-day period during the first two admissions. OCHAMPUS, in a First Level Appeal Determination dated December 14, 1981, denied psychotherapy in excess of five sessions per 7-day period. The determination specifically denied benefits for inpatient psychotherapy for the following dates during 1980: May 12, 13, 19, 20, 26, 27; June 2, 3, 9, 10, 16; October 6, 7, 13, 14, 20, 21, 27, 28; November 3, 4, 10, 11, 17, 18, 24, 25; and December 1, 2, 8, 9, 15, 16. At the billed charge of $30.00 for each session, approximately $990.00 was denied CHAMPUS cost-sharing.

The record did not include the CHAMPUS Explanations of Benefits (EOBs) for the inpatient therapy sessions for the January 2 to April 15, 1981, hospital admission or the April 20 to May 26, 1981, hospital admission. An informal check of the EOBs with the fiscal intermediary indicated that all therapy sessions were cost-shared except those that exceeded five 1-hour sessions in any 7-day period. Thirty-six sessions during the last two admissions were denied cost-sharing, adding approximately $1,080.00 to the amount denied CHAMPUS coverage. Additionally, the record indicates a claim for one therapy session was denied by the fiscal intermediary for late filing; however, the record shows the claim was timely filed with OCHAMPUS. Two of the 10 sessions were denied by OCHAMPUS for exceeding the five session in any 7-day period limitation. However, the eight sessions apparently not paid add $240.00 to the dispute. A total of $2,410.00 in billed charges for psychotherapy, then, has been denied CHAMPUS coverage in this case.

The beneficiary also appealed the denial of cost-sharing of inpatient care after March 25, 1981. OCHAMPUS in the First Level Appeal Determination dated August 23, 1982, approved CHAMPUS benefits for the inpatient psychiatric hospitalization from March 26 to April 15, 1981. CHAMPUS cost-sharing of the admission from April 20 to May 26, 1981, however, was denied as not medically necessary.

A hearing was held in this case on February 24, 1983, at the Hospital in , . The beneficiary was represented at the hearing by his sponsor. The beneficiary was introduced by the sponsor but was not present for the hearing. The Hearing Officer, Ms. , has issued her Recommended Decision and all prior administrative appeal levels have been exhausted. Issuance of a FINAL DECISION is proper.

ISSUES AND FINDINGS OF FACT

The primary issues in this case are: (1) whether crisis intervention was required in this case permitting CHAMPUS coverage of psychotherapy in excess of the general coverage limitations, and (2) whether the final hospitalization from April 20, 1981, to May 26, 1981, was medically necessary and at the appropriate level of care.

Inpatient Psychotherapy-Crisis Intervention

The Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) is a health benefits program authorized under law as set forth in chapter 55, title 10, United States Code. The Department of Defense Appropriation Act, 1979, Public Law 95-457, in appropriating funds for CHAMPUS prohibited the use of such funds for ". . . any service or supply which is not medically or psychologically necessary to prevent, diagnose, or treat a mental or physical illness, injury, or bodily malfunction as assessed or

diagnosed by a physician, dentist, [or] clinical psychologist . . ." This prohibition has consistently appeared in each subsequent Department of Defense Appropriation Act.

Department of Defense Regulation 6010.8-R was issued under authority of statute to establish policy and procedures for the administration of CHAMPUS. The Regulation describes CHAMPUS benefits in DoD 6010.8-R, chapter IV, A.1., as follows:

> "Scope of Benefits. Subject to any and all applicable definitions, conditions, limitations and/or exclusions specified or enumerated in this Regulation, the CHAMPUS Basic Program will pay for medically necessary services and supplies required in the diagnosis and treatment of illness or injury, including maternity care. Benefits include specified medical services and supplies provided to eligible beneficiaries from authorized civilian sources such as hospitals, other authorized institutional providers, physicians and other authorized individual professional providers as well as professional ambulance service, prescription drugs, authorized medical supplies and rental of durable equipment."

The Regulation specifically defines psychiatric services and limitations of CHAMPUS coverage in DoD 6010.8-R, chapter IV, C., as follows:

> "2. Covered Services of Physicians and Other Authorized Individual Professional Providers.
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> "e. Psychiatric Services. Psychiatric services means individual or group psychotherapy.
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> "3. Extent of Professional Benefits.
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> "i. Psychiatric Procedures.

> "(1) Maximum Therapy Per Twenty-Four (24)-hour Period: Inpatient and Outpatient. Generally, CHAMPUS benefits are limited to no more than one (1) hour of individual and/or group psychotherapy in any twenty-four (24)-hour period, inpatient or outpatient. However, for the purpose of crisis intervention only, CHAMPUS benefits may be extended for up to two (2) hours of individual psychotherapy during a twenty-four (24)-hour period.
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> "(2) Psychotherapy: Inpatient. In addition, if individual or group psychotherapy, or a combination of both, is being rendered to an inpatient on an ongoing basis (i.e., non-crisis intervention), benefits are limited to no more than five (5) one-hour therapy sessions (in any combination of group and individual therapy sessions) in any seven (7) day period."

There are two CHAMPUS psychiatric case review forms in the record that were filled out and signed by the treating psychiatrist, Dr. . The first is dated December 4, 1980, and describes the patient's history by stating, "everyday individual psychiatric psychotherapy from one-half hour to one hour." Dr. repeats this in the form that is dated February 20, 1981.

The record indicates that on a number of occasions the beneficiary needed to be moved to the hospital's special care unit. There is no indication, however, that this placement required or caused the treating physician to change her routine, although the special care seems to have been provided by hospital staff. There is simply nothing in the record to indicate that it was other than the normal practice for Dr. to see this patient on a daily basis. This is confirmed by Dr. continuing to bill for daily sessions through final discharge. There is no evidence to show a need for crisis intervention that would have justified more than five 1-hour sessions in any 7-day period during any of the four separate admissions of the beneficiary to Brentwood Hospital.

The factual basis for the denial by OCHAMPUS of daily therapy sessions was a peer review obtained from the American Psychiatric Association. The peer reviewer stated:

> "The medical records provide no evidence that this patient required crisis intervention from May 6, 1980 to June 20, 1980. During the period September 30, 1980 to December 20, 1980 there were several episodes of extreme agitation and destructive behavior requiring

medication and restraint. Thus the patient was in need of psychiatric intervention for these acute outbursts.

. . . .

"The patient under consideration was described as having an affective disorder. Periods of excitement and disturbed behavior are characteristic of this disorder. The exacerbations of the disorder need intensive and sometimes sustained therapeutic intervention but that is not what is usually meant by the term crisis intervention. Hospital staff, particulary nursing staff, are accustomed to handling such problems. They may need a physician's guidance and orders for medication. If restraint is required they may need a physician's order but that is more a protection against possible abuse and violation of patients' rights.

"No rationale, let alone evidence, is provided for more than five psychotherapy sessions in any seven day period. I am quite puzzled by this record. The physician's statement of account lists the charges as being for 'Regular Hospital Follow-up Visits'. This same statement of account has a listing for psychotherapy but that was not used. There is a passing reference in the chart to psychotherapy but it is unclear. I am not certain about what was billed for.

"Leaving that aside I do not find any justification for follow-up visits on the basis of seven times a week. There were periods when the patient was highly disturbed and a conscientious physician might have made special visits to the hospital but these were not sustained.

"I am puzzled about another aspect of this case. There are several instances in which this patient went on therapeutic pass. There is an order written, the nursing notes indicate the patient went on pass, the physician mentions it in the progress notes, and bills were submitted on the days of the pass. Did the patient see the physician while on pass? No mention is made that this occurred. Specific instances occurred December 12, 1980, November 14, 1980, October 25, 1980 and June 6, 1980."

The sponsor, as the representative of the beneficiary, stated at the hearing that he had no argument for the "five to seven day regulation." He also indicated that as a member of the Uniformed Services he had his regulations and CHAMPUS had its regulations.

The Hearing Officer, in her Recommended Decision, noted, "In as much as [the sponsor], in his own testimony, stated that he could readily understand the regulation prohibiting inpatient psychotherapy sessions in excess of five (5) sessions per seven (7) day period, the undersigned will first dispose of this issue." She went on to note that the sponsor, in claiming benefits for all of Dr. sessions with the beneficiary, takes the position that inasmuch as his son was ill enough to require hospitalization he was entitled to treatment by his physician for each day of that hospitalization.

As noted by the Hearing Officer, there is evidence in the nursing notes that the beneficiary's behavior warranted individual attention by staff members on many occasions. However, there is no evidence that crisis intervention was required by the patient.

I agree with the Hearing Officer. A thorough review of the medical records indicates that this beneficiary required hospitalization for the evaluation and treatment of a diagnosed mental disorder, and that such hospitalization was both the appropriate level of care and reflective of the standard of medical care in the United States. What is not justified is the crisis intervention level of services within the hospital. While the beneficiary did require the intensity and comprehensiveness of services provided in a standard psychiatric hospital setting, his medical and psychological circumstances were such that more comprehensive intensive services ("crisis intervention" or "psychiatric intensive care") were not required. While all psychiatric hospitalizations represent a crisis for which intervention is required, it would be expected that psychiatric units would offer the basic structure and protections that would be sufficient for evaluation and treatment for all but the most severely psychologically decompensated or dangerous persons.

It is generally accepted that a crisis is an acute, short-term situation or acute exacerbation of some previous disorder. Crisis intervention emphasizes the identification of a specific event precipitating an emotional trauma and is characterized by an abrupt or decisive change in the person. The record in this case does not support finding the existence of crisis during any of the patient's four periods of hospitalization requiring extraordinary psychotherapeutic intervention to correct or prevent the continuation of a crisis.

Under the CHAMPUS appeal procedure, an appealing party has the responsibility of providing whatever facts are necessary to support the opposition to the OCHAMPUS determination. The appealing party has presented no such facts. A review of the record shows no evidence supporting any need for crisis

intervention during any of the four hospitalizations at Brentwood Hospital between May 6, 1980, and May 26, 1981. It is concluded that the Hearing Officer's finding that no psychotherapy sessions in excess of five sessions in any 7-day period are entitled to cost-sharing is well supported in the record. The Hearing Officer's recommendation to deny CHAMPUS cost-sharing for all psychotherapy sessions of the beneficiary exceeding five sessions in any 7-day period is adopted as the FINAL DECISION in this case.

Medical necessity of inpatient hospitalization from April 20, 1981, to May 26, 1981.

As noted above, the CHAMPUS regulation, DoD 6010.8-R, chapter IV, A.1, provides, "Subject to any and all applicable definitions, conditions, limitations, and/or exclusions specified or enumerated in this Regulation, the CHAMPUS Basic Program will pay for medically necessary services and supplies required in the diagnosis and treatment of illness or injury . . . ."

The Regulation defines medically necessary, in chapter II, 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 concept of appropriate medical care."

The Regulation in chapter IV, G.3, also 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.
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> "Therapeutic absences from an inpatient facility, except those absences which do not exceed seventy-two (72) hours are not automatically excluded."

The decision by OCHAMPUS to deny coverage of the last period of hospitalization (April 20 to May 26, 1981) was based on a peer review by a psychiatrist with the American Psychiatric Association. The reviewer stated:

> "It is difficult to be certain of what the final diagnosis is for the hospitalization between 4-20-81 and 5-26-81, since it is not

addressed in the discharge summary for this admission. However, a diagnosis of Bipolar Affective Disorder, Manic Psychotic is listed as the discharge diagnosis for the admission of 1-2-81 to 4-15-81, and I assume that this intended to be the discharge diagnosis on 5-26-81. It is probably certain that this patient had a major psychiatric disorder and the findings are not incompatible with the bipolar affective disorder. This is probably a current diagnosis.

"It is an unusual practice to discharge a patient for a 'vacation' and then readmit for continued treatment. What is more common practice is to send the patient on an extended pass to evaluate how well the patient will maintain his therapeutic gains out of the hospital and back in his family environment. In unusual situations because of either logistic reasons (distance from the hospital) or to assess the patient's adjustment in a home environment for a period longer than the usual pass, a discharge and readmission may be indicated. In this case, I am more troubled by a second discharge and readmission within 4½ months for a 'vacation' than I am by the first use of this approach during Christmas, 1980.

"Based on the treatment plan, progress and nurses notes during the patient's hospitalization between 4-20-81 and 5-26-81, I can find little evidence to justify the medical necessity for this admission. The treatment plan indicates 'destructive behavior' and 'learning problems' as the two major problems and 'handle anger' and 'handle grades and behavior in school until end of school term' as the goals for these problems. However, there is little evidence in the record that destructive behavior was a problem requiring hospitalization during this time period. The major task during this period seemed to be to develop and 'work through' discharge and aftercare plans. I find no clear reason why this planning could not have been accomplished during the final month or two of the previous hospitalization, from 1-2-81 to 4-15-81, following which outpatient treatment would probably have been adequate treatment."

The Hearing Officer recommends that the last hospitalization from April 20, 1981, to May 26, 1981, be cost-shared. The Director, OCHAMPUS, has concurred in this recommendation. I agree. The discharge summary states the beneficiary continued to represent some danger to himself as well as others and that a staff psychiatrist who consulted on this admission also recommended inpatient treatment. Since the Hearing Officer's recommendation to cost-share the admission is adopted, it is not necessary to address the issue in great detail.

The inadequacies of the medical records pertaining to the final hospitalization, however, do warrant additional comment. The records for the final admission from April 20, 1981, to May 26, 1981, are less complete than the records for the earlier admissions. The file does not contain a copy of the recommendations by Dr. or the results of his consultation during the final admission, which are referred to in the discharge summary. The discharge summary for the fourth admission shows the date of dictation as September 21, 1981, three days after the discharge summary for the third admission was dictated. A statement in the record by the treating psychiatrist that relates to the Christmas holiday discharge was dictated June 8, 1981. There is also a one paragraph discharge summary for the last admission that was dictated July 27, 1981. Thus it appears that the discharge summary for the fourth admission was prepared before preparation of the discharge summary for the third admission. Discharge summaries are normally prepared close to the date of discharge. When matters are in dispute, items that have been prepared at the time of treatment are given greater weight than those records or statements prepared during the appeal process. In brief, the hospital records are not satisfactory, not in conformance with usual and customary procedures for medical documentation, and only minimally sufficient to justify the Hearing Officer's recommendation.

SECONDARY ISSUES

Peer Review

The beneficiary, in a letter dated September 21, 1982, described the peer reviewer's opinion as obviously the worst sort of Monday morning quarterbacking. The sponsor, in correspondence with OCHAMPUS, stated that the after-the-fact review by a peer group is unjustifiable.

As stated in the CHAMPUS Manual for Inpatient and Outpatient Psychiatric Claims Review:

> "A patient's inpatient treatment may be reviewed prospectively, concurrently, or retrospectively, in order to ascertain that the treatment is medically appropriate or necessary.

. . . .

> "The review system required by CHAMPUS is a retrospective system in that each claim received is reviewed to determine if the services and supplies delivered by the date of claim are payable under the regulatory provisions of the program."

Review of medical or health care by medical/peer reviewers is well recognized in the health field. It is both appropriate and necessary for any program that pays benefits to review claims for appropriateness and quality of care. Although health care providers may furnish those services which they claim appropriate, I am constricted by law and regulation to cost-share care which meets the requirements for CHAMPUS coverage. The use of medical/peer review is a generally accepted method of assuring health care funds are properly expended.

Medical Records

In addition to inadequacies in the medical records previously noted, a thorough review of the record raises additional concerns. The record indicates that the patient was on frequent passes or vacations from the hospital. In fact, although the third hospitalization officially ended by discharge on April 15, 1981, it was the understanding of all parties that the patient was merely on Easter holiday break with his family, and that readmission occurred on April 20, 1981, following the patient's return from vacation.

While passes are a valid part of a psychotherapy treatment plan, the CHAMPUS Manual for Inpatient and Outpatient Psychiatric Claim Review provides that:

> "When a patient has had four or more psychiatric admissions in a 12 month period, consideration should be given to review by a Peer Review Panel, even if this admission and the previous admissions have met all other criteria. This frequency of admission warrants careful evaluating by peers to determine what is causing the recidivism, (repeated admissions)."

In view of the records in this case, the Director, OCHAMPUS, should determine if this is a routine practice of the health care provider and whether review of the provider's CHAMPUS claims should be increased.

The patient's frequent passes in this case also raise a question concerning the billing practice of the treating psychiatrist. The American Psychiatric Association reviewer made the following comment after reviewing records pertaining to the first two hospital admissions:

> "There is an order written, the nursing notes indicate the patient went on pass, the physician mentioned it in the progress notes and bills were submitted on days of the pass. Did the patient see the physician while on pass? No mention is made that this occurred. Specific incidences occurred December 12, 1980, November 14, 1980, October 25, 1980 and June 6, 1980."

The issue raised by the peer reviewer is also applicable to the last two hospitalizations. For example, the record includes a short memorandum from Hospital that states, "The ambulance charge is for one-way pick up at the bus station from overnight pass on 01/02/81, 01/29/81 and 02/02/81." The nursing notes also include references to passes on February 13, 1981, and February 20, 1981. In addition, the sponsor testified the beneficiary was home for three days on March 25 for an appointment with his orthodontist. Other references to weekend passes and comments that may be referring to weekend passes are also included in the record.

The record does not make clear whether the treating psychiatrist billed for psychotherapy on a daily basis from January 2, 1981, through April 15, 1981, and from April 20, 1981, to May 26, 1981. An informal check with the fiscal intermediary indicates that she did. Having determined that there was never a need for crisis intervention and that there was no evidence in the record supporting any need for crisis intervention, all claims in excess of five sessions in any 7-day period were properly denied. The question remains, however, whether the beneficiary was physically present in the facility and received the daily therapy sessions as claimed.

The Director, OCHAMPUS, is directed to review the treating physician's bills and the hospital records to determine if charges were made for therapy sessions when the beneficiary was absent from the hospital. If such billings are noted, an explanation should be obtained and appropriate action taken.

Claims Filed After Time Limit

The informal review of the CHAMPUS explanation of benefits to determine what therapy sessions were paid during the last two hospitalizations revealed a denial of a claim for late filing. It covered dates of service from "12-10-80 to 12-19" for 10 sessions in the amount of $300.00 and was denied as "filed after time limit." The First Level Appeal Determination of December 14, 1981, specifically found that therapy sessions on December 15 and 16, 1980, were in excess of the five sessions per 7-day period limitation and thus provides evidence along with the claims in the record that a claim for the December 10-19, 1980, period was submitted to OCHAMPUS in a timely manner even though the fiscal intermediary may not have known this. The claim for services for December 10, 1980, through December 19, 1980, except

for December 15 and 16, is allowable. The Director, OCHAMPUS, is directed to review the claim to determine if it was paid and, if denied for late filing, to allow the claim provided the services were rendered.

SUMMARY

In summary, it is the FINAL DECISION of the Assistant Secretary of Defense (Health Affairs) that during the patient's four hospital confinements from May 6, 1980, through May 26, 1981, inpatient psychotherapy sessions in excess of five 1-hour sessions in any 7-day period be denied CHAMPUS cost-sharing as there was no need for crisis intervention justifying the additional therapy sessions. In addition, the inpatient hospitalization from April 20, 1981, to May 26, 1981, is determined to be medically necessary and will be cost-shared by CHAMPUS under this FINAL DECISION, as well as any related inpatient psychotherapy sessions that do not exceed five 1-hour sessions in any 7-day period. Issuance of this FINAL DECISION completes the administrative appeals process under DoD 6010.8-R, chapter X, and no further administrative appeal is available.

Vernon McKenzie
Acting Principal Deputy Assistant Secretary