



ASSISTANT SECRETARY OF DEFENSE  
WASHINGTON, D. C. 20301

DEC 9 1983

HEALTH AFFAIRS

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

Appeal of )  
Sponsor: ) OASD(HA) File 83-33  
SSN: ) FINAL DECISION

This is the FINAL DECISION of the Assistant Secretary of Defense (Health Affairs) in the CHAMPUS Appeal OASD(HA) Case File 83-33 pursuant to 10 U.S.C. 1071-1089 and DoD 6010.8-R, chapter X. The appealing party is the 18-year-old beneficiary represented by his father, an active duty officer in the United States Navy. The appeal involves the denial of inpatient residential treatment provided March 1 to May 22, 1981, at the National Children's Rehabilitation Center, . . . . The amount in dispute involves approximately \$6,559.49. The hearing file of record, the Hearing Officer's Recommended Decision, and the Analysis and Recommendation of the Director, OCHAMPUS, have been reviewed. The Hearing Officer has recommended denial of CHAMPUS cost-sharing for this residential treatment based on her findings the care was not medically necessary and was not provided at the appropriate institutional level. The Director, OCHAMPUS, concurs in the Recommended Decision and recommends its adoption as the FINAL DECISION of the Assistant Secretary of Defense (Health Affairs).

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 to deny CHAMPUS benefits 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 of inpatient residential treatment provided by the National Children's Rehabilitation Center from March 1 to May 22, 1981. This decision is based on findings the care provided was not medically necessary and not appropriate medical care.

FACTUAL BACKGROUND

The beneficiary was admitted to the National Children's Rehabilitation Center in , , on March 30, 1979. The admitting diagnoses were unsocialized, aggressive reaction of

adolescence, specific learning disability, and depressive neurosis. The beneficiary had a long history of behavioral problems leading to residential treatments including impulsivity, depression, anxiety, learning disability, lying, and fighting, and behavior such as fire setting, stealing, and drug use. The medical records reveal the beneficiary exhibited behavioral problems as early as kindergarten. Ritalin was prescribed when he was 6½ years old. He first received psychiatric therapy at age 5. Psychological evaluation in 1977 revealed a full scale IQ of 108 with a mild visuoperceptual handicap. Testing was not consistent with severe pathology nor a sociopathic personality. During 1978, the beneficiary continued to exhibit uncontrolled behavior primarily evidenced by alcohol drinking, offensive language, drug use, fire setting, and disruptive conduct on the school bus. Conduct at school was also uncontrolled and impulsive including inappropriate talking, failure to follow instructions, crude language, and disrupting classes. The beneficiary was referred for psychological evaluation, apparently at the request of his school principal. This evaluation recommended placement in a structured, behaviorally oriented therapeutic environment. During this period, the beneficiary was also involved with juvenile authorities.

The beneficiary was admitted to the National Children's Rehabilitation Center on March 30, 1979. The admitting diagnoses were depressive neurosis, unsocialized aggressive reaction of adolescence, and specific learning disability. He was discharged on May 22, 1981, with diagnoses of conduct disorder, undersocialized aggressive reaction of adolescence, and specific learning disability. During the 2-year inpatient stay, the beneficiary participated in individual and group psychotherapy, a socialization program utilizing modified behavioral techniques (levels program), special education, a pre-vocational academic program, and recreation.

The then CHAMPUS Fiscal Intermediary for \_\_\_\_\_, Blue Cross of \_\_\_\_\_, cost-shared the first 120 days of care, and a request for an authorization of continued care was submitted to OCHAMPUS. OCHAMPUS authorized care through February 28, 1981, on the basis that maximum benefits would have been received after 23 months of residential treatment. This determination was affirmed upon Reconsideration and Formal Review by OCHAMPUS based on findings the residential treatment beyond February 28, 1981, was not the appropriate level of care. A hearing was requested by the sponsor as the representative of the beneficiary. The hearing was held on June 22, 1983, at the Naval Air Station, \_\_\_\_\_, \_\_\_\_\_, the sponsor's present duty station. The Hearing Officer has submitted her Recommended Decision. All prior levels of administrative review have been completed and issuance of a FINAL DECISION is proper.

ISSUES AND FINDINGS OF FACT

The issues in this appeal are whether the residential treatment from March 1 through May 22, 1981, was medically necessary and appropriate medical care.

Medically Necessary/Appropriate Medical Care

Under Department of Defense Regulation 6010.8-R governing CHAMPUS, chapter IV, A.1., defines the scope of benefits as follows:

". . . 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 an illness or injury . . . ."

Medically necessary is defined as:

". . . the level of service and supplies (that is, frequency, extent, and kinds) adequate for the diagnosis and treatment of an illness or injury . . . . Medically necessary includes concept of appropriate medical care." (Chapter II, B.104.)

Appropriate medical care is defined as:

"a. That medical care where the medical services performed in the treatment of a disease or injury, or in connection with an obstetrical case or well-baby care, are in keeping with the generally acceptable norm for medical practice in the United States;

"b. The authorized individual professional provider rendering the medical care is qualified to perform such medical services by reason of his or her training and education and is licensed and/or certified by the state where the service is rendered or appropriate national organization or otherwise meets CHAMPUS standards; and

"c. The medical environment in which the medical services are performed is at the level adequate to provide the required medical care." (Chapter II, B.14.)

Services that are not medically necessary are excluded from coverage under DoD 6010.8-R, chapter IV, G.1.

The Hearing Officer correctly determined that the controlling issue in this appeal is whether the residential treatment received from March 1 to May 22, 1981, was the appropriate level of treatment. Appropriate medical care under CHAMPUS requires a determination that the level of treatment was adequate to provide the required medical care; that is, the level of care, whether outpatient or inpatient, was not too high or too low to provide the required medical care. In this case, the Hearing Officer found the residential care from March 1 to May 22, 1981, was not medically necessary and was not provided at the appropriate institutional level.

This case was referred to specialists in child psychiatry associated with the American Psychiatric Association for review. One reviewer opined that residential treatment care beyond January 1, 1981, was inappropriate. The other reviewer recommended a more intensive program than the documented residential treatment to include family visits to the treatment facility, therapeutic home visits, and discharge. Although these opinions may on first glance appear inconsistent, the reviewers did agree in separate opinions that the documented residential treatment after February 1981 was not the level adequate to provide the required medical care. Therefore, the opinions are not inconsistent; one reviewer merely offered recommendations regarding what his treatment plan would have been to accomplish discharge.

Both reviewers specifically noted the lack of progress by the patient after approximately 2 years of residential treatment. One reviewer opined that the patient's progress was based on his "learning the system rather than really changing." As noted by the Hearing Officer, the reviewer's opinion is supported by observations of the treating psychiatrist in his April 21, 1981, report. In the reviewers' opinions, this lack of patient progress required a change in treatment approach.

According to the record, discharge of the patient was originally planned for December 1980. In July 1980, however, the patient regressed, and the planned discharge was cancelled. Discharge was rescheduled for June 1981 in part to adopt the recommendation of the local school district that the beneficiary remain at the facility until the end of the school year. In fact, the patient was discharged on May 22, 1981, to allow time to visit his father prior to the sponsor's overseas tour of duty.

While avoidance of disruption of the beneficiary's school year is desirable, it does not constitute a therapeutic basis for CHAMPUS cost-sharing of residential treatment. The records indicate the facility recognized in April 1981 that the patient probably had made most of the gains to be achieved in the residential treatment program. OCHAMPUS had authorized continued inpatient treatment only through February 28, 1981, on the basis that maximum benefits would have been received during the 23 months of residential treatment. Finally, the American Psychiatric Association reviewers opined that the care after February 1981

was not the level adequate to provide the required medical care. Based on this evidence, the Hearing Officer found that the care after February 28, 1981, was not medically necessary and that treatment at a different level of inpatient or outpatient care would have been appropriate.

In reviewing the record in this appeal, I agree with the Hearing Officer that the beneficiary required treatment for his emotional disorder. The record clearly reveals the beneficiary's chronic behavior problems. However, the periodic psychiatric evaluations of the beneficiary reveal little progress in developing his insight or judgment throughout his stay. The anti-social acting out apparently continued through discharge. The facility recognized in April 1981 that the beneficiary had progressed as far as possible in the program, and the American Psychiatric Association reviewers opined maximum gains were made at least two months earlier. Based on the evidence of record, I concur with the Hearing Officer that residential treatment beyond February 28, 1981, was not medically necessary and not provided at a level adequate to provide the required medical care (appropriate medical care). Therefore, I find the residential treatment provided from March 1 through May 22, 1981, is excluded from CHAMPUS coverage.

#### SUMMARY

In summary, it is the FINAL DECISION of the Assistant Secretary of Defense (Health Affairs) that the residential treatment provided March 1 through May 22, 1981, was not medically necessary and not appropriate medical care and is excluded from CHAMPUS cost-sharing. The appeal of the beneficiary is, therefore, 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.



Vernon McKenzie  
Acting Principal Deputy Assistant Secretary