



HEALTH AFFAIRS

ASSISTANT SECRETARY OF DEFENSE

WASHINGTON, D.C. 20301

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

DEC 27 1983

Appeal of)
)
Sponsor:) OASD(HA) File 83-50
) FINAL DECISION
SSN:)

This is the FINAL DECISION of the Assistant Secretary of Defense (Health Affairs) in the CHAMPUS Appeal OASD(HA) Case File 83-50 pursuant to 10 U.S.C. 1071-1089 and DoD 6010.8-R, chapter X. The appealing party is the CHAMPUS beneficiary, the 19-year-old daughter of a retired member of the United States Army, as represented by her mother. The appeal involves the denial of CHAMPUS cost-sharing for inpatient psychiatric services furnished by the admitting physician during the period of February 24 through March 9, 1982. The amount in dispute is \$1,400.00 in billed charges.

The hearing file of record, the tape of oral testimony and the argument presented at the hearing, the Hearing Officer's Recommended Decision, and the Analysis and Recommendation of the The Hearing Officer has recommended that CHAMPUS coverage of the 14 days of inpatient services furnished by the admitting (treating) physician from February 24 through March 9, 1982, be denied except for inpatient visits on February 25, 26 and 28 and March 3, 4, and 6, 1982. This recommendation is based on the Hearing Officer's assumption that the claimed services involved inpatient psychotherapy and on findings that the services did not involve crisis intervention and that the eight inpatient visits recommended for denial of CHAMPUS coverage were not sufficiently documented to establish the medical necessity of the billed visits.

The Director, OCHAMPUS, concurs in the Recommended Decision and recommends its acceptance as the FINAL DECISION of the Assistant Secretary of Defense (Health Affairs) with one modification. The recommended modification is that the claimed services on February 25, 26 and 28 and March 3, 4, and 6, 1982, be cost-shared under CHAMPUS at the reasonable charge for limited hospital care rather than as inpatient psychotherapy. It is the position of the Director, OCHAMPUS, that the hearing record does not establish that the claimed hospital visits involved psychotherapy.

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, adopts the recommendation of the Hearing Officer to deny CHAMPUS cost-sharing of the claimed inpatient services of the admitting physician on February 24 and 27 and March 1, 2, 5, 7, 8, and 9, 1982. The decision is based on findings the medical records do not establish that inpatient services were provided on those dates and, therefore, the medical necessity of the care has not been established. Had the services been determined to be inpatient psychotherapy, cost-sharing of four denied visits also would have been denied as exceeding regulation limits on CHAMPUS coverage of inpatient psychotherapy.

Finally, the recommendation to cost-share the services provided on February 25, 26 and 28 and March 3, 4, and 6, 1982, is also accepted but is modified as recommended by the Director, OCHAMPUS; i.e., CHAMPUS cost-sharing is limited to the reasonable charge for limited hospital care rather than as inpatient psychotherapy.

FACTUAL BACKGROUND

The beneficiary was admitted to Providence Hospital, , on February 24, 1982, on the advice of her attending physician, Dr. , a psychiatrist. The admission diagnosis was schizoaffective psychosis with depressed and suicidal thoughts. At the time of admission, the beneficiary was receiving outpatient psychotherapy from , Ph.D, clinical psychologist, and medication management from Dr. . The hospital provided the beneficiary group and individual psychotherapy, antipsychotic medication, and art therapy during her inpatient stay. She was discharged on March 10, 1982, to continue outpatient psychotherapy with Dr. .

Hospital claims for the inpatient hospitalization were apparently cost-shared by CHAMPUS and are not at issue in this hearing. A CHAMPUS claim was also submitted for hospital visits by Dr. during February 24 through March 9, 1982, for 14 visits at \$100.00 per visit. The CHAMPUS Fiscal Intermediary for , Blue Cross of and , processed the claim involving inpatient psychotherapy and allowed 10 sessions at the maximum allowable charge of \$75.00 per session; the remaining four sessions (March 1, 2, 8, and 9, 1982) were denied CHAMPUS coverage as exceeding the CHAMPUS regulation limit of five 1-hour psychotherapy sessions per week.

In appealing the partial denial of her claim, the beneficiary's representative advised that hospitalization was for extensive physical and mental testing and for intensive therapy and psychological counseling. In view of this, the daily hospital visits by Dr. were deemed medically necessary.

In reviewing the appeal, the fiscal intermediary requested information from Dr. [redacted] and any medical reports which would establish the medical necessity of Dr. [redacted] "daily counseling." In response, Dr. [redacted] furnished the following letter:

"Please note that it was important for me to see [the beneficiary] on March 1, 2, 8, and 9. At that time she was in the hospital being treated for an acute schizo-affective [sic] disorder. Because this disorder was of psychotic proportions and required monitoring in terms of possible suicidal ideation, it was necessary to see the patient with that degree of frequency. It would have been impossible to not see her recognizing the degree of distress she was experiencing and the necessity for me to provide both counseling and adequate monitoring of very potent psychotropic medications."

The fiscal intermediary's Informal Review and Reconsideration Decisions upheld the initial determination and the beneficiary appealed to OCHAMPUS.

The OCHAMPUS First Level Appeal Decision affirmed the denial of the four inpatient sessions in excess of the regulation limit of five sessions per week, finding the additional sessions were not necessary for crisis decision intervention. OCHAMPUS also reversed the fiscal intermediary and denied the charges for inpatient sessions on February 25, 26, and 28 and March 3 and 4, 1982, of psychotherapy on the basis the medical records did not establish the sessions were in fact conducted.

The beneficiary requested a hearing which was held on August 12, 1983, in [redacted] before [redacted], OCHAMPUS Hearing Officer. The Hearing Officer has issued her Recommended Decision and all prior levels of administrative review have been exhausted. Issuance of a FINAL DECISION is proper.

ISSUES AND FINDINGS OF FACT

The issues in this appeal are (1) whether the inpatient services provided by the admitting physician from February 24 through March 9, 1982, were medically necessary, and (2) whether the sessions provided on March 1, 2, 8, and 9, 1982, if determined to be psychotherapy, were required for crisis intervention.

Medically Necessary

Under the Department of Defense Regulation governing CHAMPUS, DoD 6010.8-R, chapter IV, A.1., CHAMPUS will pay for medically necessary services required in the diagnosis and treatment of illness or injury. 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, Medically necessary includes concept of appropriate medical care." (DoD 6010.8-R, chapter II, B.104.)

Appropriate Medical Care is defined, in part, as:

"That medical care where the medical services performed in the treatment of a disease or injury, . . . are in keeping with the generally acceptable norm for medical practice in the United States." (DoD 6010.8-R, chapter II, B.14.)

In this appeal, the issue of medical necessity involves whether the frequency, extent, and kinds of services claimed are documented in the medical record and whether the absence of documentation is in keeping with the generally acceptable norm for medical practice. The Hearing Officer found that the hearing record insufficiently documented the inpatient sessions billed for February 24 and 27 and March 1, 2, 5, 7, 8, and 9, 1982, to establish medical necessity. Services rendered on February 25, 26, and 28 and March 3, 4, and 6, 1982, were found adequately documented in the record and CHAMPUS cost-sharing of these services was recommended. Based on the hearing record, I concur and adopt the Hearing Officer's findings and recommendations with the exception of cost-sharing documented services as psychotherapy. I find these services to be payable only as limited hospital care.

The Hearing Officer partially relies on two previous FINAL DECISIONS of this office (OASD(HA) 80-09-3 and OASD(HA) 82-07) wherein this office stated a basic premise for CHAMPUS cost-sharing: the services claimed under CHAMPUS must be supported by documentation in the medical records. In my review of the record, I cannot determine the dates of psychotherapy or, even assuming the psychiatrist saw the beneficiary, whether psychotherapy or other services were conducted. Considering the psychiatrist's notes, I believe cost-sharing of services on six dates is generous and from the available documentation, the services appear to be hospital visits as opposed to psychotherapy.

Testimony at the hearing and a statement from the beneficiary indicate the psychiatrist saw the beneficiary twice a day for 10 or 15 minutes. While a daily visit might be necessary for medical management, a 10 or 15 minute session is not in keeping with traditional psychotherapy sessions of approximately 50 minutes. Again, the records generally shed no light on the length or type of service. The procedure code listed by Dr. (90250) refers to hospital care, limited services, not psychotherapy; however, the \$100 charge per visit far exceeds

normal charges for this procedure code. Review of the records reveals the psychiatrist wrote notes on February 25, 26, and 28 and March 3, 4, 6, 7, 8, and 9, 1982. The note on March 6 refers to "staffing done" and not a direct patient contact. Entries on March 7, 8, and 10 indicate the psychiatrist was present in the hospital but only for discharge planning.

Dr. has responded to various requests for documentation stating his practice was to see the patient on a daily basis and that it was not his practice to write daily notes. There is some evidence the facility had a problem with Dr. regarding his failure to write progress notes.

The beneficiary's representative has contended that denial of the charges is unjust in view of the psychiatrist's statements. I fully understand the denial of CHAMPUS cost-sharing can impact financially upon a beneficiary; however, the beneficiary herein requests cost-sharing of services for which I can determine neither the services actually provided nor when the services were provided. This situation was created by a provider who intentionally elected not to make appropriate entries in the medical records.

The Hearing Officer dutifully attempted to gather additional documentation and obtained oral confirmation that services were provided on March 6, 1982. While such oral conversations, not confirmed in writing, are unacceptable hearing practice, in this appeal I find the error was harmless and did not unfavorably affect the outcome of the appeal for the beneficiary.

As discussed in the Recommended Decision, OCHAMPUS obtained a medical review of the records in this appeal by the OCHAMPUS Medical Director, a Board Certified child psychiatrist. The Medical Director confirmed the lack of documentation of psychotherapy on the dates listed above and challenged the medical necessity of the daily visits. The attending psychiatrist's goal, opined the Medical Director, should have been to serve as a temporary therapeutic bridge during the hospitalization as previous and subsequent care was provided by another provider. The reviewing psychiatrist further stated:

"If Dr. saw such a need for his attempting a more intensive primary psychotherapeutic role, then he has failed to delineate the details of his therapeutic goals, or to adequately document his actual actions and impressions as he was allegedly providing these patient care contacts. Without such documentation, professional peer review can only conclude that they either did not occur or were not in keeping with contemporary standards of medical practice, which would require accurate, specific, and timely documentation of patient progress following direct evaluations and treatments."

Thus, this opinion offers multiple objections to the care claimed: (1) the frequency (intensity) of claimed services is not appropriate where another provider will be furnishing the continued care in absence of documented justification, and (2) the lack of documentation is not in keeping with the generally accepted norm for medical practice (i.e., appropriate medical care). The Hearing Officer agreed with the Medical Director noting the difficulty a third-party payor has in evaluating the medical necessity of claimed care and whether it was provided at all. Again, I concur in the Hearing Officer's evaluation and findings. Generally accepted medical practice requires periodic progress notes be recorded by a provider detailing the care rendered and the dates of care rendered.

I must emphasize to the appealing party that CHAMPUS does not disbelieve the psychiatrist or her. The issue herein encompasses not only if and when the services were performed but also whether the claimed services were the kind of services required by this beneficiary. As I have stated above, the medical records answer none of these questions. Written confirmation from the psychiatrist might have provided a sufficient basis for cost-sharing, but details were not furnished. In view of the absence of documentation, I have no alternative but to deny CHAMPUS cost-sharing of the services claimed on February 24 and 27 and March 1, 2, 5, 7, 8, and 9, 1982. This determination is based on findings the services were not documented as medically necessary or furnished in keeping with the generally accepted norm for medical practice. As to the services on February 25, 26 and 28 and March 3, 4, and 6, 1982, I find the records did not establish psychotherapy was provided; rather, limited hospital care was performed as billed by the psychiatrist. CHAMPUS cost-sharing of these services is limited to the reasonable charge for limited hospital care.

Psychiatric Procedures/Crisis Intervention

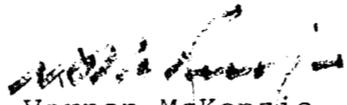
Under DoD 6010.8-R, chapter IV, C.3.i., CHAMPUS cost-sharing of psychiatric procedures is generally limited to no more than 1 hour of individual and/or group psychotherapy in any 24-hour period. For purposes of crisis intervention only, up to 2 hours of individual psychotherapy during a 24-hour period may be cost-shared. On an inpatient basis, for noncrisis intervention, benefits are limited to five 1-hour sessions in any 7-day period.

As stated in the FACTUAL BACKGROUND, the fiscal intermediary initially denied four claimed sessions as exceeding the limit of five psychotherapy sessions in any 7-day period. This determination was affirmed by OCHAMPUS based on the finding crisis intervention was not evidenced by the medical records. Medical review by the OCHAMPUS Medical Director opined crisis intervention was not required noting the issuance of an 8-hour pass after 2 days of hospitalization.

The Hearing Officer found crisis intervention was not evidenced in the medical records. I concur in the Hearing Officer's conclusion. The medical records do not establish the beneficiary required psychotherapy in excess of five sessions in a 7-day period for crisis intervention. More importantly, there is no documentation establishing that the beneficiary experienced a crisis during the hospitalization. Without a documented crisis, cost-sharing of inpatient psychotherapy provided by a fee-for-service professional provider is limited to five sessions in a 7-day period. Therefore, had adequate documentation of psychotherapy services been provided, the sessions on March 1, 2, 8, and 9, 1982, would be excluded from CHAMPUS coverage as exceeding the CHAMPUS limit on psychotherapy sessions.

SUMMARY

In summary, the FINAL DECISION of the Assistant Secretary of Defense (Health Affairs) is to deny CHAMPUS cost-sharing of inpatient services by the admitting physician on February 24 and 27 and March 1, 2, 5, 7, 8, and 9, 1982. This determination is based on findings the care was not medically necessary or in keeping with the generally accepted norm for medical practice. I also find the inpatient sessions claimed for March 1, 2, 8, and 9, 1982, if determined to be psychotherapy, would be denied as exceeding the regulation limits for inpatient professional psychotherapy in the absence of crisis intervention. Although I find the inpatient services provided on February 25, 26, 28, and March 3, 4, and 6, 1982, were medically necessary, the services are covered under CHAMPUS only as limited hospital care, not as inpatient psychotherapy. As the fiscal intermediary cost-shared four sessions in error and overpaid six service dates as psychotherapy, I refer the matter of potential recoupment under the Federal Claims Collection Act to the Director, OCHAMPUS, for appropriate 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.



Vernon McKenzie
Acting Principal Deputy Assistant Secretary