



ASSISTANT SECRETARY OF DEFENSE
WASHINGTON, D. C. 20301

1 MAR 1984

HEALTH AFFAIRS

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

Appeal of)
Sponsor:) OASD(HA) File 83-54
SSN:) FINAL DECISION

This is the FINAL DECISION of the Assistant Secretary of Defense (Health Affairs) in the CHAMPUS Appeal OASD(HA) Case File 83-54 pursuant to 10 U.S.C. 1071-1089 and DoD 6010.8-R, chapter X. The appealing party is the CHAMPUS beneficiary and was represented by his father, an active duty officer of the United States Air Force. The appeal involves the denial of inpatient psychiatric care in excess of 60 days received by the beneficiary during calendar year 1983. The amount in dispute cannot be determined as claims for the entire period in issue have not been filed.

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 Director, OCHAMPUS, have been reviewed. It is the Hearing Officer's recommendation that the OCHAMPUS denial of cost-sharing for inpatient psychiatric hospitalization and inpatient individual psychotherapy in excess of 60 days during calendar year 1983 be affirmed. The Hearing Officer found the beneficiary was not suffering from an acute mental disorder which resulted in his being a significant danger to himself or others at or around the 60th day of inpatient care and, therefore, the care beyond 60 days did not qualify under the Department of Defense Appropriation Act of 1983 as implemented by OCHAMPUS. The Hearing Officer also found the beneficiary's inpatient care beyond 60 days was above the appropriate level of care.

The Director, OCHAMPUS, concurs in the Recommended Decision and recommends adoption of the Recommended Decision as the FINAL DECISION. The Assistant Secretary of Defense (Health Affairs), 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 of the appealing party's inpatient psychiatric hospitalization and inpatient individual psychotherapy in excess of 60 days in

calendar year 1983. This determination is based on findings that: (1) The beneficiary was not suffering from an acute mental disorder which resulted in the beneficiary being a significant danger to himself or others at or around the 60th day of inpatient care, and (2) the beneficiary did not require the type, level, and intensity of service that can be provided only in a hospital setting.

FACTUAL BACKGROUND

The record indicates the 14-year-old beneficiary has a history of psychiatric problems beginning with poor school performance in the third grade. In the fifth grade, he was described as "unhappy, miserable, and unmotivated." The record further indicates that in 1980 the beneficiary was using illicit drugs including marijuana, amphetamines, barbiturates, hallucinogens, and class A narcotics. He received outpatient psychotherapy, but overdosed on Valium and was hospitalized at Brentwood Hospital, Shreveport, Louisiana, a psychiatric facility, for 7 months in 1981 and 1982. He was then discharged to the Odyssey House, a residential treatment facility in New Orleans, Louisiana, where he received 10 months of inpatient treatment for substance abuse.

In December 1982, the residential treatment center noted that the beneficiary was becoming increasingly detached and isolated and his illness was too severe to justify further treatment in the residential treatment center. The beneficiary's father obtained a Nonavailability Statement from the United States Air Force Hospital, Barksdale Air Force Base, Shreveport, Louisiana, on December 22, 1982, and the patient was admitted to River Oaks Hospital, a psychiatric hospital in New Orleans, Louisiana, on January 13, 1983. According to the father, the delay between obtaining the Nonavailability Statement and the patient's admission to River Oaks Hospital resulted from the family's desire to wait for the holiday season to end.

The diagnosis upon admission to River Oaks Hospital was identity disorder, DSMIII 313.82, and the estimated length of treatment was 1 year. Upon admission, the beneficiary was noted to be generally lucid, relevant and coherent, oriented to time, place, and situation, with no hallucinations or delusions. His mood was characterized by mild anxiety and depression, and he related in a hostile and withdrawn fashion. The treatment plan included individual psychotherapy by Dr. A. [redacted] and Dr. E. [redacted] five times per week, family and group therapy, and activities therapy. The beneficiary was discharged from River Oaks Hospital on May 6, 1983, against medical advice of his treating physician and was admitted to a residential treatment center on May 24, 1983.

CHAMPUS claims were filed by the hospital for inpatient care from January 13 through March 30, 1983, in the total amount of \$20,300.96. The record does not contain any claims for hospitalization from April 1 through May 6, 1983. The appeal file reflects the \$5,489.40 claim for 19 days of hospitalization

during January 1983 was cost-shared in the amount of \$5,364.95; the file does not indicate if the claims for February or March 1983 have been cost-shared.

CHAMPUS claims in the amount of \$5,425.00 were filed for professional services of individual psychotherapy by Dr. [redacted] from January 13 through February 16, 1983, and by Dr. [redacted] from February 17 through April 29, 1983. No claim or itemized statement appears in the record for professional services provided from April 30 through May 6, 1983. The claims for professional services during the period of January and February 1983 (\$2,200.00) were cost-shared by CHAMPUS in the amount of \$2,100.00. The file does not contain evidence of payment or denial of claims for professional services provided during March and April 1983.

The sponsor, representing the minor beneficiary, submitted a request to OCHAMPUS dated February 25, 1983, for an extension of inpatient psychiatric care beyond 60 days. In support of the request for extended inpatient care, the attending psychiatrist submitted a three-page report which noted, in part:

". . . his insight and impulse control are very poor and I believe at the present time, outside of a structured setting he could be expected to act out severely with drugs and antisocial behavior.

"In spite of the previous treatment failures, it is felt that with an intensive inpatient program, [the beneficiary's] prognosis is good. I would estimate roughly a year's treatment in such a program would be necessary. I do not think outpatient treatment could be effective at this time. I also consider him a severe danger to himself and possibly others at the present time.

*

*

*

"I think the treatment is timely for expectation of a successful outcome. With this degree of illness, I think to delay would greatly increase the chance of chronicity, not to mention the danger of suicide or other self-destructive behavior outside of the hospital setting."

OCHAMPUS referred the case for review by two psychiatrists with the American Psychiatric Association. Both reviewers opined that the file documentation did not indicate the patient represented

significant danger to himself or others; that the patient could be equally well treated in a residential treatment center; and, that the patient should be discharged as soon as possible from River Oaks Hospital to preserve future inpatient hospitalization benefits which might be necessary for the patient.

By letter dated March 23, 1983, OCHAMPUS denied the request for extension of inpatient psychiatric care under CHAMPUS, and the beneficiary appealed. In support of this appeal, the attending psychiatrist submitted a supplemental report, in part as follows:

". . . First off, this boy's symptoms are extremely dangerous to himself and others.

"He has told me that he began using drugs as far back as age 8. He uses a wide variety of drugs, his favorites being LSD and marijuana. He likes the feeling of 'no pressure' on these drugs. He used the whole spectrum of drugs at one time or another, including intravenous cocaine and morphine. Prior to his hospitalization at Brentwood in 1981, he was also in the illegal business of buying and selling drugs. He claims that he was able to procure LSD and marijuana during his previous hospitalization and that this was his primary motivation while in the hospital. This ultimately resulted in his being discharged.

"Another issue is [the beneficiary's] preoccupation with guns. He has been interested in guns for as long as he can remember, and when a child, he recalls envying his older brothers who could have and shoot 'real guns.' When he was about 8 years old and living in Okinawa, the patient played 'war games' in the countryside. He and his friends shot at each other with pellet guns, which he said would give a good sting. More recently (ages 11 and 12), he began handling real guns. He listed off a number of guns that he had in his possession at one time; these were stolen items that he would buy from his friends and then sell. It's not clear whether [he] actually did any of the stealing himself or not, although he has admitted to stealing other things, such as trucks for joyriding. One of [his] friends reportedly got angry with [him] and aimed a loaded gun at [him] in a threatening manner; [the beneficiary] said that he managed to take the gun from this friend and turn the tables. He maintained this relationship,

feeling that he had sufficiently intimidated this other person so there was no more danger, even though the other person continued to carry a loaded pistol. On one occasion [he] and his friend stole marijuana from the backyard of a man in Shreveport and this man came after them with a gun, shooting [his] friend in the arm. [The beneficiary] said that he feared the man would try to shoot him; so he carried a gun with him and says furiously that he would have blown the guy's brains out if he had tried anything with him.

"[The beneficiary] says that he got a girl pregnant about the time he went into Brentwood Hospital. He claims he gave her money for an abortion, the money being procured from selling drugs and guns. He said he knew about birth control, but just didn't think she would get pregnant. [The beneficiary] has made two suicide attempts. One was in the summer of 1981, when he was on LSD and having fantasies of his mother withdrawing love. He claims he took about 150 Valium tablets, the last few in the presence of his mother, and this resulted in a stomach pumping and admission to the hospital. While he was in the hospital, he was using LSD and cut his wrists. He has had suicidal thoughts back to age 5 or 6, and more recently when he is depressed and taking drugs.

"In addition to being a danger to himself and others, this patient has been unable to advance appropriately in school.

* * *

"I think a tentative alliance has been established with this patient and also importantly, with his family. The prognosis appears good at this point. I think to disrupt this process and attempt to transfer him into another program would be very detrimental to this patient and ultimately more costly to the government."

Following review of the case file by the OCHAMPUS Medical Director, a psychiatrist, the OCHAMPUS Formal Review Decision affirmed the initial denial of CHAMPUS waiver of the 60-day inpatient psychiatric limit. The OCHAMPUS Formal Review Decision found the beneficiary was not a significant risk to himself or others at or around the 60th day of hospitalization, did not have any medical complications, and did not require the type, level,

and intensity of service that could be provided only in an inpatient setting.

The beneficiary appealed and requested a hearing. The hearing was held at Barksdale Air Force Base, Shreveport, Louisiana, on September 20, 1983, before E. J. [redacted], Hearing Officer. The Hearing Officer has issued a Recommended Decision and issuance of a FINAL DECISION is proper.

ISSUES AND FINDINGS OF FACT

The primary issues in this appeal are: (1) Whether the beneficiary was suffering from an acute mental disorder which resulted in the beneficiary being a significant danger to self or others and the beneficiary required a type, level, and intensity of service that could be provided only in an inpatient hospital setting, and (2) whether the care was provided at the appropriate level.

Inpatient Psychiatric Limitations

On December 21, 1982, the Department of Defense Appropriation Act of 1983 (Public Law 97-377, 96 Stat. 1830) was enacted. Section 785 of Public Law 97-377 provided as follows:

"Sec. 785. None of the funds appropriated by this Act shall be available to pay claims for inpatient mental health services provided under the Civilian Health and Medical Program of the Uniformed Services in excess of sixty days per patient per year. Provided, that the foregoing limitation shall not apply to inpatient mental health services (a) provided under the Program for the Handicapped; (b) provided as residential treatment care; (c) provided as partial hospital care; (d) provided to individual patients admitted prior to January 1, 1983 for so long as they remain continuously in inpatient status for medically or psychologically necessary reasons; or (e) provided pursuant to a waiver for medical or psychological necessities, granted in accordance with the findings of current peer review, as prescribed in guidelines established and promulgated by the Director, Office of Civilian Health and Medical Program of the Uniformed Services."

The clear language of this provision is to prohibit the expenditure of Department of Defense appropriated funds for inpatient psychiatric care in excess of 60 days for new admissions on or after January 1, 1983, except in four specific circumstances. Three of the specific circumstances for which an exemption exists (i.e., care provided under the Program for the Handicapped, partial hospital care, and residential treatment center care) are not relevant to this appeal. The fourth

specific circumstance established by subsection e of section 785 allows an extension of CHAMPUS cost-sharing for inpatient mental health services beyond 60 days for medical or psychological necessity determined in accordance with guidelines issued by the Director, OCHAMPUS.

In drafting the required guidelines, the language of Senate Report No. 97-580 concerning Public Law 97-377 was considered. The Committee on Appropriations noted that the Act's 60-day limit is the same as the Blue Cross/Blue Shield High Option Insurance Plan for Federal employees after which CHAMPUS was originally patterned. In further comment, the Committee stated:

"The Committee recommends bill language limiting the length of inpatient psychiatric care to 60 days annually, except when the Director of CHAMPUS or a designee waives the limit due to extraordinary circumstances." (emphasis added) Senate Report 97-580, page 30.

Prior to enactment of Public Law 97-377, CHAMPUS limited cost-sharing of inpatient mental health services only under concepts of medical necessity and appropriate level of care. The intent of the funding limitation in Public Law 97-377 was clearly to impose additional restrictions on CHAMPUS coverage. Therefore, the CHAMPUS implementing guidelines were based on the Senate Report language of "extraordinary circumstances" for interpretation of the phrase "medical or psychological necessities" on which Public Law 97-377 conditioned the granting of a waiver of the 60-day coverage limitation. As a result, the Director, OCHAMPUS, issued the following interim guidelines on December 29, 1982, for waiver of the 60-day inpatient limitation.

"a. The Director, OCHAMPUS, will grant coverage in excess of 60 days of inpatient mental health services in a calendar year, only if the Director finds that:

"1. The patient is suffering from an acute mental disorder or acute exacerbation of a chronic mental disorder which results in the patient being a significant danger to self or others; and the patient requires a type, level, and intensity of service that can only be provided in an inpatient hospital setting; or

"2. The patient has medical complications; and the patient requires a type, level, and intensity of service that can only be provided in an inpatient hospital setting." (See CHAMPUS Policy Manual, chapter 1, Section 11, page 11.1.1, December 29, 1982.)

As set forth in these guidelines the concepts of "extraordinary circumstances" and "medical or psychological necessities" have been interpreted and equated by the Director, OCHAMPUS, as requiring an acute mental disorder presenting a significant danger to the patient or others and, in addition, the condition must require the type, level, and intensity of service that can be provided only in an inpatient hospital setting.

In March 1983, OCHAMPUS revised the guidelines to the following:

"a. The Director, OCHAMPUS, taking into account the findings of professional review, will grant coverage in excess of 60 days of inpatient mental health services in a calendar year if the Director finds that:

"1. The patient is suffering from an acute mental disorder or acute exacerbation of a chronic mental disorder which results in the patient being put at significant risk to self or becoming a danger to others; and the patient requires a type, level, and intensity of service that can only be provided in an inpatient setting; or

"2. The patient has medical complications; and the patient requires a type, level, and intensity of service that can only be provided in an inpatient setting."

The revision from "the patient being a significant danger to self or others" to "the patient being put at significant risk to self or becoming a danger to others" is deemed to be minor wordsmithing which does not change the overall concept. For purposes of application, the two versions are considered essentially equal in their requirements.

In the present appeal, the Hearing Officer found the beneficiary's first 60 days of inpatient mental health care to be medically necessary and appropriate for cost-sharing by CHAMPUS. This finding is supported by the case record and by the opinion of the OCHAMPUS Medical Director. As opined by the Medical Director, the patient had sufficient symptoms to require admission to the residential treatment center and, that subsequently, his behavior escalated to the point where he needed to be in a facility that offered more intensive and comprehensive services.

The Hearing Officer, however, found that the beneficiary was not suffering from an acute mental disorder or acute exacerbation of a chronic mental disorder which resulted in his being a significant danger to himself or others at or around the 60th day of hospitalization. Following my review of the record in this appeal, I concur in and adopt the Hearing Officer's finding on this issue and his recommendation to deny the waiver for CHAMPUS

coverage of inpatient mental health care beyond the 60th day in calendar year 1983.

The record does not reflect the beneficiary posed a significant danger/risk to himself or others. The patient's father and the attending psychiatrist have argued the beneficiary's past drug problems and preoccupation with firearms indicated the beneficiary was extremely dangerous to himself. Although there was an incident of a drug overdose in 1981, the record fails to reflect that any problems of this nature have subsequently occurred. Similarly, the preoccupation with firearms is not indicated in the medical records as a current risk.

The Hearing Officer found the attending psychiatrist's arguments for a waiver centered on potential or future, as opposed to current, risk; i.e., that the beneficiary may be a potential or future risk to himself or others but not a current risk. I agree with the Hearing Officer's finding. In interpreting the intent of the funding restriction, I find the time at which the patient must present a significant danger or risk to be on or about the 60th day of inpatient care as suggested by OCHAMPUS and the Hearing Officer herein. If a beneficiary does not pose a significant risk at that time (i.e., a current risk), continued acute inpatient care is not considered medically necessary as required for CHAMPUS coverage and a lower level of treatment should be undertaken. This is certainly the intent of the funding limitation. If a beneficiary subsequently becomes a significant risk, rehospitalization is authorized under the waiver guidelines.

In addressing the degree of risk required to meet the significant risk/danger guidelines for granting a waiver of the 60-day limit, the Hearing Officer adopted a standard of suicidal or homicidal behavior of a floridly psychotic beneficiary. I agree that such a patient would constitute a significant danger to self or others; however, other acute mental disorders could also result in significant risk or danger. Further, a significant risk or danger could be posed by less than suicidal or homicidal behavior. A more general standard, applied on a case by case review, would be a current risk of serious harm to self or others that requires inpatient hospital care. It is, of course, incumbent upon the appealing party to demonstrate the patient represented such a risk that could not be treated in other than an acute level.

In the present appeal, medical review by three psychiatrists, including two associated with the American Psychiatric Association, and the OCHAMPUS Medical Director, resulted in opinions that the medical records do not substantiate the beneficiary (1) represented a significant danger to himself or others, and (2) required the type, level, and intensity of service that can be provided only in an inpatient setting. The OCHAMPUS Medical Director, who twice reviewed the record, concurred and opined the beneficiary represented more of a

potential risk than a current, real, and present danger. This potential risk could be treated in a residential treatment center.

The Hearing Officer noted the beneficiary had not been and had not posed a current danger to himself or others for possibly a year or more, including the period of residential treatment center care for substance abuse immediately preceding the hospitalization. The medical records clearly document, and the attending and reviewing psychiatrists agree, that this beneficiary had poor impulse control and lacked insight. He was also depressed and reportedly "acts out."

However, these problems do not equate herein to a significant current danger or risk. The record is devoid of any real recent incident of suicidal, homicidal, or other behavior posing a present danger to himself or others. The OCHAMPUS Medical Director and the Hearing Officer discounted an incident during the hospitalization wherein the beneficiary obtained Xylocaine and stole a syringe giving it to another patient who was, according to the attending psychiatrist, severely suicidal. Both the Hearing Officer and the OCHAMPUS Medical Director viewed this incident as illustrating a lack of supervision by the hospital staff. The Hearing Officer noted that the beneficiary was relatively stable and was making some improvement during his inpatient stay and, except for the incident described above, did not appear from the record to be a significant threat to anyone else at or around the 60th day of hospitalization. The primary concern of the attending psychiatrist appears related, as noted above, to potential, future risk and not a current risk.

In summary, I find the record in this appeal does not document the beneficiary was a significant danger or risk to himself or others at or around the 60th day of inpatient care and, at that time, did not require the type, level, and intensity of an inpatient setting. Therefore, the record does not document the criteria for waiver of the 60-day inpatient psychiatric limitation have been met and CHAMPUS coverage of the beneficiary's inpatient care beyond 60 days in calendar year 1983 is not authorized.

Appropriate Level of Care

Under the Department of Defense Regulation 6010.8-R, chapter IV, B.1.g., CHAMPUS benefits may be extended for institutional care only at the appropriate level required to provide the medically necessary treatment.

Medically necessary is defined in DoD 6010.8-R, 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, . . ."

In the context of inpatient mental health care, the CHAMPUS guidelines for granting a waiver of the 60 day per calendar year limitation based on "medical or psychological necessities" require a finding that the patient has an acute medical or mental disorder or medical complication and that:

". . . the patient requires a type, level, and intensity of service that can only be provided in an inpatient setting."

In the present appeal, the Hearing Officer found the hospital care after the 60th day was above the appropriate level of care, and I adopt this finding. Medical review by psychiatrists associated with the American Psychiatric Association resulted in opinions that the beneficiary did not require the type, level, and intensity of services that could be provided only in an inpatient hospital setting, and that the beneficiary could be equally treated in a residential treatment center. The reviewers further challenged the treatment plan, opining that five individual psychoanalytically-oriented psychotherapy sessions per week were not appropriate for an acting out, noninsightful adolescent.

The Hearing Officer found that the hospital care received by the beneficiary after the 60th day of care during calendar year 1983 was above the appropriate level of care. Based on the evidence of record, I agree with the Hearing Officer's finding. After the initial 60 days of inpatient hospitalization during calendar year 1983, the beneficiary's mental health care could have been provided in a residential treatment center. The beneficiary did not require the type, level, and intensity of service that could be provided only in an inpatient hospital setting.

The CHAMPUS regulation, DoD 6010.8-R, chapter IV, G.66., specifically excludes from CHAMPUS coverage:

"All services and supplies (including inpatient institutional costs) related to a noncovered condition or treatment; . . ."

In view of the finding that the beneficiary's mental health care beyond 60 days in calendar year 1983 exceeded the CHAMPUS limitation (i.e., was noncovered treatment), all services and supplies related to the noncovered treatment are excluded from CHAMPUS coverage. The professional services of Dr. A. or Dr. E. related to the beneficiary's inpatient mental health care after the 60th day in calendar year 1983 are, therefore, also excluded from CHAMPUS coverage.

The CHAMPUS regulation, DoD 6010.8-R, chapter IV., G.3., specifically excludes "services and supplies related to inpatient stays in hospitals or other authorized institution above the appropriate level required to provide necessary medical care." Under this exclusion, the beneficiary's inpatient care at River Oaks Hospital beyond the 60th day of hospitalization in calendar year 1983 is excluded from CHAMPUS coverage as not being the appropriate level of care. In addition, any professional services including individual psychotherapy by Dr. [redacted] Fant or Dr. [redacted] Levy, related to hospitalization at River Oaks Hospital after the 60th day of hospitalization in calendar year 1983 are also excluded from CHAMPUS coverage.

SECONDARY ISSUES

Obligation to Provide Medical Care

The sponsor introduced a copy of his Personal Statement of Military Compensation which contained a preprinted message concerning medical care. The message stated: ". . . major medical needs are provided for, there is no need for you to carry medical insurance available to civilians." The implication resulting from the introduction of this document is that the sponsor relied on this message as establishing his entitlement to CHAMPUS coverage of the medical expenses in dispute. Similar issues of contractual rights and estoppel have been raised in many previous hearings. In each case, this office has found no merit in the arguments. As the Hearing Officer found, the sponsor has been in the service many years and, being a dentist, should be even more aware that CHAMPUS does not cover 100% of all health care. Congress has prohibited cost-sharing of inpatient psychiatric care beyond 60 days unless a waiver is granted for extraordinary circumstances and the Department of Defense must comply with these funding restrictions. As noted by the Senate Committee on Appropriations, the 60-day coverage for inpatient psychiatric care is consistent with major medical insurance plans including the Blue Cross Blue Shield High Option insurance coverage for Federal employees.

Estoppel for Lack of Notification of the Change in Benefits

The sponsor introduced several documents and a statement from the Barksdale Air Force Base Health Benefits Advisor concerning the issuance of notice of the Department of Defense Appropriation Act limitations on inpatient mental health coverage under CHAMPUS. The sponsor argued that OCHAMPUS should have notified the Health Benefits Advisors earlier than February 3, 1983, regarding the 60-day limit, and that if he had known the limitation would be effective January 1, 1983, he would not have delayed in admitting the beneficiary to River Oaks Hospital until January 13, 1983. This office has on many occasions considered estoppel arguments and rejected this concept as inapplicable. The Congress has restricted funding of inpatient psychiatric care in the

Department of Defense Appropriation Act for Fiscal Year 1983. The Act was published in the Congressional Record on December 20, 1982, providing the general public notice of the limitation in CHAMPUS benefits. Therefore, the estoppel argument has no merit. As the Hearing Officer noted, the sponsor elected not to hospitalize the beneficiary from December 22, 1982, until January 13, 1983; a period of 3 weeks. The sponsor is now arguing that he would have hospitalized the beneficiary prior to January 1, 1983, in order to avoid the 60-day limit even though the beneficiary apparently did not require immediate hospitalization. Such action would illustrate the potential for abuse of CHAMPUS benefits and the rationale for the 60-day limitation; i.e., prevention of overutilization of CHAMPUS benefits. I certainly find no merit in the sponsor's argument on this issue.

SUMMARY

In summary, the FINAL DECISION of the Assistant Secretary of Defense (Health Affairs) is to affirm CHAMPUS cost-sharing of the beneficiary's first 60 days of inpatient psychiatric care during calendar year 1983 at River Oaks Hospital, and to deny a waiver of the Appropriation Act 60-day limit for extended hospitalization beyond 60 days. This decision is based on (1) the finding the beneficiary was not suffering from an acute mental disorder which resulted in the beneficiary being a significant danger or risk to himself or others at or around the 60th day of hospitalization, and (2) finding the beneficiary did not require the type, level, and intensity of services that could be provided only in an inpatient setting. Documentation in the appeal file did not establish the extraordinary circumstances exhibiting the medical or psychological necessity for inpatient mental health care in excess of 60 days during calendar year 1983. It is also my determination that the beneficiary's inpatient mental health care beyond 60 days was above the appropriate level of care and excluded from CHAMPUS cost-sharing. This determination is based on a finding the beneficiary could have been treated in a residential treatment center and did not require the type, level, and intensity of service that could be provided only in an inpatient hospital facility. As I have found inpatient care beyond 60 days is not authorized, I also find that all services, including inpatient individual psychotherapy, related to inpatient care in excess of 60 days are excluded from CHAMPUS cost-sharing. Therefore, the request for waiver of the 60-day inpatient limitation, the claims for inpatient care beyond 60 days in calendar year 1983, and the appeal of the beneficiary are all denied. In view of the absence of documentation in the file pertaining to the payment or denial of all the claims involved in this appeal, the Director, OCHAMPUS, is directed to review the claims records and to take appropriate action based on this FINAL DECISION to pay any authorized claims not previously

paid and to recover any payments which may have been erroneously paid. Issuance of this FINAL DECISION completes the administrative appeals process under DoD 6010.8-R, chapter X, and no further administrative appeal is available.


William Mayer, M.D.