



ASSISTANT SECRETARY OF DEFENSE
WASHINGTON, D. C. 20301

JUN 5 1984

HEALTH AFFAIRS

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

Appeal of)
Sponsor:) OASD(HA) File 84-12
VA#:) FINAL DECISION

This is the FINAL DECISION of the Assistant Secretary of Defense (Health Affairs) in the CHAMPVA appeal OASD(HA) Case File 84-12 pursuant to 38 U.S.C. 613, 10 U.S.C. 1071-1092, and DoD 6010.8-R, chapter X. The appealing party, a beneficiary of the Civilian Health and Medical Program of the Veterans Administration (CHAMPVA), is the wife of a 100 percent disabled veteran.

CHAMPVA is administered under the same or similar limitations as the medical care furnished certain beneficiaries of the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS). By agreement between the Administrator, Veterans Administration, and the Secretary of Defense, pursuant to the provisions of Title 38, United States Code, section 613, CHAMPVA claims are processed and appealed under rules and procedures established by the CHAMPUS regulation, DoD 6010.8-R.

The appeal involves the question of CHAMPVA coverage of inpatient care for diagnostic testing from June 17 through June 23, 1982. The total hospital charge incurred by the beneficiary for these dates was \$1,793.95. The CHAMPUS/CHAMPVA Fiscal Intermediary denied the claim as the services and care provided were determined to be related to obesity and excluded by the CHAMPUS regulation. The OCHAMPUS Formal Review Decision determined that the care was not for obesity and was medically necessary but that the hospitalization was not medically necessary or at the appropriate level of care. The Formal Review Decision, therefore, allowed cost-sharing of the diagnostic tests. The amount in dispute in this appeal is the \$840.00 unreimbursed claim for the hospital room and board (\$140.00 per day for a semi-private room), plus the charges of \$37.70 for pharmacy and \$82.25 for medical supplies.

The hearing file of record, the tapes and oral testimony presented at the hearing, the Hearing Officer's Recommended Decision, and the Analysis and Recommendation of the Director, OCHAMPUS, have been reviewed. The Hearing Officer's findings are that the inpatient care was above the appropriate level of care required for the diagnosis and treatment of the beneficiary and

was not medically necessary. It is the Hearing Officer's recommendation that CHAMPVA not cost-share the inpatient stay. The Director, OCHAMPUS, concurs with the Recommended Decision and recommends its adoption as the FINAL DECISION of the Assistant Secretary of Defense (Health Affairs). The Assistant Secretary of Defense (Health Affairs), after due consideration of the appeal record, concurs with the recommendation of the Hearing Officer to deny CHAMPVA payment for the beneficiary's inpatient room and board received from June 17 through June 23, 1982, 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 coverage of inpatient room and board from June 17 through June 23, 1982, and to approve CHAMPUS coverage, on an outpatient basis, of the diagnostic tests conducted for the beneficiary at the hospital. The decision to deny inpatient coverage from June 17 through June 23, 1982, is based on findings that such care was not medically necessary and was above the appropriate level of care.

FACTUAL BACKGROUND

The beneficiary, who was 50 years old at the time of the admission, had been treated by M. H. Ledbetter, D.O., for several years. She was referred by Dr. Ledbetter to Thomas M. Wilson, D.O., a urologist. Dr. Wilson admitted her to Ormond Beach Hospital, Ormond Beach, Florida, on June 17, 1982.

The admission summary by Dr. Wilson stated, in part:

"This 54-year old [sic] female will be admitted to the hospital with a diagnosis of hypertension, possible hypothyroidism, and urinary incontinence. She has a history of nocturia about 5 times per night and going every 15 minutes per day and as long as 3 hours between voiding.

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"The patient has morbid obesity to the point of now weighing 209 pounds. She has had these insatiable urges to eat and eats large amounts and then feels badly about it afterwards."

In his discharge summary, Dr. Wilson stated, in part:

"It was felt that the patient should be admitted to check on metabolic cause of the problems including thyroid, adrenal gland and for consideration of surgery for stress

incontinence. . . . With the admission, however, the patient's weight subsided, her hypertension came under control a bit better and it would appear that most of her difficulty was related with her environment and not metabolic in nature."

Dr. Wilson gave the admitting diagnoses as "morbid obesity, hypothyroidism, possible adrenal tumor, urinary incontinence." He gave the final diagnosis as "morbid obesity [and] urinary stress incontinence."

The hospital submitted a participating CHAMPVA claim. The charges, which totaled \$1,795.95, included: \$840.00 for a semiprivate room at \$140.00 per day for 6 days; \$282.00 for x-ray diagnostic services; \$37.70 for pharmacy; \$82.25 for medical supplies; \$43.00 for electrocardiogram; \$163.00 for electroencephalogram; \$45.00 for radioisotopes; and \$303.00 for laboratory. The hospital in its claim listed the principal diagnosis as morbid obesity.

The claim was denied by the CHAMPUS/CHAMPVA Fiscal Intermediary. The hospital subsequently sent a letter from Dr. Wilson, dated July 26, 1982, that stated:

"The patient was seen in my office prior to her hospitalization with a history of gaining 50-60 pounds in the last 6 months and being treated with diuretics for high blood pressure. Because of the patient's pressure ranging in the area of 140/92, and the fact that she had gained so much weight in such a short period of time, I was concerned not only with the morbid obesity at weighing 202 pounds but also with the evidence of hypothyroidism and possibly an adrenal tumor. There was also urinary incontinence . . . I felt hospitalization should be done with evaluation of these problems, then with the option to either go ahead and correct the tumors or do the surgery for urinary incontinence.

"Following her hospitalization and control of her environment, the patient's weight dropped, her control improved to the point the incontinence was not a problem and her lab tests returned normal. Therefore, the admitting diagnosis of morbid obesity, hypothyroidism, adrenal tumor, and urinary incontinence turned out to be no more than morbid obesity. It is still possible that surgery will have to be done on this patient for incontinence. But I feel that we should still attempt to control her medically.

"I still feel very strongly that this patient had every evidence that surgery was going to be required and that this hospitalization was necessary to rule out overlying problems. . . ."

The fiscal intermediary continued to deny the claim based on the regulation exclusion for all services and supplies related to obesity and/or weight reduction. No appeal rights were given by the fiscal intermediary.

In an August 31, 1982, letter to CHAMPUS, Dr. Wilson wrote:

"Because of the sudden weight gain, pitting edema, and the history of taking diuretics and borderline hypertension, I was fearful that an underlying problem was present to her main complaint of urinary incontinence and that with the anticipation that some surgery was going to be needed and hospitalization was necessary to document and control the patient's environment so that we could rule out problems like adrenal tumors and/or proceed with Marshall-Marchetti should these others be excluded, I felt the whole ball of wax could be more efficiently and quickly taken care of should I admit her to the hospital."

In a September 30, 1982, letter to Ormand Beach Hospital, the fiscal intermediary again denied the claim and advised that it was not an appealable issue. The beneficiary's husband subsequently contacted OCHAMPUS and, since the beneficiary previously had not been offered appeal rights, was advised that the beneficiary would have 60 days to request an appeal.

Following her appeal, OCHAMPUS obtained a medical review of the disputed care from the Colorado Foundation for Medical Care. The review was provided by two medical doctors, both of whom were internal medicine specialists. The medical reviewers provided the following opinion:

"Was the admission in this case to treat morbid obesity, or was it to treat life-threatening complications of her medical condition?"

"Neither. The hospitalization was not medically necessary to treat morbid obesity, nor was it medically necessary to treat a life-threatening complication of her medical condition, which was urinary incontinence and hypertension. In our opinion the patient was not sick enough to require hospitalization.

"Was the treatment received during this admission for the diagnosis of morbid obesity or for other medical problems that could not be treated on an outpatient basis?

"Treatment was not for morbid obesity. Treatment was for other medical problems, and in our opinion these could have been treated on an outpatient basis. The physical findings do not reveal the patient was sick enough to require inpatient treatment.

"If part of the care was treatment for morbid obesity, but part was to treat other life-threatening medical problems, when did the treatment become strictly for her obesity (what date?).

"They didn't actually treat morbid obesity, they only concluded that it was part of her problem.

"Was the entire inpatient stay medically necessary and appropriate to treat or diagnosis a medical condition other than morbid obesity?

"No. The patient could have been evaluated as an outpatient, and then if indicated, admitted for surgery for urinary incontinence."

In September 16, 1982, to a veterans service officer, Dr. Ledbetter wrote:

"This lady has been a patient of mine for several years and at the time of this hospitalization she was referred to Dr. Wilson, a urologist, for consultation and subsequent admission to the hospital for evaluation of a long standing bladder problem. . . .

"This lady has been hypothyroid and has been on thyroid medication intermittently for several years and has the related problem of obesity (height 5'5", weight 209 lbs.). It was Dr. Wilson's impression that this patient's obesity was contributing to the overall problem of her persistent bladder complaints and that weight loss would probably help relieve some of the symptoms. The problem of Urinary Incontinence, however, is not caused by her obesity and she was not admitted to the hospital for treatment of

obesity and in actuality the diagnosis of obesity should have been only an incidental diagnosis. The primary diagnosis on this patient continued to be 1. Hypertensive Vascular Disease, 2. Hypothyroidism, 3. Chronic Urinary Incontinence, and 4. Obesity.

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"At any rate, the hospitalization should be covered by CHAMPUS as this lady has multiple legitimate disease processes."

On October 6, 1983, OCHAMPUS issued its Formal Review Decision. The Decision concluded the treatment in issue could not be found to be primarily for the diagnosis of morbid obesity. The Regulation exclusion of services and supplies related to obesity, therefore, was found not to apply to the case. The decision went on to conclude the inpatient treatment was not medically required, although the diagnostic services were medically necessary. Therefore, it was determined that the diagnostic tests could be cost-shared on an outpatient basis; however, CHAMPVA cost-sharing of the inpatient hospital stay and inpatient services, other than diagnostic tests, was not authorized.

The beneficiary appealed this determination and requested a hearing.

The hearing was scheduled for February 23, 1984, at a Daytona Beach post office. However, at the time of the hearing, the beneficiary called CHAMPUS and requested that the hearing be conducted in her home in Port Orange, Florida. This request was accommodated.

CHAMPUS submitted into the record the statement of the OCHAMPUS Medical Director, a medical doctor. The Medical Director after reviewing the records provided his medical opinion that:

"[Dr. Wilson] goes on to indicate the beneficiary was seen in his office prior to the hospitalization with a history of gaining approximately 50 to 60 pounds over a 6 month period prior to her presentation, high blood pressure at least noted to be 140/92, and the fact that she had gained such a good deal of weight in such a short period of time. He was concerned about metabolic endocrinological causes such as hypothyroidism or adrenal tumor. He was also concerned about the stress urinary incontinence which he thought needed to be evaluated to determine if, in

fact, surgical correction such as a Marshall-Marchetti procedure would be indicated. The Colorado Foundation [for Medical Care] in reviewing this, and prior to my review of this, raised questions about the appropriateness of inpatient level of care, for an individual who had in fact a significant weight gain but over a one-half year of time. This was not a sudden weight gain but certainly a weight gain that was considerable. Secondly, for the evaluation of treatment for hypertension, I would consider this to be a mild essential hypertension which was as much as anything probably most related to her being overweight. That level of high blood pressure is not an indication for inpatient level of care. Finally, her stress incontinence was not in and of itself an indication of admission to the hospital. All of the services to evaluate this beneficiary's potential and real problems could have been performed on an outpatient basis. The evaluation and treatment of her hypertension could certainly have been conducted on an outpatient basis. The cystometrogram and cystoscopy studies that were performed as well as the other renal system studies that were performed by the provider could have been provided on an outpatient basis. Very commonly in outpatient surgical settings and ambulatory surgical centers, these procedures are performed safely on an ambulatory basis. Procedures such as routine cystoscopies, are now commonly performed on an outpatient basis to reduce costs to the beneficiary and without reduction of any safety to them. I would say that in the period in question 1982, when this beneficiary was hospitalized, clearly outpatient cystometrogram and cystoscopy studies could have been performed in an ambulatory surgical outpatient setting. Apparently, with regard to the evaluation of the weight gained, certainly all of the tests that the provider chose to perform, spelled out in the treatment summary, blood studies, urinary studies, scerology, VMA, catecholamines and other tests could all have been performed on an outpatient basis and did not require an inpatient level of care. Chest x-ray, medications and observations of her responses to those medications could all have been performed on an outpatient basis. . . . To use the words of the Colorado

Foundation, she was simply not ill enough to require that level of comprehensiveness or intensity of services that would require the inpatient level of care. Routine office visits would have been sufficient. With regard to the cystometrogram and cystoscopy, referral to a urologist could have handled the specialized outpatient procedures. This is a routine and common practice."

At the hearing the beneficiary testified that she was a nurses' aide and worked the third (night) shift, though at a different hospital than where she was admitted. She further testified that she worked the night before she went into the hospital for her diagnostic tests and after her discharge she went directly back to work. She believes she may have gone back the same night that she was discharged. Her testimony also included statements that she did not want to stretch out the testing procedure or to fight traffic going into town. She testified that Dr. Wilson saw her every day although his private nurse performed most of the tests. She also testified that she was concerned over the possibility of having cancer and she wanted to know the results as soon as possible. However, she also testified that when Dr. Wilson said he was going to admit her, she never questioned his judgment.

As noted above, the hearing was held on February 23, 1984, in the beneficiary's home. It was conducted by OCHAMPUS Hearing Officer, Don F. Wiginton. There were no witnesses present other than the beneficiary. The Hearing Officer has issued his Recommended Decision. All prior levels of administrative review have been exhausted and issuance of a Final Decision is proper.

ISSUES AND FINDINGS OF FACT

The primary issue in this appeal is whether the inpatient cost for a semi-private room for the beneficiary's inpatient stay at Ormond Beach Hospital from June 17 through June 23, 1982, is authorized care under CHAMPUS. In resolving this issue, it must be determined whether the inpatient admission was medically necessary and at the appropriate level of care.

Medical Necessity/Appropriate Level of Care

The Department of Defense Appropriation Act, 1981, Public Law 97-114, prohibits the use of CHAMPUS 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 restriction has appeared in each Department of Defense Appropriation Act since 1976.

The Department of Defense Regulation, DoD 6010.8-R, in chapter II, B.104, defines medically necessary as:

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

Under these statutory and regulatory provisions, the inpatient care in question must be found to be medically necessary (essential) for the care or treatment of a diagnosed condition.

"Appropriate medical care" is defined in DoD 6010.8-R, chapter II, B.14., in part, as:

"a. 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;

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"c. The medical environment in which the medical services are performed is at the level adequate to provide the required medical care."

Finally, the CHAMPUS regulation, DoD 6010.8-R, chapter IV, G.4., specifically excludes from coverage certain diagnostic admissions as follows:

"Diagnostic admission. Services and supplies related to an inpatient admission primarily to perform diagnostic tests, examinations, and procedures that could have been, and routinely are, performed on an outpatient basis. NOTE: If it is determined that the diagnostic X-ray, laboratory and pathological services and machine tests performed during such admission were medically necessary and would have been covered if performed on an outpatient basis, CHAMPUS benefits may be extended for such diagnostic procedures only, but cost-sharing will be computed as if performed on an outpatient basis."

There is no dispute over the medical necessity or appropriateness of the diagnostic tests performed while the beneficiary was an inpatient from June 17 through June 23, 1982, at Ormond Beach Hospital. The case record adequately documents the patient's medical history, therapeutic intervention, observations, and symptoms which required diagnostic testing and evaluation. The issue remains, however, whether the diagnostic testing and

evaluation could have been and routinely are performed on an outpatient basis. If so, then the diagnostic hospital admission was not medically necessary nor appropriate as specifically excluded from CHAMPUS coverage.

Neither Dr. Wilson, the admitting physician, nor Dr. Ledbetter, the beneficiary's family physician, ever stated or offered any medical evidence that the diagnostic tests performed on the beneficiary are not routinely and commonly performed on an outpatient basis. The opinion of the medical reviewers from the Colorado Foundation for Medical Care that "the physical findings do not reveal the patient was sick enough to require inpatient treatment" is substantiated by the beneficiary's testimony that she was able to work as a nurses' aide up to and including the night before she was admitted and again on discharge from the hospital.

Dr. Wilson's July 26, 1982, letter stated:

". . . I thought hospitalization should be done with the evaluation of these problems, and then with the option to go ahead and correct the tumors or do the surgery for urinary incontinence.

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"I still feel very strongly that this patient had every evidence that surgery was going to be required. . . ."

It appears Dr. Wilson anticipated that he was going to operate on this patient as soon as he discovered whatever her problem was. Even assuming that Dr. Wilson would have been correct in his anticipation and that some surgery was necessary, that does not justify hospitalization for diagnostic testing. If Dr. Wilson's motivation for hospitalizing the beneficiary was for diagnostic testing, there is no medical evidence in the record contradicting the opinions of the medical reviewers of the Colorado Foundation for Medical Care and the OCHAMPUS Medical Director that the diagnostic tests performed are routinely and commonly performed on an outpatient basis. If Dr. Wilson's motivation was, in part, anticipated surgery, then it was premature as a need for surgery had not been established by appropriate diagnostic testing.

The concern by the beneficiary that she have test results as soon as possible and that it would be inconvenient for her to go to town on an outpatient basis are not medical reasons for her admission. In a previous FINAL DECISION involving the need for an inpatient admission for diagnostic testing, OASD(HA) Case File 83-34, a beneficiary contended that she was unable to drive a car due to her medical problems and would not have been able to make

the 100-mile round trip between her residence and the medical center. It was concluded in OASD(HA) Case File 83-34 that:

"Whether the patient could have safely commuted the 100 miles between her residence and the . . . medical center is not pertinent to the issue of appropriate medical care in this case. The beneficiary elected not to seek medical care in her home town but opted for treatment at the . . . medical center. Having made such a choice, it is obvious that temporarily living near the treating facility during the period of diagnostic testing was safer and more convenient. That the patient obtain private living accommodations (e.g., a hotel room) the cost of such accommodations could not have been cost-shared as medical care under CHAMPUS. Although she stayed in . . . medical center, the records do not support a finding that the accommodations were medically necessary as a diagnostic admission under the CHAMPUS regulation."

In this appeal, although the beneficiary was concerned about the frequency of the trips into town for outpatient diagnostic testing and that results would not have been quickly available, these are not reasons to support a finding that an inpatient admission was medically necessary under the CHAMPUS regulation.

The Hearing Officer concluded that:

"The medical record is without suggestion that the beneficiary was suspected of having a life threatening condition which required immediate diagnosis. It appears to the Hearing Officer, and particularly from the testimony of the beneficiary, that the inpatient care was a matter of convenience to the beneficiary and perhaps her physician. The Hearing Officer agrees with the Formal Review Decision that if the beneficiary's diagnosis determined that surgery was required, her subsequent admission for surgery could have been scheduled."

The Hearing Officer went on to find that the inpatient care was above the appropriate level for the diagnosis and treatment of the beneficiary from June 17 through June 23, 1982. The Hearing Officer's findings and conclusion are well supported by the record, and I hereby adopt his Recommended Decision as the FINAL DECISION. As opined by the reviewing physicians, the patient should have been referred for these diagnostic tests on an outpatient basis. The beneficiary's inpatient care does not meet the requirements of the Department of Defense Appropriation Act nor the CHAMPUS regulation, which are the basis on which CHAMPVA

claims are processed. The hospitalization under appeal, therefore, is not authorized CHAMPVA care.

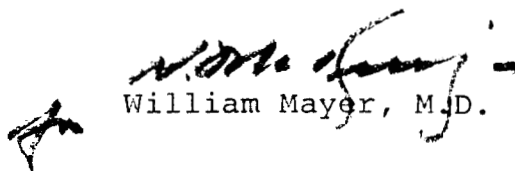
SECONDARY ISSUE

Amount in Dispute

There is no indication in the record whether the determination in the OCHAMPUS Formal Review Decision that the diagnostic testing could be cost-shared was implemented and whether the fiscal intermediary paid that portion of the claim. In addition, the Hearing Officer recited the amount in dispute as being approximately \$960.00. The claim submitted by the hospital included a charge of \$840.00 for a semi-private room, which was based on a charge of \$140.00 per day for 6 days. All of the remaining charges by the hospital were for diagnostic procedures with the exception of the charges for the pharmacy (\$37.70) and medical supplies (\$82.25). The charges for pharmacy and medical supplies can be CHAMPVA cost-shared, if it can be established that they were reasonably related to the diagnostic testing.

SUMMARY

In summary, it is the FINAL DECISION of the Assistant Secretary of Defense (Health Affairs) that the inpatient care consisting of charges of \$840.00 for a semi-private room at Ormond Beach Hospital from June 17 through June 23, 1982, be denied CHAMPVA cost-sharing as the care was not medically necessary and was above the appropriate level of care. Therefore, the claims for hospitalization for this period and the beneficiary's appeal are denied. The diagnostic tests, which included charges for x-ray diagnostic services (\$282.00); electrocardiogram (\$43.00); electroencephlogram (\$163.00); radioisotopes (\$45.00); and laboratory (\$303.00) are deemed to be medically necessary and can be cost-shared by CHAMPVA on an outpatient basis. If charges have not yet been cost-shared, the Director, OCHAMPUS, is directed to advise the CHAMPUS/CHAMPVA Fiscal Intermediary to cost-share these charges. Further, if the beneficiary's charges for pharmacy (\$37.70) and medical supplies (\$82.25) were related to her diagnostic testing, these charges can be cost-shared. 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.

REC DEL
84-12

RECOMMENDED DECISION
Claim for CHAMPUS Benefits
Civilian Health and Medical Program of the
Uniformed Services (CHAMPUS)

Appeal of)
Sponsor:) RECOMMENDED DECISION
Sponsor's SSN:)

This is the Recommended Decision of the CHAMPUS Hearing Officer, Don F. Wiginton, in the CHAMPUS appeal case file of and is authorized pursuant to 10 U.S.C. 1071-1079 and DOD 6010.8-R, Chapter X. The appeal involves the denial of CHAMPUS cost-sharing for inpatient hospital stay during the period of June 17 through June 23, 1982. The amount in dispute is approximately Nine Hundred Sixty Dollars (\$960.00).

The hearing was scheduled for February 23, 1984 in the Conference Room of the Post Office located at 2200 North Beach Street, Daytona Beach, Florida. However, at the appointed hour, the beneficiary called the CHAMPUS attorney/advisor, William N. Voharas, and requested the hearing be conducted in her home at 1248 Thomas Drive, Port Orange, Florida as the beneficiary was having automobile trouble and could not attend the scheduled hearing. Due to the last minute change in plans, the beneficiary's sponsor, husband was unable to attend the hearing but the beneficiary requested that the hearing be conducted in his absence. The hearing was held at the beneficiary's home on February 23, 1984. The beneficiary was the only witness appearing and testifying.

The hearing file of record has been reviewed. It is the OCHAMPUS position that the formal review determination, issued October 6, 1983 denying CHAMPUS cost-sharing for the inpatient care, June 17 through June 23, 1982 be upheld as the care was above the appropriate level for the diagnosis and treatment of the patient's condition and not medically necessary.

The Hearing Officer, after due consideration of the appeal record concurs in the recommendation of OCHAMPUS to deny CHAMPUS cost-sharing for the inpatient care June 17 through June 23, 1982.

FACTUAL BACKGROUND

The beneficiary was under the care of Dr. Thomas M. Wilson in 1982 with a complaint of gaining fifty to sixty pounds within six months, high blood pressure, morbid obesity and urinary incontinence. Her physician determined that hospitalization was necessary to evaluate these problems due to the potential for surgery (Exhibit 3, page 2).

The beneficiary was admitted to Ormond Beach Hospital on June 17, 1982 for the evaluation (Exhibit 12, page 7). The patient's history reveals she had a hysterectomy in 1971, an appendectomy and an oophorectomy in 1970. She had a bladder suspension in 1970 and she had a cystoscopy about five years ago and a tonsillectomy as a child. She was on Dyazide for her hypertension (Exhibit 12, page 7). The beneficiary was discharged six days later on June 23, 1982 with a final diagnosis of morbid obesity and urinary stress incontinence (Exhibit 12, page 3).

A claim was submitted to CHAMPUS in the amount of One Thousand Seven Hundred Ninety Five and 95/100 Dollars (\$1,795.95) which the fiscal intermediary denied on July 9, 1982. The provider requested an informal review on August 2, 1982. The provider stated that the hospitalization was medically necessary to establish a controlled environment to evaluate her symptoms. On August 18, 1982, the fiscal intermediary issued a formal review stating that services could not be cost-shared under the CHAMPUS program as they were found to be services and supplies related to obesity which are specifically excluded by the regulation. On September 30, 1982 a reconsideration determination was given again denying the services as related to the diagnosis of obesity.

OCHAMPUS referred the medical record for peer review by the Colorado Foundation for Medical Care. The peer reviewer determined that the inpatient hospital setting was not medically necessary and the services could have been provided on an outpatient basis (Exhibit 14). They also determined that the treatment was not for morbid obesity. A formal review decision issued October 6, 1983 determined that the care was not for obesity and in fact was medically necessary but that the hospitalization was not medically necessary or at the appropriate level of care. CHAMPUS agreed to cost-share in the diagnostic test leaving the amount in dispute for the hospitalization of Nine Hundred Sixty Dollars (\$960.00). The beneficiary requested a hearing on October 23, 1983 which was conducted in Port Orange, Florida on February 23, 1984.

ISSUE

The issue in this case is whether the inpatient stay during the period June 17 through June 23, 1982 was medically necessary and the appropriate level of care required for the diagnosis and treatment of the patient's condition.

AUTHORITY

Department of Defense Regulation 6010.8-R

Chapter IV, A.1. - 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.

Chapter II, B.104. - Medical Necessary. "Medically Necessary" means the level of services and supplies (that is, frequency, extent, and kinds) adequate for the diagnosis and treatment of illness or injury (including maternity care). Medically necessary includes concept of appropriate medical care.

Chapter II, B.14. - Appropriate Medical Care. "Appropriate Medical Care" means:

- a. That medical care where the medical services performed in the treatment of a disease or injury, or in connection with an obstetrical case, 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 IV, G.1. - Exclusions and Limitations. In addition to any definitions, requirements, conditions and/or limitations enumerated and described in other CHAPTERS of this Regulation, the following are specifically excluded from the CHAMPUS Basic Program:

1. Not Medically Necessary. Services and supplies which are not medically necessary for the diagnosis and/or treatment of a covered illness or injury.

Chapter IV, G.3. - Institutional Level of Care. Services and supplies related to inpatient stays in hospitals or other authorized institutions above the appropriate level required to provide necessary medical care.

Chapter IV, G.4. - Diagnostic Admission. Services and supplies related to an inpatient admission primarily to perform diagnostic tests, examinations, and procedures that could have been, and routinely are, performed on an outpatient basis.

FINDINGS OF FACT

Treatment that is not medically necessary is excluded from the CHAMPUS basic program pursuant to 6010.8-R, Chapter IV, G.1. and G.3. Chapter II, B.14.c. specifies that the medical environment in which the medical services are performed is at the level adequate to provide the required medical care.

Dr. Wilson stated that he hospitalized the beneficiary as he was fearful that an underlying problem was present to her main complaint of urinary incontinence and anticipated some surgery was going to be needed. The hospitalization was necessary to document and control the patient's environment so that he could rule out problems like adrenal tumors and/or proceed with Marshall-Marchetti (Exhibit 5, page 1).

The Colorado Foundation for Medical Care evaluated the medical records and determined that the hospitalization was not medically necessary as the patient was not sick enough to require hospitalization (Exhibit 14, page 2). On September 16, 1983, Dr. M. H. Ledbetter stated that the beneficiary had been a patient of his for several years and that she was referred to Dr. Wilson, an urologist, for consultation and subsequent admission to the hospital for evaluation of a long standing bladder problem. He then simply reviewed the medical records of Dr. Wilson's. The Hearing Officer notes that Dr. Ledbetter does not state that hospitalization was necessary in his opinion.

At the hearing the beneficiary stated that she was a certified nursing aide having graduated from Wallace School of Nursing in 1981 and that she was employed at Chateau Vivion and usually worked the third shift. She stated that the necessity for hospitalization was due to the following reasons: (1) it would have been too inconvenient for her to go to town for the test at Dr. Wilson's office, (2) the urine samples would have been too bulky for her to carry to the doctor's office, (3) I wanted to know the results as soon as possible and the hospitalization permitted a quicker diagnosis, (4) the beneficiary "doubted" if Dr. Wilson would have had the proper equipment in his office to diagnose her condition, (5) the odor from the urinary incontinence was terrible and could be better controlled in a hospital environment and (6) the beneficiary stated that she would be able to sleep in a hospital better and she would get more rest as she would otherwise be working a third shift and have to come to town after getting off from work to perform the tests.

The beneficiary further stated that the medication that she was on prior to the hospital admission was terminated and she did not resume that medication upon release from the hospital. She stated that Dr. Wilson saw her everyday although his private nurse performed most of the tests. She stated that the doctor did not perform any of the tests himself but that was left up to the nurses.

She stated, in summary, the most important thing to her was to obtain an early diagnosis and she felt like the hospitalization was justified on that basis alone.

The Hearing Officer notes that neither the beneficiary nor her physician states that a test was performed on her which could not have been handled on an outpatient basis. Furthermore, the peer reviewer from the Colorado Foundation for Medical Care, after reviewing the record, determine that those tests could in fact have been performed on an outpatient basis. There appears to be no conflict in regard to whether the tests could have been performed on an outpatient basis.

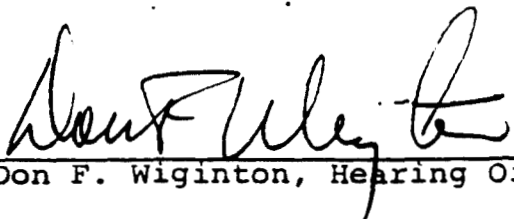
The medical record is without suggestion that the beneficiary was suspected of having a life threatening condition which required immediate diagnosis. It appears to the Hearing Officer, and particularly from the testimony of the beneficiary, that the inpatient care was a matter of convenience to the beneficiary and, perhaps her physician. The Hearing Officer agrees with the formal review decision that if the beneficiary's diagnosis determined that surgery was required, her subsequent admission for surgery could have been scheduled. Dr. Wilson suggested the potential for surgery for an adrenal tumor or to correct urinary incontinence (Exhibit 3, page 2). Neither of these procedures suggest the urgency to require immediate hospitalization.

I, therefore, find that inpatient care was above the appropriate level for the diagnosis and treatment of the beneficiary, June 17 through June 23, 1982.

RECOMMENDED DECISION

It is the recommended decision of the undersigned Hearing Officer that CHAMPUS not cost-share in the expenses for inpatient care, June 17 through June 23, 1982 in the amount of Nine Hundred Sixty Dollars (\$960.00). The inpatient care was above the appropriate level of care required for the diagnosis and treating of the beneficiary and was not medically necessary.

Done this the 15th day of March, 1984.



Don F. Wiginton, Hearing Officer