



DEPARTMENT OF DEFENSE

OFFICE OF CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES

AURORA, COLORADO 80045

BEFORE THE OFFICE, ASSISTANT

27 NOV 1984

SECRETARY OF DEFENSE (HEALTH AFFAIRS)

UNITED STATES DEPARTMENT OF DEFENSE

Appeal of	Jr.)	
)	
Sponsor:	, Sr.)	OASD(HA) FILE 84-32
)	FINAL DECISION
SSN:)	

This is the FINAL DECISION of the Assistant Secretary of Defense (Health Affairs) in the CHAMPUS Appeal OASD(HA) Case File 84-32 pursuant to 10 U.S.C. 1071-1092 and DoD 6010.8-R, chapter X. The appealing party in this case is the beneficiary, the son of a deceased member of the United States Air Force.

This appeal involves the denial of CHAMPUS cost-sharing of 11 inpatient psychotherapy sessions provided the beneficiary from July 10, 1982, to July 22, 1982, and one outpatient psychotherapy session on August 9, 1982. The CHAMPUS Fiscal Intermediary denied CHAMPUS cost-sharing of the psychotherapy on the basis that the therapy was not medically necessary for the diagnosis and/or treatment of the beneficiary's particular illness or injury, i.e., head trauma. The amount in dispute is \$470.00 in billed charges.

The hearing file of record, the tape of oral testimony 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 CHAMPUS coverage of the psychotherapy sessions provided the beneficiary from July 10, 1982, to July 22, 1982, and the one outpatient psychotherapy session on August 9, 1982, be denied based on findings that the care was not appropriate medical care for the condition of the beneficiary. 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 Assistant Secretary of Defense (Health Affairs), after due consideration of the appeal record, concurs in the recommendation of the Hearing Officer to deny CHAMPUS cost-sharing of inpatient psychotherapy sessions from July 10, 1982, to July 22, 1982, and one outpatient psychotherapy session on August 9, 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 coverage of the inpatient psychotherapy visits from July 10, 1982, to July 22, 1982, and the one outpatient psychotherapy session on August 9, 1982. The decision to deny coverage of the psychotherapy based on findings that the care was not medically necessary and not appropriate medical care for the condition of the beneficiary at the time the treatments were provided.

FACTUAL BACKGROUND

The beneficiary was in good health until June 27, 1982, when he was involved in a single vehicle accident. The beneficiary was found lying beside his vehicle and was taken to the Northeast Baptist Memorial Hospital emergency room. The beneficiary was subsequently admitted to this facility with the diagnosis of head trauma and hematuria. The admission notes indicate the following:

"ADMISSION DIAGNOSIS: Head trauma and hematuria.

"HISTORY OF PRESENT ILLNESS: This is a 21-year-old male who according to his brother has been in good health until this morning when he was involved in what appears to be a single vehicle accident. He was found lying beside his vehicle on the ground and was brought by EMS to Northeast Baptist emergency room. There, he was stabilized, his ethanol level was 0.18. C-spine, spine, skull and chest x-rays were negative. He was sent for a CT scan which showed no shift, no mass affects seen, a small calcification or hemorrhage on the right.

"PAST MEDICAL HISTORY: Negative.

"ALLERGIES: None known.

"PHYSICAL EXAMINATION: GENERAL APPEARANCE - he was unresponsive to verbal commands, obtunded, at times agitated. He is not coughing and had no spontaneous eye opening. VITAL SIGNS - his pulse was 87 and respirations 28, blood pressure 114/80. HEENT - revealed some right facial abrasions. His TM's are clear. CHEST - clear to IPPA. CARDIOVASCULAR SYSTEM - within normal limits. ABDOMEN - soft and nontender. Liver, spleen and kidneys were not palpable. Bowel sounds are present. He has gross hematuria. There is a small abrasion in the right upper quadrant.

"CENTRAL NERVOUS SYSTEM EXAM - reveals mental status as above. His pupils equal and reactive to light. Extraocular movements are full. His eyes are disconjugant at times. Fundi are benign. He has no facial asymmetry. He is moving all extremities well. Localizes well to pain and is appropriate. Deep tendon reflexes are +2 to 3, slightly greater on the left than the right. Plantars are bilaterally downgoing.

"IMPRESSION: Head trauma, brain stem injury, gross hematuria.

"PLAN: ICU, observation, urology consult."

Subsequently, on July 9, 1982, the beneficiary was discharged from the Northeast Baptist Hospital and transferred to Park North General Hospital because of persistent gross confusion and persistent agitation after trauma, which the original facility, Northeast Baptist Hospital, was not equipped or designed to manage. Dr. Charles Arnold, the attending physician, in a letter dated July 16, 1982, stated that the beneficiary's admission to Park North General Hospital was for a bonafide emergency. The diagnosis upon hospitalization at Park North General Hospital was agitation secondary to cerebral concussion.

In conjunction with this hospitalization, an EEG performed on July 10, 1982, was normal. The progress notes for the hospitalization at Park North General Hospital are incomplete and partially illegible. OCHAMPUS and the Hearing Officer requested better copies and more complete information from the treating physician; however, neither a more legible copy nor additional information was provided. The legible portion of these progress notes indicate:

"7/10 Adm from NEBH yesterday. [illegible] organic, [with] intermittent agitation, [illegible] head injury. Will observe & Rx as indicated.

[Illegible]

"7/12 Groggy, poorly coordinated, & inappropriate. EEG today.

[Illegible]

"7/13 Behavior & sleep pattern [illegible]. Sleeping too much [without] enough medication to explain it. [Illegible] may be agitated &/or inappropriate. [Illegible] [illegible] [illegible] head injury, or was he [illegible] [illegible] [illegible] [illegible] [illegible] injury?

[Illegible]

"7/13 [Illegible] [with] Dr. Skelton
[illegible] study [illegible] after stable
[illegible] [illegible].

[Illegible]

"7/14 'Asleep'

"7/15 Continues off-on 'sequence of
[illegible] [illegible] sensorum & level of
awareness. He is either agitated &
inappropriate or asleep & hard to arouse.

[Illegible]

"7/[Illegible] Bath today. [Illegible]
Guarded [illegible]. Will see [illegible]
studies now.

[Illegible]

"7/16/82 Neuropsychological evaluation
initiated @ 12:30 PM.

[Illegible] Skelton, PhD

"7/16/82 One-to-one contact essentially
completed @ 5:00 PM. Have left materials
with [illegible] and will pick up in AM.
Preliminary impression is of organic brain
syndrome, dull normal intelligence.

[Illegible] Skelton, PhD

"7/17/82 Evaluation essentially completed @
9:20 AM [with] fill up of materials
[illegible] raise question of functional
competence. Final report in chart Mon AM.

[Illegible] Skelton, PhD

"7/17 [Illegible] please [illegible]

[Illegible]

"7/17/82 Psychodiagnostic completed @ 10:30
AM

J. Skelton, PhD

"7/19 Looks good! Clear & cooperative today.
Definitely an improvement.

[Illegible]

"7/19/82 Psychodiagnostic report in chart @
2:50 PM.

[Illegible] Skelton, PhD

"7/20 Status as yesterday.

[Illegible]

"7/21 " "

[Illegible]

"7/22 Discharge Adm for agitation
[illegible] concussion. Improved [with]
[illegible] [illegible] [illegible]
[illegible] [illegible].

[Illegible]"

The mental health treatment report prepared November 8, 1982, states the beneficiary suffered severe confusion and agitation secondary to head trauma including concussion. The attending physician indicated the agitation persisted for several weeks, and the beneficiary displayed dramatic shifts in mood and awareness of surroundings. He also indicated that there were periods of anxiety and some depression, but no hallucinations. The physical examination revealed disconjugate and mild left facial phresis.

The attending psychiatrist described the patient's treatment plan as daily psychotherapy, daily evaluation of mental status with directions, and supportive psychotherapy. The psychiatrist prescribed Taractan, Tylenol, and Dalmane. The modality of treatment was psychotherapy, supportive and directive, and drug management with the drugs previously mentioned. The patient's clinical status, as of November 8, 1982, was stable, well oriented, and indicated no major complaints, not hospitalized, and no change in diagnosis.

CHAMPUS claims for the inpatient psychotherapy sessions between July 10, 1982, and July 22, 1982, and the one outpatient psychotherapy session on August 9, 1982, were filed with the CHAMPUS Fiscal Intermediary for Texas, Wisconsin Physicians Service. The claims indicate that the psychiatrist charged \$100.00 for the initial hospital evaluation, \$40.00 each for 11 one-half hour psychotherapy sessions during the period of July 10, 1982, to July 22, 1982, for a total amount of \$440.00, and \$25.00 per day for 2 days for daily hospital care (July 11, 1982, and July 18, 1982). These charges reflect the services of the attending physician only and not the hospital services which were cost-shared by CHAMPUS. The psychiatrist also charged

\$30.00 for one outpatient psychotherapy session conducted on August 9, 1982.

The CHAMPUS Fiscal Intermediary cost-shared \$75.00 of the \$100.00 billed for the hospital evaluation, and \$50.00 for the 2 days of daily hospital care. The CHAMPUS Fiscal Intermediary did not cost-share the inpatient psychotherapy services on the basis that psychotherapy was not appropriate for the diagnosis. The fiscal intermediary did cost-share the one outpatient psychotherapy session conducted on August 9, 1982, in the amount of \$30.00, but subsequently requested refund of this payment.

On appeal by the beneficiary, the fiscal intermediary upheld the initial determination to deny CHAMPUS cost-sharing of the psychotherapy sessions. The fiscal intermediary specifically advised the beneficiary that a head injury, in itself, did not establish the need for psychotherapy, and that additional medical documentation was required to support the medical necessity of psychotherapy for a severe head injury.

Following additional review, the fiscal intermediary informed the beneficiary that the records available indicated that the beneficiary's signs and symptoms were physical in nature resulting from trauma sustained to his head in an automobile accident on June 22, 1982; thus, psychotherapy sessions were not medically necessary for a physical ailment.

On January 19, 1983, the beneficiary appealed to OCHAMPUS. Prior to conducting the First Level Appeal, OCHAMPUS referred the case to the OCHAMPUS Medical Director for medical review. The OCHAMPUS Medical Director is a Board Certified psychiatrist with specialties in adult general psychiatry, child psychiatry, and administrative medicine.

The Medical Director was of the opinion that the beneficiary's condition was generally self-limited, but of variable duration and manifestation, dependent on the severity of the beneficiary's injury. In his opinion, healing would depend on individual genetic factors, adequate nutrition and associated supportive care, and the absence of subsequent brain injury. Finally, it was the Medical Director's opinion that the beneficiary, for the period of July 9, 1982, to July 22, 1982, was not receiving supportive and directive psychotherapy. He noted that psychotherapy is an active and interactive process between individuals. Because of the beneficiary's impaired sensorium, active psychotherapy was not appropriate.

As a result of the medical review, OCHAMPUS determined that the inpatient hospitalization and daily hospital medical care at Park North General Hospital from July 9, 1982, through July 22, 1982, were medically necessary and appropriate care in the medical management of the beneficiary's medical condition. However, the inpatient psychotherapy from July 10, 1982, to July 22, 1982, and the one outpatient psychotherapy session on August 9, 1982, were not justified by the diagnosis nor the medical

records, and were not medically necessary nor appropriate medical care. OCHAMPUS found that psychotherapy for a physical injury to the head was not in keeping with the generally accepted norm for medical practice in the United States.

A hearing was requested by the beneficiary, and the attending psychiatrist submitted the following statement:

"This letter is written to verify the need for psychotherapy on [the beneficiary], as per hospital visits dated July 9, 1982 thru July 22, 1982. [The beneficiary] had suffered a head injury and was somewhat agitated, upset, and withdrawn. It was necessary to talk with this young man to help calm him down, and to facilitate his readjustment. This young man had to be reassured, encouraged, and supported which took a considerable amount of time and numerous visits."

A hearing was held by Mr. Herald H. Leeper, Hearing Officer, on September 22, 1983. The Hearing Officer has submitted his 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 primary issue in this appeal is whether the 11 inpatient psychotherapy sessions provided the beneficiary during the period of July 10, 1982, to July 22, 1982, and the one session of outpatient psychotherapy on August 9, 1982, were medically necessary and appropriate medical care.

Medical Necessity/Appropriate Medical Care

The CHAMPUS regulation, DoD 6010.8-R, chapter IV, A.1., defines the scope of benefits as follows:

"Scope of Benefits. Subject to any and all applicable definitions, conditions, limitations, and/or exclusions specified or enumerated in this Regulation, the CHAMPUS basic program will pay for medically necessary services and supplies required in the diagnosis and treatment of illness or injury"

This Regulation specifically excludes from coverage all "services and supplies which are not medically necessary for the diagnosis and/or treatment of a covered illness or injury." (DoD 6010.8-R, chapter IV, G.1.)

The Regulation defines "medically necessary" in 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 . . . Medically necessary includes the concept of appropriate medical care."

"Appropriate medical care" is defined in chapter II, B.14. as:

"a. That medical care where the medical services performed in the treatment of a disease or injury, . . . are in keeping with the generally accepted 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 or education as licensed 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."

Based on the above quoted authorities, the fiscal intermediary denied the claims, finding the diagnosis did not justify the cost-sharing of the psychotherapy claims. Prior to the hearing, OCHAMPUS requested additional information from the attending physician; however, the attending physician did not respond to these requests. After my review of the record and testimony presented at the hearing, I agree with the OCHAMPUS Medical Director that the diagnosed condition of the beneficiary indicated a condition which could normally be expected to resolve itself over time through the normal healing process. Although healing is dependent upon such factors as adequate nutrition, avoidance of subsequent injury, genetic factors, and the severity of the initial injury, there is nothing in the record to indicate that psychotherapy was medically necessary in the healing process. Further, psychotherapy is an active and interactive process between individuals, and the record in this case indicates that the beneficiary had an impaired sensorium. Therefore, there is substantial doubt as to whether the patient possessed the ability to actively participate in the interactive process to the extent necessary to derive any therapeutic benefit. In fact, at the hearing, the beneficiary testified that

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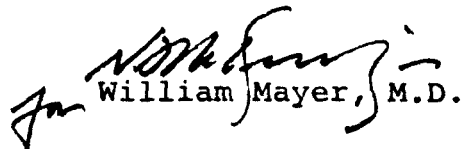
he did not remember anything about the therapy at Park North General Hospital, other than the last 4 to 5 days.

The record in this case is virtually devoid of any clinical documentation pertaining to the psychotherapy. The progress notes for the hospitalization at Park North General Hospital do not detail any psychotherapy. Additionally, a psychiatric diagnosis is not specified in this record. The diagnosis of agitation secondary to concussion is not a recognized psychiatric diagnosis. It does not appear anywhere in the Diagnostic and Statistical Manual of Mental Disorders (DSM III). The diagnostic codes assigned by Park North General Hospital for this beneficiary during the period of July 9, 1982, through July 22, 1982, were 307.9 and 850.9. These codes do not appear in DSM III. Both of these codes are from the International Classification of Diseases, Ninth Revision (ICD-9) wherein they are described as "other, unspecified special symptoms or syndrome not elsewhere classified" and "concussion, unspecified." Without a recognized psychiatric diagnosis and documentation establishing psychotherapy was provided, I cannot find the claimed services were medically necessary and appropriate medical care.

Under DoD 6010.8-R, the burden of proof is on the appealing party to establish entitlement to CHAMPUS cost-sharing. Herein, I find that burden has not been met. In summary, I concur in the findings of the Hearing Officer that the psychotherapy services provided from July 10, 1982, to July 22, 1982, and the one outpatient session on August 9, 1982, were not medically necessary nor appropriate medical care.

SUMMARY

In summary, it is the FINAL DECISION of the Assistant Secretary of Defense (Health Affairs) that CHAMPUS cost-sharing be denied for the psychotherapy sessions provided the beneficiary from July 10, 1982, to July 22, 1982, as the care has not been documented as medically necessary and appropriate medical care. As this decision finds the services are not CHAMPUS covered, the case is returned to the Director, OCHAMPUS, for appropriate action in accordance with the Federal Claims Collection Act to recover any erroneous payments. 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.