



ASSISTANT SECRETARY OF DEFENSE
WASHINGTON, D.C. 20301

JAN 3 1985

HEALTH AFFAIRS

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

Appeal of)
Sponsor:) OASD(HA) Case File 84-51
SSN:) FINAL DECISION

This is the FINAL DECISION of the Assistant Secretary of Defense (Health Affairs) in the CHAMPUS Appeal OASD(HA) Case File 84-51 pursuant to 10 U.S.C. 1071-1092 and DoD 6010.8-R, chapter X. The appealing party is the CHAMPUS beneficiary, the spouse of a retired member of the United States Navy. The appeal involves the denial of CHAMPUS cost-sharing of psychoanalysis sessions in excess of three times per week from June 1 through July 31, 1983, and in excess of two times per week from August 1, 1983, through September 15, 1984. The amount in dispute is \$7,303.75.

The hearing file of record, 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 cost-sharing be denied of the psychoanalysis in excess of the three sessions per week from June 1 through July 31, 1983, and in excess of two sessions per week from August 1, 1983, through September 15, 1984. The Hearing Officer found the care in excess of these sessions was not medically necessary.

The Director, OCHAMPUS, concurs with the Hearing Officer's Recommended Decision and recommends its adoption by the Assistant Secretary of Defense (Health Affairs) as the FINAL DECISION.

The Assistant Secretary of Defense (Health Affairs), after due consideration of the appeal record, adopts and incorporates by reference the Hearing Officer's Recommended Decision, to deny CHAMPUS cost-sharing of the psychoanalysis in excess of three sessions per week from June 1 through July 31, 1983, and in excess of two sessions per week from August 1, 1983, through September 15, 1984, based on the findings the care was not medically necessary and is excluded from CHAMPUS coverage.

In my review, I find the Recommended Decision adequately states and analyzes the issues, applicable authorities, and evidence in this appeal. The findings are fully supported by the

Recommended Decision and the appeal record. Additional factual and regulation analysis is not required. The Recommended Decision is acceptable for adoption as the FINAL DECISION by this office.

SUMMARY

In summary, the FINAL DECISION of the Assistant Secretary of Defense (Health Affairs) is to deny CHAMPUS cost-sharing of the psychoanalysis in excess of three sessions per week from June 1 through July 31, 1983, and of two sessions per week from August 1, 1983, through September 15, 1984, as not medically necessary. The appeal of the beneficiary is, therefore, denied. As this decision results in a determination that erroneous payments have been made to the beneficiary, the matter of potential recoupment of these payments is referred to the Director, OCHAMPUS, for consideration under the Federal Claims Collection Act. Issuance of this FINAL DECISION completes the administrative appeal process under DoD 6010.8-R, chapter X, and no further appeal is available.


William Mayer, M.D.

RECOMMENDED DECISION

Claim for CHAMPUS Benefits

Civilian Health and Medical Program of the
Uniformed Services (CHAMPUS)

Appeal of:	Beneficiary)	
Sponsor:)	RECOMMENDED
S.S.N.)	DECISION
Provider:	George J. McMahon, M.D.)	

This is the Recommended Decision of CHAMPUS Hearing Officer SUZANNE S. Wagner, in the CHAMPUS appeal case file _____ and is authorized pursuant to 10 U.S.C. 1071-1089 and DoD 6010.8-R, Chapter X. The appealing party is the wife of a retired United States Navy member, and she represented herself in her claim. The appeal involves the denial of CHAMPUS cost-sharing for psychoanalytic sessions in excess of 3 times per week from June 1, 1983, to July 31, 1983, and in excess of 2 times per week from August 1, 1983 through September 15, 1984. The amount in dispute is approximately \$7,303.75 in billed charges. Also there were benefits cost-shared by the Explanation of Benefits forms dated May 29, 1984 and May 31, 1984 in the amounts of \$1,012.50 and \$956.25 respectively which are also in dispute.

The Hearing file of record has been reviewed. It is the OCHAMPUS Position that the Formal Review determination, issued April 16, 1984, denying CHAMPUS cost-sharing of psychoanalytic sessions in excess of

three times per week from June 1, 1983, to July 31, 1983, and in excess of two times per week from August 1, 1983 through September 15, 1984, be upheld on the basis that sessions beyond three per week from June 1, 1983 through July 31, 1983, and two per week from August 1, 1983 through September 15, 1984, were not medically necessary and the appropriate level of care.

The Hearing Officer, after due consideration of the appeal record concurs in the recommendaiton of OCHAMPUS to deny CHAMPUS cost-sharing in excess of three times per week from June 1, 1983 to July 31, 1983, and two times per week from August 1, 1983 through September 15, 1984, and that the benefits cost-shared by the Explanation of Benefits forms dated May 29, 1984 and May 31, 1984 were erroneously paid.

The Recommended Decision of the Hearing Officer is, therefore, to deny cost-sharing for the beneficiary's psychoanalytic sessions in excess of three psychoanalytic sessions per week from June 1, 1983 to July 31, 1983, and those in excess of two psychoanalytic sessions per week from August 1, 1983 through September 15, 1984, because they are deemed not to be medically necessary to the appropriate level of care. The benefits cost-shared in the Explanation of Benefits forms dated May 29, 1984 (\$1,012.50) and May 31, 1984 (\$956.25) were erroneously paid.

FACTUAL BACKGROUND:

The beneficiary is a 51 year old woman and the wife of a retired Navy

member. She has suffered for many years from chronic depression, sexual frigidity, chronic marital discord and problems with her third child who was hyperactive and speech and learning disabled. In 1969, she was seen weekly for psychotherapy for a period of about fifteen months by a private psychiatrist, Dr. Scofield. Though she noted some improvements from this psychotherapy, she was forced to end the psychotherapy sessions in order to accompany her husband who was assigned to duty in the Panama Canal Zone. Prior to their move to the Panama Canal Zone, the beneficiary and her husband were also treated by the Masters and Johnson Clinic. (Exhibit 7 p. 14)

During their stay in Panama, the beneficiary and her husband were involved in cojoint therapy with an Army Psychiatric Social Worker. The beneficiary testified at the hearing that most of the gains she had accomplished in her psychotherapy sessions with Dr. Scofield were lost during her three and one half year involvement in therapy in Panama. (Exhibit 16 p. 3)

It was when the beneficiary and her husband moved to Virginia that she began treatment with Dr. McMahon. In his initial report dated February 20, 1975, Dr. McMahon stated:

"Mental status examination revealed an alert oriented and coherent caucasian female who sat dejectedly and looked tired in the interview...She was quiet, quickly broke into tears of frustration about her weakness in needing help and described feelings of unworthiness for the difficulties in her marriage and with her youngest child. Memory and intellectual functions were grossly intact. The dominant quality of her relating in the interview was of someone in

sustained painful shame, frustration, and lowered self-esteem. She did not appear to be suicidal but remained preoccupied with her feelings of guilt and experienced my questions as 'accusations' or as leading to her being 'found out' i.e. discovered as unworthy and underserving.

"My diagnostic impression is of a Chronic Neurotic Depressive Character of severe degree with prominent masochistic features. The history reveals guilt ridden behavior related to her mother's illness in childhood and in her current adult life she has recapitulated a guilty suppression of her sexuality...Previous treatment has not been oriented toward working with the intrapsychic aspects of her symptoms and behavior. Based on the history of improvement during therapeutic relationships and on the basis of extended evaluative consultations, I believe she possesses the capacity to form a transference attachment and do the necessary introspective work of psychoanalysis. For example, she realized, in retrospect, that the supportive gratification she felt with her previous therapist, although providing some symptomatic relief, perpetuated her dependency and impaired her autonomy so that upon termination of that treatment she was unable to cope, developed symptoms in Panama and re-established a dependent hostile relatedness with her husband. As a result, her view of her needs for treatment have shifted from help with coping with her husband's domination to resolving her own suppression of her autonomy." (Exhibit 7 pp. 15- 16)

Since December, 1974, the beneficiary has been undergoing psychoanalysis with Dr. McMahon on a five session per week basis until the present time. At the hearing, Dr. McMahon testified that the beneficiary is presently in the stage of concluding the middle portion of her analysis and should soon be entering the termination stage of the analysis. He testified that although she was close to termination before this, that long standing issues have come to the forefront as a result of her mother's terminal illness, that these issues are the core of her problems, and they must be resolved before termination can

be attempted.

In a CHAMPUS Mental Illness Treatment Report prepared by Dr. McMahon and received by CHAMPUS March 25, 1983 (Exhibit 3 pp. 13-15), the provider noted that her diagnosis remained "Neurotic Depressive Reaction, DSM II 300.4, chronic, severe." In answer to question (2) of I Diagnosis, he stated that previous views of Primary and Qualifying Indications for psychoanalysis and criteria for analyzability still applied. He stated:

"Evidence of a longterm chronic mood disorder resulting from intrapsychic conflicts in an individual with adequate ego strengths who would require resolution of her neurosis to avert progressive disabling illness." (Exhibit 3 p. 13)

In this Psychoanalytic Peer Review Form, which was submitted for review, Dr. McMahon stated:

"Currently the patient is in the final stages of mid-phase analysis resolving a well-developed transference neurosis. However, therapeutic gains in ego strength had not been fully integrated when she and her husband undertook marital counseling approximately six months ago...The seemingly imminent failure of these efforts in marital therapy caused a return of moderately severe depression which required additional working through of the unconscious determinants of her attachment to a depressed, masochistic mode of adaptation. The working through has been slow, but the implementation of her self-understanding is stabilizing in relationships outside the transference." (Exhibit 3 p. 14)

In assessing her progress in adjusting to her environment outside of the analysis, the doctor stated:

"The serious efforts at marital therapy, although associated with periods of marked conflict with her husband and episodes of depression, also reflect considerable maturation and a mobilization of energies to deal with serious life problems and her efforts are not undone by negativism and feelings of futility. Also, her relationships with her children reveal far more effective parenting and, at her job, she has been selected for upgrading because of competence and dedication." (Exhibit 3 p. 15)

Dr. McMahon continued:

"The patient is approaching the end of middle phase analysis and is in the early stages of termination regression...Within the treatment relationship, these childlike qualities of neediness are becoming clear as unconcious protests about the foreseeable loss of the analysis and are occasions for working through preoedipal dependency conflicts..." (Exhibit 3 p. 15)

In answer to a question regarding the progress of technical accomplishments in the analysis, Dr. McMahon stated:

"...the patient is in the process of resolving a well-developed transference neurosis. For example, the analyst can transiently be experienced as a repressive parent forbidding the long frustrated gratifications in heterosexual relationships that she is striving to achieve through her work in marital therapy. She can be depressed and seek to be 'rescued' from her symptoms and punitive conscience. Resolution of the intrapsychic conflicts involved in these regressions is accomplished by analytic interpretations of her avoidance of heterosexual development issues in the transference." (Exhibit 3 p. 15)

In another progress report submitted by Dr. McMahon for purposes of Peer Review (Exhibit 3 pp. 6-9), he stated, in part:

"The patient has a well-developed transference neurosis and is in the late stage middle phase analysis moving toward termination stage. For example, as she thinks about the future termination of the analysis, she experiences mental confusion and blocking, fears of abandonment, and psychophysiologic gastrointestinal symptoms...The separation anxiety is, however, limited and the temporary regression is in the service of her developing capability for analysis...

"In my opinion psychoanalysis is progressing satisfactorily and the patient is in late middle phase work progressing toward the termination phase of successfully working regressive recrudescences of symptoms with self-analysis. Continued frequency and intensity of analysis is necessary to work through the underlying personality conflicts which predisposed her to severe recurrent depressions." (Exhibit 3 pp. 8-9)

In his progress report of May 5, 1982, Dr. McMahon stated, in part:

"The patient is in the early stages of a terminal regression with the reappearance of episodes of the presenting depressive symptomatology..." (Exhibit 3 p. 5)

Also, he stated:

"...continued unmodified analysis is considered to be the treatment of choice. The frequency of treatment, five times weekly, is required by the disabling symptoms, the depth of the patient's psychoanalytic regression, and the general workability of the analytic relationship.

"A satisfactory analytic resolution is in progress with early termination phase activity evident at this time. Completion of her analysis is necessary to resolve the chronic intrapsychic conflicts which predispose this patient to recurrences of disabling depression and to provide

continued psychiatric health necessary to cope with the imminent tasks of middle life.

"The patient's longstanding and severe masochistic character structure has required longer than usual analytic treatment for a neurotic depressive disorder. However, adequate resolution of her major intrapsychic conflicts is anticipated.

"Because of the severity of the masochistic character structure and the pattern of negative reaction to therapeutic gain, it is anticipated that termination will be slow and turbulent with completion of analysis requiring approximately one year." (Exhibit 3 p. 5)

On April 7, 1983, a third Peer Review of this case was conducted by Drs. Warren Johnson, Martin Allen and Jose Erfe. Dr. Allen, in his assessment of the case, stated, in part:

"This patient has now been in 5X/week psychoanalysis for 8 1/2 years. I reviewed this case last year. At that time, the provider stated that the patient was 'moving toward termination', and because the patient's problems were so ingrained and pervasive, I felt the treatment was warranted, however, I recommended that a termination date be set, and that approval be for not more than 6 months more.

"After careful re-review, I do not see any justification for continuation of treatment at the present 5X/weekly intensity. Termination will be difficult for this patient at any time, but there is no justification--in my opinion--for continuation of 5X/weekly intensive psychoanalysis. At most, this patient may be justified in terminating gradually--but to be specific, I do not think that more than 2X/week sessions are now warranted." (Exhibit 3 p. 2)

Dr. Allen recommended that the case should again be reviewed in one hundred days. Dr. Johnson, in his review, stated, in part:

"This has been a long analysis but the information provided does describe analytic process is

progressing. The complication of reality of mother's terminal illness at time of a planned termination of the analysis can prolong resolution.

"Continuation for a period is indicated, but if prolongation due to her own illness for example a modified treatment of less frequency would be indicated." (Exhibit 3 p. 3)

Dr. Johnson suggested that benefits should continue for approximately nine months and that another review should be held at that time.

Dr. Erfe, in his review stated, in part:

"After almost one year of additional analytic treatment, this patient has improved sufficiently both clinically and functionally, that termination should be mandatory at this point or analysis can become interminable. It has already gone on for over 5 years.

"Previous treatment reports document 'superior introspection' capacity, etc. which makes patient a good candidate for psychoanalysis. Sufficient justification for this treatment modality was also presented in the 2/20/75 treatment report.

"The patient's clinical and functional status warrant reduced intensity of treatment followed by termination.

"There is excellent documentation of stable clinical and functional progress." (Exhibit 3 p. 4)

Dr. Erfe recommended the termination of 5-day per week sessions and recommended two sessions per week.

The CHAMPUS Fiscal Intermediary Peer Review Log dated May 3, 1983, recommended that 5X/week until May 31, 1983; 3X/week sessions until August 1, 1983; and 2X/week sessions until January, 1984; and that

benefits should terminate at that time. (Exhibit 3 p. 1)

On May 3, 1983, the provider was notified by CHAMPUS that:

"Based on Peer Reviewer's Recommendations, this case has been approved for payment of 5 sessions per week until 5-31-83. At that time, benefits will be limited to 3 sessions per week until August 1, 1983. Beginning August 1, 1983, benefits will be limited to 2 sessions per week until January 1, 1984. At that time, benefits will be terminated." (Exhibit 4 p. 1)

On June 10, 1983, the beneficiary wrote a letter to the CHAMPUS Medical Review Department, stating that she had made progress in analysis, but that she was as yet unable to "phase out and terminate." (Exhibit 5).

On July 27, 1983, the beneficiary requested a reconsideration of her case through Peer Review. (Exhibit 6)

On August 12, 1983, the beneficiary's case was once again reviewed by Dr. Jose Erfe, Dr. Martin Allen, and Dr. Warren Johnson.

Dr. Johnson stated, in part:

"Although this has been a long and difficult analysis, like other serious illness, (kidney failure, coronary disease) long and expensive treatment is occasionally justified. This is a well documented case in need of psychoanalysis and psychoanalytic treatment (4-5X per week to termination). The cutting decision in # of sessions per week to 3 then 2X does not seem to be indicated in this kind of psychoanalytic treatment nor the arbitrary cut off date. The analyst has shown complete willingness to submit to Peer

review in spite of the confidentiality of extremely sensitive material and document the need for psychoanalysis. One more year for termination seems properly needed at 4-5X/week." (Exhibit 7 p. 3)

Dr. Allen, in his review of the case, stated, in part:

"I basically approve of the decision to gradually reduce the CHAMPUS support for the 5 times/week sessions. While the analyst gives us detailed material of problems and conflicts not yet resolved, it seems to me--that in this patient--if 9 years of 5X/week analysis have not achieved all the desired results (although clear progress has been made) then we have a situation of 'analysis interminable' and CHAMPUS has clearly fulfilled its mandate to provide support for needed medical care. Therefore, analysis--while having been justified--is not justified anymore, nor is intensity of more than 2 sessions/week justified. Continuation of the once weekly marital sessions may, however, be justified." (Exhibit 7 p.4)

Dr. Erfe, in his evaluation of the claim, stated, in part:

"All the available clinical data concerning the patient's current status do not include information to justify further treatment--i.e., continuing distress or disability due to her dysthymic disorder. The only justification for continuation of therapy is to allow the termination phase of analysis to proceed to its conclusion.

"The September 30, 1975 write-up appears to support this patient's suitability for psychoanalysis (notwithstanding her age).

"There is valid clinical justification for more than 2 sessions per week during the termination phase in this case before and after August 1, 1983." (Exhibit 7 p. 2)

Dr. Erfe recommended that approval be granted for 2-3 sessions per week for 150 days (40-50 sessions), and that the case should be

reviewed again at that time. On his Peer Review Opinion, Dr. Efre noted:

"Please note that my professional opinion(s) in this case are those of one who does psychoanalytically-oriented psychotherapy and not psychoanalysis." (Exhibit 7 p.2)

The basis of the August Peer Reviews above quoted was the information provided by Dr. McMahon. In his Mental Illness Treatment Report (Exhibit 7 pp. 7-12), Dr. McMahon stated that the Diagnosis for the beneficiary was 1) Dysthymic Disorder 300.40, chronic, severe; 2) Dependent Personality 301.6, chronic, severe; 3) Masochistic Personality, 301.8, chronic, severe. He stated, in part:

"The patient is proceeding with the termination phase as described in the Peer Review Report of 6 months ago. However, the prognostication in that prior report that she would complete analysis within a period of a year does not seem to be holding, even though termination is proceeding." (Exhibit 7 p.8)

Contributing to the reasons for extending the estimated time to complete analysis were described, in part, by Dr. McMahon as follows:

"The patient's masochism is imbedded in an extremely rigid character structure and progress has been very slow. . .

. . .the fact that the patient entered analysis with chronic symptoms reflecting deviant development and partially absent structure, manifest for example, as exceedingly dependent, virtually symbiotic functioning within her marriage. . .

"In addition, the patient's freer personality functioning has made additional gains in heterosexual functioning more probable and it has become evidence that a more thorough and complete resolution of her neurotic sexual inhibitions could be accomplished in some additional indeterminate period of analysis...

"Further complicating the termination process as she experiences the 'loss of the holding environment' in the analysis with the loss of the fantasied anaclitic maternal figure of the analyst, she has learned that she is actually facing the loss of her mother who was recently discovered to have a metastatic spinal cord tumor with lower limb paralysis...

"...the extent and duration of this regression are necessarily indeterminate at this point...

"The therapeutic alliance however, remains stable. For example, she is aware that termination is forthcoming and she is mourning the loss of the benevolent aspects of the analytic relationship while also scrutinizing the analytic work for its accomplishments, limits, benefits and disappointments with accompanying appropriate transference re-enactments...

"...these child-like qualities of dependency and neediness have been analyzed as unconscious protests about the foreseeable loss of the analyst and represent resistance to working through pre-oedipal dependency conflicts affecting her self-esteem and oedipal inhibitions affecting her involvement in adult heterosexuality. As a result, the prospect of additional durable gains in the resolution of neurotic sexual conflicts seems reasonable.

"A specific termination date will be set when her capacities for regression are reasonably self limited and her general capacities for sublimation, successful object relations and adaptation reach a stable point of irreversibility...

"Continued unmodified analysis five times weekly is warranted by the patient's continuing need for analysis, the depth of the patient's psychoanalytic regression and the general workability in the analytic relationship.

Completion of her analysis will be necessary to resolve the chronic intrapsychic conflicts noted above and to permit the ego growth to rectify the development ego deficits which predispose this patient to recurrences of depression, masochism and pathological dependency, and to provide the prerequisite psychiatric health necessary to cope with the imminent tasks of mid-life.

"The patient's long standing and severe masochistic character structure and pre-oedipal symbiotic separation-individualization conflicts have required longer than usual analytic treatment, however, good resolution of her major intrapsychic conflicts is anticipated...

"Analysis does not seem interminable and a satisfactory psychoanalytic resolution seems feasible unless her physical health is in some way seriously or enduringly impaired. In that instance, a modified analytic termination of indeterminate nature at this time would be undertaken." (Exhibit 7 pp. 8-12)

The August 28, 1983 Reconsideration decision of the CHAMPUS Fiscal Intermediary, based on the above quoted Peer Reviews, was to uphold the Peer Review Decision of May 3, 1983; to allow 5 sessions per week through May 31, 1983; 3 sessions per week to August 1, 1983; 2 sessions per week until January 1, 1984 -- at which time benefits would terminate except for marital therapy which would be re-evaluated on January 1, 1984, if the beneficiary and her husband continued to participate in marital therapy. (Exhibit 8)

In her October 19, 1983 request for an OCHAMPUS Formal Review, the beneficiary stated, in part:

"I feel the reduction in benefits is premature and has already had a detrimental effect on my progress... I am not ready to reduce the number of sessions and terminate. It is very clear to me

that I do have to continue the analysis at the rate of five sessions per week.

"I feel I do have a sense of direction and capacity to terminate this analysis successfully. I also feel that I can make that decision when I have concluded the necessary analytic work."
(Exhibit 9 p.1)

The beneficiary included, in her request for a Formal Review, a history of her illness and the treatment therefore. She stated, in part:

"This analysis is my last ditch effort to resolve the difficulties stemming from this life of turmoil, guilt, depression and sexual repression.

"I plead with you to base your review decision, not on fiscal considerations or the length of time involved in my analysis, but on the reality of my situation and the tremendous amount of emotional investment put forth by both myself and Dr. McMahan, but most of all have a feel for what has been presented here and an understanding of what I am intensely dealing with and desperately trying to resolve. I need more time for this analysis and intend to continue until I can conclude. Dr. McMahan has emphasized the need for a 5 day week intensity. I agree as I can see the value of this process and know I will continue..." "I am really, really fearful that if I don't finish what I have started, I will have lost too much of what I have gained. I feel I am in a crucial point where the outcome of my life is being decided. This threat of the withdrawl of CHAMPUS benefits is only going to prolong the analysis, no matter who pays for it." (Exhibit 9 pp. 2-6)

Pursuant to the beneficiary's request for an OCHAMPUS formal review, a case conference was held with Dr. Alex R. Rodriquez, the Medical Director of OCHAMPUS, on March 23, 1984. Dr. Rodriguez, a psychiatrist, discussed the opinions of Drs. Allen, Johnson and Erfe with regard to this case: Dr. Allen, who opined that sessions should

be reduced to 2 sessions per week in order to precipitate termination; Dr. Johnson, who opined that termination should be externally precipitated and that benefits should be allowed five times per week for one year; and Dr. Erfe, who opined that 2 to 3 sessions per week should be allowed for 150 days.

Dr. Rodriguez stated, in part:

"So what we have is three differing opinions. However, all have reached the same basic conclusion; i.e.; that termination should be affected. The only question now is through what limit of benefits. I agree with the view of two of the reviewers. One, a psychoanalytically trained peer reviewer; and one a psychoanalytically oriented (not formally certified, but certainly trained) peer reviewer, who has indicated that he has been endorsed by the APA as qualified to review psychoanalytic cases. The concensus of both those individuals is that that the number of sessions should be curtailed to two to three per week. I would recommend two sessions per week, and I would concur with Dr. Erfe that some absolute limit should be placed on that and I believe a period of 50 weeks would be a reasonable time period.

"...I am making a determination based on at least some acknowledgement that all three APA peer reviewers have made, that there are concerns about termination, and when termination should begin and how it should proceed. Therefore, I have concluded that termination in this case is an ongoing therapeutic issue...I believe that a reasonable and fair allowance based on a reasonable index of termination for this duration would be one year for termination to proceed. I am also acknowledging that two of these three reviewers have said that two sessions per week would be adequate, and that they have said that consistently for more than one review phase, or period, so I am granting the two sessions per week for 50 weeks to allow termination to proceed from September 30, 1983 to mid-September, 1984...

I would agree with Dr. Allen and Dr. Efre, that this particular analysis is suffering considerably from the difficulty of the analyst to control it... On that basis, I find that while this may not be analysis out of control, it is analysis interminable. Therefore, I find that some external direction must be exerted as OCHAMPUS will be paying for analysis for an indefinite period of time as discussed by Dr. Allen and Dr. Efre. While this may not be the ideal means under which termination should occur, I have no reason to believe on the basis of the limited level of progress and therapy that we would expect the beneficiary to ever complete her total analysis." (Exhibit 12 pp. 1-3)

On the basis of the Peer Reviews and the Case Conference with Dr. Rodriguez, a Formal Review Decision was issued on April 16, 1984, which held that:

"Based upon the assessment of the professional medical reviews and the documentation of record in this case, it is determined that CHAMPUS cost-sharing cannot be approved for more than three psychoanalytic therapy sessions per week from June 1, 1983 to July 31, 1983, or for more than two sessions per week beginning August 1, 1983, as additional therapy sessions are not medically necessary. However, this decision finds that care beyond December 31, 1983, is medically necessary to permit the termination of the analysis and two sessions per week are authorized through September 15, 1984." (Exhibit 13 p.6)

In a letter dated April 30, 1984, the beneficiary requested a hearing.

In her letter, she stated, in part:

"The psychoanalysis has been active. There has been forward motion and 'external direction', and I do not feel I have regressed at any time...Dr. McMahon and I are the ones that should determine when it is appropriate to terminate. I cannot tolerate another involuntary termination..."

"I am requesting approval for payment for 5 sessions per week and no limitation on the

duration of the analysis. You have my assurance that I will be out of this analysis when Dr. McMahon and I have concluded our work...

"It is difficult to accept the idea that there are 'experts' somewhere determining how much analysis I need. Dr. McMahon and I are the experts in this case. This is the basis for my request for a Hearing."

At the hearing, the beneficiary read a prepared statement which was entered into evidence as Exhibit 16. In her statement, she reiterated many of the problems with which she has struggled and continues to struggle in analysis. She stated, in part:

"I am not trying to milk CHAMPUS for some deviant reason. I truly wish to resolve my life's difficulties and get on with a more satisfying life. The process has been slow for me, and I can see that Dr. McMahon has of necessity, allowed me to move at a pace comfortable to me... To leave the decision for termination up to CHAMPUS would be counterproductive and destructive to a great deal that I have been able to achieve.

"I do not want to continue interminable in analysis; I know the financial investment involved for myself as well... I have known from the outset that termination is part of the process, and feel that I have accepted that reality... If the analysis were not crucial to my life, I would have left it long ago due to the pressures of family and husband." (Exhibit 16 pp. 1-2)

The beneficiary continued:

"It does not make sense to me to cut me off in mid-analysis solely on the basis of fiscal decision or because the analysis has gone on for 9 years, it is no longer justified ... I feel CHAMPUS does have an obligation to stay with me to finish this analysis...

"The point I need to contest is the time frame

that CHAMPUS reviewers have arbitrarily determined for me. I should have finished by now, but in reality I haven't been able to and I don't see how I can conform...

"Looking back on the circumstances that led me to this intensive, lengthy analysis, I don't believe I had any alternative but to follow through with what I am involved in. The intensity, regularity and continuity of this analysis are of utmost importance. Any interference to cut down on the number of sessions will result in a dilution of the process that we are attempting to maintain."
(Exhibit 16 pp. 5-7)

The beneficiary then added more thoughts which she had also reduced to writing, and these words were admitted into the record as Exhibit 17.

In these additional thoughts, the beneficiary stated, in part:

"The pressure of a time limit is a great hinderance to the analysis and I know the pressure slows me down."

The beneficiary referred to the opinions of the Peer Reviewers and commented that only one of the three Peer Reviewers actually practiced intensive psychoanalysis. She stated:

"I feel that the reviewers do not have a clear idea of what is involved in an Intensive Psychoanalysis and that I cannot just walk away from this without having all that we have accomplished, destroyed, just because they have determined CHAMPUS has fulfilled their mandate, solely on the amount of time involved..."

"I need the intensity of this analysis to overcome inhibitions, fears, sexual dysfunction, lack of assertiveness and withdrawal.

"I do not know what more 'evidence' I can present. The situation deems that you trust what I have presented to be very honest and submitted with a high degree of hope and faith that someone in this judgmental process will gain understanding

a treatment modality were due to his training and the depth and severity of the beneficiary's problems. The beneficiary stated that she felt she was at a point of last resort when she began analysis with Dr. McMahon.

Dr. McMahon stated that he was always aware that it might be possible that the beneficiary would find termination difficult, but he believed that the issues which were being presented were capable of being resolved.

When asked how long the termination of analysis takes, Dr. McMahon stated that it is not uncommon for termination to take six months or longer. As to the reason for needing the intensity of five sessions per week at this stage of the analysis, Dr. McMahon stated that when the more fundamental matters are being addressed and resolution of those matters is being sought, that the analysis would be diluted by decreasing the sessions. He stated:

"You really want to bring the full intensity of the feelings into the analytic relationship."

He stated that, in his judgment, this cannot be done in less than five sessions per week.

As to the fact that the Peer Reviewers all suggested that the patient should be directed toward termination, Dr. McMahon stated that he would not direct her toward termination until her sexual conflicts

McMahon testified that he was constantly mindful of this. He said that this was not an analysis interminable, "but rather one in which something new was opening up which had not been available for work before." He stated that the terminal illness of the beneficiary's mother was a "kind of moving force" which brought old issues to light which could no longer be pushed aside. He testified that although these problems had been mentioned earlier in the analysis sessions, they were not being felt or experienced in a way which allowed the beneficiary to work through them to a resolution.

Dr. McMahon testified that about three or four years ago, he stated in a Peer Review Report that the analysis should conclude in approximately one year, but then, as they worked together more, things came to light which made it impossible to terminate the analysis as of that schedule. He testified that he is presently seeing the beneficiary five times per week and that he is unable to predict when the analysis will terminate. He did state that the process of her analysis is progressing and ongoing.

As evidence that the beneficiary is able to work through problems and resolve them, he used the example that the beneficiary, at one point, was unable to have sexual intimacy without a sensation of smothering. He said that his problem was addressed in the analysis, the roots of the problem were uncovered, and that the symptoms have now ceased.

Dr. McMahon testified that the reason he chose psychoanalysis as

I tell them, at the beginning of the analytic treatment, that at such time as they might make some improvements--which are expectable in the course of the analysis before the analysis is completed -- that I do not see that as an indication necessarily to decreasing or deminishing the sessions. What it often means is that individual's life is going on better outside the analysis, and the issues that need the attention are coming more and more alive within the analysis... It is essential and requisite that the intensity of the work continue. The analytic relationship itself becomes perhaps the primary was in which the matters -- feelings -- are dealt with and expressed there. So that it doesn't make sense, in my own judgment, to diminish the process at the time the individual shows symptomatic improvement."

Dr. McMahon Stated:

"The primary task is the resolution of the transference neurosis... the feelings that get involved in the treatment itself... and that symptomatic improvement is, if anything, a result of the neurosis coming into being in the treatment relationship. Therefore, if you discontinue the treatment relationship or cut it down, you often shift the neurotic adjustment patterns back out into the community."

Dr. McMahon testified that his medical degree was from the University of Pennsylvania. He did his residency training in psychiatry in the Navy at the Naval Hospital in Philadelphia and at the Bethesda Naval Hospital. He served in the Navy until 1965. From 1970 to 1982, he was a candidate in the Washington Psychanalytic Institute in order to receive accreditation as a psychoanalyst.

On the issue as to whether the analysis was "interminable", as suggested by the Peer Reviewers and the OCHAMPUS Medical Director, Dr.

enough to see the importance of this analysis in my life and well being and can in all good faith declare it all very worthwhile. Not everyone can regulate the analytic process to what your reviewers feel is sufficient time." (Exhibit 17 pp. 1-2)

In answer to a question from the Hearing Officer, the beneficiary stated that she has been employed by the Fairfax County Park Authority since 1979. She began as a window washer, and presently she is a maintenance supervisor who has four to five people working for her. She testified also that in 1974, at the beginning of her analysis, she was barely functioning and very depressed. She testified as to the strides she has made in her relationship with co-workers and her children since she has been in analysis.

Dr. McMahon testified that when the beneficiary began in analysis, she was incapacitated by headaches, gastrointestinal discomfort, depression, chronic marital problems, and general difficulty in being empathetically available to her son. He stated that after five years in psychoanalysis, the beneficiary was able to get a job, respond to the needs of her son, and to overcome many of her problems. However, the problems revolving around her marital relationship continue to present themselves.

Dr. McMahon testified:

"If I have someone in analysis, I see them five times per week. Occasionally, I will see someone four times per week. Very rarely, I've seen someone three time per week. But if I have someone in analysis, I see them five times weekly.

have been resolved. He explained that termination in analysis encompasses both giving up the analysis and greiving over many abandonments in one's life.

The beneficiary testified that she still requires analysis because, "I just don't know where else to go." She stated that she is as yet unable to deal with her problems without the analytic relationship.

Dr. McMahon testified that the sexual conflicts, which were the central and pivotal issues, have never been resolved, and that it is not uncommon for the central issues to be resolved at the end of the analysis.

The beneficiary stated that she and her husband are no longer participating in marital therapy because it was not being productive. She testified that she had hoped that she could resolve some of the marital problems through analysis. Dr. McMahon testified that the marital relationship, though unsatisfactory, has the propensity to improve through the resolution of the problems in the analysis. However, he did state that it is possible that the beneficiary may want to hold on to the analytic relationship because of the poor relationship she has within her marriage. Dr. McMahon, in addressing whether or not the analysis is interminable for the beneficiary because of the unsatisfactory marital relationship and her resultant unwillingness to let go of the closeness of the relationship in analysis, stated that the problem does not reside within the

marriage, but does reside within the beneficiary herself. He stated that the beneficiary is making progress with the sexual conflicts within her, and the beneficiary stated that she also feels she is making progress in this area.

As to whether it is possible to conclude the analysis with the beneficiary in fewer than five sessions per week, Dr. McMahon stated that this was not possible. He testified that the beneficiary was unable to cope effectively when he was on vacation, and that this is indicative of the fact that the intensity of five sessions per week is a continuing necessity.

The beneficiary reiterated that she truly wants to resolve the conflicts within her life and that completion of the analysis is the only method by which she will accomplish this goal.

Throughout his testimony, Dr. McMahon stated that the beneficiary has been working consistently to resolve her conflicts, that she has made much progress, that the central core of her conflicts (her sexual inhibitions) is presently being addressed in the analysis, that the intensity of five sessions per week is required in order that these conflicts be resolved, and that it is not possible to determine with accuracy when the analysis will conclude.

On July 27, 1984, the Hearing Officer received the following documents from OCHAMPUS: a letter to the undersigned Hearing Officer dated

July 12, 1984, which represented the Statement of OCHAMPUS position; a letter to the undersigned Hearing Officer regarding the amount in dispute.

The statement of OCHAMPUS position explained that the beneficiary had failed to provide any additional medical documentation or clinical evidence which would document her claim that she and her analyst were the "experts" in this case and that they believed that five sessions of psychoanalysis per week should be granted with no limitation on the duration of analysis.

The letter of July 27, 1984, which explained the amount in dispute stated, in part:

"With regard to the OCHAMPUS position as to the amount in dispute in this hearing, as stated in the Formal Review dated April 16, 1984, the amount in dispute for services provided to the patient through December 31, 1983 is \$3,610.00. Since the disputed psychoanalysis has been continuing since that time, OCHAMPUS contacted the Fiscal Intermediary, Blue Cross and Blue Shield of South Carolina, in order to determine if claims for the disputed services have been filed for the period after December 31, 1983. The Fiscal Intermediary's records indicate that four additional claims totalling \$7,800.00 have been submitted as of June 30, 1984. The Fiscal Intermediary has informed OCHAMPUS that these four claims were processed by Explanation of Benefits forms dated May 24, May 31, June 5 as adjusted on June 20, and June 30, 1984.

"Apparently, the first two claims were improperly processed, i.e. all psychoanalytic sessions were erroneously cost-shared despite the findings of the Formal Review decision. The amounts

erroneously paid were \$1,012.50 and \$956.25 for services provided during the period January 3 through February 29, 1984. It is the position of OCHAMPUS that these amounts are subject to recoupment. In addition, the last two claims for services from April 2 through May 31, 1984 were partially denied in the amounts of \$900.00 and \$825.00. Therefore, OCHAMPUS believes the correct amount in dispute for services provided through May 31, 1984 is the sum of \$3,610.00, \$1,012.50, \$956.25, \$900.00 and \$825.00 or a total of \$7,303.75."

On August 17, 1984, the Hearing Officer received from OCHAMPUS a letter reiterating the explanation of the amount in dispute and, accompanying the letter, the Explanations of Benefits dated May 29, 1984, May 31, 1984, June 21, 1984, and June 29, 1984. The letter explained that the dates referring to the Explanation of Benefits recited in the July 27, 1984 letter to the undersigned Hearing Officer were inaccurate and the correct dates were given:

"The reference in my letter of July 27 to an Explanation of Benefits form dated May 24 should have been to the May 29 form, the June 5 and June 20 forms should have read June 7 and June 21 and the reference to an Explanation of Benefits form dated June 30, 1984, should have been to the form dated June 29, 1984. However, the reference to the Explanation of Benefits form dated May 31, 1984 and the various amounts in dispute were correct. The amounts erroneously paid (\$1,012.50 and \$956.25) were obtained from the May 29 and 31, 1984 Explanation of Benefit forms, respectfully. These amounts erroneously paid were derived by calculating the number of psychoanalytic sessions that should have been denied benefits (18 sessions costing \$1,350.00 and 17 sessions costing \$1,275.00, respectfully) and subtracting the beneficiary's cost-share."

ISSUES AND FINDINGS OF FACT:

The primary issue in dispute is whether the five psychoanalytic sessions per week after May 31, 1983 were medically necessary.

REGULATIONS

Regulation DoD 6010.8-R is promulgated under the authority of, and in accordance with, Chapter 55, Title 10 U.S.C. It establishes uniform policy for the operation of the CHAMPUS and CHAMPVA and it has the force and effect of the law.

Chapter II DoD 6010.8-R contains specific definitions regarding benefits.

B.14. Appropriate Medical Care means:

a. That medical care where the medical service 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.

B.103. Medically Necessary. "Medically Necessary" means the level of services and supplies (i.e., 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.

B.147. Psychiatric Services. "Psychiatric Services" means individual or group psychotherapy.

Chapter IV DoD 6010.8-R, defines basic CHAMPUS program benefits and exclusions.

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 supplied provided to eligible authorize institutional providers, physicians and other authorized individual professional providers as well as professional ambulance serice, prescription drugs, authorized medical supplies and rental of durable equipment.

G. 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.

A.10. Utilization Review: Quality Assurance. Prior to the extension of any CHAMPUS benefits under the Basic Benefits Program as outline in the CHAPTER IV, claims submitted for medical service and supplies rendered CHAMPUS beneficiaries are subject to review for quality of care and appropriate utilization. The Director, OCHAMPUS (or a designee), is responsible for utilization review and quality assurance activities and shall issue such generally accepted standards, norms and criteria as are necessary to assure compliance. Such utilization review and quality assurance standards, norms and criteria shall include, but not be limited to, need for inpatient admission, length of inpatient stay, level of care, appropriateness of treatment, level of institutional care required, etc. Implementing instructions, procedures and guidelines may provide for retrospective, concurrent and prospective review, requiring both inhouse and external review capability on the part of both CHAMPUS Contractors and OCHAMPUS.

C.3.i Psychiatric Procedures.

(1) Maximum Therapy per Twenty-Four (24) Hour Period.

Inpatient and Outpatient. Generally, CHAMPUS benefits are limited to no more than one (1) hour of individual and/or group psychotherapy in any twenty-four (24) hour period, inpatient or outpatient. However, for the purpose of crisis intervention only, CHAMPUS benefits may be extended for up to two (2) hours of individual psychotherapy during a twenty-four (24) hour period.

(3) Review and Evaluation: Outpatient. All outpatient psychotherapy (group or individual) are subject to review and .

evaluation at eight (8) session (visit) intervals. Such review and evaluation is automatic in every case at the initial eight (8) session (visit) interval and at the twenty-four (24) session (visit) interval (assuming benefits are approved up to twenty-four (24) sessions). More frequent review and evaluation may be required if indicated by the case. In any case where outpatient psychotherapy continues to be payable up to sixty (60) outpatient psychotherapy sessions, it must be referred to peer review before any additional benefits are payable. In addition, outpatient psychotherapy is generally limited to a maximum of two (2) sessions per week. Before benefits can be extended for more than two (2) outpatient psychotherapy sessions per week, peer review is required.

Section 844, DoD Appropriation Act, 1978, P.L. 95-111 contains restrictions on funds appropriated for CHAMPUS: "None of the funds contained in this act are available for the... (CHAMPUS) shall be available for ... (9) any service or supply which is not medically or psychologically necessary to diagnose and treat a mental or physical illness, injury, or bodily malfunction as diagnosed by an ... (authorized individual provider)."

Medically necessary services and supplies required in the diagnosis and treatment of illness or injury are a benefit of the CHAMPUS Basic Program subject to all applicable limitations and exclusions. Services which are not medically necessary are specifically excluded. The regulation defines "medically necessary", in part, as the level of services and supplies (frequency, extent, and kinds) adequate for the

diagnosis and treatment of the illness or injury. "Medically necessary" includes the concept of "appropriate medical care" which the regulation defines, in part, as the generally accepted norm for medical practice in the United States.

Questions pertaining to medical treatment are referred to medical peer review for expert assessment. The Assistant Secretary of Defense for Health Affairs has stated in prior final decisions that:

"the general medical community has endorsed peer review as the most adequate means of providing information and advice to third party payors on medical matters which may be in question."

This particular case has been very well documented by the provider and the beneficiary. The beneficiary has honestly and candidly discussed her problems and her attempt to resolve them through analysis. She has made great strides in her interpersonal relationships and her self-esteem as a result of the analysis, yet she feel unable to conclude the analysis at this time. Her treating psychiatrist, who has also presented detailed progres reports and testimony, has supported the contention of the beneficiary that notwithstanding the gains she has made, that she is as yet unable to begin the termination process of analysis.

This case has been reviewed by three seperate psychiatrists of the American Psychiatric Association in April and August of 1983. In addition, the Medical Director of OCHAMPUS held a Case Conference on March 29, 1984, in order to add his expert assessment of the case.

Though Dr. McMahon testified that this was not a case of "analysis interminable" because the issues which were being presented were not available for work in the past, the Peer Reviewers and Medical Directors of OCHAMPUS disagreed with him. The Peer Reviewer and Medical Director noted that at each point during the critical and essential steps of termination, the beneficiary would regress or develop other issues which required analysis. Dr. McMahon, in his Progress Note and in his testimony pointed out that regression and the uncovering of other issues had prolonged the analysis beyond the usual time. He related that the beneficiary's masochism, the terminal illness of her mother, and pre-oedipal dependency conflicts have extended the analysis. He stated that:

"A specific termination date will be set when her capacities for regression are reasonably self-limited, and her general capacities for sublimation, successful object relations and adaptation reach a stable point of irreversibility..."

In his discussions of the prolongation of the analysis, Dr. McMahon stressed the regressions of the analysis and the fact that each time termination neared, issues would be presented which required analysis for resolution. The Progress Reports and testimony of Dr. McMahon support the conclusion of the Medical Director that this is a case of analysis interminable, in that:

"... at each point during the critical and essential step in terminating from the therapist, the beneficiary or the analyst would have some tendency to regress or to develop other issues that needed the active phase of analysis. It

would seem that this is almost an indefinite or interminable period of analysis being started up during each stage of termination. These are difficult issues for an analyst to deal with. Nevertheless, it may often require a more defined approach by the analyst in directing termination rather than to allow the patient to direct the final point of termination."

The Medical Director, and the Hearing Officer as well, recognize that the beneficiary does not see herself as ready to begin the termination phase of analysis. She continues to feel confused, frustrated, abandoned and she still experiences the psychophysiological symptoms associated with those feelings. However, the three Peer Reviewers and the Medical Director, after careful review of this case have determined that the beneficiary should have begun termination of the analysis by the summer of 1983. Dr. Johnson, the most liberal in his opinion as to the allowability of benefits in this case, stated that termination should take only one year at the rate of five sessions per week. According to the testimony of the beneficiary and of Dr. McMahon, the beneficiary is, at this point still in the middle stage of analysis, and they are unable to accurately predict when termination will begin or conclude. Therefore, even with the most liberal interpretation of allowability of benefits, the analysis has continued well beyond Dr. Johnson's estimation, and there is no foreseeable termination in sight.

All of the Peer Reviewers, in April and August of 1983, opined that termination must be initiated. Dr. Allen stated that termination should be precipitated by allowing two sessions per week without limiting the absolute number of sessions or time frame for conclusion.

of the analysis. Dr. Johnson recommended that the sessions per week should not be modified, but that the analysis should be completed within one year. Dr. Efre stated that the termination should be instituted and that analysis should be completed within 150 days at a rate of two to three sessions per week. The Peer Reviewers all differed in their mechanisms for concluding the analysis, but all agreed that termination should be affected.

Neither the beneficiary nor Dr. McMahon presented any new testimony at the hearing which would have altered the opinions of the Peer Reviewers. There were no reasons given which were unavailable for the Peer Reviewers which would effect the opinions rendered by them.

Dr. McMahon stated that there is a need to continue the analysis at five sessions per week to its conclusion in order to maintain the intensity of the analysis. He testified that by bringing the intensity of the issues to the analysis sessions, the confrontation of conflicts is less likely to interfere with the beneficiary's life within the community. However, he did state that though he prefers to conduct analysis on the basis of five sessions per week, that he also does so in four sessions per week, and, rarely, in three sessions per week. The opinions of Dr. Allen, Dr. Efre, and Dr. Rodriguez attest to the fact that termination of analysis can be affected in two to three sessions per week.

It is understandable that the beneficiary desires to fully resolve all

of the conflicts within her life in analysis. She testified that there is little if any communication between her husband and herself. She has finally, after years of torment, established a relationship with her analyst whereby she can share her innermost thoughts and concerns. She has, through analysis, begun to develop into a functioning, independent, adult human being, and she is unsure of her ability to continue as such without the benefit of the analytic relationship. However, to quote Dr. Allen, CHAMPUS has "fulfilled its mandate to provide support for needed medical care." After more than nine years of analysis, it is incumbent upon the beneficiary and the analyst to affect termination of the analysis. In making his determination to utilize the modality of the analysis as the treatment of choice for the beneficiary, Dr. McMahon determined that her ego was strong enough to withstand the rigors of the analysis and the termination of the analysis. The Record and testimony indicate that, at this point, after more than nine years of analysis, the ego of the analyst is inadequate to withstand the termination of analysis, and there is no indication that she will progress to the point of being able to conclude the analysis.

Dr. Rodriguez, in discussing placing of limitation of benefits in this case stated:

"Therefore, I find that some external direction must be exerted or OCHAMPUS will be paying for analysis for an indefinite period of time... while this may not be the idea means under which termination should occur, I have no reason to believe on the basis of her limited level of progress and therapy that we would expect the beneficiary to ever complete her total analysis."

Dr. Rodriguez recommended that session continue at a rate of two per week from September 30, 1983 to mid-September, 1984.

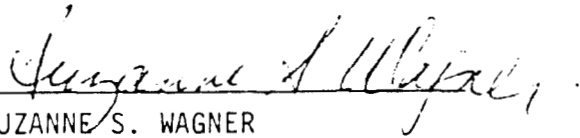
The beneficiary has presented no new medical documentation in support of her claim. DoD 6010.8-R Chapter X A.3 places the burden of proof on the appealing party to affirmatively establish, by substantial evidence, the appealing party's entitlement under law to the authorization of CHAMPUS benefits. The appealing party, in this case, has not met this burden, and she has presented no new information which would alter the decision of the prior Peer Reviewers and Case Conference which allowed cost-sharing for three psychoanalytic sessions per week from June 1, 1983 to July 31, 1983 and for two sessions per week from August 1, 1983 to September 14, 1984 in order to permit termination of analysis.

Also, the claims processed by Explanation of Benefit forms dated May 29, 1984 and May 31, 1984, were erroneously cost-shared. The amounts erroneously paid (\$1,012.50 and \$956.25) were calculated by the number of psychoanalysis sessions which should have been denied (18 sessions costing \$1,350.00 and 17 sessions costing \$1,275.00 respectively) less the beneficiary's cost share.

SUMMARY

In summary, it is the recommended decision of the Hearing Office that CHAMPUS cost-sharing cannot be approved for more than three

psychoanalytic therapy sessions per week from June 1, 1983, or for more than two sessions per week beginning August 1, 1983, until September 15, 1984, and that the benefits cost-shared by the Explanation of Benefits forms and accompanying Claim forms dated May 29, 1984 and May 31, 1984 were erroneously paid.


SUZANNE S. WAGNER
Hearing Officer

August 29, 1984
Date