



ASSISTANT SECRETARY OF DEFENSE

WASHINGTON, D. C. 20301

26 JUN 1979

HEALTH AFFAIRS

FINAL DECISION: Case
(OASD(HA) Appeal File 02-79)

The Hearing File of Record, the tape of the oral testimony presented at the hearing, and the Hearing Officer's RECOMMENDED DECISION (along with the Memorandum of Concurrence from the Director, OCHAMPUS) on OASD(HA) Appeal Case No. 02-79 have been reviewed.

It was the Hearing Officer's recommendation that the CHAMPUS Contractor's initial decision to deny the appealing party's Request for Preauthorization of dental services be upheld. It was his finding that the dental services in dispute did not constitute adjunctive dental care as provided by CHAMPUS Regulation DoD 6010.8-R. The Acting Assistant Secretary of Defense (Health Affairs) concurs with this recommendation and accepts it as the FINAL DECISION, subject to the following comments and clarification.

PRIMARY ISSUE IN DISPUTE

The primary issue in dispute in this case is whether the dental care for which preauthorization was requested constituted "adjunctive dental care." By law CHAMPUS benefits for dental care are limited. Chapter 55, Title 10, United States Code, Section 1079(a) (1) states, "...with respect to dental care, only that care required as necessary adjunct to medical or surgical treatment may be provided."

The appealing party raised several points in presenting his case that the dental services being requested were, in fact, adjunctive. While the Hearing Officer's conclusion was a proper one based on the evidence presented in the case, in his rationale and findings he did not address each specific point raised by the appealing party nor did he cite all applicable provisions of the Regulation. To assure that the appealing party fully understands the

bases upon which the initial denial is being reaffirmed and upheld (i.e., specifically, why his requested dental care does not qualify as adjunctive), each of these points is addressed in this FINAL DECISION.

- . Preventive. First, it was claimed that the dental services were necessary to preclude the need for dentures at some (unspecified) future date. Generally, all dental care can be said to prevent the future need for dentures. However, even if the appealing party's disputed dental care could be specifically related to preventing the need for dentures, this would not qualify the requested dental care as "adjunctive." The CHAMPUS Regulation specifically states, "Dental care which is essentially preventive ... which is not an integral part of the treatment of a medical (not dental) condition, does not qualify as adjunctive dental care for purposes of CHAMPUS." /emphasis added/ (Reference: DoD 6010.8-R, Chapter IV, Section E, Subparagraph 10.b.(2).)

- . Grinding of Teeth: Stress Due to Lung Cancer. Second, it was claimed that the structures of the teeth were worn due to grinding of the teeth which could be the result of stress due to having lung cancer. A specific relationship was not proved. While it is reasonable to expect that his illness would contribute to stress, it is more likely that the basic cause of the wearing of the teeth was due to the long term effects of the appealing party's end-to-end bite. However, even if such specific relationships could be proven, it would not qualify the requested dental care as "adjunctive." In such a case it would be the result of or affected by medical treatment not a part of such treatment. The CHAMPUS Regulation states, "Adjunctive dental care does not include ... /services/ ... required as a result of an accidental injury, or whether injured, affected or fractured during medical or surgical management of a medical condition." /emphasis added/ (Reference: DoD 6010.8-R, Chapter IV, Section E, Subparagraph 10.b.(3).)

- . Teeth Deterioration: Result of Linear Accelerator Treatment. Third, it was claimed by the appealing party that his teeth had significantly deteriorated following Linear Accelerator treatments (a form of radiation therapy) following his surgery for lung cancer. There was no medical evidence submitted on this point except a general statement concerning changes which can occur in oral tissue following radiation therapy. (This information was supplied by the civilian dentist who rendered the dental care in question.) Neither was documentation submitted as to the condition of his teeth prior to the therapy. However, here again, even if a specific causal relationships could be proved, it would not qualify the disputed dental services as "adjunctive" because it would be the result of or affected by medical treatment, not a part of medical treatment. (Reference: Same regulatory provision cited above for "Grinding of Teeth: Stress Due to Lung Cancer.")

- . Mastication. Lastly the appealing party claimed that the requested dental work was necessary to permit him to properly chew his food, thus providing him with improved nutrition and assisting in his recovery from lung cancer. There was no evidence submitted relating to the extent mastication was improved but any dental work can be assumed to improve mastication to some degree. However, this is a moot point because the CHAMPUS Regulation states, "...nor does it /adjunctive dental care/ include such dental services as filling cavities or adding or modifying bridgework to assist in mastication whether or not related to gastrointestinal or hematopoietic diseases." /emphasis added/ (Reference: DoD 6010.8-R, Chapter IV, Section E, Subparagraph 10.b.(4).)

There was no evidence presented in the Hearing File of Record or the oral testimony which supported the appealing party's claim that the dental services for which preauthorization was initially requested and denied met the definition of "Adjunctive Dental Care." (Reference: DoD 6010.8-R, Chapter II, Subsection B.6.)

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RELATED ISSUES

1. Medical Treatment: Cause of Oral Disease. The Hearing Officer, in his recommendation, makes the statement that the requested dental care was directly related to the medical treatment received/radiation therapy for lung cancer/. We wish the record to show that exception is taken with this assumption since neither the Hearing File of Record nor the oral testimony presents any evidence to support such a conclusion on this issue. However, since in this particular instance the assumption of causal relationship had no effect on the ultimate decision, the case is not being remanded back to the Hearing Officer for further review.
2. Retirees: Right to Free Dental Care. The appealing party appears to have some misconception as to his right to free dental care as a Military retiree. It is true that retirees have first priority to receive dental services from Uniformed Service facilities after active duty members (and assuming the facility is not in an area designated as "remote"). However, by law this is on a space available basis. There is no guarantee that free dental care will be available. If the retiree is unable to obtain dental care from a Uniformed Service facility, he or she is then personally responsible for financing such dental care unless it qualifies as "adjunctive." CHAMPUS does not include a comprehensive dental benefit. CHAMPUS is limited by law to extending benefits for "adjunctive dental care" only.

SUMMARY

This FINAL DECISION in no way implies the appealing party did not need the requested dental services nor that having the dental work performed did not contribute to his general good health. It only confirms that the dental services in dispute do not qualify as "adjunctive" as permitted by law and regulation, and thus cannot qualify for benefit consideration under CHAMPUS.

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Issuance of this FINAL DECISION is the concluding step in the CHAMPUS administrative appeals process. No further administrative appeal is available.



Vernon McKenzie
Acting Assistant Secretary of Defense
(Health Affairs)