ASSISTANT SECRETARY OF DEFENSE
WASHINGTON, D. C. 20301

HEALTH AFFAIRS

31 JUL 1979

FINAL DECISION:
(OASD(HA) Appeal File 05-79)

The Hearing File of Record, a 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 determination to deny CHAMPVA benefits for the 14 October 1976 extraction of four impacted third molars be upheld. It was his finding that the dental services in dispute did not constitute adjunctive dental care as set forth in applicable Army Regulation AR 40-121. 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

The primary issue in dispute in this case is whether the dental care for which CHAMPVA benefits were denied constituted "adjunctive dental care." By law CHAMPUS benefits for dental care are limited (and thus by agreement, CHAMPVA benefits are also so 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." /emphasis added/

The implementing regulation (applicable at the time the disputed dental care was rendered) further specified covered dental care to be that dental care required as a necessary adjunct in the treatment and management of a medical or surgical condition other than dental.

(Reference: Army Regulation 40-121, Chapter 1, Section 5-2(j).) The applicable regulation further states, "The primary /medical/ diagnosis must be specific so that the relationship between the primary condition and the requirement for dental care in the treatment of the primary medical condition is clearly shown. Dental care to improve the general health of the patient is not necessarily adjunctive dental care." /emphasis added/ (Reference: Army Regulation 40121, Chapter 1, Section 1-2(e).)

The appealing party's representative raised several points in presenting the position that the disputed dental care did, in fact, qualify as adjunctive. Nonetheless, it is the finding of the Acting Assistant Secretary of Defense (Health Affairs) that the Hearing Officer's conclusion was a proper one based on the evidence presented and that his rationale and findings were substantially correct. However, to be sure that the appealing party and her representative fully understand the underlying bases upon which the initial denial is being reaffirmed and upheld (i.e., specifically why the disputed dental care does not qualify as "adjunctive"), each of the points presented by the appealing party is addressed in this FINAL DECISION.

- Symptoms Preceded Extraction of Impacted Teeth. First it was claimed that because the appealing party saw a physician for treatment of nervousness, loss of appetite, etc., prior to the dental care, it confirmed the presence of a related medical condition thus qualifying the dental care in question as "adjunctive." However, no evidence was offered to show (a) that the symptoms were the result of a non-dental covered condition, or (b) if they were, that there was any relationship between the symptoms and the need for dental care. No specific primary medical diagnosis was clearly shown which is one of the requirements in order for dental care to be considered as adjunctive (Army regulation AR 40-121, Chapter 1, Section 1-2(e)). The fact that a medical doctor identified a dental problem during an examination is not unusual and does not automatically qualify the dental care as adjunctive.

- Diagnosis: Pericoronitis. Second, it was claimed that pericoronitis, a condition diagnosed by the dentist in connection with one of the impacted third molars, was a medical condition which qualified the care as adjunctive. Pericoronitis is inflamation of the Gingiva (gums) usually associated with third molars. It occurs when the impacted molar breaks through (or is trying to break through) the gum. It is solely a dental condition, involving only the teeth and their supporting structure. It does not qualify as a primary medical condition. Therefore the diagnosis of pericoronitis does not qualify the disputed dental care for consideration as "adjunctive." (Reference: Army Regulation AR 40-121, Chapter 1, Section 5-2(j).)

- Diagnosis: Cystic Degeneration. Third, it was pointed out that the attending dentist presented another diagnosis, "cystic degeneration." This condition involves a breaking down of the sack around the tooth. While if not treated the condition can possibly lead to other complications, cystic degeneration is itself a dental condition (rather than a medical one) and cannot be used to qualify the disputed dental care for consideration as adjunctive. Further, the documentation in the Hearing File of Record, including the radiograph, gave no indication that cystic degeneration was actually present. (Reference: Army Regulation AR 40-121, Chapter 1, Section 5-2(j).)

- Diagnosis: Tumor. Fourth, it was claimed by the representative that the appealing party had been advised she had a tumor (or tumors) and it was implied it was necessary to remove the impacted third molars to get to the tumor(s). There is no information in the Hearing File of Record as to the type of tumor(s). Further, there is no documentation to support this diagnosis--i.e., no corroborating statements from either the physician or dentist, no operative report, no pathology report or no evidence of tumors in the radiograph (which would have indicated any bony growths). In reviewing the many personal statements submitted by the representative on behalf of the

appealing party, it appears likely a misunderstanding may have occurred relative to this diagnosis. (The Hearing File of Record indicates the representative may have translated "cystic degeneration" into "cysts"--and equated cysts with "tumors.") In the absence of any supporting evidence, this diagnosis could not be considered in reviewing this case.

- Presence of Pain. Fifth, the representative claimed that the appealing party was in severe pain requiring that the dental work be done immediately. We do not question that the appealing party may have been in discomfort as a result of the four impacted third molars. Since pain was not the reason for seeking medical care, the severity of the pain must be doubted. Further supporting this position is the fact that the pain could not have been so severe as to be debilitating inasmuch as the attending dentist and his associate postponed the extractions for a day due to their personal commitments. Nor is there any documentation that the pills provided to the appealing party to relieve the discomfort until the surgery could be performed required a prescription. It is very likely they were a standard non-prescription compound. In any event, this is a moot question because pain resulting from purely dental condition does not qualify the related dental care as "adjunctive." As stated previously, there must be a primary medical condition and the dental care must be specificly and directly related to the treatment and management of the primary medical condition.

- Improved General Physical Condition. Lastly, it was claimed that the extraction of the impacted third molars would result in a "remarkable improvement" in the appealing party's general physical condition. It is not argued that having needed dental work done does not contribute to a person's general good health. However, this would not, in itself, qualify dental care for consideration as "adjunctive." Again, there must be a specific

primary medical condition and the dental care must be necessary to treat and manage that medical condition. The applicable regulation states, "Dental care to improve the general health of the patient is not necessarily adjunctive dental care." /emphasis added/ (Reference: Army Regulations AR 40-121, Chapter 1, Section 1-2(e).)

There was no evidence presented in the Hearing File of Record or the oral testimony which supported the appealing party's claim that the extraction of the impacted third molars met the definition of "adjunctive" dental care. (Reference: Army Regulation AR 40-121, Chapter 1, Section 1-2(e).)

RELATED ISSUES

1. No Request for Preauthorization. The Hearing File of Record and the oral testimony verify that the appealing party and the sponsor, without consultation, unilaterally assumed that the four impacted molars constituted an emergency and made no effort to obtain prior apprval for the now disputed extractions. Since all levels of appeal decisions as well as this FINAL DECISION, were based on the substantive issue of whether the dental care qualified as "adjunctive," this violation of procedural requirements had no impact on the ultimate decision in this case. However, it is pointed out that if proper procedure had been followed, the appealing party and her sponsor would have been advised prior to having the dental work done, that CHAMPVA could not extend benefits. While it is unlikely that a denial would have kept the patient from proceeding to have the dental care done, it would have alerted the family to the fact that the dental care would require personal financing if other coverage was not available. The primary purpose of preauthorization is to help the beneficiary make informed decisions. Further, had the appeal review indicated that the dental care qualified as "adjunctive" but was not an emergency, lack of such prior approval would have meant benefits could not be extended unless it could be shown there

was a good and valid reason why preapproval was not obtained (which the Hearing File of Record does not support in this case).

2. CHAMPUS vs CHAMPVA. It was noted that the representative in this case frequently pointed out that the appealing party was covered under CHAMPVA rather than CHAMPUS. The Hearing File of Record indicates this to be correct; however, it is a technical issue only. Under an agreement between the Veterans Administration (VA) and the Department of Defense (DoD), DoD administers the CHAMPVA through its managing agency, the Office of Civilian Health and Medical Program of the Uniformed Services (OCHAMPUS). This means that rules and regulations applicable to CHAMPUS beneficiaries (other than active duty dependents) apply equally to CHAMPVA beneficiaries. There are only two differences:

   (a) Eligibility, i.e. determined under Title 10 for CHAMPUS beneficiaries and Title 38 for CHAMPVA beneficiaries; and

   (b) Access, i.e., CHAMPVA beneficiaries do not have access to Uniformed Service Medical facilities as do CHAMPUS beneficiaries.

   Therefore, the fact that the applicable Program may have been erroneously referred to as "CHAMPUS" instead of "CHAMPVA" in no way affected the outcome of the appeal.

3. CHAMPVA Booklet: October 1975. The appealing party's representative frequently referred to the CHAMPVA Booklet dated October 1975 published by the Veterans Administration. It's purpose was informational, providing a general outline of benefits available under CHAMPVA. However, the booklet does not take precedence over applicable law and regulations. (For the record, however, the booklet states specifically that in order to be considered for benefits, dental care must be a necessary adjunct to medical and surgical treatment, that preapproval is required for non-emergency care, and that routine dental care is excluded.)

SUMMARY

This FINAL DECISION in no way implies that the appealing party did not need the dental services nor that having the dental work performed did not contribute to her 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 CHAMPVA.

Our review of this case confirms that full due process has been afforded the appealing party by CHAMPVA. Issuance of this FINAL DECISION is the concluding step in the CHAMPUS/CHAMPVA appeals process. No further administrative appeal is available.

SIGNED

Vernon McKenzie
Acting Assistant Secretary of Defense
(Health Affairs)