



HEALTH AFFAIRS

ASSISTANT SECRETARY OF DEFENSE

WASHINGTON, D.C. 20301

19 MAR 1980

FINAL DECISION: Appeal  
OASD(HA) Case File 14-79

The Hearing File of Record, the tape of the oral testimony presented at the hearing, and the Hearing Officers RECOMMENDED DECISION (along with the Memorandum of Concurrence from the Director, OCHAMPUS) on OASD(HA) Appeal Case No. 14-79 have been reviewed. The amount in dispute is \$655.00. It was the Hearing Officer's recommendation that the CHAMPUS Contractor's initial determination to deny CHAMPVA benefits for dental services be upheld (i.e., X-ray, examination, bite guard and full mouth dentures related to Temporomandibular Joint Syndrome). It was his finding that the dental care in dispute did not constitute adjunctive dental care as stipulated in applicable Army Regulation AR 40-121. The Principal Deputy Assistant Secretary of Defense (Health Affairs), acting as the authorized designee for the Assistant Secretary, concurs with this Recommendation and accepts it as the FINAL DECISION.

PRIMARY ISSUE

The primary issue in dispute in the case is whether the dental care for which CHAMPVA benefits were denied constituted adjunctive dental care. By law CHAMPUS benefits for dental services are limited (and thus by agreement, CHAMPVA benefits are similarly 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 (in effect at the time the disputed dental care was rendered in 1976) further defined adjunctive dental care as "... that dental care which is required in the treatment or management of a medical or surgical condition other than dental and which may be anticipated to exert a beneficial effect on the primary medical or surgical condition or its sequelae. The primary diagnosis must be so specific so that the relationship between the primary condition and the requirement for

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dental care in the treatment of the primary condition is clearly shown..." [emphasis added] (Reference: AR 40-121, Chapter 1, Section 1-2(e))

The applicable benefit is outlined as "... dental care including restorative dentistry and dental prosthesis, required as a necessary adjunct in the treatment or management of a medical or surgical condition other than dental ..." [emphasis added] (Reference: AR 40-121, Chapter 5, Section 5-2 (j))

The appealing party, her physicians and the attending dentist all submitted statements detailing factors which in their view supported the position that of the Temporomandibular Joint (TMJ) dysfunction was a medical condition and therefore the related dental care was "adjunctive." Nonetheless, it is the finding of the Principal Deputy Secretary of Defense (Health Affairs) that the Hearing Officer's conclusion was a proper one based on the evidence presented and his rationale and findings were correct. (The Hearing Officer addressed the appropriate Regulation, AR 40-121, but inappropriately cited policy statements contained in CHAMPUS Fact Sheet 41-1 as Regulation. However, this error does not affect either the findings, rationale or the RECOMMENDED DECISION.) In order to ensure that the appealing party fully understands the bases upon which the initial denial is being reaffirmed and upheld (i.e., the bases for the decision that the dental care rendered in connection with the Temporomandibular Joint Syndrome was not "adjunctive" dental care), each of the points presented by the appealing party or on her behalf is addressed in this FINAL DECISION.

- o Diagnosis: Temporomandibular Joint Syndrome (TMJ). First, it was claimed that the Temporomandibular Joint Syndrome was a medical condition. The appealing party had consulted her physician concerning various symptoms including hearing loss, cracking and popping sounds in the ears, noise intolerance, imbalance on walking, pain and discomfort in the right ear and neck area. On examination, the physician concluded that, in addition to other medical problems, some Temporomandibular Joint dysfunction secondary to ill-fitting dentures was present. A second physician X-rayed the joint areas and reported that the films revealed asymmetry between the two joints. TMJ is a dysfunction of the Temporomandibular Joint primarily caused by dental malocclusion (usually acquired rather than congenital). Under CHAMPUS TMJ has been and continues to be considered a dental (not a medical) condition. This is supported by the evidence in the Hearing File of Record which indicates both of the examining physicians concluded that the appropriate plan of treatment for the joint

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dysfunction presented by the appealing party was dental not medical. Specifically, each physician recommended repair or replacement of the full mouth dentures in place at the time of their examination. No medical or surgical plan of treatment for the Temporomandibular Joint dysfunction was suggested, recommended or initiated by either physician. There was no X-ray evidence or other documentation submitted which indicated the presence of a secondary medical condition which directly related to the TMJ condition. As a "dental only" condition, a diagnosis of Temporomandibular Joint Syndrome does not qualify dental care as "adjunctive." (Reference: Army Regulation AR 40-121, Chapter 5, Section 5-2 (j))

- o Presence of Other Medical Conditions. There was no evidence presented that would indicate the dental care rendered in this case was considered to be a necessary adjunct in the treatment and management of medical conditions other than the dental related TMJ problem. It was reported the patient suffered from hypertension for which she was under treatment as well as mild cervical arthritis, for which aspirin had been prescribed. However, no claim was made or evidence submitted that indicated the disputed dental care was expected or intended to produce any beneficial effect on either of these conditions. Further, the physician stated the appealing party's other symptoms of noise intolerance, slight hearing loss and ringing in the ears were "untreatable." No connection was made between these symptoms and the TMJ. It cannot therefore be determined that the dental care performed in treatment of the Temporomandibular Joint dysfunction was adjunctive or beneficial or necessary to those other medical conditions or symptoms. The fact that a medical condition(s) is present is not sufficient to qualify dental care for benefits. In order to be considered "adjunctive", it must be shown that not only is the medical condition present and currently under active treatment, but also that there is a direct relationship between the dental care and the medical condition and that the dental care is a necessary part of the treatment of the medical condition. This was not done in this case. (Reference: Army Regulation AR 40-121, Chapter 1, Section 1-2 (e))
- o Relationship to Trauma. It was claimed trauma was the cause of the TMJ condition. The appealing party revealed that she was involved in an automobile accident in 1942, over 30 years prior to rendering the disputed dental services. While no supporting documentation was provided, according to her testimony the appealing party's jaws were wired for four months due to multiple fractures of her maxilla and mandible.

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Following this accident the appealing party claimed that dentition was lost and that she had been required to wear a dental prosthesis since that time. The exact location or extent of the fractures was not specified in any of the documentation submitted and there was no evidence presented that indicated either of the Temporomandibular Joint areas were involved. Reports of X-rays in 1976 of the Temporomandibular Joints indicated only asymmetry and misalignment. There was no evidence presented or reported of healed fracture sites or calcifications. Physician's statements supported the appealing party only to the extent of bilateral mandibular fractures but remained silent as to the claim of maxillary injury. A direct relationship between the incident of trauma sustained in 1942 and the current Temporomandibular Joint dysfunction was not clearly shown or established. Documentation in the Hearing File of Record consistently attributes the Temporomandibular Joint problems to poorly fitted dentures which created a misalignment and the resulting joint dysfunction. At best, the relationship between the injury in 1942 and the current condition would be described as indirect since the fractured jaws were followed by the loss of at least some dentition which resulted in the wearing of dental prostheses, which apparently eventually caused the joint dysfunction. However, the direct relationship to trauma, which would be required to qualify the dental care as "adjunctive" was not established. Even if extensive deocumentation had been submitted, it would be very difficult to relate a trauma incident which occurred over 30 years prior to a current need for dental care. (Reference: Army Regulation AR 40-121, Chapter 5, Section 5-2 (j)).

- o Presence of Pain. Next it was implied that the presence of pain itself constituted a medical condition, thus qualifying the disputed dental care as "adjunctive." The evidence submitted did not provide significant information concerning the type, extent or duration of such pain--except to indicate that the pain existed. However, this is moot inasmuch as the origin of the pain was a dental only condition--i.e., TMJ. The presence of dental-related pain indicates a dental condition not a medical one. As stated previously, there must be a primary medical condition currently under medical treatment in order for dental services to be considered under the "adjunctive" provision. Pain of dental origin is not such a condition. (Reference: Army Regulation AR 40-121, Chapter 1, Section 5.2(j))

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- o Unsatisfactory Results from Dental Treatment. The appealing party also claimed that the dental therapy for the Temporomandibular Joint Syndrome did not produce satisfactory results and that she continued to require medical treatment. She therefore implied her condition was essentially medical, not dental because the dental treatment did not correct her problem. Continuation of some pain and discomfort was confirmed by the attending dentist and by the physician. The physician responded to her complaints with medication prescribed to reduce the discomfort. His services were palliative measures only, however, not intended as treatment for the joint dysfunction. It was his position that adjustments in the dental alignment would initially aggravate the pain in the joint area but should eventually produce a good outcome. The physician did not suggest or recommend any additional medical or surgical intervention. Further, poor results of therapy is not prima facie evidence that the source of the problem was other than dental (no more than poor results in treatment of a medical condition would then imply the condition to be dental). The results obtained from treatment in no way controls the determination of whether a condition is medical or dental. Again, the Temporomandibular Joint Syndrome is considered solely a dental condition, and was treated exclusively by dental modalities and skills. Therefore, the disputed dental care cannot qualify as "adjunctive." (Reference: Army Regulation AR 40-121 Chapter 5, Section 5-2 (j))
  
- o Presence of Emergency. The appealing party additionally claimed that the initial visit to the dentist was made on an emergency basis. The nature of the emergency was not revealed in testimony except that some pain was indicated. The Hearing File of Record indicated the appealing party first complained about Temporomandibular Joint pain fully two months earlier, at which time she was examined by her physician for the joint symptoms. Further, documentation in the Hearing File of Record indicates that the dental appointment was arranged by her physician approximately three weeks in advance of the event. A condition which can wait three weeks cannot be considered to constitute an emergency. The existence of an emergency has not been established; and further, the dental services were anticipated by the appealing party, her attending physician and the dentist. The facts do not support emergency care and the dental care in dispute must be considered solely routine dental care -- i.e., in no way "adjunctive." (Reference: Army Regulation AR 40-121, Chapter 5, Section 5-2, (j))

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## SECONDARY ISSUES

Two secondary issues were surfaced by the appealing party and her sponsor.

1. Lack of Program Information: Beneficiary Responsibility to Keep Informed. The appealing party complained that she and the sponsor were not fully informed with regard to the limitation of dental benefits under CHAMPVA. She cited OCHAMPUS Fact Sheet No. 41-1 dated 16 October 1972 published by CHAMPUS/CHAMPVA, advising beneficiaries that dental care was covered when the patient is under the care of a physician for a specific medical problem and thus claimed entitlement to CHAMPVA benefits. First, the appealing party would not have been misinformed or misled had she considered the document in question in its entirety rather than selectively. The paragraph cited explains that the dental care is considered eligible only when it is required to properly treat a medical condition. Further, the appealing party could have contacted the CHAMPUS Dental Contractor or OCHAMPUS for clarification or additional information. A need to provide comprehensive information to beneficiaries is recognized and considerable Program resources are channelled into this effort. However, in the last analysis, it is the beneficiary's responsibility to keep informed concerning the Program's benefits and limitations.
2. Lack of Preauthorization. The required preauthorization of dental services was not requested in this case. The appealing party claimed that she was unaware of the need for preauthorization. Since the initial denial and all levels of appeal including this FINAL DECISION, were based on the substantive issue of whether the disputed dental care qualified as "adjunctive," this violation of Program 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 would have been advised prior to having the dental work done, that CHAMPUS benefits could not be extended. While it is unlikely such a denial would have kept the appealing party from proceeding, it would have alerted her to the fact that the dental care would require personal financing. That is the primary purpose of preauthorization--i.e., to advise beneficiaries before they commence care, thus permitting an informed decision as to whether or how to proceed. Further, had the appeal review indicated that the dental care had qualified as "adjunctive," 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.

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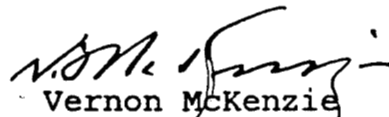
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SUMMARY

This FINAL DECISION in no way implies that the appealing party did not require the dental care to relieve the Temporomandibular Joint dysfunction. It only confirms that the dental care in dispute did not qualify as "adjunctive" as permitted by law and regulation and therefore cannot qualify for benefit consideration under CHAMPVA.

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Our review indicates the appealing party has received full due process in her appeal. Issuance of this FINAL DECISION is the concluding step in the CHAMPUS appeals process. No further administrative appeal is available.



Vernon McKenzie  
Principal Deputy Assistant Secretary  
of Defense (Health Affairs)