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ASSISTANT SECRETARY OF DEFENSE
WASHINGTON, D. C. 20301

HEALTH AFFAIRS

MAR 29 1983

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

Appeal of	)	
	)	OASD(HA) File 82-10
Sponsor:	)	
	)	FINAL DECISION
SSN:	)	

This is the FINAL DECISION of the Assistant Secretary of Defense (Health Affairs) in the CHAMPUS Appeal OASD(HA) Case File 82-10 pursuant to 10 U.S.C. 1071-1089 and DoD 6010.8-R, chapter X. The appealing party in this case is the beneficiary, a retired officer of the United States Navy. The hearing file of record, the tapes of oral testimony presented at the hearing, the Hearing Officer's Recommended Decision and the Analysis and Recommendation of the Director, OCHAMPUS have been reviewed. The amount in dispute is approximately $3,837.39 in charges from Brookwood Lodge, Valley Springs, Warrior, Alabama, an alcohol treatment facility. It is the Hearing Officer's recommendation that CHAMPUS coverage for the final six days of inpatient care for alcoholism be denied as not medically necessary, specifically excluded care and not the appropriate level of care. The Director, OCHAMPUS concurs in the recommended decision and recommends its adoption as the FINAL DECISION of the Acting Assistant Secretary of Defense (Health Affairs).

The Acting Assistant Secretary of Defense (Health Affairs) after due consideration of the appeal record, concurs in the recommendation of the Hearing Officer to deny CHAMPUS payment and hereby adopts the recommendation of the Hearing Officer as the FINAL DECISION.

The FINAL DECISION of the Acting Assistant Secretary of Defense (Health Affairs) is therefore to approve CHAMPUS coverage for inpatient care for alcoholism from February 1 through February 28, 1980 and to deny coverage from February 29 through March 5, 1980. The decision to deny coverage of inpatient care for alcoholism for the final six days is based on the findings that such care was not medically

necessary, excluded care and above the appropriate level of care.

FACTUAL BACKGROUND

The beneficiary was admitted to Brookwood Lodge, Valley Springs, Warrior, Alabama on February 1, 1980 with a primary diagnosis of alcoholism and a secondary diagnosis of chronic urinary tract problems. The treatment facility records reveal the beneficiary was well- developed, well-nourished, alert, somewhat agitated but in no acute distress. Mild tremor was noted when initially seen. Vital signs were normal except for slight tachycardia.

The physician's history indicates that the beneficiary has used alcohol for sixteen years. He first became concerned about his drug problem around age forty-five and admitted to loss of control in his early fifties. The beneficiary was a spree drinker with sprees usually lasting two to three days. The beneficiary would consume a fifth of vodka per day when drinking. The patient denies any hallucinations or seizures but has shakes quite badly when withdrawing.

The beneficiary was placed in the detoxification unit on admission and was transferred to the regular care unit on February 3, 1980. During detoxification, the patient was given Clinoril for arthritis, Dalmane for sleep and Serax for nerves.

The beneficiary's treatment care was essentially uneventful except from February 22 through February 23, 1980 when the beneficiary was treated for urinary tract infection. Rehabilitation began on February 3, 1980 which consisted of assignment of a counselor, group therapy, meetings, lectures, films, tapes, and family sessions. Routine diagnostic testing was performed including urinalysis, blood count, serology blood chemistries, chest x-ray, EKG and blood enzymes. Results were reported to be within normal limits for all diagnostic studies.

The medical records indicate the beneficiary progressed slowly during the first two weeks of rehabilitation. He was confused, detoxifying, and defensive against the treatment. After two weeks the beneficiary was able to look more realistically at his drinking problem. No medical problems were noted except for the treatment of urinary tract infection.

The beneficiary was discharged from the hospital on March 5, 1980. Diagnosis at discharge was alcoholism. Prognosis was noted to be fair because the beneficiary was returning to a highly dependent relationship. The reports indicate that he

would have a good chance of staying sober if he uses Alcoholics Anonymous, continuing care, resolves some of his marital issues and becomes involved in activities outside his marriage. The total length of hospitalization was thirty-four days.

A CHAMPUS participation claim totaling $3,837.39, was filed by the beneficiary with the CHAMPUS Fiscal Intermediary for Alabama, Mutual of Omaha Insurance Company (Mutual). Mutual initially allowed twenty-one days of inpatient stay for detoxification and rehabilitation (February 1 through February 21, 1980) and denied the remaining period from February 22 through March 5, 1980. Payment was issued to the provider in the amount of $1,826.47.

Informal Review and Reconsideration decisions by Mutual extended CHAMPUS benefits to February 28, 1980, because the medical records substantiate a change in the beneficiary's condition (urinary tract infection) on February 22 which required inpatient observation and tests. However, the medical review by Mutual denied CHAMPUS benefits for the period of February 29 through March 5, 1980 because there was no evidence of complications justifying a longer stay.

The beneficiary appealed to OCHAMPUS. The OCHAMPUS Formal Review affirmed the Informal Review and Reconsideration on the basis the record did not establish that inpatient rehabilitation treatment was medically necessary nor the appropriate level of care during the period in question. However, the OCHAMPUS Informal Review did allow cost-sharing for the first two days the beneficiary was in the acute detoxification unit and the $8.00 charge for the MMPI test.

The beneficiary appealed and requested a hearing which was held at Birmingham, Alabama on July 14, 1982 before Don F. Wiginton, Hearing Officer. The Hearing Officer has submitted his recommended decision. All prior levels of administrative appeal have been exhausted and issuance of a FINAL DECISION is proper.

ISSUES AND FINDINGS OF FACT

The primary issues in this appeal are whether the inpatient hospitalization for treatment of alcoholism was (1) medically necessary, and (2) was the appropriate level of care for the treatment of alcoholism.

Medically Necessary

Under the CHAMPUS regulation, DoD 6010.8-R, chapter IV, A.1., the CHAMPUS Basic Program will cost-share medically necessary services and supplies required in the diagnosis and treatment

of illness or injury, subject to all applicable limitations and exclusions. Services which are not medically necessary are specifically excluded (chapter IV, G.1.). Under chapter II, B.104, medically necessary is defined as:

> "... the level of services and supplies (that is, frequency, extent and kinds) adequate for the diagnosis and treatment of illness or injury...."

This general concept of "medically necessary" is further defined in relation to the extent of CHAMPUS coverage of inpatient care for alcoholism by DoD 6010.8-R, chapter IV, E.4., as follows:

> "4. Alcoholism. Inpatient hospital stays may be required for detoxification services during acute stages of alcoholism when the patient is suffering from delirium, confusion, trauma, unconsciousness and severe malnutrition, and is no longer able to function. During such acute periods of detoxification and physical stabilization (i.e., "drying out") of the alcoholic patient, it is generally accepted that there can be a need for medical management of the patient, i.e., there is a probability that medical complications will occur during alcohol withdrawal, necessitating the constant availability of physicians and/or complex medical equipment found only in a hospital setting. Therefore, inpatient hospital care, during such acute periods and under such conditions, is considered reasonable and medically necessary for the treatment of the alcoholic patient and thus covered under CHAMPUS. Active medical treatment of the acute phase of alcoholic withdrawal and the stabilization period usually takes from three (3) to seven (7) days.
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> a. Rehabilitative Phase. An inpatient stay for alcoholism (either in a hospital or through transfer to another type of authorized institution) may continue beyond the three (3) to seven (7) day period, moving into the rehabilitative program

phase. Each such case will be reviewed on its own merits to determine whether an inpatient setting continues to be required.

"EXAMPLE"

If a continued inpatient rehabilitative stay primarily involves administration of antabuse therapy and the patient has no serious physical complications otherwise requiring an inpatient stay, the inpatient environment would not be considered necessary and therefore benefits could not be extended.

b. Repeated Rehabilitative Stays: Limited to Three (3) Episodes. Even if a case is determined to be appropriately continued on an inpatient basis, repeated rehabilitative stays will be limited to three (3) episodes (lifetime maximum); and any further rehabilitative stays are not eligible for benefits. However, inpatient stays for the acute stage of alcoholism requiring detoxification/stabilization will continue to be covered. When the inpatient hospital setting is medically required, a combined program of detoxification/stabilization and rehabilitation will normally not be approved for more than a maximum of three (3) weeks per episode.

c. Outpatient Psychiatric Treatment Programs. Otherwise medically necessary covered services related to outpatient psychiatric treatment programs for alcoholism are covered and continue to be covered even though benefits are not available for further inpatient rehabilitative episodes, subject to the same psychotherapy review guidelines as other diagnoses."

Therefore, under CHAMPUS, coverage of inpatient treatment of alcoholism consists of a detoxification phase from three to seven days followed by a rehabilitation phase. The combined program will not normally be approved for more than a maximum of three weeks per episode. The alcoholism provision specifically notes inpatient care for alcoholism during acute periods is reasonable and medically necessary because of the

"... probility that medical complications will occur during alcohol withdrawal necessitating the constant availability of physicians and/or complex medical equipment ..." (Emphasis supplied.) Inpatient care may continue into the rehabilitative phase; however, as this office has previously determined in FINAL DECISION (OASD(HA) 02-80) and (OASD(HA) 04-80) it is the presence of severe medical effects of alcohol that qualify the rehabilitative phase to be conducted on an inpatient basis. Therefore, to extend CHAMPUS coverage for inpatient care beyond twenty-one days, the specified Regulatory norm, the hospitalization must be necessary for treatment of medical complications associated with alcohol withdrawal. The medical records in this appeal indicate the beneficiary was treated for arthritis, neurosis, and urinary tract infection. The patient was known to have arthritis prior to his admission. Treatment of arthritis was continued throughout hospitalization, but was limited to administration of oral medications daily through March 5, 1980. The medication for the nervousness was discontinued on February 4, 1980. The medications for the urinary tract infection (Ampicillin, Pyridium, and Aspirin) were administered only during the period February 22 through February 28, 1980. As noted by the Hearing Officer, there was no documentation concerning the beneficiary's treatment for the period in question other than an abstract summary which indicated the beneficiary was given the opportunity to "... process his response to his wife, as well as her reaction in family week."

The appeal record includes medical review opinions by the American Psychiatric Association. As discussed in the Hearing Officers Recommended Decision, a specialist in psychiatry opined that the file lacked documentation that would support or rebut the medical necessity for the treatment from February 29 through March 5, 1980. He further indicated that the lack of such documentation suggests that care could have been provided on an outpatient basis and the patient was not released earlier because of the general philosophy of the treatment center.

In addition to the medical review, the appeal record includes testimony from the beneficiary and various members of the treatment facility staff. Although these individuals stated the general philosophy of the treatment facility which requires a thirty-two to thirty-four day hospitalization, they did not present any documentation concerning treatment for the period in question. These individuals merely indicated that the beneficiary was given the opportunity to "... process his response to his wife, as well as her reaction in family week."

Based on the above evidence, the Hearing Officer found the beneficiary's inpatient care from February 29 through March 5,

1980 was not medically necessary and not the appropriate level of care. I concur in and adopt this finding.

In reviewing the appeal record, I have noted the testimony of the Medical Director for the treatment facility, the counselors, and the beneficiary that treatment for thirty-four days was required to complete the rehabilitative phase of the program. As discussed above, the reason for the thirty-four day inpatient care was because of the general philosophy of the treatment facility and not because the patient was being treated for a physical complication which required inpatient care beyond February 28, 1980. From the evidence of record, I conclude the general philosophy of the treatment facility requiring a thirty-two to thirty-four day stay is the primary reason for the length of inpatient stay. The plan of treatment prescribed and conducted after February 28, 1981, was of a type that did not require retention in an inpatient status. Therapy could have been adequately performed on an outpatient basis.

In summary, I find the inpatient treatment to be medically necessary for the treatment of alcoholism and within the CHAMPUS regulatory criteria, as cited above, from February 1 through February 21, 1980 (twenty-one days). Further, I find the inpatient treatment from February 22 through February 28, 1980 to be medically necessary for the treatment of a urinary tract infection. The record supports CHAMPUS coverage for the normal period authorized by the Regulation for a combined program of detoxification and rehabilitation and coverage for the treatment of the urinary tract infection which increased the hospitalization an additional seven days. I further adopt, as indicated above, the findings of the Hearing Officer regarding the record's failure to document the presence of a physical complication that required inpatient care beyond February 28, 1980; therefore, I find the inpatient care from February 29 through March 5, 1980 not to be medically necessary and not within the Regulation's criteria for coverage of alcoholism inpatient care. CHAMPUS cost-sharing of the inpatient care from February 29 through March 5, 1980 is denied.

Appropriate Level of Care

Under the CHAMPUS regulation, DoD 6010.8-R, chapter IV, B.1.y., the level of institutional care authorized under the CHAMPUS Basic Program is limited to the appropriate level required to provide the medically necessary treatment. Services and supplies related to inpatient stays above the appropriate level required to provide necessary medical care are excluded from CHAMPUS.
The Hearing Officer found that because the inpatient stay was not medically necessary, the care could have been provided on

an outpatient basis. From the appeal record, it appears the patient's principal efforts during the period in issue were subjective and not contingent upon interaction with the staff. The reports indicate the patient used this time to examine issues in his marriage, verbalize some of his emotions and crystallize his acceptance of his alcoholism. Again, it appears the primary reason for the continued hospitalization was the treatment facility's philosophy of continuing inpatient care for thirty-two to thirty-four days. The absence of physical complications requiring the continued inpatient stay beyond February 28, 1980, also forces the conclusion an inpatient setting was not required.

In view of the above, I adopt the Hearing Officer's finding that inpatient care beyond February 28, 1980, was not medically necessary and could have been provided on an outpatient basis. Therefore, the inpatient care beyond February 28, 1980, was above the appropriate level of care and excluded from CHAMPUS coverage.

Secondary Issues

Failure to publish specific limitations for the Alcohol Treatment Program. At the hearing and in the allied documents, the beneficiary made the argument that because CHAMPUS has not issued or published specific limitations for the alcohol treatment program his case has been prejudiced. The beneficiary reasons that publication would result in more detailed guidelines and that the treatment facility would have complied with these guidelines and released him at an earlier date.

However, the beneficiary admits, as does the Medical Director of the treatment facility, that the treatment program and general philosophy of treatment would not change regardless of the CHAMPUS guidelines. Throughout the beneficiary's appeal the twenty-one day limitation of coverage on alcoholism treatment was a matter of record published in DoD 6010.8-R, chapter IV, E.4.b. While I realize the Department of Defense Regulation governing CHAMPUS is lengthy and detailed, the precise reason for the depth and specificity of the Regulation is to provide as much information as possible. The Department of Defense strongly encourages CHAMPUS beneficiaries to be knowledgeable of the CHAMPUS Program and to seek advice from their Health Benefits Advisor. Publication of the Regulation is notice to beneficiaries and lack of specific knowledge cannot change the context and substance of the Regulation, nor can I alter the regulatory requirements on this basis.

Varying interpretations of medical necessity as it relates to the Alcohol Treatment Program. The beneficiary contends that OCHAMPUS and the fiscal intermediaries have not been

consistent in the application of the medical necessity limitation to the treatment of alcoholism. In his appeal, the beneficiary has pointed out instances where the fiscal intermediary has granted cost-sharing for treatment beyond the twenty-one day limitation. The treatment of alcoholism, like any medical disease, is very fact sensitive and individual. To avoid being arbitrary and capricious, the regulations allow for exceptions as was granted in this beneficiary's case where cost-sharing was extended to include the treatment for his urinary tract infection.

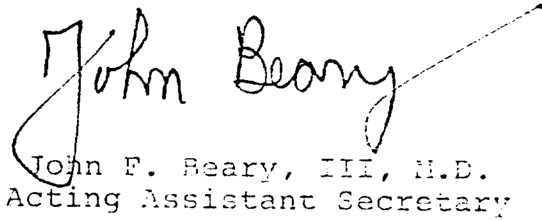
However, to contend that because OCHAMPUS and the fiscal intermediaries have granted exceptions in the past based on medical necessity that this beneficiary is entitled to cost-sharing for the period in issue disregards the facts and the regulatory requirements. I am impressed, as was the Hearing Officer, by the fact that neither the beneficiary nor his witnesses testified to his particular activities during the last week except suggesting that he received subjective growth. As I have previously found, such treatment is not available for cost-sharing on an inpatient basis.

Retroactivity of CHAMPUS cost-sharing where the beneficiary remains in the treatment facility based on medical advice. The beneficiary has made the argument that OCHAMPUS should allow cost-sharing for the treatment of alcoholism beyond the twenty-one day limitation for beneficiaries who remain based on medical advice. As indicated above, the Regulation allows cost-sharing beyond twenty-one days when medically necessary. However, the beneficiary has failed to produce any evidence which indicates the inpatient care for the last six days was for the treatment of an illness or injury. The appeal record does establish that continued inpatient care was based on the general philosophy of treatment facility because no medical treatment occurred in the last six days. In the absence of treatment records, it cannot be established that the inpatient care from February 29 through March 5, 1980 qualifies as authorized CHAMPUS care. While a patient is free to choose care acceptable to him and to follow the advise of his physician, it is incumbant upon the patient and his physician to document the care sufficiently to meet the requirements for CHAMPUS coverage.

SUMMARY

In summary, it is the FINAL DECISION of the Acting Assistant Secretary of Defense (Health Affairs) that the inpatient care from February 1 through February 21, 1980 was medically necessary and met CHAMPUS criteria for coverage as inpatient treatment of alcoholism. I further find the inpatient care from February 22 through February 28, 1980 was medically necessary for the treatment of a urinary tract infection.

Finally, I find the inpatient care from February 29 through March 5, 1980 was (1) not medically necessary as there were no physical complications associated with alcohol withdrawal that required inpatient treatment and (2) above the appropriate level of care required for the treatment of alcoholism as care could have been provided at a lower level of care on an outpatient basis. Therefore, the inpatient care subsequent to February 28, 1980 is not covered under CHAMPUS. The appeal of the beneficiary is therefore denied. Issuance of this FINAL DECISION completes the administrative appeals process under DoD 6010.8-R, chapter X, and no further administrative appeal is available.



John F. Beary, III, M.D.
Acting Assistant Secretary