



ASSISTANT SECRETARY OF DEFENSE  
WASHINGTON, D. C. 20301

JUN 5 1984

HEALTH AFFAIRS

BEFORE THE OFFICE, ASSISTANT

SECRETARY OF DEFENSE (HEALTH AFFAIRS)

UNITED STATES DEPARTMENT OF DEFENSE

Appeal of	)	
	)	
Sponsor:	)	OASD(HA) FILE 84-09
	)	FINAL DECISION
SSN:	)	

This is the FINAL DECISION of the Assistant Secretary of Defense (Health Affairs) in CHAMPUS Appeal OASD (HA) Case File 84-09 pursuant to 10 U.S.C. 1071-1089 and DoD 0610.8-R, chapter X. The appealing party in this case is the beneficiary, the daughter of an active duty member of the United States Air Force. The beneficiary was represented by her father.

The appeal involves a question of CHAMPUS coverage of inpatient care provided the beneficiary from February 25, 1983, to February 28, 1983. The total hospital charge incurred by the beneficiary for these dates was \$1,208.25. Included in this hospital bill was a charge of \$306.50 for a computed tomography (CT) scan. A second CHAMPUS claim in the amount of \$141.31 was submitted for related services provided by the St. Peters Radiology Service. The CHAMPUS Fiscal Intermediary allowed \$876.75 of the total hospital bill, but denied the CT scan costing \$306.50 because of an insignificant diagnosis. The fiscal intermediary also denied the St. Peters Radiology Service bill of \$103.50 on the basis that there was insignificant diagnosis to justify these services.

The hearing file of record, the tape and 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 CHAMPUS amount in dispute is \$1,286.75. It is the Hearing Officer's recommendation that CHAMPUS coverage for inpatient care from February 25, 1983, to February 28, 1983, be denied because the inpatient care was not medically necessary and was above the appropriate level of care required to provide medically necessary treatment. The Hearing Officer also recommended denial of the charges for the CT scan and the services of the radiologist for reading the CT scan. The Director, OCHAMPUS, concurs in the Recommended Decision and recommends its adoption as the FINAL DECISION of the Assistant Secretary of Defense (Health Affairs).

The Assistant Secretary of Defense (Health Affairs) after due consideration of the appeal record concurs with, and hereby adopts as the FINAL DECISION in this case, the recommendation of

the Hearing Officer to deny CHAMPUS payment for hospital care provided the beneficiary from February 25, 1983, to February 28, 1983, including the cost for the CT scan and the services of the radiologist for reading that scan. The FINAL DECISION of the Assistant Secretary of Defense (Health Affairs) is therefore to deny CHAMPUS coverage of inpatient care from February 25, 1983, to February 28, 1983, including the charge for the CT scan and the services provided by the radiologist in reading the CT scan. The decision to deny coverage is based on findings that such care was not medically necessary and was above the appropriate level of care.

#### FACTUAL BACKGROUND

On February 25, 1983, this 19 year old beneficiary was admitted to the St. Peters Community Hospital with headaches of unknown cause. As stated by the treating physician, the beneficiary was ". . . admitted after a several day period of severe headache with questionable meningismus. Differential includes subarachnoid hemorrhage . . ." The hospital's, physician's, and nurses' progress notes reveal that the hospitalization was generally uneventful. The physician's progress notes indicate that on February 25, 1983, the beneficiary was seen by the physician at his office where the beneficiary complained of severe headaches, nausea and vomiting, photophobia, and increasing severity of the headaches. It was his impression that the beneficiary had probable vascular headaches and elected to admit the beneficiary at that time. When admitted, the beneficiary was taking Inderal.

The nurses' progress notes during the period of hospitalization indicate the beneficiary rested in bed, had a good appetite, appeared in no acute distress, and indicated that the headaches became less severe. In fact, during the evening of the first day of the hospitalization, the beneficiary indicated no complaints of headaches. On the second day, the nurses' progress notes indicate that the beneficiary stated that she did not know why she was in the hospital. The nurses' progress notes also indicate that during the final 2 days of hospitalization the beneficiary was awake, alert, did not complain of headaches or dizziness, slept during the evenings, and had a good appetite and good spirits. At the inception of the hospitalization, the beneficiary was prescribed nortriptyline and Vicodin. These drugs relieved the headaches after the first 24 hours of inpatient care.

In the discharge summary, the attending physician provided the following information:

"SUMMARY: 19-year-old, Caucasian female complaining of headaches over one week duration and subsequent evaluation in the office had failed to relieve headaches after beginning Inderal. The patient had a positive family history of questionable

migraine headaches. The patient at the time of admission [was] on Nortriptyline for history of depression.

"LABORATORY DATA: Her profile on admission showed a WBC of 8.1 with a hemoglobin of 12.7, hematocrit of 36.9, differential showing 67 segs, 4 bands, 27 lymphs, 2 eosinophils, adequate platelets. Sed rate of 14. UA was normal. SMA-7 on admission was normal. SMAC was normal. Paranasal sinus exam was normal CT-scan of the brain was normal without contrast.

"HOSPITAL COURSE: The patient was admitted for evaluation of her headaches which had been longstanding and somewhat debilitating at home. She was only continued on her Nortriptyline along with Vicodin for pain and over a period of 24 hours the headaches resolved. Results of the tests were unremarkable and the patient was discharged much improved.

"DISCHARGE DIAGNOSIS:

1. Depression by history.
2. Probable situational stress with subsequent cephalgia."

During the course of the hospitalization, the attending physician ordered a CT scan of the head. The purpose of the CT scan, according to this physician, was to rule out intracranial mass. While at the hospital the beneficiary also had paranasal sinus exams and lab screenings. The hospital submitted a CHAMPUS claim on March 17, 1983, for the 3-day period of hospitalization, including the charge for the CT scan. The claim form indicates that the total charge for care provided the beneficiary for the 3 day hospitalization, including a \$306.50 charge for the CT scan of the head, amounted to \$1,208.25. After applying the \$25.00 deductible, the hospital indicated that the amount due from the Government was \$1,183.25. In addition to this claim, St. Peters Radiologist Service submitted a claim for \$141.31 representing the charges for reading the CT scan by a radiologist, drugs, and other services.

The CHAMPUS Fiscal Intermediary for Missouri (at that time, Wisconsin Physicians Service), after applying the applicable cost-shares and deductibles, issued a payment to the hospital in the amount of \$876.75 of the \$901.75 hospital charge. The fiscal intermediary denied the \$306.50 portion of the hospital charge for the CT scan on the basis that there was insufficient diagnosis to justify this procedure. The fiscal intermediary allowed \$34.35 of the claim by St. Peters Radiology Service after applying the appropriate cost-shares and deductibles. The

fiscal intermediary denied \$103.50 representing the radiologist's services to read the CT scan. The basis for this denial was insufficient diagnosis to justify a CT scan in this situation.

The fiscal intermediary conducted an informal review of the original decision to deny the CT scan and the associated radiological services. As a result of that informal review, the fiscal intermediary determined that the original decision was correct. The fiscal intermediary informed the beneficiary that CHAMPUS cost-sharing is not available for CT scans for a diagnosis of migraine headaches. The fiscal intermediary also pointed out that there was little evidence to indicate that prior noninvasive testing was attempted or was not appropriate; therefore, the criteria established by the CHAMPUS regulation for coverage of CT scans was not satisfied.

The fiscal intermediary informed the beneficiary that the decision would be reconsidered provided additional documentation was submitted to indicate any other signs or symptoms that would necessitate the CT scan and that prior noninvasive testing was attempted (or an indication as to why such testing was not appropriate). The automatic reconsideration review resulted in a determination that CHAMPUS benefits were not available for the same reasons as stated in the informal review.

The beneficiary appealed to OCHAMPUS. In conjunction with this appeal, the beneficiary submitted a statement from the treating physician. This statement is as follows:

"Patient was admitted after several day period of severe headache with questionable meningismus. Differential includes subarachnoid hemorrhage and CT scan head was procedure of choice."

Prior to rendering a Formal Review Decision, OCHAMPUS submitted the case file to the Colorado Foundation for Medical Care for medical review. The case file was reviewed by two physicians, both with specialties in occupational medicine and internal medicine. The results of this medical review, in response to the questions propounded by OCHAMPUS, were as follows:

"CASE PROBLEM

"This 19-year old patient had headaches over one week duration and was hospitalized for three days at which time she underwent a CT scan. The case was referred for medical review to determine if the CT scan and hospitalization were medically necessary.

"PEER REVIEW RECOMMENDATIONS

"1. Was the CT scan procedure consistent with the preliminary diagnosis or symptoms?

"No. A one week history of headaches is not sufficient justification to order a CT scan without neurologic signs or symptoms. One week is not longstanding.

"2. Does the file indicate that other non-invasive and less costly means of diagnosis were attempted but were not appropriate?

"Laboratory screening and paranasal sinus exam were done and were negative.

"3. Given the diagnosis, what other tests could have been attempted or what other treatment would have been considered more appropriate, if any?

"None. The patient's headaches resolved over a period of 24 hours with Nortriptyline and Vicodin. Headaches were apparently decided to be stress related.

"4. Does the file substantiate that the CT scan was medically necessary?

"No. The CT scan was reportedly done to rule out an intracranial mass, but there was no documentation of signs or symptoms suspicious of an intracranial mass.

"5. Was it medically necessary to admit the patient to the hospital for the diagnostic test? Would outpatient care have been appropriate?

"The case file does not document that it was medically necessary to admit this patient to a hospital for diagnostic testing and treatment. Diagnosis and treatment could have been done as an outpatient in this case with the information furnished.

"6. Was inpatient hospitalization the appropriate level of care?

"No. It appears that outpatient treatment would have been appropriate for this patient."

Based on the opinions of the medical reviewers, the Formal Review Decision found that the inpatient hospitalization from February 25, 1983, to February 28, 1983, was not medically necessary, was above the appropriate level of care, and was not an authorized CHAMPUS benefit. In addition, the Formal Review Decision also

found that the CT scan and the services of the radiologist were not medically necessary nor appropriate for the beneficiary's diagnosis and symptoms and, thus were not authorized for CHAMPUS cost-sharing. Because this decision determined that the hospitalization from February 25, 1983, to February 28, 1983, was not medically necessary nor provided at an appropriate level of care, the fiscal intermediary was instructed to initiate recoupment of the hospital claim in the amount of \$876.75.

The sponsor appealed the Formal Review Decision and requested a hearing. With that request, the sponsor provided additional information from the treating physician as follows:

"This is in reply to your letter dated October 14, 1983 with regard to the admission of [the beneficiary]. This patient was admitted at the time with severe headache, marked nausea and vomiting, photophobia and increasing severity of the headache. She was unresponsive to the usual medications. Although it was felt at the time that the patient was experiencing vascular type headaches, with the progressive severity of the headaches just prior to admission, as noted by the out-patient note, and the rather acute intensity of the headache the preceding 24 hours prior to determination of need for admission, it was felt that a CT scan was indeed in order at the time.

"Subarachnoid hemorrhages may or may not be accompanied by a myriad of focal and nonfocal symptoms. With regard to the reviewers that apparently have decided that this admission was not indicated, I feel that they are obviously not well versed in neurological disease. I refer you to Harrison's Textbook of Medicine and, I quote, 'Change in mental status in absence of warning symptoms, may occur with minor leakage from aneurysm which may precede devastating rupture by a few days or weeks. Headache is the chief sign of such an event. There maybe, in some instances, a transitory unilateral weakness, numbness, tingling, or speech disturbance. Gross lateralizing signs in the form of hemiplegia, hemiparesis, or aphasia are absent in the majority of cases.'

"I feel that this determination is grossly in error and I do not feel that this decision is based on state of the art care of the patient. Nor do I agree in anyway whatsoever with this decision by this panel. I have

reviewed this chart with the board certified radiologist at our hospital who agrees 100% with our indications for performing the CT scan at that time."

The additional medical information provided to OCHAMPUS was forwarded to the Colorado Foundation for Medical Care for medical review and was reviewed by one of the original reviewing physicians. In his supplemental review, this physician opined as follows:

"If you look at the hospital discharge summary, the physician states this female is complaining of headaches over a 1 week duration and subsequent evaluation in the office failed to relieve headaches after beginning Inderal. The patient had a positive history of questionable migraine headaches. The patient at the time of admission was on Nortriptyline for a history of depression. He also said that over a period of 24 hours, the headache resolved, and that is all he says. It does not say whether it was severe or not severe or anything else. Although the doctor seemed to use the right words to indicate CT scan appropriateness in his letter of November 14, 1983 (i.e. that she had increasing severity of headaches), it is not documented in the hospital records. Neither the physician in his final case summary indicated that there was any increase in severity nor do the nurses' notes indicate that the patient had other than mild headache; they state she was resting comfortably, no acute distress, and her appetite was good. The doctor's after-the-fact assertions were in conflict with the records made at the time the care was provided. After reviewing the doctor's after-the-fact assertions and after comparing them with the original hospital records, my peer review recommendations on the document dated September 9, 1983 remain unchanged."

A hearing was held by Valentino D. Lombardi, Hearing Officer, on December 16, 1983. The Hearing Officer has submitted his Recommended Decision and all prior levels of administrative reviews have been exhausted. Issuance of a FINAL DECISION is proper.

#### ISSUES AND FINDINGS OF FACTS

The primary issue in this appeal is whether the inpatient care received at St. Peters Community Hospital from February 25, 1983, through February 28, 1983, is authorized care under

CHAMPUS. In resolving this issue it must be determined (1) whether the care rendered during the period in issue is medically necessary and provided at the appropriate level of care; (2) whether the use of computed tomography (CT) scan for the diagnosis of the beneficiary is excluded from CHAMPUS cost-sharing; and (3) whether the hospital admission was an excluded diagnostic admission.

Medical Necessity/Appropriate Level of Care

The Department of Defense Appropriation Act, 1983, Public Law 97-377, prohibits the use of CHAMPUS funds for ". . . any service or supply which is not medically or psychologically necessary to prevent, diagnose, or treat a mental or physical illness, injury or bodily malfunction as assessed or diagnosed by a physician, dentist, [or] clinical psychologist. . . ." This restriction has consistently appeared in each subsequent Department of Defense Appropriation Act.

The CHAMPUS regulation, DoD 6010.8-R, is consistent with the above statutory limitation by defining the scope of CHAMPUS benefits in chapter IV, A.1., as follows:

"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. . . ."

The CHAMPUS regulation, DoD 6010.8-R, chapter II, B.104., defines "Medically Necessary" as:

". . . the level of services and supplies (that is frequency, extent, and kinds) adequate for the diagnosis and treatment of illness or injury. . . . Medically necessary includes the concept of appropriate medical care."

The Regulation also defines "Appropriate Medical Care" in chapter II, B.14., in part as:

"a. That medical care where the medical services performed in the treatment of a disease or injury, . . . are in keeping with the generally acceptable norm for medical practice in the United States.

\*

\*

\*

c. The medical environment in which the medical services are performed is at the level adequate to provide the required medical care."

Finally, the CHAMPUS regulation specifically excludes from CHAMPUS coverage in DoD 6010.8-R, chapter IV, G.3.:

"Institutional Level of Care. Services and supplies related to inpatient stays in hospitals or other authorized institutions above the appropriate level required to provide necessary medical care."

Under the statutory and regulation provisions cited above, the inpatient care in question must be found to be medically necessary (essential) for the care and treatment of a diagnosed condition.

Based on an examination of the medical records in the case file, including the physician's progress notes and the nurses' notes, the supplemental material provided by the treating physician, the medical reviews conducted under the auspices of the Colorado Foundation for Medical Care, and the testimony provided at the hearing, the Hearing Officer concluded that the period of hospitalization from February 25, 1983, through February 28, 1983, was not medically necessary nor provided at the appropriate level of care. As indicated by the Hearing Officer, the testing performed at the hospital could have been accomplished while the beneficiary was an outpatient. The Hearing Officer concluded that the case file did not document that it was medically necessary to admit the beneficiary to the hospital for diagnostic testing and treatment.

A thorough review of the hearing file of record leads me to agree with the Hearing Officer's conclusions and findings. Although the hearing file indicates that the beneficiary was suffering major depression prior to the admission (as substantiated by the sponsor at the hearing to the effect that the beneficiary suffered severe mental depression 2 years prior to the admission and the headaches were so severe that the beneficiary would cry), I am persuaded by the findings and conclusion of the Hearing Officer. The Hearing Officer recommends the hospitalization for the period of February 25, 1983, to February 29, 1983, be denied CHAMPUS coverage because it was not medically necessary in the treatment of this patient and was above the appropriate level of care. I agree with the Hearing Officer's recommendation and adopt it as my decision. It appears that the beneficiary could have received the diagnostic tests on an outpatient basis. Specifically, I find that the record fails to document that this beneficiary required an inpatient hospital setting for the diagnostic tests and that the record fails to document the medical necessity and the appropriateness of the inpatient care at St. Peters Community Hospital from February 25, 1983, to February 28, 1983. Further, I find that the record documents

that the patient, during this period of hospitalization, was sufficiently ambulatory and able to function outside the controlled environment of an acute hospital setting. While this beneficiary may have required some diagnostic testing and treatment, inpatient care in this hospital for this period was not essential for the care of the patient or the treatment of the patient's medical condition and was above the appropriate level of care. As opined by the reviewing physicians, the patient could have been cared for on an outpatient basis during this period of hospitalization.

#### Computed Tomography (CT) Scanning

The CHAMPUS regulation, DoD 6010.8-R, chapter IV, E.14.a. and OCHAMPUS Instruction 6010.3 set forth the criteria under which CHAMPUS will cost-share CT scans. These requirements provide as follows:

#### "14. Computed Tomography (CT) Scanning

"a. Approved CT Scan Services. Benefits may be extended for medically necessary CT scans of the head or other anatomical regions of the body when each of the following conditions are met:

"(1) The patient is referred for the diagnostic procedure by a physician; and

"(2) The CT scan procedure is consistent with the preliminary diagnosis or symptoms; and

"(3) Other noninvasive and less costly means of diagnosis have been attempted or are not appropriate; and

"(4) The CT scan equipment is licensed or registered by the appropriate State agency responsible for licensing or registering medical equipment which emits ionizing radiation; and

"(5) The CT scan equipment is operated under the general supervision and direction of a physician; and

"(6) The results of the CT scan diagnostic procedure are interpreted by a physician.

"b. Review Guidelines and Criteria. The Director, OCHAMPUS, or designee, will issue specific guidelines and criteria for CHAMPUS coverage of medically necessary head and body part CT scans."

With respect to the regulation requirements for CHAMPUS cost-sharing of CT scan procedures, I agree with the findings of the Hearing Officer. In my opinion the treating physician did not attempt (or did not document) other noninvasive and less costly means of diagnosis and did not document that a CT scan was consistent with the diagnosis or symptoms of the beneficiary. The medical history available to the treating physician was not sufficient to warrant a CT scan of the head without neurological signs and symptoms. Therefore, because these regulation requirements were not satisfied, CHAMPUS cost-sharing of the CT scan and the related services of the radiologist interpreting that CT scan are not authorized.

#### Diagnostic Admissions

The CHAMPUS Regulation, DoD 6010.8-R, chapter IV, G.4., specifically excludes from CHAMPUS coverage:

"Diagnostic Admission. Services and supplies related to an inpatient admission primarily to perform diagnostic tests, examinations, and procedures that could have been, and routinely are, performed on an outpatient basis.

"NOTE. If it is determined that the diagnostic x-ray, laboratory and pathological services and machine tests performed during such admission were medically necessary and would have been covered if performed on an outpatient basis, CHAMPUS benefits may be extended for such diagnostic procedures only, but cost-sharing will be computed as if performed on an outpatient basis."

After my review of the medical records, the medical reviews conducted by the Colorado Foundation for Medical Care, and the material provided at the hearing, I concur with the opinions of the medical reviewers and the finding of the Hearing Officer to the effect that the inpatient admission in this case was primarily to perform diagnostic tests, examinations, and procedures that could have been, and routinely are, performed on an outpatient basis. Therefore, under the Diagnostic Admission exclusion in the CHAMPUS regulation, I find that CHAMPUS cannot cost-share benefits for such diagnostic procedures which could have been performed on an outpatient basis. However, if the beneficiary had been able to furnish documentation substantiating that any of the charges denied as a result of this FINAL DECISION were medically necessary and would have been covered if performed on an outpatient basis, then CHAMPUS could have cost-shared those services on an outpatient basis. However, as previously determined in this FINAL DECISION, the beneficiary's diagnostic tests (i.e., CT scan) did not meet the criteria for CHAMPUS coverage. Accordingly, the supplies and services related to the

inpatient admission are denied CHAMPUS cost-sharing even on an outpatient basis.

SECONDARY ISSUE

Services Related to Noncovered Hospitalization

As previously noted, DoD 6010.8-R, chapter IV, G.3., specifically excludes from CHAMPUS coverage:

" . . . Services and supplies related to inpatient stays in hospitals or other authorized institutions above the appropriate level required to provide necessary medical care."

Having determined that the beneficiary's hospitalization from February 25, 1983, to February 28, 1983, was not medically necessary and was above the appropriate level of care, all services and supplies, including physician care, related to that period of hospitalization are also excluded from CHAMPUS coverage. The record is silent as to processing of CHAMPUS claims for services/supplies related to this period of hospitalization; therefore, the Director, OCHAMPUS, is directed to review the claims records and, if necessary, take appropriate action under the Federal Claims Collection Act to recover any erroneous claims payments.

SUMMARY

In summary, it is the FINAL DECISION of the Assistant Secretary of Defense (Health Affairs) that the inpatient care at St. Peters Community Hospital for the dates February 25, 1983, to February 28, 1983, be denied CHAMPUS cost-sharing as the inpatient care was not medically necessary, was above the appropriate level of care, and was a diagnostic admission which is excluded from CHAMPUS coverage. Therefore, the claims for hospitalization for this period are denied. Further, the claim for the radiologist service is also denied as a service directly related to a noncovered service. Finally, the case is returned to the Director, OCHAMPUS, for review and, if necessary, appropriate action under the Federal Claims Collection Act to recover any erroneous payments of services related to the medically unnecessary period of hospitalization and noncovered diagnostic test. Issuance of this FINAL DECISION completes the administrative appeals process under DoD 6010.8-R, chapter X, and no further administrative appeal is available.

  
William Mayer, M.D.