



ASSISTANT SECRETARY OF DEFENSE  
WASHINGTON, D.C. 20301

HEALTH AFFAIRS

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

27 NOV 1984

Appeal of )  
Sponsor: ) OASD(HA) Case File 84-27  
SSN: ) FINAL DECISION

This is the FINAL DECISION of the Assistant Secretary of Defense (Health Affairs) in the CHAMPUS appeal OASD(HA) Case File 84-27 pursuant to 10 U.S.C. 1071-1092 and DoD 6010.8-R, chapter X. The appealing party is the CHAMPUS beneficiary, the spouse of an officer of the United States Army. The appeal involves the denial of CHAMPUS cost-sharing of a cardiac rehabilitation program undergone at Saint Luke's Hospital, St. Louis, Missouri, from July 11, 1983, to August 5, 1983. The amount in dispute is \$678.00, less the beneficiary's 20 per cent cost-share.

The hearing file of record, the Hearing Officer's Recommended Decision, and the Analysis and Recommendation of the Director, OCHAMPUS, have been reviewed. It is the Hearing Officer's recommendation that the CHAMPUS denial of cost-sharing of the beneficiary's participation in the cardiac rehabilitation program be upheld. The Director, OCHAMPUS, concurs with the Hearing Officer's Recommended Decision and recommends its adoption by the Assistant Secretary of Defense (Health Affairs) as the FINAL DECISION.

The Assistant Secretary of Defense (Health Affairs), after due consideration of the appeal record adopts and incorporates by reference the Hearing Officer's Recommended Decision as the FINAL DECISION.

In my review, I find the Recommended Decision adequately states and analyzes the primary issue, applicable authorities, and evidence in this appeal. The finding by the Hearing Officer that the cardiac rehabilitation program was not medically necessary is fully supported by the facts of record and is consistent with prior decisions of this office. Additional factual and regulation analysis is not required.

This office in eight prior appeals has addressed the issue of CHAMPUS coverage of cardiac rehabilitation programs. In OASD(HA) Case Files 20-79, 01-81, 83-16, 83-17, 83-41, 83-43, 83-45, and 83-46 claims for CHAMPUS cost-sharing of participation

in a cardiac rehabilitation program were denied. These prior FINAL DECISIONS, in considerable detail, analyze and explain the reasons that participation in a cardiac rehabilitation program is not cost-shared under CHAMPUS. The beneficiary in this appeal has raised no new issues and has not provided any new medical evidence not previously considered. The prior FINAL DECISIONS on cardiac rehabilitation are controlling. The appeal is denied, and the care is denied CHAMPUS cost-sharing.

SUMMARY

In summary, the FINAL DECISION of the Assistant Secretary of Defense (Health Affairs) is to deny CHAMPUS cost-sharing of the beneficiary's participation in a cardiac rehabilitation program from July 11, 1983, through August 5, 1983. The care has not been demonstrated to be medically necessary. Issuance of this FINAL DECISION completes the administrative appeal process under DoD 6010.8-R, chapter X, and no further administrative appeal is available.

~~SECRET~~

William Mayer, M.D.

RECOMMENDED DECISION  
Claim for CHAMPUS Benefits  
Civilian Health and Medical Program of the  
Uniformed Services (CHAMPUS)

Appeal of \_\_\_\_\_ )  
Sponsor, Colonel \_\_\_\_\_ Retired) RECOMMENDED DECISION  
Sponsor's SSN: \_\_\_\_\_ )

This is the Recommended Decision of the CHAMPUS Hearing Officer, Don F. Wiginton, in the CHAMPUS appeal of \_\_\_\_\_, and is authorized pursuant to 10 USC 1071-1089 and DOD 6010.8-R, Chapter X. The beneficiary is appealing and is represented by her husband and sponsor, Retired Colonel \_\_\_\_\_ pursuant to a written Appointment of Representative. (Exhibit 5) The appeal involves the denial of CHAMPUS cost-sharing for a cardiac rehabilitation program from the period, July 11, 1983 through August 5, 1983 in the amount of Six Hundred Seventy Eight Dollars (\$678.00).

Colonel \_\_\_\_\_ advised OCHAMPUS he desired the hearing be conducted on the record (Exhibit 14) and so notified the hearing officer of his decision, August 9, 1984. (Exhibit 15)

The hearing officer has review the record. It is the OCHAMPUS position stated in the formal review decision dated March 21, 1984 that services provided in connection with the cardiac rehabilitation program are found to have been not medically necessary as specific treatment for cardiac disease, and is therefore excluded from CHAMPUS coverage. (Exhibit 11, page 2)

The hearing officer, after due consideration of the appeal record, concurs in the formal review decision to deny CHAMPUS cost-sharing.

The recommended decision of the hearing officer is, therefore, to deny cost-sharing for expenses in connection with the cardiac rehabilitation program incurred between July 11, 1983 through August 5, 1983 in the amount of Six Hundred Seventy Eight Dollars (\$678.00).

FACTUAL BACKGROUND

The beneficiary, \_\_\_\_\_, underwent open heart surgery in the Spring of 1983. Upon the advice of her physician, Dr. Jorge M. Alergre, she entered the cardiac rehabilitation program at St. Luke's Hospital. (Exhibit 3, page 2)

A claim was submitted for Six Hundred Ninety Five Dollars (\$695.00) for the cardiac rehabilitation services for the period of July 11, 1983 through August 5, 1983 to the fiscal intermediary.

(Exhibit 1) On August 25, 1983 an explanation of benefits was issued by the fiscal intermediary denying the charges as not covered by CHAMPUS. On October 26, 1983, the sponsor requested reconsideration and on December 21, 1983 reconsideration was given in which Seventeen and 50/100 Dollars (\$17.50) for laboratory tests were allowed but the original decision denying cost-sharing for the cardiac rehabilitation program was upheld. (Exhibit 7)

The beneficiary then requested a formal review by OCHAMPUS and a review was given on March 21, 1983 upholding CHAMPUS denial of cost-sharing for the cardiac rehabilitation program as the program was not deemed medically necessary as specific treatment for cardiac disease and therefore excluded from CHAMPUS coverage. (Exhibit 11)

The beneficiary requested a hearing, (Exhibit 12), citing a Stanford University Medical Center study as evidence of the medical benefit of the program. Colonel further states that AMA's "sanction" and the military services' interest in physical fitness is evidence to support the medical necessity of the program. He further provides descriptive information concerning the program and the hospital. (Exhibit 12, page 3-17)

#### ISSUE AND FINDING OF FACTS

The issue in the case is whether the cardiac rehabilitation program, including related services, was medically necessary and part of the generally accepted treatment for cardiac disease.

#### AUTHORITY

CHAMPUS benefits are authorized by Congressional legislation incorporated in Chapter 55 of Title 10, United States Code, and implemented by the Secretary of Defense and the Secretary of Health and Human Services in the Department of Defense Regulation 6010.8-R. Specific regulation provisions pertinent to this case are set forth below.

Chapter IV, subsection A.1., states that subject to any and all applicable definitions, conditions, limitations, and/or exclusions specified or enumerated in the regulation, CHAMPUS will pay for medically necessary services and supplies required in the diagnosis and treatment of illness or injury.

Chapter II, subsection B.104., defines "medically necessary" in part, as the level of services and supplies (that is, frequency, extent and kinds) adequate for the diagnosis and treatment of illness or injury and states that "medically necessary" includes the concept of "appropriate medical care."

Chapter II, subsection B. 14., defines "appropriate medical care,"

in part, as that medical care where the medical services performed in the treatment of a disease or injury are in keeping with the general acceptable norm for medical practice in the United States and specifies that the medical environment in which the medical services are performed must be at the level adequate to provide the required medical care.

Chapter IV, subsection G.1., states that service and supplies which are not medically necessary for the diagnosis and/or treatment of a covered illness or injury are specifically excluded from the CHAMPUS Basic Program.

Chapter IV, subsection G. 45., specifically excludes general exercise programs, even if recommended by a physician and regardless of whether or not rendered by an authorized provider. This subsection also excludes passive exercises, except when prescribed by a physician and rendered by a physical therapist as an integral part of a comprehensive program of physical therapy.

Chapter II, subsection B. 132., defines physical therapy services as the treatment of disease or injury by physical means such as massage, hydrotherapy, or heat.

Chapter II, subsection B. 139., defines preventive care as diagnostic and other medical procedures not directly related to a specific illness, injury, or definitive set of symptoms..., but rather performed as periodic health screening, health assessment, or health maintenance.

Chapter IV, subsection G. 38., specifically excludes preventive care.

Chapter IV, subsection G. 66., specifically excludes all services and supplies related to noncovered treatment.

Chapter IV, subsection G. 75., notes that the fact that a physician may prescribe, order, recommend, or approve a service or supply does not, of itself, make it medically necessary or make the charge an allowable expense, even though it is not specifically listed as an exclusion

The beneficiary has the burden of establishing the medical necessity of the cardiac rehabilitation program. She submits a statement of referral by her physician (Exhibit 3, page 2) and a general program description for St. Luke's cardiac rehabilitation and adult fitness program. (Exhibit 12, page 4-17) The program's description states that "this program provides supervised exercise with teaching available to any individual who desires to improve cardio-vascular fitness in an effort to reduce the risk of coronary disease development". (Exhibit 12, page 7) The exercise program is divided into three phases depending on the amount of monitoring required by the patient. (Exhibit 12, page 8) The program description and pictures show the type of exercise equipment available in spas and health clubs.

There is no medical testimony in the file that this program was necessary for the treatment of the beneficiary's heart disease. The literature describes an educational and exercise program similar to that promoted by many public and private agencies to encourage and improve physical fitness in the general population.

In three previous precedential decisions, the Office of Assistant Secretary of Defense (Health Affairs) has found that the cardiac rehabilitation programs cannot be cost-shared by CHAMPUS (20-79, 01-81 and 83-17). Those decisions denied CHAMPUS cost-sharing finding that the cardiac rehabilitation program was not generally accepted medical practice and therefore not medically necessary nor were they physical therapy programs. They were found to be primarily preventative care and in part an educational program.

Colonel            observed that the military services recently instituted a strict program for physical fitness aimed at the cardio-vascular system. That observation supports the CHAMPUS position that the rehabilitation program is not a specific medical necessity for the treatment of the beneficiary, but rather a general exercise program that would probably benefit anyone. DOD 6010.8-R, Chapter II, G. 45., specifically excludes general exercise programs.

Although the beneficiary referred to a Stanford University Medical Center study conducted in 1981, that test was not submitted in evidence for evaluation by the hearing officer. However, that test, if submitted, could not establish the medical necessity of the rehabilitation program for the beneficiary within the meaning of DOD 6010.8-R. That regulation requires the treatment to be in keeping with the generally acceptable norm for medical practice in the United States. There is no evidence before the hearing officer that cardiac rehabilitation programs have such widespread acceptance. Contrawise, the prior decisions of the Assistant Secretary of Defense for Health Affairs finds that the rehabilitation program is not medically necessary.

#### BURDEN OF THE EVIDENCE


The hearing officer is bound by precedential decisions in considering the evidence in this case. The appealing party has the burden of establishing the medical necessity of the program and presenting evidence to support that conclusion. That burden has not been met in this case.

#### SUMMARY

It is the recommended decision of the hearing officer that the formal review decision dated March 21, 1984 be upheld and that CHAMPUS not cost-share in the cardiac rehabilitation program the beneficiary attended from July 11, 1983 through August 5, 1983. The hearing officer further finds that the cardiac rehabilitation

program is not medically necessary within the meaning of DOD  
6010.8-R, Chapter II, subsection B. 104.

Done this the 21st day of August, 1984.

  
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Don F. Wiginton, Hearing Officer