



ASSISTANT SECRETARY OF DEFENSE

WASHINGTON, D.C. 20301

FEB 26 1985

HEALTH AFFAIRS

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

Appeal of)	
)	
Sponsor:)	OASD(HA) Case File 84-58
)	FINAL DECISION
SSN:)	

This is the FINAL DECISION of the Assistant Secretary of Defense (Health Affairs) in the CHAMPUS Appeal OASD(HA) Case File 84-58 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 a retired member of the United States Army. The appeal involves the denial of CHAMPUS cost-sharing of inpatient hospitalization from June 16 through July 12, 1982, at Webster General Hospital, Eupora, Mississippi, and of ambulance services provided July 12, 1982. The amount in dispute is approximately \$2,400.00.

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 CHAMPUS cost-sharing of the inpatient hospitalization be partially denied and that payment be made at the cost of care in a lower level of care facility in the area. The Hearing Officer also recommended cost-sharing of the ambulance services. He found the inpatient care was provided above the appropriate level of care, but that a lower level of care facility was not available or appropriate, and that the ambulance services were medically necessary.

The Director, OCHAMPUS, partially concurs with the Hearing Officer's Recommended Decision and recommends adoption of the recommendation to cost-share the inpatient care at the cost of care in a lower level of care facility; however, the Director recommends rejection of the recommendation to cost-share the ambulance services as the regulation provision on ambulance services excludes payment.

The Assistant Secretary of Defense (Health Affairs), after due consideration of the appeal record, adopts the recommendation of the Hearing Officer to cost-share the inpatient hospitalization provided from June 16 through July 12, 1982, at the reasonable cost of a lower level of care facility in the general locality, but rejects the recommendation to cost-share the ambulance services. This FINAL DECISION is based on findings

that acute inpatient care after June 15, 1982, was above the appropriate level of care, but no lower level of care facility was available in the general locality, and that the ambulance services were not medically necessary as the beneficiary's condition did not require transportation by an ambulance.

The FINAL DECISION of the Assistant Secretary of Defense (Health Affairs) is, therefore, to partially deny cost-sharing of the inpatient care for June 16 through July 12, 1982, as provided above the appropriate level of institutional care, to approve the cost-sharing of this care at the reasonable cost of a lower level of care facility in the general locality, and to deny cost-sharing of the ambulance services provided on July 12, 1982, as not medically necessary.

FACTUAL BACKGROUND

The beneficiary was admitted to Webster General Hospital on June 1, 1982, with symptoms of nausea, vomiting, fever, and pain in her left leg and knee. At admission, the beneficiary complained of an area in her leg which had been abraded by a brace which she had worn for several years following an automobile accident in which she suffered a severe fracture of the left tibia with overriding of the bones. The beneficiary was also confined to a wheelchair due to rheumatoid arthritis. Inpatient treatment included excision and drainage of a fluctuant area in her left leg, left knee and ankle and medication for infection. X-rays revealed no osteomyelitis. Swelling and tenderness of the knee subsided during the hospitalization, but the ankle continued to drain at discharge. The beneficiary was discharged to home on July 12, 1982, and transported by ambulance.

A CHAMPUS claim in the amount of \$4,765.90 was submitted which included a \$50.00 charge for the ambulance services. The CHAMPUS fiscal intermediary initially determined 30 days of inpatient care was medically necessary but denied the remaining inpatient care as provided above the appropriate level. The ambulance service was denied cost-sharing. The OCHAMPUS Formal Review Decision found only 15 days of inpatient care was medically necessary and that care from June 16 through July 12, 1982, was provided above the appropriate level of care and excluded from coverage. The Formal Review also found the ambulance services were not medically necessary. The beneficiary, through an attorney, appealed and requested a hearing. By agreement of the parties, the hearing was held on the record with personal appearances waived. The Hearing Officer, Harold H. Leeper, has submitted his Recommended Decision and issuance of a FINAL DECISION is proper.

ISSUES AND FINDINGS OF FACT

The primary issues in this appeal are (1) whether the inpatient hospitalization from June 16 through July 12, 1982, was provided at the appropriate level of care, and if not, whether a

lower level of care facility was available in the general locality and (2) whether the ambulance services were medically necessary?

APPROPRIATE LEVEL OF CARE

Under the Department of Defense regulation governing CHAMPUS, DoD 6010.8-R, chapter IV, B.1.g. provides:

"Inpatient: Appropriate Level Required. For purposes of inpatient care, the level of institutional care for which Basic Program benefits may be extended must be at the appropriate level required to provide the medically necessary treatment. If an appropriate lower level care facility would be adequate but is not available in the general locality, benefits may be continued in the higher level care facility but CHAMPUS institutional benefit payments shall be limited to the reasonable cost that would have been incurred in the appropriate lower level care facility, as determined by the Director, OCHAMPUS (or a designee). If it is determined that the institutional care can reasonably be provided in the home setting, no CHAMPUS institutional benefits are payable."

Services and supplies related to inpatient stays in hospitals above the appropriate level required to provide necessary care are excluded from CHAMPUS coverage. (DoD 6010.8-R, chapter IV, G.3.)

The Hearing Officer found the inpatient care "between June 15 and July 12, 1982" was not provided at the appropriate level of care as care could have been provided in a skilled nursing facility. He based his finding on OCHAMPUS medical reviews and the statement of the attending physician that the beneficiary could have been transferred to a convalescent home sometime during her hospitalization. I concur in and adopt the Hearing Officer's finding on this issue. The record does not establish that the care received in the hospital from June 16 through July 12, 1982, could not have been provided at a lower level of care, a skilled nursing facility. The course of treatment after June 15, 1982, was observation, bed rest, medication, and wound care. These services are routinely performed in a skilled nursing facility.

The Hearing Officer also recommended cost-sharing of the inpatient hospitalization from June 16 through July 12, 1982, at the rate of a skilled nursing facility in the area. I agree with this recommendation, but find the Hearing Officer's analysis does not fully discuss this issue and makes an erroneous finding. Therefore, additional factual and regulation discussion is

required on the issue of whether a skilled nursing facility was available in the general locality.

The record establishes skilled nursing facility placement was not available in Eupora, Mississippi, during June/July 1982. The statement from the administrator of the Eupora Health Care Center documents no beds were available in that facility. According to the evidence of record, the nearest skilled nursing facility to Eupora, Mississippi, is Winona Manor, Winona, Mississippi. This facility is approximately 35 miles from Eupora, Mississippi; however, Winona, Mississippi, appears on published maps to be approximately 20 miles from the beneficiary's residence. In his initial Recommended Decision, the Hearing Officer found that placement in Winona Manor would not have been appropriate. The finding is apparently based on a statement from the attending physician that the beneficiary could not travel to and from her home to his office each day for examination. The Hearing Officer extended the physician's statement to include travel from the facility in Winona, Mississippi. The physician gives no rationale for his conclusion, but it is apparently based on the beneficiary's confinement to a wheelchair due to arthritis. The physician's statement and the Hearing Officer's conclusion are erroneously based on premises that a wheelchair-bound patient cannot travel to and from office visits and that convenience to either the beneficiary and/or the physician is a factor in medical necessity. Neither premise is correct. Wheelchair-bound individuals routinely travel in many forms of transportation and a physician could visit the beneficiary either in her home or a skilled nursing facility. If the attending physician did not wish to treat the beneficiary in a skilled nursing facility 35 miles from his office, the beneficiary's post-hospitalization care could have been transferred to a physician who routinely practices at the facility. In either event, mere convenience to a beneficiary or a physician is not a factor in determining whether care is medically necessary.

For these reasons, I reject the Hearing Officer's conclusion that care in Winona Manor would not have been appropriate. However, OCHAMPUS requested the Hearing Officer reopen the record after the hearing to receive evidence on whether Winona Manor would have admitted the beneficiary during the period in issue. A statement was submitted for the record by the administrator of Winona Manor that the facility is always filled to capacity and has a six-month waiting list (Exhibit 31). The Hearing Officer's Supplementary Recommended Decision found the beneficiary could not have been admitted to Winona Manor during the period June 16 through July 12, 1982. Based on the additional evidence, I concur in this finding. The Hearing Officer's conclusion that Winona Manor was not appropriate for the beneficiary, rejected above, is, therefore, not required for a decision in this appeal. I do note, however, that a facility within 20 miles of the beneficiary's home would be considered by this office as within the general locality for purposes of DoD 6010.8-R, chapter IV, B.1.g.

As the evidence establishes that care in a skilled nursing facility was not available during June 16 through July 12, 1982, I find DoD 6010.8-R, Chapter IV, B.1.g. to be applicable to this appeal and that CHAMPUS may cost-share the claims for care during June 16 through July 12, 1982, at Webster General Hospital at the cost of care at the Eupora Health Care Center, Eupora, Mississippi.

AMBULANCE SERVICE

DoD 6010.8-R, chapter IV, D.3.e., provides CHAMPUS coverage of ambulance services if the services meet the following criteria:

"e. Ambulance. Local professional ambulance service to, from and between hospitals when medically necessary and in connection with otherwise covered services and supplies and a covered medical condition. For the purpose of CHAMPUS, ambulance service is always an outpatient service (including in connection with maternity care). A professional ambulance means a specifically designed and equipped land vehicle which contains at a minimum a stretcher, linens, first aid supplies, oxygen equipment and such other lifesaving equipment required by state law or applicable local law, and manned by personnel trained to render first aid treatment.

"(1) Voluntary ambulances or such vehicles as medicabs and ambicabs do not qualify for benefits for the purpose of CHAMPUS.

"(2) Local service shall be that for which the reasonable charge does not exceed one hundred dollars (\$100.00). Any professional ambulance service which exceeds that amount is considered long distance ambulance service and benefits are not available except as described in Subparagraph D.3.e.(f) of this CHAPTER IV.

"(3) Ambulance service cannot be used in lieu of taxi service and is not payable when the patient's condition would have permitted use of regular private transportation; nor is it payable when transport or

transfer of a patient is primarily for the purpose of having the patient nearer to home, family, friends and/or personal physician.

"(4) Exceptional circumstances where the charge may exceed one hundred (\$100) dollars and the ambulance service may still be considered for benefits under this Section are limited to the following:

"(a) The patient is being transported from a rural or remote area to the nearest hospital for treatment; or

"(b) The patient is being transferred from one hospital which does not have the necessary facilities to treat the patient, to the nearest hospital which does have the necessary facilities.

"(5) * * * ."

The Hearing Officer found that transportation of the beneficiary from the hospital to her home by ambulance was the only available choice due to the beneficiary's physical condition. The only limiting physical condition that the physician and the Hearing Officer stated and that is evidenced in the record is the beneficiary's confinement to a wheelchair. The Hearing Officer consulted a road atlas indicating the population of Eupora, Mississippi, was 1,792 and concluded a town of that size was unlikely to have an ambicab or other intermediate level of transportation that would have transported a wheelchair. He also concluded that the beneficiary could not be transported in a passenger vehicle. Based on these conclusions, the Hearing Officer concluded that transportation in an ambulance was necessary and should be cost-shared by CHAMPUS.

Based on the above cited authority and the facts in this appeal, I find the Hearing Officer's findings and conclusion to be contrary to the CHAMPUS regulation requirements for cost-sharing of ambulance services. First, as recognized by the Hearing Officer, a professionally staffed ambulance with lifesaving equipment was not required for the beneficiary. Secondly, the record does not establish that a wheelchair-bound person could not be transported in a passenger vehicle as such handicapped persons are routinely transported. Finally, the existence or non-existence of an intermediate-level of transportation is not relevant. The issue is whether the beneficiary would be transported safely by a means other than an ambulance, or whether the equipment of an ambulance was required.

The Hearing Officer recognized an ambulance was not required. If not required, the services were transportation only and do not come within the regulation provisions for coverage. Therefore, I reject the Hearing Officer's finding that the ambulance services are covered benefits and find the ambulance services are excluded from coverage as not medically necessary transportation.

SUMMARY

In summary, the FINAL DECISION of the Assistant Secretary of Defense (Health Affairs) is to authorize cost-sharing of the hospitalization from June 16 through July 12, 1982, at the cost of care during this period at the Eupora Health Care Center, Eupora, Mississippi, a skilled nursing facility. This decision is based on findings that hospitalization was above the appropriate level of care, but that no lower level of care facility, a skilled nursing facility in this appeal, was available in the general locality during the period in issue. Further, I find cost-sharing of the ambulance charges are denied as an ambulance was not medically necessary within applicable regulation provisions and constitutes noncovered transportation.

As the record reflects the fiscal intermediary cost-shared a period of hospitalization subsequent to June 15, 1982, the Director, OCHAMPUS, is directed to offset these erroneous payments from the cost of skilled nursing care authorized by this decision. Issuance of this FINAL DECISION completes the administrative appeal process under DoD 6010.8-R, chapter X, and no further appeal is available.

William Mayer, M.D.
William Mayer, M.D.

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

REC DEC
24-58

BENEFICIARY:)
SPONSOR:) RECOMMENDED
SSN) DECISION

This is the Recommended Decision of CHAMPUS Hearing Officer Harold H. Leeper in the CHAMPUS Appeal Case identified above and is authorized pursuant to DOD Regulation 6010.8-R. The appeal involves the denial of CHAMPUS cost-sharing for hospital treatment for the Beneficiary between June 15 and July 12, 1982, and ambulance charges incurred on July 12, 1982. The amount in dispute is in the neighborhood of \$1,900.00.

Upon presentation of the original hospital claim, the Fiscal Intermediary approved care for the first thirty days of the Beneficiary's hospitalization, but denied CHAMPUS cost-sharing for the remainder of her stay, on the ground that further care in an inpatient hospital was not medically necessary, and also denied the ambulance charge. The Sponsor requested reconsideration, which affirmed the denial. He requested OCHAMPUS to conduct a Formal Review; the medical file was referred to peer reviewers for a professional opinion as to the necessity for hospitalization during the period of her treatment. The peer reviewers found that only 15 days of hospitalization were warranted, and disagreed with the Fiscal Intermediary's approval of the second 15 days. OCHAMPUS adopted the opinion of the peer reviewers, and instructed the Fiscal Intermediary to recoup the 15 days coverage it had erroneously paid. The Sponsor requested a hearing.

OCHAMPUS assigned the case to the undersigned to conduct a hearing. The hearing was scheduled to be held in Walthall, Mississippi on April 26, 1984. After telephonic discussions between the attorneys and the Hearing Officer, Counsel for the Sponsor withdrew his request for a hearing, with the understanding that the Hearing Officer would receive additional documentary evidence which he would furnish within 30 days, and then would render a Recommended Decision based on the documentary evidence in the record. The additional evidence was received with appropriate comments thereon by both Counsel.

ISSUES

The specific issues before the Hearing Officer are: (1) Whether inpatient hospitalization in an acute care general hospital was the appropriate level of care for the Beneficiary after June 15, 1982; and (2) Whether it was medically necessary to employ an ambulance to transport the Beneficiary to her home following her discharge from the hospital on July 12, 1982.

PERTINENT CHAMPUS REGULATIONS

Department of Defense Regulation 6010.8-R:

Chapter IV.A.1.	Scope of Benefits
Chapter II.B.104	Medically Necessary
Chapter IV.B.14.a	Appropriate Care

Chapter IV.B.1.g.	Inpatient Care; Appropriate Level Required
Chapter IV.G.3.	CHAMPUS Exclusion: Inpatient Care Above the Appropriate Level
Chapter IV.D.3.e.	Ambulance Services
Chapter IV.G.1.	CHAMPUS Exclusion; Not Medically Necessary
Chapter IV.A.10.	Utilization Review

The details and the applicability of the regulatory provisions listed above are described thoroughly in the OCHAMPUS "Statement of Position" (Exhibit 20), pages 3 and 4, and need not be repeated here.

EVIDENCE CONSIDERED

The Hearing Officer has carefully evaluated and considered the evidence contained in the case file, Exhibits 1 through 24; the additional evidence filed by the Counsel for the Beneficiary in Exhibit 25; the legal argument filed by the Counsel for the Beneficiary in Exhibit 25; and the closing statement filed by Counsel for OCHAMPUS in Exhibit 27.

SUMMARY OF THE EVIDENCE

Exhibit 6 is the Discharge Summary dated July 12, 1982, signed by James E. Booth, M.D., FACS, her treating physician and surgeon. It shows that the patient has severe rheumatoid arthritis, with severe deformity of the joints, and "has been in congestive failure." She had been involved in an automobile accident several years before, suffering a severely displaced fracture of the left tibia with overriding of the bones, and had worn a brace on the left leg since that date. Six months before this hospitalization, she was hospitalized for infection of the right foot and ankle joint. On June 1, 1982, she was admitted to Webster General Hospital with pain in the left leg and knee, fever of 103° immediately after admission, caused by the rubbing of the brace on her left leg. A fluctuant area was noticed and this was aspirated and cultured on June 2, and was excised and drained on June 3; the left knee became fluctuant and it was also aspirated, and the culture showed staph epidermis. Although the swelling and tenderness of the knee subsided, the left ankle continued to drain, and both tendons could be seen through the wound in the left ankle. X rays did not show osteomyelitis. The wound was still draining when the Beneficiary was discharged on June 16 and the anterior tibia tendon could still be seen through the wound.

Exhibit 7 is the Report of the Reviewing Physician at the Fiscal Intermediary. Robert S. Long, M.D., had reviewed the file and expressed the opinion "I see nothing going on here clinically after July 1 than was going on during the prior two weeks. I see no advantage of additional hospital level of care necessary beyond July 1, 1982, and uphold the denial."

In Exhibit 8 the Sponsor requested reconsideration, and pointed out that the treatment was considered necessary by Dr. Booth, the treating physician, as was the use of an ambulance to return her to her home.

Exhibit 11 is a letter from Dr. Booth to Mutual of Omaha dated February 3, 1983, describing the patient's condition at the time of admission and throughout her hospitalization. It repeats the information contained in his discharge summary, and he expressed the opinion that "the denial of these charges should be reconsidered and benefits paid." He added, "Due to the unmanageability of this patient it was advisable to discharge her home by ambulance."

In Exhibit 12, the Sponsor states that his wife could not stand or walk a step, in order to leave the hospital, and the "Doctor's orders were for her not to attempt to stand or walk for fear that the tendon in her leg would break under the strain."

Exhibit 13 is a letter from Morgan Brackeen, Esq., of Euphora, Mississippi, who had been retained by Mr. _____ to resolve the denial of this claim. Mr. Brackeen was appealing the initial denial of the claim by the Chief of Appeals and Hearings, and sent the letter to the Director of Contract Management. He was notified by Exhibit 14 that the letter had been referred to Appeals and Hearings for further review.

Exhibit 16 is the Peer Review report of Robert T. Quigley, M.D., and Robert E. Beck, M.D. They expressed the professional opinion that the first two weeks of her hospital stay were at the appropriate level of care, but that the last four weeks of hospital stay were above the appropriate level of care. They believed that all the services and supplies were medically necessary in the treatment of the patient's wound infection. They concluded, "On the basis of the description of the treatment provided to the patient, a transfer to a skilled nursing facility would appear to have been appropriate after two weeks. The patient continued to require nursing care, but no longer required acute care." As to the medical necessity for the patient to have been sent home by ambulance, they said, "With the information the patient's physician furnished on the nature of the wound and the patient's problem with ambulation, it is our opinion that it was appropriate and necessary to transport the patient by ambocab or other type of wheelchair conveyance."

Exhibit 17 is the Formal Review decision of OCHAMPUS, holding that CHAMPUS benefits could be extended for inpatient care from June 1 through 15, 1982, but that acute hospital care provided her from June 15, 1982, through discharge date of July 12, 1982, was not medically necessary, nor was the care provided at the appropriate level. It further held the \$50.00 ambulance cost for transporting the patient from the hospital to her home was not a benefit which CHAMPUS could cost-share. The Fiscal Intermediary was instructed to recoup the erroneous payment for the inpatient hospitalization for the period June 16 to June 30, 1982.

Exhibit 18 is Mr. Brackeen's request for a hearing on behalf of the beneficiary.

Exhibit 25 is Mr. Brackeen's letter of June 12, 1984 transmitting statements from:
A. Gerald Gary, Administrator of Eupora Health Care Center, stating that, "The facility is always filled to capacity, and we have quite a lengthy waiting list. It usually takes approximately two years from the time application is made until the actual admission of the patient."

B. James E. Booth, M.D., FACS, furnishing his professional opinion on the three questions which had been propounded to the peer reviewers, and furnishing additional information on the basis of which he reached his opinion. As to the question of whether an inpatient hospital stay was the appropriate level of care and the treatment of choice, he said the record shows that at the time of discharge, the left ankle continued to drain with the anterior tibial tendon still exposed in the wound, and he thought it necessary to continue observing this wound daily. He furnished photographs of the Beneficiary, indicating her rheumatoid arthritis condition and deformity of joints, and said, "It would have been impossible for Mrs. _____ to ride back and forth from her home in an automobile for daily check-up at my office. We do have a convalescence home in Eupora, but the convalescence home is full and has a long waiting list and it was impossible to get this patient in a convalescence home here at that time." As to the appropriate length of stay, he

said, "The patient could have been transferred to a convalescence home sometime during her period of stay at Webster General Hospital if a convalescence home had been available, but since it was not, and she was unable to travel back and forth from her home to be treated as an outpatient, it was elected to keep her in the hospital from June 1 through July 12, 1982." As to the medical necessity for the patient to have been sent home by ambulance, he said she had been confined to a hospital bed at home and a wheel chair for a long time because of her arthritic deformities, and the photographs show that she was not physically able to travel back and forth to a doctor's office by private automobile; thus it was medically necessary and appropriate for her to have been sent home by ambulance.

Exhibit 27 is OCHAMPUS' comments on the evidence submitted by the Sponsor's attorney in Exhibit 25. He argued that Dr. Booth's statement that the patient could have been transferred to a convalescent home at some time during her stay at the Webster General Hospital, if a convalescent home had been available, established that a portion of the hospitalization constituted treatment rendered above the appropriate level of care. Dr. Booth pointed out that a lower level facility was not available, and this was supported by Mr. Gary's letter that his facility was full. He referred to Subparagraph B.1.g. of Chapter IV of the Regulation which states, "If an appropriate lower level facility would be adequate but is not available in the general locality, benefits may be continued at the higher level care facility, but...payment shall be limited to the reasonable cost that would have been incurred in the appropriate lower level facility..." He pointed out that another skilled nursing facility was located in Winona, Mississippi, approximately 35 miles from Eupora, but that no evidence was presented as to whether any effort was made to secure admission to this facility or whether bed space existed there during the period in question. He also stated that the phrase "general locality" had not been interpreted in any earlier case. He said if the phrase, "general locality" is deemed not to extend to 35 miles, then CHAMPUS benefits could be approved at the appropriate lower level rates, as Dr. Booth and the peer reviewers indicated that after two weeks a skilled nursing facility would have been the appropriate level of care. He disagreed with Dr. Booth's position that the Beneficiary required an ambulance when she was discharged home, as there was very little evidence which demonstrated that she was incapable of being transported by private automobile, but even if so, an ambocab or other conveyance capable of accommodating a wheel chair would have sufficed, and "there is simply no evidence to suggest that the life-saving emergency equipment or professional personnel which distinguish a professional ambulance service were medically required."

EVALUATION OF THE EVIDENCE

After considering Dr. Booth's latest letter, it is clear that there is no significant difference in the opinions of the physicians as to the need for inpatient hospitalization after June 15. Dr. Booth agrees with the peer reviewers that she could have been properly treated at a skilled nursing facility. The remaining question is the availability of an appropriate skilled nursing facility.

The administrator of the local Health Care Center has established that his facility was full and had a two-year waiting list. In view of the need for the Beneficiary to be seen by Dr. Booth on a daily basis, at least during the entire period of the six weeks she was hospitalized at Webster, it is obvious that it would not have been appropriate for her to have been placed in a skilled nursing facility 35 miles away. Accordingly, the Hearing Officer concludes that it was not necessary for the Sponsor to have attempted to have placed his wife in the Winona SNF between June 16 and July 12, 1982.

As to the medical necessity for utilizing an ambulance to transport the Beneficiary from the hospital to her home, no evidence was presented by either side as to availability of a lesser level of transportation, such as an ambocab or other equipment which would handle a wheel chair. A Rand McNally Road Atlas dated 1981 indicates that the population of Eupora in the 1980 census was 1,792. It appears extremely unlikely that a town of this size would have an ambocab or other intermediate-level of transportation available for persons who were unable to use private conveyance to travel from the hospital to their homes. In this case, clearly a professionally staffed ambulance with life-saving equipment was not required, but was probably the only available choice, considering the treating physician's description of Beneficiary's physical condition at the time for her discharge from the hospital.

RATIONALE

The Hearing Officer concludes that the evidence furnished by the Sponsor meets his burden of proving that the skilled nursing facility in Eupora was not available at the time his wife should have been discharged from Webster General Hospital on June 15, 1982, and that her physical condition was so serious as to preclude her being assigned to another skilled nursing facility 35 miles away; thus, it was unnecessary to make inquiry as to the availability of services at the Winona SNF. The DOD Regulation provides a reasonable accommodation for situations such as this, where CHAMPUS beneficiary does not require inpatient hospital care, but a lesser level of care is not available. In such cases, the Regulation permits cost-sharing for the reasonable cost of the patient's treatment in a skilled nursing facility.

The question of appropriateness of the ambulance charges is more difficult to resolve. Given the facts of the case, the Hearing Officer concludes that great weight must be given to the opinion of the Beneficiary's treating physician, in whose professional opinion the condition of the Beneficiary's leg was such that she could not be transported in a passenger vehicle and that it was necessary for her to be returned to her home by an ambulance.

FINDINGS

As to Issue 1, "Whether inpatient hospitalization in an acute care general hospital was the appropriate level of care after June 15, 1982," it is found that the evidence establishes that this issue should be answered in the negative. It is also found that the only skilled nursing facility in Eupora was filled at the time, and it would not have been appropriate for the Beneficiary to have been placed in the skilled nursing facility in Winona, 35 miles away. It is further found that CHAMPUS benefits should be extended to the Beneficiary under the authority of Subparagraph B.1.g., Chapter IV of the DOD Regulation, and cost-sharing should be extended to the Sponsor for the reasonable cost that would have been incurred at the Eupora Health Care Center had the Beneficiary been placed there from June 15 to July 12, 1982.

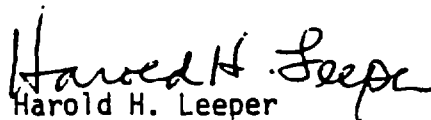
As to Issue 2, whether it was medically necessary to call an ambulance to transport the patient home following her discharge from the Hospital on July 12, 1982, it is found that an ambulance was necessary, under the circumstances, and that the \$50.00 cost thereof should be cost-shared by OCHAMPUS.

RECOMMENDED DECISION

The undersigned Hearing Officer recommends that the reasonable cost of providing treatment for the Beneficiary by the Eupora Health Care Center between June 15 and July 12, 1982, be ascertained, and that the Sponsor be awarded CHAMPUS payments, based on the usual cost-sharing rules, for that amount. Adjustments should be made to allow for (1) the overpayment made by the Fiscal Intermediary covering expenses of acute hospital care from June 15 to June 30, 1982, and (2) such other adjustments as may be required by the nature of the Sponsor's other health insurance coverage.

The Hearing Officer further recommends that OCHAMPUS cost-share the \$50.00 ambulance charge which was incurred to transport the Beneficiary from the hospital to her home on July 12, 1982.

August 22, 1984


Harold H. Leeper
Hearing Officer

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

BENEFICIARY:)
SPONSOR: SFC-USA, Ret) Supplementary
SSN) Recommended
Decision

Following issuance of the initial Recommended Decision dated August 22, 1984, OCHAMPUS advised the Hearing Officer on October 19, 1984, in Exhibit 27, that additional evidence was considered essential to a proper benefit determination, and requested that the record be reopened to receive additional evidence on the question of whether the Winona Manor, a skilled nursing facility in Winona, Mississippi, could have admitted the beneficiary from June 16 to July 12, 1982.

The record was reopened by letter to Mr. Brackeen dated October 22, 1984 (Exhibit 29). Counsel for the Beneficiary replied promptly (Exhibit 30) stating that he had been advised (hearsay) by the Administrator of Winona Manor that his facility was filled to capacity during the period June 16 to July 12, 1982, and always has a six months waiting list. He enclosed a letter from the Administrator (Exhibit 31) saying almost the same thing: the facility is always filled to capacity, has a lengthy waiting list, and "It usually takes around six months to get in."

The Hearing Officer regards these statements as persuasive, and concludes that the Beneficiary could not have been admitted to Winona Manor for short-term treatment during the period June 16 - July 12, 1984.

Accordingly, there is no basis for making any change in the Hearing Officer's Recommended Decision dated August 22, 1984.

November 8, 1984

Harold H. Leeper
Harold H. Leeper
Hearing Officer