

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA

v.

D-1 BERNICE BROWN,  
D-2 DANIEL SMORYNSKI,  
D-3 NORRIS MOORE, JR.,  
D-4 STEVE SHERMAN,  
D-5 WILLIE MANNING,

Defendants.

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Case:2:09-cr-20213

Judge: Tarnow, Arthur J

MJ: Majzoub, Mona K

Filed: 05-13-2009 At 04:56 PM

INDI USA V. SEALED MATTER (DA)

VIO.: 18 U.S.C. § 1349

18 U.S.C. § 1347

18 U.S.C. § 2

18 U.S.C. § 982

**INDICTMENT**

THE GRAND JURY CHARGES:

**General Allegations**

At all times relevant to this Indictment:

1. The Medicare Program ("Medicare") was a federal health care program providing benefits to persons who were over the age of sixty-five or disabled. Medicare was administered by the Centers for Medicare and Medicaid Services ("CMS"), a federal agency under the United States Department of Health and Human Services. Individuals who received benefits under Medicare were referred to as Medicare "beneficiaries."

2. Medicare was a "health care benefit program," as defined by Title 18, United States Code, Section 24(b).

3. The Medicare Program included coverage under two primary components, hospital insurance (Part A) and medical insurance (Part B). Part A covered physical and occupational therapy services if a facility was certified by CMS as meeting certain requirements. Part B of the Medicare Program covered the cost of physicians' services and other ancillary services not covered

by Part A. The physical and occupational therapy services at issue here were covered by Part B.

4. Medicare Part B was administered in Michigan by Wisconsin Physician Service (“WPS”), which, pursuant to contract with the United States Department of Health of Human Services, served as a contracted carrier to receive, adjudicate and pay Medicare Part B claims submitted to it by Medicare beneficiaries, physicians, licensed physical therapists, licensed occupational therapists, and clinics. Medicare Part B reimbursed medical clinics, physicians, and licensed physical and occupational therapists directly for the cost of physical and occupational therapy treatments furnished to eligible Medicare beneficiaries provided that those treatments were ordered by a physician and/or a physical or occupational therapist who certified that the treatments were medically necessary for the beneficiary.

5. Wayne County Therapeutic, Inc. (“WCT”) was a Michigan corporation, doing business at 29510 Seven Mile Road, Livonia, Michigan. WCT was a physical and occupational therapy clinic that purportedly specialized in providing and supervising physical and occupational therapy services for patients that were Medicare beneficiaries.

6. WCT employed licensed physical and occupational therapists, purportedly to provide physical and occupational therapy services. WCT billed the Medicare program directly, using its group Medicare provider number, for services purportedly rendered by its physical and occupation therapists.

7. Universal Rehab Services, Inc. (“Universal”) was a Michigan corporation that purported to provide physical and occupational therapy services to patients.

8. Defendant BERNICE BROWN, a resident of Wayne County, Michigan, was an owner and operator of WCT, and was listed in the official corporate records as the incorporator and

resident agent of WCT.

9. Defendant DANIEL SMORYNSKI, a resident of Oakland County, Michigan, was an employee of WCT, and held various titles at WCT, including vice president of corporate services.

10. Defendant NORRIS MOORE, JR., a resident of Wayne County, Michigan, was a Medicare beneficiary who purportedly received therapy services from Universal and WCT.

11. Defendant STEVE SHERMAN, a resident of Wayne County, Michigan, was a Medicare beneficiary who purportedly received therapy services from Universal and WCT.

12. Defendant WILLIE MANNING, a resident of Wayne County, Michigan, was a Medicare beneficiary who purportedly received therapy services from Universal and WCT.

**COUNT 1**

**(18 U.S.C. § 1349 – Conspiracy to Commit Health Care Fraud)**

**D-1 BERNICE BROWN  
D-2 DANIEL SMORYNSKI  
D-3 NORRIS MOORE, JR.  
D-4 STEVE SHERMAN  
D-5 WILLIE MANNING**

13. Paragraphs 1 through 12 of the General Allegations section of this Indictment are realleged and incorporated by reference as though fully set forth herein.

14. From in or around October 2002, through in or around April 2007, the exact dates being unknown to the Grand Jury, at Wayne County, in the Eastern District of Michigan, and elsewhere, defendants, BERNICE BROWN, DANIEL SMORYNSKI, NORRIS MOORE, JR., STEVE SHERMAN, and WILLIE MANNING did knowingly and willfully combine, conspire, confederate and agree with others, known and unknown to the Grand Jury, to violate Title 18,



United States Code, Section 1347, that is, to execute a scheme and artifice to defraud a health care benefit program affecting commerce, as defined in Title 18, United States Code, Section 24(b), that is, Medicare, and to obtain, by means of materially false and fraudulent pretenses, representations, and promises, money and property owned by, and under the custody and control of, said health care benefit program, in connection with the delivery of and payment for health care benefits, items, and services.

### **PURPOSE OF THE CONSPIRACY**

15. It was a purpose of the conspiracy for defendants BERNICE BROWN, DANIEL SMORYNSKI, NORRIS MOORE, JR., STEVE SHERMAN, and WILLIE MANNING, and others, to unlawfully enrich themselves by, among other things, (a) submitting false and fraudulent claims to Medicare; (b) offering and paying kickbacks and bribes to Medicare beneficiaries for the purpose of such beneficiaries arranging for the use of their Medicare beneficiary numbers by the conspirators as the bases of claims filed for physical therapy, occupational therapy and other services; (c) soliciting and receiving kickbacks and bribes in return for arranging for the furnishing of services for which payment may be made by Medicare by providing their Medicare beneficiary numbers, which formed the basis of claims filed for physical therapy, occupational therapy, and other services; (d) concealing the submission of false and fraudulent claims to Medicare, the receipt and transfer of the proceeds from the fraud, and the payment of kickbacks; and (e) diverting proceeds of the fraud for the personal use and benefit of the defendants and their co-conspirators.

### **MANNER AND MEANS**

The manner and means by which the defendants sought to accomplish the purpose of the conspiracy included, among other things:

16. Defendants BERNICE BROWN and DANIEL SMORYNSKI would maintain a valid Medicare group provider number for WCT in order to submit Medicare claims for the cost of physical and occupational therapy that was medically unnecessary and was not provided.

17. Defendant BERNICE BROWN would control the day-to-day operations of WCT.

18. Defendants BERNICE BROWN and DANIEL SMORYNSKI would cause WCT to enter into agreements with companies, including Universal, controlled by co-conspirators (hereinafter referred to as "Contractors"). The companies controlled by the Contractors purported to provide physical and occupational therapy services to Medicare patients. In the agreements with the Contractors, defendants BERNICE BROWN and DANIEL SMORYNSKI would agree to pay the Contractors a set fee to supply therapy files that contained the names and Medicare identification numbers of Medicare beneficiaries, and that purported to document physical and occupational therapy sessions provided to these beneficiaries by the Contractor companies.

19. Defendants NORRIS MOORE, JR., STEVE SHERMAN, and WILLIE MANNING would agree to accept kickbacks and bribes in exchange for signing documentation indicating that they had received physical and occupational therapy services, when in fact such services were never provided.

20. After obtaining the therapy files from the Contractors, defendants BERNICE BROWN and DANIEL SMORYNSKI would direct physical and occupational therapists employed by WCT to co-sign the files for each purported therapy visit, in order to make it appear that the services were directly supervised by WCT's physical and occupational therapists, when in fact they were not. Defendant BERNICE BROWN would pay the WCT therapists a set fee for each signature they added to these files.

21. Defendants BERNICE BROWN, DANIEL SMORYNSKI, and their co-conspirators would cause the submission of approximately \$21.2 million in claims to the Medicare program for services purportedly provided and supervised by WCT's staff, when in fact, such services were not professionally supervised and never provided. Medicare paid approximately \$6.5 million on these claims.

22. After the payments from Medicare were deposited into WCT bank accounts, defendants BERNICE BROWN and DANIEL SMORYNSKI would cause the transfer of the fraudulent proceeds to themselves, their co-conspirators, and to their family members.

**COUNTS 2-7**  
**(18 U.S.C. §§ 1347 and 2 - Health Care Fraud)**

**D-1 BERNICE BROWN**  
**D-2 DANIEL SMORYNSKI**

23. Paragraphs 1 through 12 of the General Allegations section of this Indictment are realleged and incorporated by reference as though fully set forth herein.

24. From in or around October 2002, and continuing through in or around April 2007, the exact dates being unknown to the Grand Jury, at Wayne County, in the Eastern District of Michigan, and elsewhere, the defendants, in connection with the delivery of and payment for health care benefits, items, and services, did knowingly and willfully execute, and attempt to execute, a scheme and artifice to defraud a health care benefit program affecting commerce, as defined in Title 18, United States Code, Section 24(b), that is, Medicare, and to obtain, by means of materially false and fraudulent pretenses, representations, and promises, money and property owned by, and under the custody and control of Medicare, in connection with the delivery of and payment for health care benefits, items, and services.



**Purpose of the Scheme and Artifice**

25. It was the purpose of the scheme and artifice for the defendants and their co-conspirators to unlawfully enrich themselves through the submission of false and fraudulent Medicare claims for medically unnecessary, and non-rendered, physical and occupational therapy.

**The Scheme and Artifice**

26. Paragraphs 16 to 22 of Count 1 of this Indictment are realleged and incorporated by reference as though fully set forth herein as a description of the scheme and artifice.

**Acts in Execution of the Scheme and Artifice**

27. On or about the dates specified as to each count below, at Wayne County, in the Eastern District of Michigan, and elsewhere, the defendants, BERNICE BROWN and DANIEL SMORYNSKI, in connection with the delivery of and payment for health care benefits, items, and services, did knowingly and willfully execute, and attempt to execute, the above-described scheme and artifice to defraud a health care benefit program affecting commerce, that is, Medicare, and to obtain, by means of materially false and fraudulent pretenses, representations, and promises, money and property owed by, and under the custody and control of said health care benefit program:

| Count | Medicare Beneficiary | On or about Claim Date | Description of Item Billed | Approximate Amount Billed to Medicare |
|-------|----------------------|------------------------|----------------------------|---------------------------------------|
| 2     | M.B.                 | 7/21/05                | Physical Therapy visit     | \$500.00                              |
| 3     | H.B.                 | 8/29/05                | Physical Therapy visit     | \$600.00                              |
| 4     | J.M.                 | 11/23/05               | Occupational therapy visit | \$400.00                              |
| 5     | D.B.                 | 2/14/06                | Physical therapy visit     | \$600.00                              |
| 6     | P.S.                 | 8/8/06                 | Occupational therapy visit | \$500.00                              |
| 7     | W.D.                 | 8/9/06                 | Occupational therapy visit | \$400.00                              |

In violation of Title 18, United States Code, Sections 1347 and 2.

**CRIMINAL FORFEITURE**  
**(18 U.S.C. § 982)**

**D-1 BERNICE BROWN**  
**D-2 DANIEL SMORYNSKI**  
**D-3 NORRIS MOORE, JR.**  
**D-4 STEVE SHERMAN**  
**D-5 WILLIE MANNING**

28. The allegations contained in Counts 1 through 7 of this Indictment are realleged and incorporated by reference as though fully set forth herein for the purpose of alleging forfeiture to the United States of America of certain property in which the defendants, BERNICE BROWN, DANIEL SMORYNSKI, NORRIS MOORE, JR., STEVE SHERMAN, and WILLIE MANNING have an interest in pursuant to the provisions of Title 18, United States Code, Section 982(a)(7).

29. Pursuant to Title 18, United States Code, Section 982(a)(7), upon conviction of defendant BERNICE BROWN, DANIEL SMORYNSKI, NORRIS MOORE, JR., STEVE



SHERMAN, and WILLIE MANNING for any of the offenses charged in Counts 1 through 7 of this Indictment, the defendant shall forfeit to the United States any property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the health care fraud offense. If more than one defendant is convicted of an offense, the defendants so convicted are jointly and severally liable for the amount derived from such offense.

30. Property subject to forfeiture to the United States pursuant to conviction for any offense charged in Counts 1 through 7 of this Indictment includes, but is not limited to, cash; all bank accounts and brokerage accounts; all interests in real estate, partnerships or corporations of any kind, and their assets; all personal property; and other assets, acquired during the time of the offenses, with the proceeds of health care fraud, and/or was property involved in any of the violations.

All pursuant to Title 18, United States Code, Section 982(a)(7) and the procedures set forth at Title 21, United States Code, Section 853, as made applicable through Title 18, United States Code, Section 982(b)(1).

THIS IS A TRUE BILL.

s/GRAND JURY FOREPERSON  
Foreperson

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Dated: May 13, 2009

United States District Court  
Eastern District of Michigan

**Criminal Case Cover Sheet**

Case: 2:09-cr-20213

Judge: Tarnow, Arthur J

MJ: Majzoub, Mona K

Filed: 05-13-2009 At 04:56 PM

INDI USA V. SEALED MATTER (DA)

NOTE: It is the responsibility of the Assistant U.S. Attorney signing this form to certify that the case is a companion case.

|  |  |
|--|--|
| <b>Companion Case Information</b>  | <b>Companion Case Number:</b> 07-20091 |
| This may be a companion case based upon LCrR 57.10 (b)(4) <sup>1</sup> : | <b>Judge Assigned:</b> Sean F. Cox     |
| X <input type="checkbox"/> Yes <input type="checkbox"/> No               | <b>AUSA's Initials:</b> JN             |

**Case Title:** USA v. D-1 Bernice Brown, et al.

**County where offense occurred :** Wayne

**Check One:** ☒ Felony ☐ Misdemeanor ☐ Petty

☒ Indictment/ ☐ Information --- no prior complaint.

☐ Indictment/ ☐ Information --- based upon prior complaint [Case number: ]

☐ Indictment/ ☐ Information --- based upon LCrR 57.10 (d) [Complete Superseding section below].

**Superseding Case Information:**

**Superseding to Case No:** **Judge:**


- ☐ Original case was terminated; no additional charges or defendants.
- ☐ Corrects errors; no additional charges or defendants.
- ☐ Involves, for plea purposes, different charges or adds counts.
- ☐ Embraces same subject matter but adds the additional defendants or charges below:

**Defendant name**

**Charges**

**Please take notice that the below listed Attorney is the attorney of record for the above captioned case.**

May 13, 2009  
Date

  
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<sup>1</sup> Companion cases are matters in which it appears that (1) substantially similar evidence will be offered at trial, (2) the same or related parties are present, and the cases arise out of the same transaction or occurrence. Cases may be companion cases even though one of them may have already been terminated. 5/20/04