

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA)
) No. 14 CR 33
v.)
)
SETH GILLMAN,) Violations: Title 18, United States
GWEN HILSABECK,) Code, Sections 371, 1035 and 1347.
PASSAGES HOSPICE, LLC,)
CARMEN VELEZ, and)
ANGELA ARMENTA)

COUNT ONE

The SPECIAL JULY 2013 GRAND JURY charges:

1. At times material to this Indictment:
 - a. Medicare was a Federal health care benefit program, as defined in Title 18, United States Code, Section 24(b), that provided free and below-cost health care benefits for eligible beneficiaries, primarily persons who were sixty-five years of age and older.
 - b. The Centers for Medicare and Medicaid Services, also known as CMS, was a federal agency within the United States Department of Health and Human Services, which administered the Medicare program through its contractors. CMS contracted with Palmetto GBA to process Medicare claims submitted for hospice services for beneficiaries in Illinois.
 - c. Medicaid was a Federal health care benefit program, as defined in Title 18, United States Code, Section 24(b), that provided medical assistance and related services to needy individuals. CMS administered the Medicaid program at the federal level, and the Illinois Department of Healthcare and Family Services processed Medicaid claims submitted for hospice services for beneficiaries in Illinois.

d. Medicare and Medicaid patients qualified for hospice care that was paid for by Medicare and Medicaid only if they were terminally ill. For a patient to be considered terminally ill, a physician was required to certify that the patient had a life expectancy of six months or less if the patient's disease followed its normal course.

e. Hospice services were billed to Medicare and Medicaid at one of multiple levels of care. The default level of care for hospice services was "routine." Another level of care was "general inpatient care," which was intended for patients who needed pain control or for acute or chronic symptom management that could not feasibly be provided in other settings and which could be provided only in a Medicare-certified facility such as a skilled nursing facility that provides 24-hour nursing services.

f. Medicare and Medicaid payments for claims for general inpatient hospice services were greater than the payments for claims for routine hospice services.

g. Defendant PASSAGES HOSPICE, LLC was a company that provided hospice services for Medicare and Medicaid patients in Illinois.

h. Defendant SETH GILLMAN was the founder, co-administrator and co-owner of PASSAGES HOSPICE, LLC.

i. Defendant GWEN HILSABECK was an employee of PASSAGES HOSPICE, LCC and served at times as the co-administrator.

j. Defendant CARMEN VELEZ was an employee of PASSAGES HOSPICE, LLC and served at times as the director of nurses for the region encompassing Chicago, Illinois and nearby suburbs and the director of clinical services for PASSAGES HOSPICE, LLC.

k. Defendant ANGELA ARMENTA was an employee of PASSAGES HOSPICE, LLC and served at times as the director of certified nursing assistants for the region encompassing Chicago, Illinois and nearby suburbs.

1. Between in or about August 2008 and continuing through January 2012, Medicare via its contractor paid PASSAGES HOSPICE, LLC more than \$90 million for hospice services, including more than \$20 million for services that were billed as general inpatient services.

2. Beginning no later than August 2008 and continuing through January 2012, in the Northern District of Illinois, Eastern Division, and elsewhere,

SETH GILLMAN,
GWEN HILSABECK,
PASSAGES HOSPICE, LLC,
CARMEN VELEZ, and
ANGELA ARMENTA,

defendants herein, did participate in a scheme to defraud a health care benefit program, as defined by Title 18, United States Code, Section 24(b), namely Medicare and Medicaid, and to obtain, by means of materially false and fraudulent pretenses, representations, and promises, money under the custody and control of that program in connection with the delivery of and payment for health care benefits and services, which scheme is further described below.

3. It was part of the scheme that defendants GILLMAN, HILSABECK, PASSAGES HOSPICE, LLC, VELEZ, and ARMENTA participated in a scheme to cause PASSAGES HOSPICE, LLC to submit false claims to Medicare and Medicaid for medically unnecessary hospice care, namely, hospice care for patients who were not terminally ill and hospice care that did not qualify for general inpatient care.

4. It was further part of the scheme that defendants GILLMAN, HILSABECK, and PASSAGES HOSPICE, LLC caused patients to be admitted to hospice care who were not terminally ill and thus did not qualify for hospice services.

5. It was further part of the scheme that defendants GILLMAN, HILSABECK, and PASSAGES HOSPICE, LLC caused patients to remain on hospice care who were no longer terminally ill and thus did not qualify for continued hospice services.

6. It was further part of the scheme that defendants GILLMAN, HILSABECK, PASSAGES HOSPICE, LLC, VELEZ, and ARMENTA submitted and caused to be submitted claims to Palmetto and the Illinois Department of Healthcare and Family Services for general inpatient hospice services when such services were not medically necessary and were not provided.

7. It was further part of the scheme that defendants GILLMAN, HILSABECK, and PASSAGES HOSPICE, LLC paid bonuses to nursing directors and certified nursing assistant directors employed at PASSAGES HOSPICE, LLC, including defendants VELEZ and ARMENTA, in order to increase the number of patients who were on general inpatient care.

8. It was further part of the scheme that defendants GILLMAN, HILSABECK, and PASSAGES HOSPICE, LLC offered incentives, such as payments to nursing homes based on the number of patients on general inpatient care, in order to increase PASSAGES HOSPICE, LLC's patient census.

9. It was further part of the scheme that defendants GILLMAN, HILSABECK, PASSAGES HOSPICE, LLC, VELEZ, and ARMENTA altered and caused to be altered patient files to conceal the scheme from a Medicare auditor.

10. It was further part of the scheme that defendants GILLMAN, HILSABECK, PASSAGES HOSPICE, LLC, VELEZ, and ARMENTA did misrepresent, conceal and hide, and cause to be misrepresented, concealed and hidden, the acts done and the purposes of acts done in furtherance of the scheme.

11. As a result of the scheme, defendants GILLMAN, HILSABECK, PASSAGES HOSPICE, LLC, VELEZ, and ARMENTA caused the loss of millions of dollars to Medicare and Medicaid.

12. On or about October 14, 2009, in the Northern District of Illinois, Eastern Division, and elsewhere,

SETH GILLMAN,
GWEN HILSABECK, and
PASSAGES HOSPICE, LLC,

defendants herein, did knowingly and willfully execute the scheme by submitting and causing to be submitted to Palmetto, a Medicare contractor, a false claim, specifically, that services provided to Patient A beginning on October 1, 2008 through October 15, 2008 qualified for reimbursement at the general inpatient level of hospice care;

In violation of Title 18, United States Code, Section 1347.

COUNT TWO

The SPECIAL JULY 2013 GRAND JURY further charges:

1. Paragraphs 1 through 11 of Count One of this Indictment are incorporated here.
2. On or about June 16, 2009, in the Northern District of Illinois, Eastern Division,

and elsewhere,

SETH GILLMAN,
GWEN HILSABECK, and
PASSAGES HOSPICE, LLC,

defendants herein, did knowingly and willfully execute the scheme by submitting and causing to be submitted to Palmetto, a Medicare contractor, a false claim, specifically, that services provided to Patient B beginning on June 1, 2009 through June 15, 2009, qualified for reimbursement at the general inpatient level of hospice care;

In violation of Title 18, United States Code, Section 1347.

COUNT THREE

The SPECIAL JULY 2013 GRAND JURY further charges:

1. Paragraphs 1 through 11 of Count One of this Indictment are incorporated here.
2. On or about July 18, 2011, in the Northern District of Illinois, Eastern Division,

and elsewhere,

SETH GILLMAN,
GWEN HILSABECK, and
PASSAGES HOSPICE, LLC,

defendants herein, did knowingly and willfully execute the scheme by submitting and causing to be submitted to Palmetto, a Medicare contractor, a false claim, specifically, that services provided to Patient C beginning on January 22, 2010 through January 24, 2010, qualified for reimbursement at the general inpatient level of hospice care;

In violation of Title 18, United States Code, Section 1347.

COUNT FOUR

The SPECIAL JULY 2013 GRAND JURY further charges:

1. Paragraphs 1 through 11 of Count One of this Indictment are incorporated here.
2. On or about July 18, 2011, in the Northern District of Illinois, Eastern Division,

and elsewhere,

SETH GILLMAN,
GWEN HILSABECK, and
PASSAGES HOSPICE, LLC,

defendants herein, did knowingly and willfully execute the scheme by submitting and causing to be submitted to Palmetto, a Medicare contractor, a false claim, specifically, that services provided to Patient D beginning on March 17, 2010 through March 25, 2010, qualified for reimbursement at the general inpatient level of hospice care;

In violation of Title 18, United States Code, Section 1347.

COUNT FIVE

The SPECIAL JULY 2013 GRAND JURY further charges:

1. Paragraphs 1 through 11 of Count One of this Indictment are incorporated here.
2. On or about July 18, 2011, in the Northern District of Illinois, Eastern Division,

and elsewhere,

SETH GILLMAN,
GWEN HILSABECK, and
PASSAGES HOSPICE, LLC,

defendants herein, did knowingly and willfully execute the scheme by submitting and causing to be submitted to Palmetto, a Medicare contractor, a false claim, specifically, that services provided to Patient E beginning on May 6, 2010 through May 8, 2010, qualified for reimbursement at the general inpatient level of hospice care;

In violation of Title 18, United States Code, Section 1347.

COUNT SIX

The SPECIAL JULY 2013 GRAND JURY further charges:

1. Paragraphs 1 through 11 of Count One of this Indictment are incorporated here.
2. On or about July 6, 2010, in the Northern District of Illinois, Eastern Division,

and elsewhere,

SETH GILLMAN,
GWEN HILSABECK, and
PASSAGES HOSPICE, LLC,

defendants herein, did knowingly and willfully execute the scheme by submitting and causing to be submitted to Palmetto, a Medicare contractor, a false claim, specifically, that services provided to Patient F beginning on June 16, 2010 through June 19, 2010, qualified for reimbursement at the general inpatient level of hospice care;

In violation of Title 18, United States Code, Section 1347.

COUNT SEVEN

The SPECIAL JULY 2013 GRAND JURY further charges:

1. Paragraphs 1 through 11 of Count One of this Indictment are incorporated here.
2. On or about July 6, 2010, in the Northern District of Illinois, Eastern Division,

and elsewhere,

SETH GILLMAN,
GWEN HILSABECK, and
PASSAGES HOSPICE, LLC,

defendants herein, did knowingly and willfully execute the scheme by submitting and causing to be submitted to the Illinois Department of Healthcare and Family Services a false claim, specifically, that services provided to Patient G beginning on June 25, 2010 through June 29, 2010, qualified for reimbursement at the general inpatient level of hospice care;

In violation of Title 18, United States Code, Section 1347.

COUNT EIGHT

The SPECIAL JULY 2013 GRAND JURY further charges:

1. Paragraphs 1 through 11 of Count One of this Indictment are incorporated here.
2. On or about December 20, 2010, in the Northern District of Illinois, Eastern Division, and elsewhere,

SETH GILLMAN,
GWEN HILSABECK,
PASSAGES HOSPICE, LLC,
CARMEN VELEZ, and
ANGELA ARMENTA,

defendants herein, did knowingly and willfully execute the scheme by submitting and causing to be submitted to Palmetto, a Medicare contractor, a false claim, specifically, that services provided to Patient H beginning on December 12, 2010 through December 14, 2010, qualified for reimbursement at the general inpatient level of hospice care;

In violation of Title 18, United States Code, Section 1347.

COUNT NINE

The SPECIAL JULY 2013 GRAND JURY further charges:

1. Paragraphs 1 through 11 of Count One of this Indictment are incorporated here.
2. On or about February 4, 2011, in the Northern District of Illinois, Eastern Division, and elsewhere,

SETH GILLMAN,
GWEN HILSABECK,
PASSAGES HOSPICE, LLC,
CARMEN VELEZ, and
ANGELA ARMENTA,

defendants herein, did knowingly and willfully execute the scheme by submitting and causing to be submitted to Palmetto, a Medicare contractor, a false claim, specifically, that services provided to Patient I beginning on January 19, 2011 through January 20, 2011 qualified for reimbursement at the general inpatient level of hospice care;

In violation of Title 18, United States Code, Section 1347.

COUNT TEN

The SPECIAL JULY 2013 GRAND JURY further charges:

1. Paragraphs 1 through 11 of Count One of this Indictment are incorporated here.
2. On or about March 4, 2011, in the Northern District of Illinois, Eastern Division,

and elsewhere,

SETH GILLMAN,
GWEN HILSABECK,
PASSAGES HOSPICE, LLC,
CARMEN VELEZ, and
ANGELA ARMENTA,

defendants herein, did knowingly and willfully execute the scheme by submitting and causing to be submitted to Palmetto, a Medicare contractor, a false claim, specifically, that services provided to Patient J beginning on February 18, 2011 through February 19, 2011 qualified for reimbursement at the general inpatient level of hospice care;

In violation of Title 18, United States Code, Section 1347.

COUNT ELEVEN

The SPECIAL JULY 2013 GRAND JURY further charges:

1. Paragraphs 1 through 11 of Count One of this Indictment are incorporated here.
2. On or about May 19, 2011, in the Northern District of Illinois, Eastern Division,

and elsewhere,

SETH GILLMAN,
GWEN HILSABECK,
PASSAGES HOSPICE, LLC,
CARMEN VELEZ, and
ANGELA ARMENTA,

defendants herein, did knowingly and willfully execute the scheme by submitting and causing to be submitted to Palmetto, a Medicare contractor, a false claim, specifically, that services provided to Patient K beginning on May 12, 2011 through May 14, 2011 qualified for reimbursement at the general inpatient level of hospice care;

In violation of Title 18, United States Code, Section 1347.

COUNT TWELVE

The SPECIAL JULY 2013 GRAND JURY further charges:

1. Paragraphs 1 through 11 of Count One of this Indictment are incorporated here.
2. On or about September 3, 2009, in the Northern District of Illinois, Eastern Division, and elsewhere,

SETH GILLMAN,
GWEN HILSABECK, and
PASSAGES HOSPICE, LLC,

defendants herein, did knowingly and willfully execute the scheme by submitting and causing to be submitted to Palmetto, a Medicare contractor, a false claim, specifically, that hospice services provided to Patient L beginning on August 16, 2009 through August 27, 2009 were medically necessary and qualified for payment;

In violation of Title 18, United States Code, Section 1347.

COUNT THIRTEEN

The SPECIAL JULY 2013 GRAND JURY further charges:

1. Paragraphs 1 through 11 of Count One of this Indictment are incorporated here.
2. On or about September 3, 2009, in the Northern District of Illinois, Eastern Division, and elsewhere,

SETH GILLMAN,
GWEN HILSABECK, and
PASSAGES HOSPICE, LLC,

defendants herein, did knowingly and willfully execute the scheme by submitting and causing to be submitted to Palmetto, a Medicare contractor, a false claim, specifically, that hospice services provided to Patient M beginning on August 16, 2009 through August 31, 2009 were medically necessary and qualified for payment;

In violation of Title 18, United States Code, Section 1347.

COUNT FOURTEEN

The SPECIAL JULY 2013 GRAND JURY further charges:

1. Paragraphs 1 through 11 of Count One of this Indictment are incorporated here.
2. On or about October 19, 2009, in the Northern District of Illinois, Eastern Division, and elsewhere,

SETH GILLMAN,
GWEN HILSABECK, and
PASSAGES HOSPICE, LLC,

defendants herein, did knowingly and willfully execute the scheme by submitting and causing to be submitted to Palmetto, a Medicare contractor, a false claim, specifically, that hospice services provided to Patient C beginning on October 8, 2009 through October 15, 2009 were medically necessary and qualified for payment;

In violation of Title 18, United States Code, Section 1347.

COUNT FIFTEEN

The SPECIAL JULY 2013 GRAND JURY further charges:

1. Paragraphs 1 through 11 of Count One of this Indictment are incorporated here.
2. On or about July 18, 2011, in the Northern District of Illinois, Eastern Division,

and elsewhere,

SETH GILLMAN,
GWEN HILSABECK, and
PASSAGES HOSPICE, LLC,

defendants herein, did knowingly and willfully execute the scheme by submitting and causing to be submitted to Palmetto, a Medicare contractor, a false claim, specifically, that hospice services provided to Patient F beginning on March 26, 2010 through March 31, 2010 were medically necessary and qualified for payment;

In violation of Title 18, United States Code, Section 1347.

COUNT SIXTEEN

The SPECIAL JULY 2013 GRAND JURY further charges:

1. Paragraphs 1 through 11 of Count One of this Indictment are incorporated here.
2. On or about October 19, 2009, in the Northern District of Illinois, Eastern Division, and elsewhere,

SETH GILLMAN,
GWEN HILSABECK, and
PASSAGES HOSPICE, LLC,

defendants herein, did knowingly and willfully execute the scheme by submitting and causing to be submitted to the Illinois Department of Healthcare and Family Services a false claim, specifically, that hospice services provided to Patient G beginning on May 27, 2010 through May 31, 2010 were medically necessary and qualified for payment;

In violation of Title 18, United States Code, Section 1347.

COUNT SEVENTEEN

The SPECIAL JULY 2013 GRAND JURY further charges:

1. Paragraph 1(a), Paragraph 1(b), Paragraph 1(d), Paragraph 1(g), and Paragraph 1(i) of Count One of this Indictment are incorporated here.
2. On or about March 26, 2010, in the Northern District of Illinois, Eastern Division, and elsewhere,

GWEN HILSABECK,

defendant herein, did knowingly and willfully make and cause to be made a materially false, fictitious, and fraudulent statement and representation, and make and cause to be made a materially false writing and document knowing the same to contain a materially false, fictitious, and fraudulent statement and entry, in a matter involving a health care benefit program in connection with the delivery of and payment for health care benefits and services, namely, a statement in an initial plan of care that Patient F's oxygen levels were 85 percent on room air and that Patient F thus qualified for hospice services;

In violation of Title 18, United States Code, Sections 1035(a)(2) and 2.

COUNT EIGHTEEN

The SPECIAL JULY 2013 GRAND JURY further alleges:

1. Paragraph 1(a), Paragraph 1(b), Paragraph 1(e), Paragraph 1(f), Paragraph 1(g), Paragraph 1(h), Paragraph 1(i), Paragraph 1(j), and Paragraph 1(l) of Count One of this Indictment are incorporated here.

2. At times material to this Indictment:

a. Medicare was a program that received in excess of \$100,000, directly or indirectly, from the United States in any one-year period.

b. TrustSolutions was a Federal auditor employed on a contractual basis to perform an audit on behalf of the United States related to the Medicare program.

c. In or about August 2009, TrustSolutions began an audit of PASSAGES HOSPICE, LLC to investigate allegations of fraud.

3. Beginning no later than on or about August 3, 2009 and continuing until at least on or about September 8, 2009, in the Northern District of Illinois, Eastern Division, and elsewhere,

SETH GILLMAN,
GWEN HILSABECK,
PASSAGES HOSPICE, LLC, and
CARMEN VELEZ,

defendants herein, did conspire with each other and others known and unknown to the Grand Jury to commit an offense against the United States, namely, with intent to deceive and defraud the United States, defendants endeavored to influence, obstruct, and impede a Federal auditor, namely, TrustSolutions, in the performance of official duties relating to Medicare, in violation of Title 18, United States Code, Section 1516.

3. It was part of the conspiracy that beginning no later than in or about August 3, 2009, and continuing through at least on or about September 8, 2009, defendants GILLMAN, HILSABECK, PASSAGES HOSPICE, LLC, and VELEZ, together with others known and unknown to the Grand Jury, agreed to alter patient files that had been requested by TrustSolutions so that the files would appear to support claims for general inpatient hospice services that had already been submitted to a Medicare contractor.

4. It was further part of the conspiracy that defendants GILLMAN and HILSABECK oversaw the plans to alter patient files and to create false documentation.

5. It was further part of the conspiracy that VELEZ altered patient files to make it falsely appear that nursing visits had been consistent with general inpatient services.

6. It was further part of the conspiracy that defendants GILLMAN, HILSABECK and PASSAGES HOSPICE, LLC retained a private auditor to review the altered patient files, defendant HILSABECK received comments from that private auditor about deficiencies that still existed in the files, and defendant HILSABECK used those comments so that others would alter the files further before submission to TrustSolutions.

7. It was further part of the conspiracy that defendant GILLMAN told TrustSolutions that an extension of time was necessary because of another simultaneous audit, when in fact he requested the extension to allow for further alteration of the requested patient files.

8. It was further part of the conspiracy that defendants GILLMAN, HILSABECK, PASSAGES HOSPICE, LLC, and VELEZ did misrepresent, conceal and hide, and cause to be misrepresented, concealed and hidden, the purposes and acts done in furtherance of the conspiracy.

9. In furtherance of the conspiracy, and to effect its objective, defendants committed the following overt acts, among others, in the Northern District of Illinois, Eastern Division, and elsewhere:

- a. Beginning on or about August 3, 2009, VELEZ altered patient files to make visits that were at the routine level appear to have been for providing general inpatient services.
- b. On or about August 17, 2009, GILLMAN on behalf of PASSAGES HOSPICE, LLC misrepresented to TrustSolutions the reason for his request for additional time to respond to the audit.
- c. On or about September 3, 2009, HILSABECK provided comments from a private auditor to VELEZ and others to use in making further alterations to patient files.
- d. On or about September 8, 2009, VELEZ and others altered patient files using the comments provided by the private auditor to HILSABECK.
- e. On or about September 8, 2009, GILLMAN on behalf of PASSAGES HOSPICE, LLC signed letters to TrustSolutions providing the altered patient files and representing that the files supported the claims submitted by PASSAGES HOSPICE, LLC to Medicare.

All in violation of Title 18, United States Code, Section 371.

FORFEITURE ALLEGATION

The SPECIAL JULY 2013 GRAND JURY further alleges:

1. The grand jury incorporates here the allegations of Counts One through Seventeen of this Indictment concerning violations of Title 18, United States Code, Sections 1035 and 1347, for the purpose of alleging forfeiture pursuant to Title 18, United States Code, Section 982(a)(7).
2. As a result of their violations of Title 18, United States Code, Sections 1035 and 1347, as alleged in the Indictment,

SETH GILLMAN,
GWEN HILSABECK,
PASSAGES HOSPICE, LLC,
CARMEN VELEZ, and
ANGELA ARMENTA,

defendants herein, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 982(a)(7), any and all right, title and interest they may have in any property, real and personal, that constitutes and is derived, directly and indirectly, from gross proceeds traceable to the commission of the offense, which property is subject to forfeiture pursuant to Title 18, United States Code, Section 982(a)(7).

3. If any of the forfeitable property described above, as a result of any act or omission by the defendants:
 - a. Cannot be located upon the exercise of due diligence;
 - b. Has been transferred or sold to, or deposited with, a third party;
 - c. Has been placed beyond the jurisdiction of the Court;
 - d. Has been substantially diminished in value; or

- e. Has been commingled with other property which cannot be divided without difficulty;

the United States of America shall be entitled to forfeiture of substitute property under the provisions of Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b)(1).

A TRUE BILL:

FOREPERSON

UNITED STATES ATTORNEY