

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA

v.

JAMES ADEMIJU

CASE NUMBER:
UNDER SEAL

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

Beginning no later than 2011 and continuing until the present, at Dolton, in the Northern District of Illinois, Eastern Division, the defendant(s) violated:

Code Section

Title 18, United States Code,
Section 1347

Offense Description

Participated in a scheme to defraud a health care benefit program, namely, Medicare, and to obtain, by means of false and fraudulent representations, money under the control of Medicare in connection with the delivery of or payment for health care services, and, in execution of the scheme, on or about November 25, 2013, did knowingly and willfully cause to be submitted a false claim, specifically, a claim that certain home health services provided to Patient LD qualified for payment, when defendant knew that the services did not qualify for payment.

This criminal complaint is based upon these facts:

X Continued on the attached sheet.

FORREST JOHNSON

Special Agent, Federal Bureau of Investigation
(FBI)

Sworn to before me and signed in my presence.

Date: March 9, 2015

Judge's signature

City and state: Chicago, Illinois

MARY M. ROWLAND, U.S. Magistrate Judge

Printed name and Title

a health care benefit program, namely, Medicare, and to obtain, by means of false and fraudulent representations, money under the control of Medicare in connection with the delivery of or payment for health care services, and, in execution of the scheme, on or about November 25, 2013, did knowingly cause to be submitted a false claim, specifically, a claim that certain home health services provided to Patient LD qualified for payment, when defendant knew that the services did not qualify for payment, in violation of Title 18, United States Code, Section 1347.

4. This affidavit is further submitted in part for the limited purpose of establishing probable cause to support applications for the issuance of warrants to search (1) the office of Adonis, Inc. located at 1313 East Sibley Boulevard, Suite 202, Dolton, Illinois, which I will refer as the “**Subject Adonis Premises**”, and (2) the building located at 15008 South Woodlawn Avenue, Dolton, Illinois, which I will refer to as the “**Subject BestMed-Care Premises**,” which is further described in the following paragraphs and in the respective application’s Attachment A. As set forth below, there is probable cause to believe that in the **Subject Adonis Premises** and in the **Subject BestMed-Care Premises** there exists evidence of (1) violations of the federal health care fraud statute (Title 18, United States Code, Section 1347) in connection with a scheme to defraud a federal health care benefit program through the submission of false claims, including those for medically unnecessary services and (2) conspiracy to commit violations of the Anti-Kickback Statute and violations of the Anti-Kickback Statute (Title 18, United States Code, Section 371 and Title 42, United States Code, Section 1320a-7b(b)(2)(A)).

5. This affidavit is further submitted in part for the limited purpose of establishing probable cause to support applications for warrants to seize certain funds which constitute or are derived from proceeds traceable to the receipt of violations of Title 18, United States Code,

Section 1347 and which are maintained in the account at J.P. Morgan Chase Bank in the name of Adonis Health Care, Inc. and ending with the digits 4007 (the “**Subject Adonis Account**”), and in the account at J.P. Morgan Chase Bank in the name of BestMed-Care Services, Ltd. and ending with the digits 8781 (the “**Subject BestMed-Care Account**”), each of which is described more fully in the respective application.

6. The statements in this affidavit are based on my personal knowledge, and on information that I have received from other law enforcement personnel and from persons with knowledge regarding relevant facts. Because this affidavit is being submitted for the limited purposes set forth above, I have not included each and every fact known to me concerning this investigation.

7. Based on checks of criminal-history databases, none of the individuals who have been interviewed and whose statements are described below have any felony convictions or any convictions involving false statements or dishonesty, except for Patient RA, who had convictions more than 30 years ago for theft and criminal trespass to a vehicle, and Patient JS, who had convictions more than 10 years ago for possessing a controlled substance, driving under the influence of alcohol, resisting a peace officer, knowingly damaging property, and battery as well as a conviction more than 30 years ago for theft. Some of the individuals who have provided information to the government may have criminal and/or civil exposure for violations of federal law and may be cooperating in the hopes of receiving consideration for such cooperation, but no promises have been made to those individuals.

III. MEDICARE BACKGROUND INFORMATION

8. Medicare is a health care benefit program within the meaning of 18 U.S.C. § 24(b). Medicare provides free or below-cost healthcare benefits to certain eligible

beneficiaries, primarily persons sixty-five years of age or older. Individuals who receive Medicare benefits are often referred to as Medicare beneficiaries.

9. Medicare consists of four distinct parts, two of which are relevant here. Part A provides for home health care, and Part B provides supplementary medical insurance for physician services, outpatient services, and certain home health and preventive services.

10. Centers for Medicare and Medicaid Services, a federal agency within the United States Department of Health and Human Services, administers the Medicare program. CMS contracts with public and private organizations, usually health insurance carriers, to process Medicare claims and perform administrative functions. CMS currently contracts with National Government Services, Inc. to administer and pay Part B claims from the Medicare Trust Fund. The Medicare Trust Fund is a reserve of monies provided by the federal government. NGS processes Medicare Part B claims submitted for physicians' services for beneficiaries in multiple states including Illinois.

11. Enrolled providers of medical services to Medicare recipients are eligible for reimbursement for covered medical services. By becoming a participating provider in Medicare, enrolled providers agree to abide by the rules, regulations, policies, and procedures governing reimbursement, and to keep and allow access to records and information as required by Medicare.

12. Providers of health care services to Medicare beneficiaries seeking reimbursement under the program must submit a claim form, which is referred to as a CMS 1500, with certain information regarding the Medicare beneficiary, including the beneficiary's name, health insurance claim number, date the service was rendered, location where the service was rendered,

type of services provided, number of services rendered, the procedure code (described further below), a diagnosis code, charges for each service provided, and a certification that such services were personally rendered by that provider.

13. Medicare pays for home health services only if a Medicare patient qualifies for coverage of home health services and if the services are “reasonable and necessary,” according to the Medicare Benefit Policy Manual (Chapter 7, Section 20).

14. Home health services are billed to Medicare in 60-day increments known as “episodes.” Each episode requires its own certification by the physician who has ordered skilled nursing services. To certify a patient, a physician must sign a form entitled, “Home Health Certification and Plan of Care,” which is sometimes referred to as a “Form 485.” In signing a Form 485, a physician certifies or recertifies the following

I certify/recertify that this patient is confined to his/her home and needs intermittent skilled nursing care, physical therapy and/or speech therapy or continues to need occupational therapy. The patient is under my care, and I have authorized the services on this plan of care and will periodically review the plan.

15. Nurses from home-health agencies also sign the Form 485s. According to the patient files produced by ADEMIJU’s agencies to the government, ADEMIJU signed Form 485s that were produced to the government and that are discussed below. The Form 485 includes the following language at the bottom of the first page:

Anyone who misrepresents, falsifies or conceals essential information required for payment of Federal funds may be subject to fine, imprisonment, or civil penalty under applicable Federal laws.

16. Form 485s are created based in part on nursing assessments, which are sometimes called OASIS (Outcome and Assessment Information Set) forms. Nursing assessments include

information about patients' conditions, such as their pain level, specific reasons as to why they are confined to the home, and whether they are incontinent. The information contained in the assessments is used to create Form 485s, as well as to determine the amount of the payment by Medicare to a home-health agency, with payments increasing for patients who are sicker and who need more assistance.

17. Information from the OASIS forms is input into the Home Health Prospective Payment System (HHPPS) to make an initial determination as to the patient's condition, which is expressed as a five-digit alphanumeric code. This code is called a HHPPS code and is used to determine how much the home health agency should be paid. In general, if a patient is sicker (has a higher clinical severity) and is more dependent on other people (has a higher functional severity), then the home health agency is expected to do more and will be paid more. The home health agency is paid an initial amount based on the HHPPS score while providing care. After the period of care is over, the HHA submits a final claim, and is paid the remainder based on the final claim.

18. From 2008 onwards, the five-digit HHPPS code is broken down as follows:

1. Grouping = 1 to 5, depending on number of visits and whether episode is "early" (1st or 2nd) or late (3rd and up)
2. Clinical severity = A (least severe) to C (most severe)
3. Functional severity = F (not dependent) to H (most dependent)
4. Service domain = K to P
5. Supplies = S to X if supplies provided, 1 to 6 if supplies not provided

19. Accordingly, a patient who is classified as "1CHPX" generally is a patient who is just beginning to receive home health services, is very sick, is very dependent on others for help with daily activities of living, and needs supplies. By contrast, a patient who is classified as "1AFK1" generally is a patient who is just beginning to receive home health services, is sick to a

lesser degree, and is mostly independent for daily activities.

20. Nursing assessments contain information about patients' ability to perform basic activities of daily living on their own, such as dressing, bathing, and using the toilet, with the number "0" representing patients who do not need assistance with such activities, and higher numbers representing greater dependence on others, as shown below:

Level	Dressing	Bathing	Toileting Hygiene	Ambulation	Feeding
0	Able to obtain, put on and remove clothing without assistance	Able to bathe self in shower or tub independently, including getting in and out of tub / shower	Able to manage toileting hygiene and clothing management without assistance	Able to independently walk on even and uneven surfaces and negotiate stairs with or without railings	Able to independently feed self
1	able to dress upper/lower body if clothing is laid out or handed to patient	with the use of devices, is able to bathe self in shower or tub independently	able to manage toileting hygiene and clothing management without assistance if supplies / implements are laid out for patient	with the use of one-handed device, able to independently walk on even and uneven surfaces	able to feed self but requires meal set-up or intermittent assistance / supervision, or a liquid / pureed / ground meat diet
2	Someone must help patient put on [clothing]	able to bathe with intermittent assistance for supervision / reminders, to get in/out of shower / tub, or washing difficult to reach areas	someone must help patient to maintain toileting hygiene and/or adjust clothing	requires use of a two-handed device to walk alone on a level surface and/or requires assistance to negotiate uneven surfaces	unable to feed self and must be assisted or supervised throughout meal/snack

A. Confined to the Home

21. To qualify for Medicare coverage of home health services, a patient must be, among other things, “confined to the home.” That term is defined in the Medicare Benefit Policy Manual (Chapter 7, Section 30) and is often used interchangeably with the term “homebound.”¹

22. Prior to November 19, 2013, the Medicare Benefit Policy Manual defined a patient as being “confined to the home” if the patient had a “normal inability to leave home and, consequently, leaving home would require a considerable and taxing effort.”

23. As of November 19, 2013, the Medicare Benefit Policy Manual was revised so that a person is not to be considered confined to the home unless both of the following two criteria are met:

- First, the patient must either (a) because of illness or injury, need the aid of supportive devices such as crutches, canes, wheelchairs, and walkers; the use of special transportation; or the assistance of another person in order to leave their place of residence, OR (b) have a condition such that leaving his or her home is medically contraindicated.
- Second, there must exist a normal inability to leave the home, AND leaving home must require a considerable and taxing effort.

24. To “illustrate the factors used to determine whether a homebound condition exists,” the Medicare Benefit Policy Manual both before and after November 19, 2013 gave the following examples of patients who would be considered confined to the home:

- “A patient paralyzed from a stroke who is confined to a wheelchair or requires the aid of crutches in order to walk”
- “A patient who is blind or senile and requires the assistance of another person

¹ The definition is available online at <http://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/downloads/bp102c07.pdf>

in leaving their place of residence”

- “A patient who has lost the use of their upper extremities and, therefore, is unable to open doors, use handrails on stairways, etc., and requires the assistance of another individual to leave their place of residence”
- “A patient who has just returned from a hospital stay involving surgery who may be suffering from resultant weakness and pain and, therefore, their actions may be restricted by their physician to certain specified and limited activities such as getting out of bed only for a specified period of time, walking stairs only once a day, etc.”

25. According to the Medicare Benefit Policy Manual, “[t]he aged person who does not often travel from home because of feebleness and insecurity brought on by advanced age would not be considered confined to the home for purposes of receiving home health services” unless that person had a condition like one of those quoted in the paragraph above.

26. The Medicare Benefit Policy Manual recognizes that patients can leave their home and still be considered confined to the home, but only if the absences are “infrequent or for periods of relatively short duration,” or are “attributable to the need to receive health care treatment.” According to the Medicare Benefit Policy Manual, “[i]t is expected that in most instances, absences from the home that occur will be for the purpose of receiving health care treatment,” though “occasional absences from the home for nonmedical purposes ... would not necessitate a finding that the patient is not homebound if the absences are undertaken on an infrequent basis or are of relatively short duration and do not indicate that the patient has the capacity to obtain the health care provided outside rather than in the home.”

B. Skilled Nursing Services That Are Reasonable and Necessary

27. Under the Medicare Benefit Policy Manual (Chapter 7, Section 20), if a Medicare patient is confined to the home and meets the other criteria for home health services, such a

patient is “entitled by law to coverage of “reasonable and necessary home health services.” Medicare reimbursement for home health services is not authorized for services and treatment that were not “reasonable and necessary” or for which a patient did not meet the criteria necessary to justify the claimed service or treatment.

28. Under the Medicare Benefit Policy Manual (Chapter 7, Section 40.1.1), skilled nursing services are necessary “only when (a) the particular patient’s special medical complications require the skills of a registered nurse or, when provided by regulation, a licensed practical nurse to perform a type of service that would otherwise be considered non-skilled; or (b) the needed services are of such complexity that the skills of a registered nurse or, when provided by regulation, a licensed practical nurse are required to furnish the services.” Such a service “must be so inherently complex that it can be safely and effectively performed only by, or under the supervision of, professional or technical personnel as provided by regulation.”

29. If the nursing services are not necessary, or if the nursing services could “safely and effectively be performed by the patient or unskilled caregivers,” then such services should not be paid for by Medicare and should not be billed to Medicare, according to the Medicare Benefit Policy Manual (Chapter 7, Section 40.1.1). “If a service can be safely and effectively performed (or self-administered) by an unskilled person, without the direct supervision of a nurse, the service cannot be regarded as a skilled nursing service although a nurse actually provides the service ... A service is not considered a skilled nursing service merely because it is performed by or under the supervision of a nurse.”

30. The Medicare Benefit Policy Manual gives some examples of situations where skilled nursing services may or may not be appropriate. According to the Medical Benefit Policy

Manual, “giving a bath does not ordinarily require the skills of a nurse and, therefore, would not be covered as a skilled nursing service.” The Medicare Benefit Policy Manual also states that skilled nursing visits may be appropriate to help educate a patient who has been “newly diagnosed” with diabetes mellitus.

31. In addition, the Medicare Benefit Policy Manual (Chapter 7, Section 40) explains when skilled nursing services would be appropriate in the following conditions:

- Observation and assessment of a patient by a nurse is reasonable and necessary only “where there is a reasonable potential for change in a patient's condition that requires skilled nursing personnel to identify and evaluate the patient's need for possible modification of treatment or initiation of additional medical procedures.” Such observation and assessment can continue “until the patient's clinical condition and/or treatment regimen has stabilized.”
- Management and evaluation of a patient’s care plan is reasonable and necessary only “where underlying conditions or complications require that only a registered nurse can ensure that essential unskilled care is achieving its purpose.” The complexity of the unskilled services that are “a necessary part of the medical treatment” must require skilled nurses “to promote the patient’s recovery and medical safety in view of the patient’s overall condition.”
- Teaching and training activities can be reasonable and necessary “where the teaching or training is appropriate to the patient's functional loss, illness, or injury.” At the same time, teaching and training should not go on indefinitely, and would “cease to be reasonable and necessary” if it “becomes apparent after a reasonable period of time that the patient, family, or caregiver will not or is not able to be trained.”

C. Anti-Kickback Statute

32. Based on my training and experience, I know that the Anti-Kickback Statute, 42 U.S.C. § 1320a-7b(b)(1)(A), prohibits the solicitation or receipt of kickbacks in exchange for the referral of Medicare patients:

“[W]hoever knowingly and willfully solicits or receives any remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly or covertly, in cash or in kind to induce such person –

“in return for referring an individual to a person for the furnishing of any item or service for which payment may be made in whole or in part under a Federal health care program . . .

“shall be guilty of a felony. . . .”

33. Section (b)(2)(A) of the Anti-Kickback Statute also prohibits the offering or payment of kickbacks in exchange for the referral of Medicare patients:

“[W]hoever knowingly and willfully offers or pays any remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly or covertly, in cash or in kind to induce such person –

“to refer an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part under a Federal health care program . . .

“shall be guilty of a felony. . . .”

34. Under the plain language of the Anti-Kickback Statute, therefore, it is illegal to knowingly and willfully offer to pay *anyone* money or remuneration of any sort in exchange for the referral of a patient for home healthcare services for which payment may be made under Medicare or Medicaid. As the legislative history of the statute and decisions interpreting have explained, the purpose of this statute is to ensure that medical decisions are not influenced by financial rewards and to protect against increased costs to federal health care programs. *See, e.g.*, H.R. Rep. 95-393(II) (relating to 1977 amendments broadening the AKS to include “any remuneration”).

IV. BACKGROUND RE ADEMIJU, ADONIS AND BESTMED-CARE

35. According to an Illinois Department of Financial and Professional Regulation database, ADEMIJU is a registered nurse licensed in the State of Illinois and was issued his license in 2006.

36. According to the National Plan & Provider Enumeration System registry, BestMed-Care Services, Ltd. is a home-health-agency located at 15008 Woodlawn Avenue, Dolton, Illinois, which is the **Subject BestMed-Care Premises**. According to the registry, ADEMIJU is the administrator of BestMed-Care Services. Patient files refer to the agency as “Best Med-Care Services,” which I believe to be an alternative spelling for the agency’s name.

37. According to the National Plan & Provider Enumeration System registry, Adonis Healthcare, Inc. is a home-health agency. According to a May 2013 form signed by Individual A on behalf of Adonis, Adonis’s mailing address and practice location was 1313 East Sibley Boulevard, Suite 202, Dolton, Illinois, which is the **Subject Adonis Premises**. According to the registry, Individual A is the president of Adonis.

38. ADEMIJU was interviewed in August 2014 by law-enforcement agents. During the interview, ADEMIJU said that he is the office manager for Adonis and the administrator for BestMed-Care. He said that the companies were separate businesses but had the same policies and procedures.

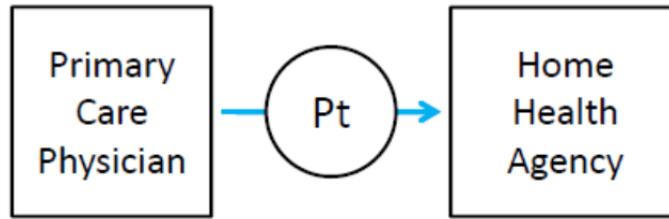
39. ADEMIJU identified Individual A as the owner of Adonis. Individual A has posted online multiple photographs of her with ADEMIJU, as well as a photograph of ADEMIJU standing in front of a tapestry labeled “The Adonis Family,” which depicts ADEMIJU, Individual A, and a baby. In addition, on ADEMIJU’s Facebook page, there is a February 14, 2015 posting showing ADEMIJU with a woman whom I believe to be Individual A, based on my review of Individual A’s online postings, and the text: “Happy Val to the love of my life.”

40. According to a review of claims data that was downloaded from the Services Tracking, Analysis, and Reporting System database, which is maintained by the Centers for Medicare and Medicaid Services, Adonis has been paid approximately \$1.9 million by Medicare for claims from February 2011 through December 2014. According to a review of claims data, BestMed-Care Services has been paid approximately \$3.1 million by Medicare for claims from February 2011 through December 2014. Combined, the two agencies have been paid by Medicare approximately \$5.0 million for claims from February 2011 through December 2014.

V. SUMMARY OF INVESTIGATION

41. As described in more detail below, according to interviews with patients, interviews with physicians, a review of patient files, and a review of Medicare claims data, ADEMIJU is participating in a scheme to defraud Medicare using Adonis and BestMed-Care. As a result of this fraud, Medicare has made payments for services that are not medically necessary and that do not qualify for payment.

42. Based on interviews that I and other law-enforcement agents have done with primary-care physicians for patients who were receiving home-health services, as discussed below, the following diagram depicts what should happen when a primary-care physician determines that home-health services are medically necessary and orders them because the physician determines (a) that the patient is “confined to the home” and (b) that “skilled nursing services” are medically necessary.



43. As discussed below, rather than getting certifications from their patients' primary-care physicians, Adonis and BestMed-Care instead have had patients certified by visiting physician companies such as those at the company Doctor At Home who falsely certify patients for home care, as well as nurses who falsely record patients' conditions in order to make patients appear to qualify for home-health services. Adonis and BestMed-Care also used Marketing Company A to get patient referrals. According to my training and experience, and my knowledge of the investigation overall, the diagram below depicts how Marketing Company A has provided patients to Adonis and BestMed-Care for fees and how Adonis and BestMed-Care then refer the patients to a home-visiting physician in return for having that physician certify the patient for home-health services, often without the patient's primary-care physician being involved with or even knowing that the patient is being seen by another doctor and receiving nursing services.



44. As discussed below, as part of the fraud scheme, ADEMIJU and others have put false information about patients into nursing assessments so that the patients appear to need

home-health services and to increase reimbursement rates to the home-health agencies by Medicare. ADEMIJU and others also put false information into patient charts to make it appear that the home-health agencies are providing medically necessary services.

45. As discussed below, Adonis and BestMed-Care also periodically discharge their patients and then re-admit them within weeks and sometimes even the same day without the patients knowing that this has occurred or having changes in their medical conditions that would justify such discharges and re-admissions. According to my training and experience, and my knowledge of this investigation overall, this makes it appear that the home-health agencies have provided a benefit to their patients, and avoids setting off red flags by having patients with longer periods of home-health services without any break. As discussed more below, ADEMIJU discharged some patients from one of his agencies and re-admitted them within days at the other, and signed assessments that made it appear that patients' conditions had rapidly deteriorated in the short periods when they had been discharged.

VI. PATIENTS ARE INITIALLY REFERRED TO ADONIS AND BESTMED-CARE BY A MARKETING COMPANY, NOT PHYSICIANS

46. Law enforcement officials have interviewed multiple patients of Adonis and BestMed-Care, including at least four who were assessed at least once by ADEMIJU, according to the signatures on the nursing assessments provided by Adonis and BestMed-Care.

47. Multiple patients of the agencies associated with ADEMIJU (Adonis and BestMed-Care) said that the doctors they had been seeing prior to receiving nursing services had not been involved with their receiving home-health services, and that the services began after they received telephone calls offering them nursing services.

48. For example, Patient LD, who received nursing services from Adonis and BestMed-Care, told agents that she had received a call out of the blue and been told that a doctor would come see her at her home once a month. She said that she also received a call from Adonis and had been told that they would send a nurse to see her once a week. Patient LD said that she had a cardiologist during the time that the nurse came to see her. According to claims data, Medicare has paid Adonis and BestMed-Care a total of approximately \$11,395 for services from March 2013 through May 2014.

49. The physician whom Patient LD identified as her primary-care physician told law-enforcement in March 2015 that if he or others in his practice had believed that Patient LD needed home-health services, they would have referred her to an agency connected with their practice (as opposed to Adonis or BestMed-Care). He also confirmed that no one in his practice had referred her to home health.

50. Similarly, Patient JS, who received nursing services from Adonis and BestMed-Care, said that he received a call from someone at Doctor At Home telling him about their services and that he qualified for visiting doctor services. Patient JS said that he visited his primary-care physician and his cardiologist once or twice a year, and that he took the bus or got a ride when he made those visits. He also said that he goes outside every day during the summer and that he has never been told that he had a medical condition restricting him to his home. According to claims data, Medicare has paid Adonis and BestMed-Care a total of approximately \$13,378 for services from March 2013 through September 2014.

51. When interviewed in August 2014, ADEMIJU said that Adonis and BestMed-Care did not use marketers. He told law enforcement officials that Adonis and BestMed-Care's

patients were referred to the agencies by primary-care physicians or hospital coordinators. ADEMIJU also said that some patients are referred by word-of-mouth, church, or by being in the community. ADEMIJU also said that patients call Adonis and BestMed-Care requesting home-health services.

52. ADEMIJU also said that he was aware that he could not refer a patient to a home-visiting physician company if a patient had a primary-care physician. He acknowledged that if a patient has a primary-care physician, that primary-care physician is the one who must determine that the patient is homebound and order home health services. ADEMIJU said that he knew that he cannot refer a patient to Doctor At Home if the patient had a primary-care physician and said that Adonis and BestMed-Care referred patients to Doctor At Home only if the patient did not have a primary-care physician.

53. By contrast, multiple patients told law-enforcement agents that they had primary-care physicians who were not listed in Medicare claims data or Adonis and BestMed-Care patient files as having referred the patients to Adonis and BestMed-Care. For example, Patient LD said that she had a primary-care physician. The BestMed-Care patient file for Patient LD states that Patient LD was referred to BestMed-Care by a different physician, Physician A, who is discussed further below. Similarly, Patient RA and Patient AA, a married couple discussed further below, provided law enforcement with the name of their primary-care physician for the past few years. That physician is not the same as the physician listed in Medicare claims data or in Adonis and BestMed-Care patient files provided to the government as the one who allegedly referred Patient RA and Patient AA for nursing services.

54. The physician whom Patient RA and Patient AA identified as their primary-care physician told law enforcement in March 2015 that he sees those patients approximately four times a year. He said that they are able to get to their appointments with him and that both are able to walk. He said that he did not believe that either patient was homebound or qualified for home health services, and that he had not placed any medical restrictions on either of them such as being confined to their home.

55. In January 2015, law enforcement agents conducted a search of the offices of Marketing Company A pursuant to a warrant authorized by a magistrate judge in the Northern District of Illinois.

56. During the search of Marketing Company A's offices in January 2015, agents located an April 4, 2011 contract that was signed by ADEMIJU on behalf of BestMed-Care and Individual C on behalf of Marketing Company A. According to the contract, Marketing Company A was to provide "marketing and networking services" for BestMed-Care. Agents located records, including records relating to patients that Marketing Company A had referred to Adonis and BestMed-Care, such as logs listing patients and identifying the patients as being for Adonis or BestMed-Care.

57. During the search of Marketing Company A's offices, agents saw copies of a script in multiple workstations. According to this script, which was titled, "Medicare/Insurance Script (revised 9/11/14)," the caller was to offer "free" home health services to Medicare recipients:

My name is _____. How are YOU today? This is a courtesy check (this is a wellness check) on behalf of [Marketing Company A] reaching out to our Senior and Disabled Citizens in your area. We are qualifying them for

home health services that they may be entitled to depending on their insurance at no cost to them.

Are you or anyone in the home a Medicare recipient?

Part 1 A response: Yes? Ok! Well are you aware that you can get home healthcare services FOR FREE!

58. The script also includes instructions to “remind them that these services are ABSOLUTELY FREE, and that they MUST accept the Nurse” and have a physician sign off on paperwork to get additional services such as a cell phone.

59. During the search of Marketing Company A’s offices, agents also found another script in a binder in a storage room. Based on my review of the script, which is quoted below, employees of Marketing Company A at one time falsely told people that they were calling “on behalf of Medicare” and that all seniors were “entitled” under a new law to free services including a free nurse. The script also indicates that Marketing Company A offered senior citizens gifts, including a gift card, for agreeing to accept services:

My name is _____. I’m calling from [Marketing Company A] on behalf of Medicare. We are one of the largest Home Health Care Agency’s where we take care of seniors in the comfort of their own home. Did you know that Congress recently passed a bill that entitles you to a list of services for free? Do you have a nurse that comes in 1x a week?

Well it is my job to make sure that you are provided with these free services ... You will have a good nurse that will come see you once a week ... We offer physical therapy, social workers, podiatrists, and a doctor who will visit once a month....

You are also qualified to receive free give-a-ways such as a free cell phone, case of bottled water monthly ... Did I mention that you will receive a free gift card for signing up today?

60. According to a review of the National Plan & Provider Enumeration System, Marketing Company A is not a provider enrolled with Medicare. In addition, I am not aware of

any law that has been enacted, recently or otherwise, that makes Medicare beneficiaries entitled to services such as a nurse regardless of need.

61. In addition, during the search of Marketing Company A's offices in January 2015, agents identified multiple documents identifying patients that Marketing Company A had provided to Adonis and BestMed-Care. Two such patients were Patient HM and Patient HC.

62. Patient HM was interviewed by law-enforcement agents in February 2015. She said that she had gotten a call out of the blue from some company that offered her nursing services and a visiting physician. According to Patient HM, the caller said that she was eligible for such services because of her age and because she had Medicare. Patient HM said that there was no change in her medical condition to precipitate the call. Patient HM said that she had a regular primary-care physician and that she drove to appointments with her primary-care physician.

63. According to claims data, Patient HM was seen by both Adonis from November 26, 2013 through March 25, 2014 and then from April 17, 2014 through October 10, 2014, and was also seen by BestMed-Care from October 9, 2014 through December 8, 2014. According to claims data, Medicare paid Adonis approximately \$8,950 and paid BestMed-Care approximately \$1,987 for such services.

64. Patient HC was interviewed by a law-enforcement agent in February 2015. She said that she had received a call from Marketing Company A approximately four months earlier. She said that she was told that Marketing Company A offered her home nurse visits, physician visits, physical therapy, transportation and medical devices, and that she was told that all services were free of charge. Patient HC said that she initially declined to receive any services, but

eventually agreed after Marketing Company A called back. Patient HC said that she had a primary-care physician whom she visits every eight weeks and that she has never been told by her doctor that she has any medical restrictions such as not being able to leave her home.

65. According to claims data, Patient HC was seen by Adonis from June 27, 2014 through September 30, 2014. According to claims data, Medicare paid Adonis approximately \$2,779 for such services.

66. According to a review of Marketing Company A's bank records from January 2014 through November 2014, Adonis paid Marketing Company A approximately \$18,200 in checks, and BestMed-Care paid Marketing Company A approximately \$3,300 in checks. According to a review of the bank records, the checks from Adonis were issued from the **Subject Adonis Account** and the checks from BestMed-Care were issued from the **Subject BestMed Account**. According to a review, the signatures on multiple Adonis and BestMed-Care checks to Marketing Company A are signed in the name of ADEMIJU, including one Adonis check for \$3,200 which was dated August 6, 2014, which was dated less than a week before he was interviewed by law-enforcement agents. I have compared these signatures to the signature on the driver's license for ADEMIJU and believe that they match.

67. Moreover, a former employee of Marketing Company A (Individual B) was interviewed by law enforcement agents in January 2015 about Marketing Company A's practices. Individual B has cooperated with the hope of receiving consideration in connection with any potential criminal charges or the resolution of any charges, but no promises have been made to Individual B. Individual B admitted that Marketing Company A was paid by home-health agencies not based on marketing services, but on a per-patient basis. Individual B said

that he had become concerned about Marketing Company A's practices when he asked the head of Marketing Company A (Individual C) whether it was right to charge a rate for referrals. According to Individual B, Individual C replied that the home-health agencies "make enough money to pay the little fee I am charging them."

68. Prior to being interviewed by law enforcement, Individual B was recorded in late 2014 talking about Marketing Company A with a cooperating source (the "CS"). Prior to meeting with Individual B, agents outfitted the CS with audio/video recording devices, turned on the devices before the meeting, and searched him. FBI agents met with the CS after the meeting and de-activated the recording devices. For purposes of this affidavit, I do not rely on any information provided by the CS, only the recording that was made at the direction of law-enforcement agents.²

69. According to my review of the recording, Individual B explained that Marketing Company A gets paid between \$500 to \$700 for each patient referral to a home health agency. Individual B said that Marketing Company A sends home-health agencies patients and that the home-health agency would pay per patient, though Marketing Company A would "invoice you for hours" and "convert" the payment into hours. "They [Marketing Company A] do a hourly-rate type of thing. They base it on patients, how many patients are admitted. That's how they do it. The only problem with a system like that is that it puts everyone in a bad situation because Medicare does not want a company to pay per patient." Based on my knowledge of the investigation, as well as my training and experience, I believe that Individual B was referring to the Anti-Kickback Statute.

² The portions of the recording included in this affidavit are based on draft, not final transcripts of the recording.

70. According to an admissions form found in the search of Marketing Company A's offices, Patient HM was listed as one of three patients who were referred to with the notation "date paid 2-7-14." Marketing Company A's bank records include a February 7, 2014 check issued from the **Subject Adonis Account** which was deposited into Marketing Company A's bank account. That check was for the amount of \$1,800 and included the memo line "community liaison." This check was signed in the name of Individual A and matches the signature on Medicare forms signed by Individual A on behalf of Adonis. The payment of \$1,800 would correspond to a payment of \$600 per patient referral.

71. Two other forms found in the search of Marketing Company A's offices identify a total of 10 patients who were referred to with the notation "date paid 6-5-14." Marketing Company A's bank records include two June 5, 2014 checks issued from the **Subject Adonis Account** which were deposited into Marketing Company A's bank account. Both checks have signatures that are in the name of ADEMIJU and that match ADEMIJU's signature. One check was for \$4,100 and the other was for \$1,900, and both included the memo line "community liaison." The total payment of \$6,000 would correspond to a payment of \$600 per patient referral.

72. When interviewed in August 2014, ADEMIJU said that he understood that under the Anti-Kickback Statute, Adonis and BestMed-Care were not allowed to pay for patient referrals. Agents also specifically advised ADEMIJU that paying doctors, marketers, and/or patients directly for patient referrals is a violation of the Anti-Kickback Statute.

73. According to an admissions form found in the search of Marketing Company A's offices, Patient HC was listed as one of eight patients who were referred to with the notation

“date paid 9-24-14.” Marketing Company A’s bank records include a September 24, 2014 check issued from the **Subject BestMed Account** which was deposited into Marketing Company A’s bank account. The check has a signature in the name of ADEMIJU and that matches ADEMIJU’s signature. That check was for the amount of \$3,300 and included the memo line “community liaison.” The payment of \$3,300 would correspond to a payment of more than \$400 per patient referral.

74. In the response by BestMed-Care to the government’s health-care fraud subpoena, ADEMIJU signed a letter in which stated that there was “no record of physician or referral payment.” In addition, when asked to provide “records of any and all payments made for Medicare patient referrals, from 2011 to the present,” the BestMed-Care response was “N/A.” Similarly, in Adonis’s response to the government’s health-care fraud subpoena, when asked to provide “records of any and all payments made for Medicare patient referrals, from 2011 to the present,” the Adonis response was “N/A.” The Adonis response was accompanied by a certification signed by Individual A.

VII. ADONIS AND BESTMED-CARE THEN SEND PATIENTS TO PHYSICIANS WHO IMPROPERLY SIGNED ORDERS

75. According to claims data submitted by Adonis and BestMed-Care, as well as a review of patient files that were provided by those agencies to law enforcement pursuant to subpoena, many of the episodes of home-health services that Adonis and BestMed-Care-Care provided to Medicare beneficiaries were allegedly ordered by physicians who worked at the company Suburban Home Physicians, which did business as Doctor At Home, including Physician A, Physician B, and Physician C.

76. On July 29, 2014, law enforcement officials searched the offices of Suburban Home Physicians, which did business as Doctor At Home pursuant to a search warrant issued by Magistrate Judge Young B. Kim. Law enforcement officials have interviewed more than 20 former employees of Suburban Home Physicians (which did business as Doctor At Home), including multiple physicians and physician assistants.

77. According to claims data submitted by Adonis and BestMed-Care, the top referring physician for Adonis and for BestMed-Care was Physician A. According to claims data, Physician A referred approximately one-third of the episodes of home-health services that Adonis and BestMed-Care submitted for payment, which amounted to approximately \$1.65 million of payments to Adonis and BestMed-Care.

78. Physician A was interviewed by law enforcement agents in July 2014 and again in late 2014 pursuant to a proffer agreement. Physician A has cooperated with the hope of receiving consideration in any potential criminal charges or the resolution of any potential charges, but no promises have been made to Physician A. Physician A stated that he worked for Doctor At Home and said that he signed whatever forms Doctor At Home gave him to sign. He said that he never refused to sign any form for the company, and that he never asked for an explanation of the forms that he was signing. He said that he did not know what a Form 485 was, even though he signed many such orders. In a review of patient files from Adonis and BestMed-Care, law enforcement found numerous Form 485's signed by Physician A.

79. According to claims data, Physician B ordered services resulting in approximately \$236,000 in payments to Adonis and BestMed-Care.

80. Physician B was also interviewed by law-enforcement agents in July 2014. Physician B has cooperated with the hope of receiving consideration with any potential criminal charges and the resolution of any potential criminal charges, but no promises have been made to Physician B. Physician B stated that she worked for Doctor At Home and said that she got pressure from her employer to say that patients were confined to the home even when they were not. She reviewed a list of patients for whom she allegedly had referred nursing services, and identified more than 40 such patients who were not confined to the home, including Patient MM, who is discussed further below.

81. According to claims data submitted by Adonis and BestMed-Care, Physician C ordered services resulting in approximately \$8,000 in payments to Adonis and BestMed-Care.

82. Physician C was interviewed by agents in July 2014 and in November 2014. Physician C cooperated with the hope of receiving consideration with any potential criminal charges and the resolution of any potential criminal charges, but no promises have been made to Physician C. Physician C said that he had a practice that he closed after suffering a stroke and that he has suffered some memory loss; he described his memory as “Swiss cheese” and that he regularly writes down reminders to himself. Physician C said that after closing his practice, he worked at two home-visiting companies, including Doctor At Home.

83. Physician C said that he did not understand prior to July 2014 that patients needed to be confined to the home in order to qualify for home-health services. He said that almost all of the patients he saw had been referred by a nursing agency and that almost all were being seen by nurses and receiving home-health services.

84. Physician C said that about 50 to 60 percent of his patients were not confined to the home. Physician C said that the patients he visited had “normal old people issues” and that he had wondered why some patients needed his services. He said that some patients had told him that they had seen their primary-care physician a week before, and that he asked those patients why they asked for a home visit. According to Physician C, patients replied that the services had been offered and were free.

VIII. ADEMIJU PLACED FALSE INFORMATION IN PATIENT ASSESSMENTS

85. Based on a review of Medicare claims data, law enforcement officials subpoenaed patient files from Adonis and BestMed-Care-care for 19 patients who were alleged in claims data to have been referred by physicians at Doctor At Home. Agents have also interviewed more than 10 patients of Adonis and BestMed-Care. As discussed in more detail below, the nursing assessments signed by ADEMIJU and others contain information about their patients’ conditions that is not corroborated by the patients and that shows unusual patterns that are inconsistent with the patients’ recollections of their medical history and their experiences with Adonis and BestMed-Care.

86. In particular, a review of the nursing assessments, contrasted with interviews of the patients and their primary-care physicians, showed that the assessments regularly contained false information about the following areas:

- Multiple nursing assessments included false statements that the patients were homebound.
- Multiple nursing assessments falsely stated that patients needed assistance with activities of daily living, such as dressing, bathing, using the toilet and maintaining proper toileting hygiene, and feeding themselves.

87. Law enforcement officials have reviewed multiple assessments that were provided by Adonis and BestMed-Care and that were electronically signed by ADEMIJU. The assessments include information as to the “assessment date,” the “visit date,” the “time in,” the “time out,” and the “discipline of person completing assessment.” The assessments indicate that the assessment was done on the same day as the visit, and that the assessment was done by an “RN.” As noted above, ADEMIJU is a registered nurse.

88. For example, the BestMed-Care patient file for Patient LD contains an assessment dated September 20, 2013 for Patient LD that was signed by ADEMIJU and that states that it was completed by a registered nurse during a visit from 12:00 p.m. to 1:00 p.m. There is no indication in the file that anyone but ADEMIJU completed the assessment, or that any RN but ADEMIJU visited Patient LD that day.

89. Similarly, the Adonis patient file for Patient LD contains an assessment dated September 25, 2013 for Patient LD that was signed by ADEMIJU and that states that it was completed by a registered nurse during a visit from 8:00 a.m. to 9:00 a.m. There is no indication in the file that anyone but ADEMIJU completed the assessment, or that any RN but ADEMIJU visited Patient LD that day. The Adonis patient file contains a note indicating that an Adonis employee visited Patient LD later that same day, but that person’s name does not appear in the Illinois Department of Financial and Professional Regulation’s online database as a registered nurse.

90. While many assessments produced to law enforcement by Adonis and BestMed-Care were signed by ADEMIJU, patients did not recall being assessed by ADEMIJU as often as the assessments indicated.

91. For example, Patient LD was shown a photograph of ADEMIJU and said that she recognized him and that he visited once to conduct an assessment. The patient files produced by BestMed-Care and Adonis for Patient LD included a total of five assessments signed by ADEMIJU in 2013 and 2014.

92. Patient AA and Patient RA did not recognize a photograph of ADEMIJU when shown to them. The patient file produced by BestMed-Care for Patient AA included three assessments which were signed by ADEMIJU, and the patient file produced by BestMed-Care for Patient RA similarly included three assessments which were signed by ADEMIJU. Patient AA said that she had spoken by phone with “Mr. James,” who she believed to be in charge of BestMed-Care.

93. ADEMIJU told law enforcement in August 2014 that nurses completed the assessments and that he reviewed the assessments as the administrator. The patient file Patient LD indicates that a licensed practicing nurse saw Patient LD on days on which assessments were done. However, according to a representative of Cahaba, a Medicare contractor tasked with preventing fraud, licensed practicing nurses are not allowed to do assessments.

94. ADEMIJU told agents when interviewed in August 2014 that he had received training from Medicare online and from the state of Illinois, that he was aware of the homebound criteria, and that all the nurses at Adonis and BestMed-Care were trained annually on the criteria for homebound. ADEMIJU also said that he was aware that it was illegal to provide false information on an OASIS form.

95. The Adonis nursing assessment dated September 25, 2013 for Patient LD and signed by ADEMIJU states that Patient LD was homebound. The assessment also was marked

to explain that Patient LD was homebound because she “exhibits [a] considerable & taxing effort to leave home,” “requires [the] assistance of another to get up and move safely,” and is “unable to safely leave home unassisted.”

96. In contrast, Patient LD told law-enforcement officials in an in-person interview in January 2015 that she has high blood pressure, high cholesterol, COPD, congestive heart failure, coronary artery disease, arthritis, and a heart condition, and that these conditions are not new and do not limit her ability to leave her apartment. She said that, during the summer, she goes out every day to enjoy the weather. She also said that she had walked a couple of blocks the previous day to have lunch with a friend. Agents observed Patient LD during the interview, and saw that she was able to walk around her apartment without an assistive device.

97. The following table contrasts what the September 25, 2013 assessment signed by ADEMIJU stated about Patient LD’s ability to perform daily activities of living, and what Patient LD herself told law-enforcement agents.

	9/25/13 assessment signed by ADEMIJU	What Patient LD told agents
Dressing	1 – able to dress lower/upper body without assistance if clothing [and shoes] is laid out or handed to the patient	She dresses herself without assistance
Bathing	1 – with the use of devices, is able to bathe self in shower or tub independently, including getting in and out of the tub/shower	She bathes herself without assistance
Toileting hygiene	1 - able to manage toileting hygiene and clothing management without assistance if supplies / implements are laid out for patient	She can get on and off of the toilet without assistance
Ambulation / locomotion	1 - with the use of one-handed device, able to independently walk on even and uneven surfaces	She has a cane but does not use it often

	9/25/13 assessment signed by ADEMIJU	What Patient LD told agents
Feeding	1 - able to feed self but requires meal set-up or intermittent assistance / supervision, or a liquid / pureed / ground meat diet	She can eat without assistance
Ability to plan and prepare light meals	1 – unable to prepare light meals on a regular basis due to physical, cognitive, or mental limitations	She can prepare her own meals without assistance

98. According to claims data, on or about November 25, 2013, Adonis submitted a claim to Medicare for the services allegedly rendered to Patient LD from September 25, 2013 through November 23, 2013. According to claims data, Medicare paid \$1,963.49 on this claim.

99. Patient RA and Patient AA are a married couple who told law-enforcement agents in February 2015 that they had been seen by two nurses from Adonis, BestMed-Care and a related company for several years.

100. According to a nursing assessment dated November 12, 2012 and signed by ADEMIJU, Patient RA was homebound. The assessment also was marked to explain that Patient RA was homebound because he had “severe dyspnea,” “require[d] the assistance of another to get up and move safely,” and was “unable to safely leave home unassisted.” According to a nursing assessment also dated November 12, 2012 and also signed by ADEMIJU, Patient AA, who is the wife of Patient RA, is also homebound. The assessment was marked to explain that Patient AA “exhibits [a] considerable & taxing effort to leave home” and was “unable to safely leave home unassisted.”

101. By contrast, both Patient RA and Patient AA told law-enforcement agents in February 2015 that they have been able to leave the home during the time that they were receiving nursing services and that they have never been told that they have any medical

conditions that restricted them to their home. Patient RA told agents that if he walks too much, he gets short of breath, but he can get out of the house by himself. Patient AA said that she was able to drive and did drive herself and her husband to medical appointments. She also said that she is able to shop by herself and sometimes drives a friend to go shopping.

102. The following table contrasts what the November 12, 2012 assessment signed by ADEMIJU stated about Patient RA’s ability to perform daily activities of living, and what Patient RA himself told law-enforcement agents about such abilities over the past few years:

	11/12/12 assessment signed by ADEMIJU	What Patient RA told agents
Dressing	2 - Someone must help patient put on [clothing]	He dresses himself without assistance.
Bathing	2 - able to bathe with intermittent assistance for supervision / reminders, to get in/out of shower / tub, or washing difficult to reach areas	He showers without any assistance or assistive devices, though he sometimes takes an oxygen device into the shower.
Toileting hygiene	2- someone must help patient to maintain toileting hygiene and/or adjust clothing	He is able to use the bathroom without assistance.
Ambulation / locomotion	1 - with the use of one-handed device, able to independently walk on even and uneven surfaces	He does not use a cane or walker. He was given a walker after being hospitalized approximately a year ago, used it for a short time while recovering, and has not used it since.
Feeding	1 – able to feed self but requires meal set-up, or intermittent assistance/supervision, or a liquid/pureed/ground meat diet	He feeds himself without assistance.
Ability to plan and prepare light meals	1 – unable to prepare light meals on a regular basis due to physical, cognitive or mental limitations	He prepares light meals like sandwiches and coffee, though his wife is the primary cook in the household.
Ability to use telephone	2 – able to answer the telephone and carry on a normal conversation but has difficulty with placing calls	He has a flip phone which he uses without assistance.

103. The following table contrasts what the November 12, 2012 assessment signed by ADEMIJU stated about Patient AA’s ability to perform daily activities of living, and what Patient AA herself told law-enforcement agents about such abilities over the past few years:

	11/12/12 assessment signed by ADEMIJU	What Patient AA told agents
Dressing	2 - Someone must help patient put on [clothing]	She dresses herself without assistance.
Bathing	2 - able to bathe with intermittent assistance for supervision / reminders, to get in/out of shower / tub, or washing difficult to reach areas	She has an assistive device in the shower but does not need supervision or assistance.
Toileting hygiene	2– someone must help patient to maintain toileting hygiene and/or adjust clothing	She is able to use the restroom without assistance.
Ambulation / locomotion	1 - with the use of one-handed device, able to independently walk on even and uneven surfaces	She stated she cannot walk half a block and her walking is limited. She has a motorized chair but uses it only so she does not have to stand for long periods of time, such as when she cooks.
Feeding	2 – unable to feed self and must be assisted or supervised throughout the meal/snack	She feeds herself without assistance.
Ability to plan and prepare light meals	1 – unable to prepare light meals on a regular basis due to physical, cognitive or mental limitations	She cooks regularly for the household.
Ability to use telephone	2 – able to answer the telephone and carry on a normal conversation but has difficulty with placing calls	She is able to use a telephone without assistance.

104. As noted above, a physician from Doctor At Home, Physician B, specifically identified Patient MM as one of multiple patients of hers who were not confined to the home. By contrast, a nursing assessment for Patient MM dated June 7, 2013 and signed by another employee of Adonis states that Patient MM is homebound because she “exhibits [a] considerable & taxing effort to leave home” and “requires the assistance of another to get up and move safely.” The patient file provided by Adonis to law enforcement includes forms stating that ADEMIJU was the “case manager” and “primary clinician” to whom Patient MM was assigned.

105. Another patient, Patient HH, told law-enforcement agents during an in-person interview in January 2015 that she stopped leaving her home about a year earlier because of her arthritis. Even so, as shown below, an October 3, 2013 assessment signed by ADEMIJU included information that is inconsistent with what Patient HH herself told law-enforcement agents about her ability to conduct daily activities of living without assistance over the past few years.

	10/3/13 assessment signed by ADEMIJU	What Patient HH told agents
Dressing	2 - Someone must help patient put on [clothing]	She dresses herself without assistance.
Bathing	2 - able to bathe with intermittent assistance for supervision / reminders, to get in/out of shower / tub, or washing difficult to reach areas	She washes herself without any assistance.
Toileting hygiene	2- someone must help patient to maintain toileting hygiene and/or adjust clothing	She is able to get to the restroom and use the toilet without any assistance. She joked that she urinates 20 times a day without assistance.
Ambulation / locomotion	2 - requires use of a two-handed device to walk alone on a level surface and/or requires assistance to negotiate uneven surfaces	She has a cane and a walker, but does not use either of them.
Feeding	2 – unable to feed self and must be assisted or supervised throughout meal/snack	She feeds herself.
Ability to plan and prepare light meals	2 – unable to prepare any light meals or reheat any delivered meals	She prepares her own meals and uses her microwave a lot.
Ability to use telephone	2 – able to answer the telephone and carry on a normal conversation but has difficulty with placing calls	She is able to use her telephone without any help.

IX. ADEMIJU PERIODICALLY DISCHARGED AND THEN RE-ADMITTED PATIENTS WHEN THERE WERE NO CHANGES IN MEDICAL CONDITION

106. Based on a review of nursing assessments and claims data, Adonis and BestMed-Care-care periodically discharged patients and then re-admitted the patients at the same agency

or at the other agency within a few months and sometimes within just a few days. The files included information indicating that patients were in stable condition at the time of discharge and then became confined to the home, had moderate to severe pain, and needing of assistance in terms of daily activities of living at the time of new admission. Thus, according to the patient files, the patients' conditions periodically improve, decrease, and improve according to consistent intervals.

107. By contrast, several patients told law-enforcement officials that their conditions generally have not changed in those patterns.³

108. When asked about discharges, ADEMIJU told law enforcement that if a nurse believed that a patient no longer needed home health, the nurse would inform the physician and recommend discharge. ADEMIJU said that it was the physician who had the final call. ADEMIJU also said that if a patient was discharged, a notification would be sent five to seven days prior to discharge.

109. By contrast, when interviewed, several patients described the services as continuous with occasional breaks, and did not appear to know that they had been discharged and re-admitted as indicated by the patient files and claims data.

110. For example, according to claims data and patient files, Adonis and BestMed-Care has admitted, discharged, and re-admitted Patient LD along the following pattern:

- Admitted by BestMed-Care on March 28, 2013

³ I am not aware of any Medicare policy that would require patients who needed home-health services to be periodically discharged and re-admitted. According to Chapter 10, Section 10.1.5 of the Medicare Benefit Policy Manual, “[t]he beneficiary can be covered for an unlimited number of nonoverlapping episodes.”

- Home-health services provided by BestMed-Care from March 28, 2013 through September 20, 2013 (three episodes resulting in approximately \$4,850 in payments by Medicare to BestMed-Care)
- Discharged by BestMed-Care on September 20, 2013
- Admitted by Adonis on September 25, 2013, approximately five days after allegedly being discharged by BestMed-Care
- Home-health services provided by Adonis from September 25, 2013 through May 20, 2014 (four episodes resulting in approximately \$6,500 in payments by Medicare to Adonis)
- Discharged by Adonis on May 20, 2014

111. According to the nursing assessments provided by Adonis and BestMed-Care to law enforcement, Patient LD's conditions improved during the services provided by BestMed-Care to the point where services were no longer needed at the time of discharge on September 20, 2013, and yet declined so quickly that she was admitted at Adonis five days later.

112. For example, according to the assessments signed by ADEMIJU, Patient LD suffered moderate levels of pain that interfered with her activity or movement daily when recertified in May 2013 and July 2013. Then she suffered no pain at the time of discharge from BestMed-Care on September 20, 2013, according to the assessment signed by ADEMIJU. However, starting five days later, she again suffered moderate levels of pain that interfered with her activity or movement daily when admitted by Adonis on September 25, 2013 and at a recertification in November 2013, according to assessments signed by ADEMIJU.

113. By contrast, Patient LD said that the services she received from Adonis and BestMed-Care were continuous and that she was never told that she had ever been discharged and re-admitted while the services were ongoing. She said that, during the time that she was being seen by the Adonis/BestMed-Care nurse, there were no changes in her medical condition

that she was aware of that would have resulted in her being discharged and then re-admitted shortly thereafter. In terms of pain, she said that pain was not an issue that hindered her and that she simply took pain medication such as ibuprofen when she had particular instances of pain, which occurred a few times a week.

114. Similarly, according to claims data, Adonis and BestMed-Care admitted, discharged, and re-admitted Patient RA along the following pattern:

- Home-health services provided by BestMed-Care from October 6, 2011 through July 31, 2012 (five episodes resulting in approximately \$11,820 in payments by Medicare to BestMed-Care)
- Re-admitted by BestMed-Care on November 12, 2012 approximately three and a half months after allegedly being discharged
- Home-health services provided by BestMed-Care from November 12, 2012 through March 11, 2013 (two episodes resulting in approximately \$5,127 in payments by Medicare to BestMed-Care)
- Discharged by BestMed-Care on March 11, 2013
- Admitted by Adonis on March 16, 2013, five days after allegedly being discharged
- Home-health services provided by Adonis from March 16, 2013 through September 6, 2013 (three episodes resulting in approximately \$6,603 in payments by Medicare to Adonis)
- Discharged by Adonis on September 6, 2013
- Re-admitted by Adonis on October 15, 2013, approximately five weeks after allegedly being discharged
- Home-health services provided by Adonis from October 15, 2013 through August 4, 2014 (five episodes resulting in approximately \$7,312 in payments by Medicare to Adonis)
- Discharged on August 4, 2014
- Re-admitted by BestMed-Care on September 11, 2014, approximately five weeks after allegedly being discharged

- Home-health services from September 11, 2014 through at least November 9, 2014 (at least one episode resulting in approximately \$1,429 in payment by Medicare to BestMed-Care)

115. Patient RA and Patient AA said that they were not aware that they had ever been discharged from any of the agencies. Patient RA and Patient AA said that they had been seen for three years by two nurses who worked for Adonis, BestMed-Care and a third agency. By contrast, according to the nursing assessments provided by Adonis and BestMed-Care to law enforcement, Patient RA's conditions improved while receiving services to the point where services were no longer needed at the time of discharge, and then declined by the next admission or re-admission.

116. In addition, Patient RA said that he had no pain issues that hindered his activities. By contrast, according to the assessments signed by ADEMIJU, Patient RA suffered moderate levels of pain that interfered with his activity or movement daily when re-admitted by BestMed-Care on November 12, 2012 and recertified in January 2013.

117. According to a review of claims data, when a patient was discharged, the patient was re-admitted at either the same agency or the related agency within 90 days more than half the time. More specifically, of the approximately 400 episodes when an Adonis patient was discharged, the patient was re-admitted at either Adonis or BestMed-Care within 90 days approximately 55 percent of the time. Of the approximately 413 episodes when a BestMed-Care patient was discharged, the patient was re-admitted at either Adonis or BestMed-Care within 90 days approximately 69 percent of the time.

118. In addition, according to a review of claims data, many patients were re-admitted at the same agency or the related agency within 7 days or less of being discharged, as occurred with Patient RA and Patient LD as described above. Of the approximately 400 episodes when an

Adonis patient was discharged, the patient was re-admitted at either Adonis or BestMed-Care within 7 days or less approximately 25 percent of the time. Of the approximately 413 episodes when a BestMed-Care patient was discharged, the patient was re-admitted at either Adonis or BestMed-Care within 7 days or less approximately 35 percent of the time.

119. One patient who was discharged by BestMed-Care and admitted by Adonis on the very same day, according to claims data, is Patient JS. According to a review of claims data, Adonis and BestMed-Care admitted, discharged, and re-admitted Patient JS along the following pattern:

- Admitted by BestMed-Care on March 28, 2013
- Home-health services provided by BestMed-Care from March 28, 2013 through September 23, 2013 (two episodes resulting in approximately \$3,957 in payments by Medicare to BestMed-Care)
- Discharged by BestMed-Care on September 23, 2013
- Admitted by Adonis on September 23, 2013, the same day that he was discharged by BestMed-Care
- Home-health services provided by Adonis from September 23, 2013 through May 1, 2014 (four episodes resulting in approximately \$6,984 in payments by Medicare to Adonis)
- Discharged on May 1, 2014
- Re-admitted by Adonis on June 27, 2014, approximately two months after allegedly being discharged
- Home-health services provided by Adonis from June 27, 2014 through September 9, 2014 (two episodes resulting in approximately \$2,200 in payments by Medicare to Adonis)
- Discharged by Adonis on September 9, 2014

120. Patient JS told law enforcement agents that the nurse from Adonis and BestMed-Care visited him weekly for approximately three months, then stopped visiting for approximately

three weeks, and then started visiting him again. Patient JS was not aware of a medical reason for the breaks, and said that it was almost as if she had to wait to start visiting him.

121. Based on my training and experience, my familiarity with this and other investigations involving home-health services, my discussions with Medicare contractors, and my discussions with law-enforcement officials, I believe that nurses periodically discharge patients and then re-admit them when there were no changes in their medical conditions to make it appear that the nurses are and have been providing medical services that help patients' medical conditions to conceal the fact that they are simply checking patients' vital signs and that there is no medically necessary reason for the visits. Such discharges and re-admissions also help avoid setting off red flags, as auditors would be more likely to notice patients who have been continuously on home-health services for years without break.

X. ADONIS AND BESTMED-CARE BILL MEDICARE FOR UNNECESSARY SERVICES

122. As stated in the Medicare Benefit Policy Manual, observation and assessment of a patient by a nurse is reasonable and necessary only "where there is a reasonable potential for change in a patient's condition that requires skilled nursing personnel to identify and evaluate the patient's need for possible modification of treatment or initiation of additional medical procedures." Such observation and assessment can continue "until the patient's clinical condition and/or treatment regimen has stabilized."

123. ADEMIJU told law enforcement officials in August 2014 that he knew that nursing services were not for preventative care, but to treat a current condition. ADEMIJU also said that he knew that Adonis and BestMed-Care should not bill Medicare if a nurse was simply checking a patient's vital signs.

124. Law enforcement officials have reviewed more than 20 home-health certification orders signed by ADEMIJU either for Adonis or for BestMed-Care. These orders show that many of the allegedly skilled-nursing services that were billed to Medicare were for patient assessment and/or observation and went on for extended periods of time.

125. For example, the home-health certification orders produced by Bestmed-Care Services regarding Patient LD and signed by ADEMIJU for the episodes beginning March 28, 2013, May 27, 2013, and July 26, 2013 all state with minor variations that the nurse is to notify the referring physician if certain vital signs change, that the nurse is to “assess pain level and effectiveness of pain medications” every visit, and to “assess” the patient’s “knowledge of medication regimen and deficits.” The goals listed for each episode included that Patient LD not have any hospitalizations during the episode and that she would “verbalize understanding” of an individualized emergency plan and the proper use of pain medication by the end of each episode.

126. Moreover, the start-of-care assessments that are dated soon after a patient was discharged include orders and goals that were already stated as having been met just days earlier. For example, the BestMed-Care discharge assessment for Patient LD signed by ADEMIJU and dated September 20, 2013 stated that patient had been instructed on how to “monitor the effectiveness of drug therapy, drug reactions and side effects, and how and when to report problems that may occur” and that she “verbalize[d] FAIR understanding of teaching.” Just days later, the Adonis start-of-care assessment signed by ADEMIJU and dated September 25, 2013 stated that skilled nursing was needed in part to “assess patient filling medication box to determine if patient is preparing correctly” and to “determine if the Patient/Caregiver is able to identify the correct dose, route, and frequency of each medication” with the goal that the patient

“will verbalize understanding of medication regimen, dose, route, frequency, indications and side effects” within 60 days.

127. When asked about the nursing services she had received, Patient LD said that the nursing visits were approximately 5 to 10 minutes long each week. Patient LD, who said that she was a certified nursing assistant herself before retiring, said that the visits were basic and that the Adonis/BestMed-Care nurse did not know how to check vitals and was usually wrong. Patient LD said that the Adonis/BestMed-Care nurse was “worthless.”

128. When asked about the nursing services they had received, Patient RA and Patient AA said that the nurse typically spent about an hour total with both of them and that much of the time was spent talking about topics such as cooking. Patient RA and Patient AA said that the nurse checked their vital signs such as blood pressure.

129. When asked about the nursing services she had received, Patient HC, who had gotten services after being called by Marketing Company A, said that she had cancelled the services because she did not believe that they were necessary. She said that the Adonis nurse normally visited her for 20 to 25 minutes and conducted a basic exam. Patient HC said that she was able to check her own vital signs and that she did not need a nurse and a doctor whom Marketing Company A had arranged to visit her home just to check her vitals.

130. When asked about the nursing services he had received, Patient JS, who was discharged by BestMed-Care and admitted at Adonis on the same day, according to claims data, said that the Adonis/BestMed-Care nurse who visited him, who appears to have been the same nurse who saw Patient LD, visited for 10 to 15 minutes each time. Patient JS said that the nurse

spent more time talking about breeding and selling her dogs than she did about Patient JS's medical condition.

131. By contrast, the patient files provided by Adonis and BestMed-Care indicate that nurses spent more time with patients and provided instructions during the visits.

132. According to the patient files provided by BestMed-Care, a nurse from BestMed-Care visited Patient LD approximately once a week. According to the files, many visits lasted an hour, and the nurse provided education during many visits on topics such as diet, pain relief, and the use of medication. According to the file, during an August 22, 2013 visit, Patient LD told the nurse, "I saw my primary dr and she was very pleased with me and said I just can't believe how well you are doing." According to the file, during a visit a week later on August 29, 2013, Patient LD again told the nurse that Patient LD's primary physician was pleased and told the nurse, "The doctor can't believe how well I am doing."

133. As noted above, Patient LD told law enforcement that she believed that the Adonis/BestMed-Care nurse was "worthless."

134. Similarly, according to the patient files provided by BestMed-Care and Adonis, a licensed practicing nurse visited Patient RA and Patient AA approximately once a week. According to the files, many visits lasted an hour, and the nurse spent an hour each with each patient, for a total of two hours with Patient RA and Patient AA combined. According to the files, the nurse provided education or training during many visits. For example, according to the patient files, a nurse was with Patient RA from 9 am to 10 a.m. on March 2, 2013 and instructed him about his disease process, and Patient RA "verbalize[d] disease process" in response to the teaching. According to the files, the same licensed practicing nurse was with Patient AA from

10:15 a.m. to 11:15 a.m. on the same day and provided teaching, and Patient AA “verbalize[d] low fat die. Understanding of verbal instructions/teaching given.”

135. By contrast, Patient RA and Patient AA told law enforcement that the two nurses who had seen them from Adonis and BestMed-Care did not provide instructions. Patient RA and Patient AA said that the first nurse was unprofessional, and they explained that they realized that the first nurse made up some of their vital signs on the chart that she left with them, which they realized upon reviewing the chart and seeing results of examinations that the nurse had not done. Patient RA and Patient AA said that the second nurse who had been seeing them in recent years was more professional and more thorough than the first nurse.

136. Patient JS said that he told the Adonis/BestMed-Care nurse several months ago to stop visiting him. Patient JS said that he felt bad about having allowed the visits to go on as long as he did. Patient JS said that he felt like he was the “driver” to a “bank robbery” because he was allowing medical visits to take place even when he knew they were unnecessary.

XI. SUBJECT PREMISES

137. Medicare regulations require providers to maintain complete and accurate medical records documenting each patient’s need for the specific services provided to each patient. Records that Medicare requires to be maintained for physician services include patient histories, treatment notes, patient sign-in registries, physician orders, plan of care and certifications, admission and discharge records, prescriptions and notes for drugs or other medical supplies, and medical tests orders and results. Medicare requires these records are to be kept for up to seven years by the Medicare provider.

138. Agents went into the **Subject BestMed-Care Premises** in August 2014 and have gone by the **Subject BestMed-Care Premises** in March 2015. The **Subject BestMed-Care**

Premises is a two-story building with red brick on the first-floor outside walls that is located at 15008 South Woodlawn Avenue, Dolton, Illinois. The **Subject BestMed-Care Premises** has signs referring to the location of the “BestMed Care Institute.” According to a database maintained by the Illinois Secretary of State, BestMed Institute, Inc. is an Illinois not-for-profit corporation of which ADEMIJU is the agent. According to the BestMed-Care Institute’s website (<http://bestmedcarenurses.com>), BestMed-Care Institute offers a program to train licensed practical nurses. ADEMIJU is featured on the BestMed-Care website’s home page in a photograph that is captioned “Welcome to BestMed-Care.”

139. Agents interviewed ADEMIJU at the **Subject BestMed-Care Premises** in August 2014.

140. An agent went into the building containing the **Subject Adonis Premises** in March 2015. The building containing the **Subject Adonis Premises** is a two-story office building located at 1313 East Sibley Boulevard, Dolton, Illinois. The building containing the **Subject Adonis Premises** has signs indicating that it is the location of the BestMed-Care Nursing School. The building containing the **Subject Adonis Premises** also has letters on the wall facing the street stating “1313 East.” Outside the front door of the building is a sign stating “Adonis” with a phone number. Immediately inside the building, there is a reception area and stairwell, and there is a sign next to the stairwell stating “Adonis” and “Suite 202,” with an arrow pointing up the stairwell. An enrollment form signed by Individual A on behalf of Adonis and dated May 21, 2013 states that the **Subject Adonis Premises** is the practice location for Adonis and indicated that Adonis did not keep patient files at any other location.

141. Based on my training and experience, as well as the evidence set forth above, the

records to be seized in Attachment “B” are kept in the normal course of a health care provider’s business at its offices, are likely to constitute evidence of the aforementioned violations, and are often kept on computers given the nature and volume of the records.

142. The assessment forms provided by Adonis and BestMed-Care indicate that the forms were created by an electronic-medical records company and that the nurses’ signatures were done electronically. Based on my training and experience, computers are needed to access records that are kept by an electronic-medical records company. In addition, Adonis and BestMed-Care have provided email addresses to Medicare as part of their contact information. Based on my training and experience, companies that use email typically have computers to access such email in their offices.

XII. SPECIFICS REGARDING SEARCHES OF COMPUTER SYSTEMS

143. Based upon my training and experience, and the training and experience of specially trained computer personnel whom I have consulted, searches of evidence from computers commonly require agents to download or copy information from the computers and their components, or remove most or all computer items (computer hardware, computer software, and computer-related documentation) to be processed later by a qualified computer expert in a laboratory or other controlled environment. This is almost always true because of the following:

a. Computer storage devices can store the equivalent of thousands of pages of information. Especially when the user wants to conceal criminal evidence, he or she often stores it with deceptive file names. This requires searching authorities to examine all the stored data to determine whether it is included in the warrant. This sorting process can take days or

weeks, depending on the volume of data stored, and it would be generally impossible to accomplish this kind of data search on site.

b. Searching computer systems for criminal evidence is a highly technical process requiring expert skill and a properly controlled environment. The vast array of computer hardware and software available requires even computer experts to specialize in some systems and applications, so it is difficult to know before a search which expert should analyze the system and its data. The search of a computer system is an exacting scientific procedure which is designed to protect the integrity of the evidence and to recover even hidden, erased, compressed, password-protected, or encrypted files. Since computer evidence is extremely vulnerable to tampering or destruction (which may be caused by malicious code or normal activities of an operating system), the controlled environment of a laboratory is essential to its complete and accurate analysis.

c. In order to fully retrieve data from a computer system, the analyst needs all storage media as well as the computer. The analyst needs all the system software (operating systems or interfaces, and hardware drivers) and any applications software which may have been used to create the data (whether stored on hard disk drives or on external media).

144. In addition, a computer, its storage devices, peripherals, and Internet connection interface may be instrumentalities of the crime(s) and are subject to seizure as such if they contain contraband or were used to carry out criminal activity.

XIII. PROCEDURES TO BE FOLLOWED IN SEARCHING COMPUTERS

145. The search and seizure warrants sought by the respective Applications regarding the **Subject Adonis Premises** and the **Subject BestMed-Care Premises** do not authorize the

“seizure” of computers and related media within the meaning of Rule 41(c) of the Federal Rules of Criminal Procedure. Rather the warrants sought by the respective Applications authorize the removal of computers and related media so that they may be searched in a secure environment.

146. With respect to the search of any computers or electronic storage devices seized from the location identified in Attachment A hereto, the search procedure of electronic data contained in any such computer may include the following techniques (the following is a non-exclusive list, and the government may use other procedures that, like those listed below, minimize the review of information not within the list of items to be seized as set forth herein):

a. examination of all of the data contained in such computer hardware, computer software, and/or memory storage devices to determine whether that data falls within the items to be seized as set forth herein;

b. searching for and attempting to recover any deleted, hidden, or encrypted data to determine whether that data falls within the list of items to be seized as set forth herein (any data that is encrypted and unreadable will not be returned unless law enforcement personnel have determined that the data is not (1) an instrumentality of the offenses, (2) a fruit of the criminal activity, (3) contraband, (4) otherwise unlawfully possessed, or (5) evidence of the offenses specified above);

c. surveying various file directories and the individual files they contain to determine whether they include data falling within the list of items to be seized as set forth herein;

d. opening or reading portions of files in order to determine whether their contents fall within the items to be seized as set forth herein;

e. scanning storage areas to discover data falling within the list of items to be seized as set forth herein, to possibly recover any such recently deleted data, and to search for and recover deliberately hidden files falling within the list of items to be seized; and/or

f. performing key word searches through all storage media to determine whether occurrences of language contained in such storage areas exist that are likely to appear in the evidence described in Attachment B.

147. Any computer systems and electronic storage devices removed from the premises during the search will be returned to the premises within a reasonable period of time not to exceed 30 days, or unless otherwise ordered by the Court.

XIV. SEIZURE FROM SUBJECT ACCOUNTS

148. Based upon my training and experience, and an analysis of claims data, I believe that funds in the **Subject Adonis Account** and the **Subject BestMed-Care Account** include proceeds of health care fraud.

149. More specifically, according to an electronic funds agreement signed by Individual A on behalf of Adonis and sent to a Medicare contractor in 2013, payments are made by Medicare to Adonis into an account at J.P. Morgan Chase Bank ending with the digits 4007 (the “**Subject Adonis Account**”). This is also the account from which checks were issued to Marketing Company A, as discussed above.

150. Also, according to an electronic funds agreement signed by ADEMIJU in 2012 on behalf of BestMed-Care Services, payments are made by Medicare to BestMed-Care into an account at J.P. Morgan Chase Bank ending with the digits 8781 (the “**Subject BestMed-Care Account**”). This is also the account from which checks were issued to Marketing Company A, as discussed above.

151. According to an analysis of claims data, from March 17, 2014 to February 24, 2015, Medicare has paid a total of \$32,321.73 to Adonis for Patients RA, Patient AA, Patient JS, Patient JH, Patient LD, Patient HC, and Patient HM, and a total of \$8,435.82 to BestMed-Care for Patient RA, Patient AA, and Patient HM.

152. In addition, according to an analysis of claims data, from March 17, 2014 to February 24, 2015, Medicare has paid a total of \$91,151.50 to Adonis for patients who (1) were identified in Marketing Company A's records as being referred by Marketing Company A to Adonis or BestMed-Care and (2) were identified in claims data as having been referred at least one time to Adonis or BestMed-Care by a physician who worked at Suburban Home Physicians. Medicare has paid a total of \$20,182.97 to BestMed-Care for patients who met the same two criteria.

153. I am aware from my discussions with Medicare contractors and my training and experience that Medicare payments take several days to process and that Medicare contractors cannot stop payments after a certain point in the process.

154. Accordingly, I submit that funds not exceeding \$123,473.20 in the **Subject Adonis Account** and funds not exceeding \$28,618.79 in the **Subject BestMed-Care Account** represent proceeds from specified unlawful activity, namely, health care fraud, in violation of 18 U.S.C. § 1347, which are therefore subject to forfeiture pursuant to 18 United States Code, Sections 981(a)(1)(C) and 981(b). In particular, Title 18, United States Code, Section 981(a)(1)(C) authorizes the seizure of property which constitutes or is derived from proceeds traceable to various offenses, including "any act or activity constituting an offense involving a Federal health care offense," as specified in Title 18, United States Code, Section 1956(C)(7)(F).

155. In addition, I submit that funds not exceeding \$123,473.20 in the **Subject Adonis Account** and funds not exceeding \$28,618.79 in the **Subject BestMed-Care Account** also represent proceeds forfeitable pursuant to Title 18, United States Code, Section 982(a)(7), which authorizes the criminal forfeiture of property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to a Federal health care offense. Title 18, United States Code, Section 24(a)(1) defines “Federal health care offense” to include violations of 18 U.S.C. § 1347. The probable cause showing is the same for Sections 981(b) and 853(f), except that the latter also requires a showing that a restraining order “may not be sufficient to assure the availability of the property for forfeiture.” Based on my training and experience, I know that restraining orders served on banks sometimes fail to preserve the property for forfeiture because the bank representative receiving the restraining order fails to put the necessary safeguards in place to freeze the money in time to prevent the account holder from accessing the funds electronically, or fails to notify the proper personnel as to the existence of the order, or the bank exercises its own right of setoff to satisfy an outstanding debt owed to the bank by the account holder. In contrast, where electronic funds are concerned, a seizure warrant guarantees that the funds will be in the Government’s custody once the warrant is served.

156. In this case, the deposits described above do not represent all of the activity in the **Subject Adonis Account** and the **Subject BestMed-Care Account**. To some extent, the deposits have been commingled with other funds deposited and withdrawn from the **Subject Adonis Account** and the **Subject BestMed-Care Account**. However, Title 18, United States Code, Section 984 permits the Government in a civil forfeiture action to forfeit fungible property, such as funds deposited in a bank account, without directly tracing the property if the

funds are seized from the same account as the property involved in the offense, provided that the action is commenced within one year from the date of the offense. Specifically, according to the statute:

- (a)(1) In any forfeiture action in rem in which the subject property is cash, monetary instruments in bearer form, funds deposited in an account in a financial institution (as defined in section 20 of this title), or precious metals —
 - (A) it shall not be necessary for the Government to identify the specific property involved in the offense that is the basis for the forfeiture; and
 - (B) it shall not be a defense that the property involved in such an offense has been removed and replaced by identical property.
- (2) Except as provided in subsection (b), any identical property found in the same place or account as the property involved in the offense that is the basis for the forfeiture shall be subject to forfeiture under this section.
- (b) No action pursuant to this section to forfeit property not traceable directly to the offense that is the basis for the forfeiture may be commenced more than 1 year from the date of the offense.

18 U.S.C. § 984(a)-(b).

157. The Government anticipates that this seizure warrant will be signed on or before March 9, 2015. As such, the Government is limiting its request for authority to seize funds that equal the deposits resulting from the payments to Adonis and BestMed-Care for patients whom records indicate were referred to Adonis and BestMed-Care by Marketing Company A, rather than by a primary-care physician, which funds were placed into the **Subject Adonis Account** and the **Subject BestMed-Care Account** between on or about March 17, 2014 and the present date. These funds may be seized because they were deposited within the one-year period

authorized by 18 U.S.C. § 984.

XV. CONCLUSION

158. Based on the above information, I respectfully submit that there is probable cause to believe that beginning no later than 2011 and continuing until the present, JAMES ADEMIJU did knowingly and willfully participate in a scheme to defraud a health care benefit program, namely, Medicare, and to obtain, by means of false and fraudulent representations, money under the control of Medicare in connection with the delivery of or payment for health care services, and, in execution of the scheme, on or about November 25, 2013, did knowingly cause to be submitted a false claim, specifically, a claim that certain home health services provided to Patient LD qualified for payment, when defendant knew that the services did not qualify for payment, in violation of Title 18, United States Code, Section 1347.

159. I further submit that there is probable cause to believe that health care fraud offenses, in violation of Title 18, United States Code, Section 1347, have been committed, and that evidence of this criminal conduct, as further described in Attachment B, are located at the **Subject Adonis Premises** and at the **Subject BestMed-Care Premises**. By this affidavit and application, I request that the Court issue a search warrant allowing agents to seize the evidence described in Attachment B.

160. I further submit that proceeds of this criminal conduct are located in the **Subject Adonis Account**. By this affidavit and application, I request that the Court issue a seizure warrant allowing agents to seize funds not exceeding \$123,473.20 from the **Subject Adonis Account**. I further request that the Court authorize the effectuation of the seizure warrant by authorizing law enforcement officers to direct J.P. Morgan Chase Bank to do some or all of the following: (1) to freeze the contents of the **Subject Adonis Account** in place for up to 14 days

from the issuance of the seizure warrant, and while the funds are frozen, to accrue any deposits, interest, dividends, and any other amount credited to the **Subject Adonis Account** until such time as the officer directs that the contents of the account be finally liquidated; or (2) to liquidate some or all of the contents of the **Subject Adonis Account** at one or more times while frozen, and upon any such liquidation to turn over to the officer the liquidated amount.

161. I further submit that proceeds of this criminal conduct are located in the **Subject BestMed-Care Account**. By this affidavit and application, I request that the Court issue a seizure warrant allowing agents to seize funds not exceeding \$28,618.79 from the **Subject BestMedCare Account**. I further request that the Court authorize the effectuation of the seizure warrant by authorizing law enforcement officers to direct J.P. Morgan Chase Bank to do some or all of the following: (1) to freeze the contents of the **Subject BestMed-Care Account** in place for up to 14 days from the issuance of the seizure warrant, and while the funds are frozen, to accrue any deposits, interest, dividends, and any other amount credited to the **Subject BestMed-Care Account** until such time as the officer directs that the contents of the account be finally liquidated; or (2) to liquidate some or all of the contents of the **Subject BestMed-Care Account**

at one or more times while frozen, and upon any such liquidation to turn over to the officer the liquidated amount.

FURTHER AFFIANT SAYETH NOT.

Forrest Johnson
Special Agent
Federal Bureau of Investigation

Subscribed and sworn
before me this 9th day of March, 2015

Honorable MARY M. ROWLAND
United States Magistrate Judge