

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : Criminal No. 12-  
 :  
 v. :  
 :  
 DOV RAND : 42 U.S.C. § 1320a-7b(b)(1) and  
 : 18 U.S.C. § 2

I N F O R M A T I O N

The defendant having waived in open court prosecution by indictment, the United States Attorney for the District of New Jersey charges:

The Defendant and Orange Community MRI, LLC

1. At all times relevant to this Information:

a. Defendant DOV RAND was a physician licensed in New Jersey who operated an office at 667 Eagle Rock Avenue in West Orange, New Jersey.

b. Orange Community MRI, LLC ("OCM") was located at 345 Henry Street, Suite 102, Orange, New Jersey. OCM provided services to patients that included magnetic resonance imaging ("MRIs"), ultrasound imaging ("Ultrasounds"), echocardiograms ("Echos"), computed axial tomographies ("CAT Scans" or "CT Scans"), and dual-emission X-ray absorptiometries ("DEXA Scans") (collectively, the "Diagnostic Tests").

2. At various times relevant to this Information, there was a Cooperating Witness (the "CW") who held himself out to be an individual acting on behalf of OCM.

3. Starting from in or about late September 2011 to in or about December 2011, the CW held himself out to be an individual acting on behalf of OCM, although he was doing so at the direction and under the supervision of law enforcement agents with the U.S. Department of Health and Human Services, Office of Inspector General.

4. The Medicare Program ("Medicare") is a federal program that provides free or below-cost health care benefits to certain individuals, primarily the elderly, blind, and disabled. Medicare is a "Federal health care program" as defined in Title 42, United States Code, Section 1320a-7b(f). Individuals who receive benefits under Medicare are commonly referred to as "beneficiaries."

5. The Medicare Part B program is a federally funded supplemental insurance program that provides supplementary Medicare insurance benefits for individuals aged sixty-five or older, and certain individuals who are disabled. The Medicare Part B program pays for various medical services for beneficiaries, including the Diagnostic Tests.

6. The Medicaid Program ("Medicaid") is a jointly funded, federal-state health insurance program that provides certain health benefits to the disabled, as well as individuals and families with low incomes and resources. The federal involvement in Medicaid is largely limited to providing matching

funds and ensuring that states comply with minimum standards in the administration of the program. Medicaid is a "Federal health care program" as defined in Title 42, United States Code, Section 1320a-7b(f). Individuals who receive benefits under Medicaid are commonly referred to as "beneficiaries."

7. The federal Medicaid statute sets forth the minimum requirements for state Medicaid programs to qualify for federal funding, which is called federal financial participation. 42 U.S.C. §§ 1396 et seq. In New Jersey, the New Jersey Medical Assistance Program is administered by the New Jersey Department of Human Services. Under New Jersey law, Medicaid pays for certain medical services for beneficiaries, including the Diagnostic Tests.

8. At all times relevant to this Information, OCM was a Medicare- and Medicaid-approved provider of, among other things, the Diagnostic Tests.

#### The Kickback Scheme

9. Starting at least in or about 2010, individuals acting on behalf of OCM made cash payments to certain New Jersey health care practitioners, including RAND, in exchange for referring patients to OCM for Diagnostic Tests.

10. After the end of each calendar month, individuals acting on behalf of OCM, including CW, printed OCM patient reports that included, among other information, dates of service,

patient names, the referring health care practitioners, the kinds of medical insurance to be billed, and the Diagnostic Tests performed (the "Kickback Reports"). The Kickback Reports were organized by Diagnostic Test, and therefore there was a separate Kickback Report for MRIs, Ultrasounds, Echos, CAT Scans, and DEXA scans. The Kickback Reports were then used to tally the number of OCM-patient Diagnostic Tests referred by each health care practitioner and the type of insurance used, and the results of these tallies were used to determine the amount of the kickback payment OCM paid to the health care provider.

11. Pursuant to RAND and OCM's agreement, OCM paid RAND for each Medicare or Medicaid beneficiary MRI RAND referred to OCM. Pursuant to the same agreement, OCM also paid RAND for certain privately insured patient MRIs that RAND referred to OCM. In the event a patient referred to OCM paid for an MRI directly and not through Medicare, Medicaid, or an insurance plan (i.e., the patient "self-paid" for the MRI), then RAND did not receive any payment from OCM.

12. According to the MRI Kickback Report, during September 2011, RAND referred a total of 9 MRIs to OCM; 3 of those 9 MRIs were for Medicare or Medicaid beneficiaries.

13. On or about October 7, 2011, RAND met with CW at RAND's office located at 667 Eagle Rock Avenue in West Orange, New Jersey. During this meeting, RAND accepted from CW a white

envelope containing \$920 in cash, which included payments for patients RAND referred to OCM during August 2011, as well as the 3 MRIs referred to OCM and performed on Medicare or Medicaid beneficiaries during September 2011.

14. During this October 7, 2011 meeting, RAND asked CW, in sum and substance, how many privately insured test referrals he made in September. The CW responded and told RAND that he had referred 6 privately insured tests and 1 Medicare or Medicaid patient, to which RAND responded, "good, good, good." After receiving payment from CW, RAND responded "[t]hank you so much . . . ." RAND then explained to CW that he has "an office upstairs that's an anti-aging medicine practice . . . I was filmed this week on Housewives of New Jersey . . . I'm going to be on TV . . . I'm doing that, so, I'm going to get a lot more patients coming my way."

15. According to the MRI Kickback Report, during October 2011, RAND referred a total of 5 MRIs to OCM; at least 3 of those 5 tests were for Medicare or Medicaid beneficiaries.

16. On or about November 29, 2011, RAND met with CW at RAND's office located at 667 Eagle Rock Avenue in West Orange, New Jersey. During this meeting, RAND accepted from CW a white envelope containing approximately \$470 in cash, which included payments for the 3 MRIs referred to OCM and performed on Medicare or Medicaid beneficiaries during October 2011.

17. During this November 29, 2011 meeting, RAND stated to CW "I've been sending some business by you." After CW explained to RAND that for the month of October RAND was being paid for a total of 5 scans, one of which was for a Medicare/Medicaid patient, RAND stated, in sum and substance, that he sends patients that he treats for pain over to OCM for MRIs, and added "[m]y allegiance is to you."

18. From at least in or about 2010 through at least in or about November 2011, in the District of New Jersey, and elsewhere, defendant

**DOV RAND**

did knowingly and willfully solicit and receive remuneration, directly and indirectly, overtly and covertly, in cash and in kind, that is, kickbacks, from Orange Community MRI in return for referring patients to Orange Community MRI for the furnishing and arranging for the furnishing of items and services for which payment may be made in whole or in part under a Federal health care program.

In violation of Title 42, United States Code, Section 1320a-7b(b)(1)(A), and Title 18, United States Code, Section 2.

FORFEITURE ALLEGATION

1. The allegations contained in this Information are hereby realleged and incorporated by reference for the purpose of noticing forfeiture pursuant to Title 18, United States Code, Section 982(a)(7).

2. Upon conviction of the offenses in violation of Title 42, United States Code, Section 1320a-7b(b), the defendant, DOV RAND, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 982(a)(7), all right, title, and interest in any property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the offenses of conviction, including but not limited to a sum of money equal to at least \$8,325 in United States currency.

3. If any of the property described above, as a result of any act or omission of the defendant:

a. cannot be located upon the exercise of due diligence;

b. has been transferred or sold to, or deposited with, a third party;

c. has been placed beyond the jurisdiction of the court;

d. has been substantially diminished in value; or

e. has been commingled with other property which cannot be divided without difficulty, the United States shall be

entitled, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(a)(7), to forfeiture of any other property of the defendant, DOV RAND, up to the value of the property described in the preceding paragraph.

  
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PAUL J. FISHMAN  
United States Attorney