

2011R01370/SBM/JGM

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : Criminal No. 12-311 (CCC)
: :
: :
v. : 18 U.S.C. § 371
: 42 U.S.C. § 1320a-7b(b) (1)
: 26 U.S.C. § 7203
YASH KHANNA : 18 U.S.C. § 2

S U P E R S E D I N G
I N D I C T M E N T

The Grand Jury in and for the District of New Jersey,
sitting at Newark, charges:

COUNT ONE
(Conspiracy)

1. At various times relevant to this Superseding
Indictment:

The Defendant and Orange Community MRI, LLC

a. The defendant, YASH KHANNA ("defendant KHANNA"), was a physician licensed in New Jersey practicing family medicine. Defendant KHANNA operated an office in East Orange, New Jersey called Family Medicine and Pediatrics, LLC.

b. Orange Community MRI, LLC ("OCM"), was located in Orange, New Jersey and provided diagnostic testing services to patients, including magnetic resonance imaging ("MRIs"), ultrasound imaging ("Ultrasounds"), and computed axial tomographies ("CT Scans") (collectively, the "Diagnostic Tests").

c. Chirag Patel, a co-conspirator who is not charged as a defendant herein, was OCM's executive director from in or about 2008 until in or about December, 2011. Patel was responsible for managing the technical and administrative aspects of OCM.

d. K.B., a co-conspirator who is not charged as a defendant herein, was an information technology ("IT") consultant under contract with OCM from in or about 2008 until in or about December, 2011. From in or about September, 2011, through in or about December, 2011, K.B. held himself out as an individual acting on behalf of OCM, when in fact he was acting at the direction and under the supervision of law enforcement agents with the U.S. Department of Health and Human Services, Office of the Inspector General.

2. At all times relevant to this Superseding Indictment:

Medicare and Medicaid

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

b. The Medicare Part B program was a federally funded supplemental insurance program that provided Medicare insurance benefits for individuals aged sixty-five or older, and for certain individuals who were disabled. The Medicare Part B program paid for various medical services for beneficiaries, including the Diagnostic Tests.

c. The Medicaid Program ("Medicaid") was a jointly funded, federal-state health insurance program that provided certain health benefits to the disabled, as well as to individuals and families with low incomes and resources. The federal government provided matching funds to Medicaid and ensured that states complied with minimum standards in the administration of the program.

d. Medicaid was a "Federal health care program" as defined in Title 42, United States Code, Section 1320a-7b(f). Individuals who received benefits under Medicaid were commonly referred to as "recipients."

e. In New Jersey, Medicaid was administered by the New Jersey Department of Human Services. Under New Jersey law, Medicaid paid for certain medical services for recipients, including the Diagnostic Tests.

3. At various times relevant to this Superseding Indictment, OCM was a Medicare- and Medicaid-approved provider of, among other things, the Diagnostic Tests.

The Conspiracy

4. From at least as early as in or about 2009, until in or about December, 2011, in the District of New Jersey, and elsewhere, the defendant,

YASH KHANNA,

did knowingly and intentionally conspire and agree with OCM, Chirag Patel, K.B., and others to commit an offense against the United States, that is, to solicit and receive remuneration, directly and indirectly, overtly and covertly, in cash and in kind, namely, kickbacks, from OCM in return for referring patients to OCM 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, namely, Medicare and Medicaid, contrary to Title 42, United States Code, Section 1320a-7b(b) (1) (A).

Object of the Conspiracy

5. The object of the conspiracy was for defendant KHANNA to receive cash payments from OCM in exchange for referring Medicare and Medicaid patients to OCM for the Diagnostic Tests.

Manner and Means of the Conspiracy

6. To execute the kickback scheme, defendant KHANNA and OCM representatives negotiated the value of kickbacks that OCM would pay defendant KHANNA for each Diagnostic Test referred, and OCM representatives paid defendant KHANNA cash for the Diagnostic Tests he referred.

Overt Acts

7. In furtherance of the conspiracy and to effect its unlawful object, defendant KHANNA committed and caused to be committed the following overt acts in the District of New Jersey and elsewhere:

a. In or around 2009, at defendant KHANNA's office in East Orange, defendant KHANNA and Chirag Patel agreed to a kickback arrangement whereby OCM would pay defendant KHANNA approximately \$50 for every MRI referral of a Medicare or Medicaid patient, and approximately \$75 for every MRI referral of a patient with private health insurance.

b. In or around 2009, at defendant KHANNA's office in East Orange, defendant KHANNA met with Chirag Patel and received cash from OCM in exchange primarily for previous referrals of Medicare and Medicaid patients for the Diagnostic Tests.

c. In or around 2010, at defendant KHANNA's office in East Orange, defendant KHANNA met with K.B. and received cash from OCM in exchange primarily for previous

referrals of Medicare and Medicaid patients for the Diagnostic Tests.

d. On or about October 4, 2011, at defendant KHANNA's office in East Orange, defendant KHANNA met with K.B. and received an envelope containing approximately \$360 cash in exchange primarily for previous referrals of Medicare and Medicaid patients for the Diagnostic Tests.

e. On or about November 10, 2011, at defendant KHANNA's office in East Orange, defendant KHANNA met with K.B. and received an envelope containing approximately \$660 cash in exchange primarily for previous referrals of Medicare and Medicaid patients for the Diagnostic Tests.

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

COUNT TWO
(Illegal Remunerations)

On or about October 4, 2011, in East Orange, in the District of New Jersey, and elsewhere, the defendant,

YASH KHANNA,

did knowingly and willfully solicit and receive remuneration, directly and indirectly, overtly and covertly, in cash and in kind, that is, a kickback consisting of an envelope containing approximately \$360 in cash, from OCM in return for referring patients to OCM 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, namely, Medicare and Medicaid.

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

COUNT THREE
(Illegal Remunerations)

On or about November 10, 2011, in East Orange, in the District of New Jersey, and elsewhere, the defendant,

YASH KHANNA,

did knowingly and willfully solicit and receive remuneration, directly and indirectly, overtly and covertly, in cash and in kind, that is, a kickback consisting of an envelope containing approximately \$660 in cash, from OCM in return for referring patients to OCM 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, namely, Medicare and Medicaid.

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

COUNT FOUR
(Willful Failure to File Return)

1. The allegations set forth in paragraphs 1 through 3 and 5 through 7 of Count One of this Superseding Indictment are realleged as if set forth in full herein.

2. During calendar year 2008, defendant KHANNA had and received total gross income in excess of approximately \$381,000.

3. Having received this income, defendant KHANNA was required by law, following the close of calendar year 2008, and on or before April 15, 2009, to make an income tax return to the Internal Revenue Service stating specifically the items of his gross income and any deductions and credits to which he was entitled.

4. On or about April 15, 2009, in the District of New Jersey, and elsewhere, the defendant,

YASH KHANNA,

knowing and believing the foregoing facts, did knowingly and willfully fail to make an income tax return to the Internal Revenue Service.

In violation of Title 26, United States Code, Section 7203, and Title 18, United States Code, Section 2.

COUNT FIVE
(Willful Failure to File Return)

1. The allegations set forth in paragraphs 1 through 3 and 5 through 7 of Count One of this Superseding Indictment are realleged as if set forth in full herein.

2. During calendar year 2009, defendant KHANNA had and received total gross income in excess of approximately \$400,000, including cash payments from OCM in exchange for referring Medicare and Medicaid patients to OCM for the Diagnostic Tests.

3. Having received this income, defendant KHANNA was required by law, following the close of calendar year 2009, and on or before April 15, 2010, to make an income tax return to the Internal Revenue Service stating specifically the items of his gross income and any deductions and credits to which he was entitled.

4. On or about April 15, 2010, in the District of New Jersey, and elsewhere, the defendant,

YASH KHANNA,

knowing and believing the foregoing facts, did knowingly and willfully fail to make an income tax return to the Internal Revenue Service.

In violation of Title 26, United States Code, Section 7203, and Title 18, United States Code, Section 2.

COUNT SIX
(Willful Failure to File Return)

1. The allegations set forth in paragraphs 1 through 3 and 5 through 7 of Count One of this Superseding Indictment are realleged as if set forth in full herein.

2. During calendar year 2010, defendant KHANNA had and received total gross income in excess of approximately \$214,000, including cash payments from OCM in exchange for referring Medicare and Medicaid patients to OCM for the Diagnostic Tests.

3. Having received this income, defendant KHANNA was required by law, following the close of calendar year 2010, and on or before April 15, 2011, to make an income tax return to the Internal Revenue Service stating specifically the items of his gross income and any deductions and credits to which he was entitled.


4. On or about April 15, 2011, in the District of New Jersey, and elsewhere, the defendant,

YASH KHANNA,

knowing and believing the foregoing facts, did knowingly and willfully fail to make an income tax return to the Internal Revenue Service.

In violation of Title 26, United States Code, Section 7203, and Title 18, United States Code, Section 2.

A TRUE BILL


PAUL J. FISHMAN
United States Attorney

CASE NUMBER: _____

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District of New Jersey**

UNITED STATES OF AMERICA

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YASH KHANNA

SUPERSEDING INDICTMENT FOR

18 U.S.C. § 371
42 U.S.C. § 1320a-7b(b) (1)
26 U.S.C. § 7203
18 U.S.C. § 2

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