

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA)
)
) No. 10 CR 1050
) Judge Dow
)
)
PATRICIA YOUNG)

PLEA AGREEMENT

1. This Plea Agreement between the United States Attorney for the Northern District of Illinois, PATRICK J. FITZGERALD, and defendant PATRICIA YOUNG, and her attorney, WILLIAM P. ZIEGELMUELLER, is made pursuant to Rule 11 of the Federal Rules of Criminal Procedure and is governed in part by Rule 11(c)(1)(A), as more fully set forth below. The parties to this Agreement have agreed upon the following:

Charges in This Case

2. The information in this case charges defendant with health care fraud, in violation of Title 18 United States Code, Section 1347.

3. Defendant has read the charges against her contained in the information, and those charges have been fully explained to her by her attorney.

4. Defendant fully understands the nature and elements of the crimes with which she has been charged.

Charge to Which Defendant is Pleading Guilty

5. By this Plea Agreement, defendant agrees to enter a voluntary plea of guilty to the information, which charges defendant with defrauding health care benefit programs

including Medicare, in violation of Title 18, United States Code, Section 1347. In addition, as further provided below, defendant agrees to the entry of a forfeiture judgment.

Factual Basis

6. Defendant will plead guilty because she is in fact guilty of the charge contained in the information. In pleading guilty, defendant admits the following facts and that those facts establish her guilt beyond a reasonable doubt and constitute relevant conduct pursuant to Guideline §1B1.3, and establish a basis for forfeiture of the property described elsewhere in this Plea Agreement:

Beginning in or about January 2006, and continuing through in or about December 2008, in the Northern District of Illinois, Eastern Division, and elsewhere, PATRICIA YOUNG, knowingly and willfully devised, intended to devise, and participated in a scheme to defraud a health care benefit program that affected interstate commerce, and to obtain, by means of materially false and fraudulent pretenses, representations and promises, money or property owned by, and under the custody and control of one or more health care benefit programs, specifically, the Medicare program of the United States of America in connection with the delivery of or payment for health care benefits, items, and services, which scheme is further described in the following paragraphs.

More specifically, Medicare was a national health insurance program pursuant to Title 18 of the Social Security Act. The Centers for Medicare and Medicaid Services ("CMS") was a federal agency within the United States Department of Health and Human Services ("HHS"), which administered the Medicare program through its contractors. Medicare

provided free or below-cost health care benefits to certain eligible beneficiaries, primarily persons who were 65 years of age and older. CMS contracted with Wisconsin Physicians Service ("WPS"), a Medicare contractor, to process Medicare Part B claims submitted for physician's services for beneficiaries in Illinois.

Defendant PATRICIA YOUNG is a resident of Newton, Mississippi. She owned and operated Healthy People 2000, Inc. ("Healthy People"), which claimed to provide psychotherapy services to Medicare beneficiaries residing in skilled nursing facilities in the Chicago area.

Healthy People employed Physician S, who was a physician licensed by the State of Illinois to practice medicine. He was a "provider" under the Medicare program. That is, he was approved by WPS and HHS to administer services to Medicare clients and to receive compensation for the services, provided they met requirements for reimbursement and were rendered. As an approved provider, Physician S had a unique provider number which was used by the Medicare programs for reviewing, processing and paying claims.

Physician S had filed documents with Medicare designating Healthy People as a third-party payee for services submitted under Physician S's provider number associated with Healthy People. This caused Medicare to send reimbursement payments directly to Healthy People for services billed under Physician S's provider number associated with Healthy People. Physician S had other provider numbers not associated with Healthy People, and Medicare claims submitted under those number did not cause Medicare payments to be made to Healthy People.

Sometime prior to January 2006, defendant YOUNG and Physician S entered into an arrangement whereby Physician S would obtain a Medicare provider number associated with Healthy People and would designate Healthy People as his third-party payee for claims billed under that provider number. Physician S likewise obtained a provider number for allowing claims to be submitted to private insurance carrier Blue Cross and Blue Shield of Illinois (“BCBS”). Under the arrangement, Physician S allowed YOUNG to submit insurance claims under his provider number for psychotherapy services performed by social workers and other providers. Medicare or BCBS would then directly reimburse Healthy People for these services, and defendant YOUNG would, in turn, pay Physician S a portion of what she received. The amount Young paid Physician S varied over time.

Young told Physician S that he did not need to participate in the therapy sessions, and, in fact, defendant YOUNG knew that Physician S took no part in the therapy sessions. At various point of time, Physician S reviewed a small number of progress notes written by the social workers employed or contracted by defendant YOUNG and Healthy People.

When defendant YOUNG hired new social workers to treat patients, she explained to them that they were to perform group therapy. If that was not possible with a particular patient, defendant YOUNG explained that the social worker could perform individual therapy lasting no more than twenty minutes. Defendant YOUNG instructed the social workers as to where to go and what patients to treat. She also instructed them to complete progress notes and submit the progress notes to the Healthy People office on at least a

monthly basis. These progress notes listed the date and type of service performed by the social worker.

Generally, Defendant YOUNG would personally submit Medicare claims electronically using billing software provided by Medicare. Between June 2008 and January 2009, YOUNG paid Individual A to submit the claims on her behalf. All the claims submitted listed a provider of the service and would further include the dates of service, the number of services performed and the “CPT” code for the particular service rendered. The American Medical Association (AMA) publishes the Current Procedural Terminology Manual (the “CPT Manual”) which sets forth numerical codes (“CPT codes”) for medical procedures. The CPT Manual defines the procedural and medical requirements that must be met in order to submit a claim for a particular service. CPT codes relating to psychotherapy included CPT code 90816, which was to be used for 20-30 minutes of individual psychotherapy; CPT code 90818, which was to be used for 45-50 minutes of individual psychotherapy; and CPT code 90853, which was to be used for group therapy.

Defendant Young knew that the claims she was submitting to Medicare and BCBS personally and through Individual A were false and fraudulent in several material respects. First, the claims listed that Physician S was providing the claimed service. Defendant YOUNG knew that Physician S was not providing or supervising the service and was not at the skilled nursing facility when the claimed services were being performed. Second, Young billed all or almost all of the services using CPT code 90818 (45-50 minutes of individual psychotherapy). Young knew that this was false and fraudulent because she had instructed

her social workers to do only group therapy or, if necessary, 15-20 minutes of individual therapy. Third, Young submitted claims for services on days when no service had been rendered. The progress notes provided to Healthy People by the social workers listed the date that therapy had been rendered but Young billed for far more dates of service than had been indicated by the therapists.

For example, patient progress notes supplied by social worker E.R. for February 2008 for her treatment of patient C.C. reflect that he participated in 20 group therapy sessions. Yet Young billed Medicare as if Physician S had rendered 26 sessions of CPT code 90818 — 45-50 minutes of individual psychotherapy.

Likewise, patient progress notes supplied by social workers D.V. and E.L. for October 2007 for their treatment of patient C.H. reflect that the patient received a total of 26 individual therapy sessions of 15-20 minutes in length from D.V. and E.L. Yet Young billed Medicare as if Physician S had rendered 31 units of CPT code 90818 — 45-50 minutes of individual psychotherapy.

Defendant YOUNG knew that the insurance claims she was submitting or causing to be submitted to Medicare and private insurance (such as BCBS) were false and fraudulent as described above. Defendant YOUNG further understood that if the insurance claims had accurately listed the provider of the services and the actual services performed, the services would not have been reimbursed by Medicare or private insurance companies.

In total, between in or about January 2006 and in or about December 2008, by the above-described means, defendant YOUNG submitted false and fraudulent claims to

Medicare in the total amount of approximately \$5,082,451.05 and to BCBS of approximately \$76,450. These claims resulted in payments to Healthy People of approximately \$1,258,623 by Medicare through WPS and \$11,534 by BCBS.

On or about February 21, 2008, at Chicago, in the Northern District of Illinois, Eastern Division, and elsewhere, defendant YOUNG, did knowingly and willfully execute and attempt to execute the above-described scheme by causing Medicare, through WPS, to transmit Medicare funds to Healthy People by electronic funds transfer number 882495172, in the approximate amount of \$7435.30, which transfer included payments relating to patients who did not receive the mental health services for which defendant YOUNG had submitted claims to Medicare, in violation of Title 18, United States Code, Section 1347.

Maximum Statutory Penalties

7. Defendant understands that the charge to which she is pleading guilty carries the following statutory penalties:

a. A maximum sentence of 10 years' imprisonment. This offense also carries a maximum fine of \$250,000, or twice the gross gain or gross loss resulting from that offense, whichever is greater. Defendant further understands that the judge also may impose a term of supervised release of not more than three years.

b. Defendant further understands that the Court must order restitution to the victims of the offense in an amount determined by the Court.

c. In accord with Title 18, United States Code, Section 3013, defendant will be assessed \$100 on the charge to which she has pled guilty, in addition to any other penalty or restitution imposed.

Sentencing Guidelines Calculations

8. Defendant understands that in imposing sentence the Court will be guided by the United States Sentencing Guidelines. Defendant understands that the Sentencing Guidelines are advisory, not mandatory, but that the Court must consider the Guidelines in determining a reasonable sentence.

9. For purposes of calculating the Sentencing Guidelines, the parties agree on the following points:

a. **Applicable Guidelines.** The Sentencing Guidelines to be considered in this case are those in effect at the time of sentencing. The following statements regarding the calculation of the Sentencing Guidelines are based on the Guidelines Manual currently in effect, namely the November 2010 Guidelines Manual.

b. **Offense Level Calculations.**

i. The base offense level for the charge in the information is 6, pursuant to Guideline §2B1.1(a);

ii. Because the amount of intended loss involved in the offense of conviction and relevant conduct is approximately \$5,082,451.05, which is more than \$2,500,000, but not more than \$7,000,000, a 18-level increase in the offense level is appropriate pursuant to Guideline §2B1.1(b)(1)(J);

iii. Defendant acknowledges that Section 10606(a)(2)(c) of the Patient Protection and Affordable Care Act of 2010, Pub. L. 11-148 (3/23/2010), directs the U.S. Sentencing Commission to add a three-level increase in the offense level for any defendant convicted of a federal health care offense relating to a government health care program which involves a loss of not less than \$1,000,000 and less than \$7,000,000. Accordingly, the applicable offense level may be higher at the time of sentencing than contemplated in this agreement;

iv. Defendant has clearly demonstrated a recognition and affirmative acceptance of personal responsibility for her criminal conduct. If the government does not receive additional evidence in conflict with this provision, and if defendant continues to accept responsibility for her actions within the meaning of Guideline §3E1.1(a), including by furnishing the United States Attorney's Office and the Probation Office with all requested financial information relevant to her ability to satisfy any fine or restitution that may be imposed in this case, a two-level reduction in the offense level is appropriate.

v. In accord with Guideline §3E1.1(b), defendant has timely notified the government of her intention to enter a plea of guilty, thereby permitting the government to avoid preparing for trial and permitting the Court to allocate its resources efficiently. Therefore, as provided by Guideline §3E1.1(b), if the Court determines the offense level to be 16 or greater prior to determining that defendant is entitled to a two-level reduction for acceptance of responsibility, the government will move for an additional one-level reduction in the offense level.

c. **Criminal History Category.** With regard to determining defendant's criminal history points and criminal history category, based on the facts now known to the government, defendant's criminal history points equal zero and defendant's criminal history category is I.

d. **Anticipated Advisory Sentencing Guidelines Range.** Therefore, based on the facts now known to the government, the anticipated offense level is 21, which, when combined with the anticipated criminal history category of I, results in an anticipated advisory Sentencing Guidelines range of 37 to 46 months' imprisonment, in addition to any supervised release, fine, and restitution the Court may impose.

e. Defendant and her attorney and the government acknowledge that the above Guideline calculations are preliminary in nature, and are non-binding predictions upon which neither party is entitled to rely. Defendant understands that further review of the facts or applicable legal principles may lead the government to conclude that different or additional Guideline provisions apply in this case. Defendant understands that the Probation Office will conduct its own investigation and that the Court ultimately determines the facts and law relevant to sentencing, and that the Court's determinations govern the final Guideline calculation. Accordingly, the validity of this Agreement is not contingent upon the probation officer's or the Court's concurrence with the above calculations, and defendant shall not have a right to withdraw her plea on the basis of the Court's rejection of these calculations.

f. Both parties expressly acknowledge that this plea agreement is not governed by Fed.R.Crim.P. 11(c)(1)(B), and that errors in applying or interpreting any of the

Sentencing Guidelines may be corrected by either party prior to sentencing. The parties may correct these errors either by stipulation or by a statement to the Probation Office or the Court, setting forth the disagreement regarding the applicable provisions of the Guidelines. The validity of this Plea Agreement will not be affected by such corrections, and defendant shall not have a right to withdraw her plea, nor the government the right to vacate this Plea Agreement, on the basis of such corrections.

Agreements Relating to Sentencing

10. The government is free to recommend whatever sentence it deems appropriate within the applicable guidelines range.

11. It is understood by the parties that the sentencing judge is neither a party to nor bound by this Plea Agreement and may impose a sentence up to the maximum penalties as set forth above. Defendant further acknowledges that if the Court does not accept the sentencing recommendation of the parties, defendant will have no right to withdraw her guilty plea.

12. Regarding restitution, defendant acknowledges that the total amount of restitution owed to Medicare is \$1,258,623, minus any credit for funds repaid prior to sentencing, and that pursuant to Title 18, United States Code, § 3663A, the Court must order defendant to make full restitution in the amount outstanding at the time of sentencing.

13. Defendant also agrees to pay additional restitution, arising from the relevant conduct set forth above, of \$11,534 to BCBS, pursuant to Title 18, United States Code, §§ 3663(a)(3) and 3664.

14. Restitution shall be due immediately, and paid pursuant to a schedule to be set by the Court at sentencing. Defendant acknowledges that pursuant to Title 18, United States Code, Section 3664(k) she is required to notify the Court and the United States Attorney's Office of any material change in economic circumstances that might affect her ability to pay restitution.

15. Defendant agrees to pay the special assessment of \$100 at the time of sentencing with a cashier's check or money order payable to the Clerk of the U.S. District Court.

Forfeiture

16. The information charges that defendant is liable to the United States for approximately \$1,258,623, which funds are subject to forfeiture because those funds constitute proceeds of the violations alleged in the information. By entry of a guilty plea to the information, defendant acknowledges that she is liable for a forfeiture judgment in the amount of \$1,258,623.29.

17. Defendant understands that forfeiture of this property shall not be treated as satisfaction of any fine, restitution, cost of imprisonment, or any other penalty the Court may impose upon defendant in addition to the forfeiture judgment.

Acknowledgments and Waivers Regarding Plea of Guilty

Nature of Plea Agreement

18. This Plea Agreement is entirely voluntary and represents the entire agreement between the United States Attorney and defendant regarding defendant's criminal liability in case 10 CR 1050.

19. This Plea Agreement concerns criminal liability only. Except as expressly set forth in this Agreement, nothing herein shall constitute a limitation, waiver or release by the United States or any of its agencies of any administrative or judicial civil claim, demand or cause of action it may have against defendant or any other person or entity. The obligations of this Agreement are limited to the United States Attorney's Office for the Northern District of Illinois and cannot bind any other federal, state or local prosecuting, administrative or regulatory authorities, except as expressly set forth in this Agreement.

Waiver of Rights

20. Defendant understands that by pleading guilty she surrenders certain rights, including the following:

a. Right to be charged by indictment. Defendant understands that she has a right to have the charges prosecuted by an indictment returned by a concurrence of twelve or more members of a grand jury consisting of not less than sixteen and not more than twenty-three members. By signing this Agreement, defendant knowingly waives her right to be prosecuted by indictment and to assert at trial or on appeal any defects or errors arising from the information, the information process, or the fact that she has been prosecuted by way of information.

b. **Trial rights.** Defendant has the right to persist in a plea of not guilty to the charges against her, and if she does, she would have the right to a public and speedy trial.

i. The trial could be either a jury trial or a trial by the judge sitting without a jury. Defendant has a right to a jury trial. However, in order that the trial be conducted by the judge sitting without a jury, defendant, the government, and the judge all must agree that the trial be conducted by the judge without a jury.

ii. If the trial is a jury trial, the jury would be composed of twelve citizens from the district, selected at random. Defendant and her attorney would participate in choosing the jury by requesting that the Court remove prospective jurors for cause where actual bias or other disqualification is shown, or by removing prospective jurors without cause by exercising peremptory challenges.

iii. If the trial is a jury trial, the jury would be instructed that defendant is presumed innocent, that the government has the burden of proving defendant guilty beyond a reasonable doubt, and that the jury could not convict her unless, after hearing all the evidence, it was persuaded of her guilt beyond a reasonable doubt. The jury would have to agree unanimously before it could return a verdict of guilty or not guilty.

iv. If the trial is held by the judge without a jury, the judge would find the facts and determine, after hearing all the evidence, whether or not the judge was persuaded that the government had established defendant's guilt beyond a reasonable doubt.

v. At a trial, whether by a jury or a judge, the government would be required to present its witnesses and other evidence against defendant. Defendant would be able to confront those government witnesses and her attorney would be able to cross-examine them.

vi. At a trial, defendant could present witnesses and other evidence in her own behalf. If the witnesses for defendant would not appear voluntarily, she could require their attendance through the subpoena power of the Court. A defendant is not required to present any evidence.

vii. At a trial, defendant would have a privilege against self-incrimination so that she could decline to testify, and no inference of guilt could be drawn from her refusal to testify. If defendant desired to do so, she could testify in her own behalf.

c. **Appellate rights.** Defendant further understands she is waiving all appellate issues that might have been available if she had exercised her right to trial, and may only appeal the validity of this plea of guilty and the sentence imposed. Defendant understands that any appeal must be filed within 14 calendar days of the entry of the judgment of conviction.

d. Defendant understands that by pleading guilty she is waiving all the rights set forth in the prior paragraphs, with the exception of the appellate rights specifically preserved above. Defendant's attorney has explained those rights to her, and the consequences of her waiver of those rights.

Presentence Investigation Report/Post-Sentence Supervision

21. Defendant understands that the United States Attorney's Office in its submission to the Probation Office as part of the Pre-Sentence Report and at sentencing shall fully apprise the District Court and the Probation Office of the nature, scope and extent of defendant's conduct regarding the charges against her, and related matters. The government will make known all matters in aggravation and mitigation relevant to sentencing.

22. Defendant agrees to truthfully and completely execute a Financial Statement (with supporting documentation) prior to sentencing, to be provided to and shared among the Court, the Probation Office, and the United States Attorney's Office regarding all details of her financial circumstances, including her recent income tax returns as specified by the probation officer. Defendant understands that providing false or incomplete information, or refusing to provide this information, may be used as a basis for denial of a reduction for acceptance of responsibility pursuant to Guideline §3E1.1 and enhancement of her sentence for obstruction of justice under Guideline §3C1.1, and may be prosecuted as a violation of Title 18, United States Code, Section 1001 or as a contempt of the Court.

23. For the purpose of monitoring defendant's compliance with her obligations to pay a fine and restitution during any term of supervised release or probation to which defendant is sentenced, defendant further consents to the disclosure by the IRS to the Probation Office and the United States Attorney's Office of defendant's individual income tax returns (together with extensions, correspondence, and other tax information) filed subsequent to defendant's sentencing, to and including the final year of any period of supervised release or probation to which defendant is sentenced. Defendant also agrees that

a certified copy of this Plea Agreement shall be sufficient evidence of defendant's request to the IRS to disclose the returns and return information, as provided for in Title 26, United States Code, Section 6103(b).

Other Terms

24. Defendant agrees to cooperate with the United States Attorney's Office in collecting any unpaid fine and restitution for which defendant is liable, including providing financial statements and supporting records as requested by the United States Attorney's Office.

Conclusion

25. Defendant understands that this Plea Agreement will be filed with the Court, will become a matter of public record and may be disclosed to any person.

26. Defendant understands that her compliance with each part of this Plea Agreement extends throughout the period of her sentence, and failure to abide by any term of the Agreement is a violation of the Agreement. Defendant further understands that in the event she violates this Agreement, the government, at its option, may move to vacate the Agreement, rendering it null and void, and thereafter prosecute defendant not subject to any of the limits set forth in this Agreement, or may move to resentence defendant or require defendant's specific performance of this Agreement. Defendant understands and agrees that in the event that the Court permits defendant to withdraw from this Agreement, or defendant breaches any of its terms and the government elects to void the Agreement and prosecute defendant, any prosecutions that are not time-barred by the applicable statute of limitations

on the date of the signing of this Agreement may be commenced against defendant in accordance with this paragraph, notwithstanding the expiration of the statute of limitations between the signing of this Agreement and the commencement of such prosecutions.

27. Should the judge refuse to accept defendant's plea of guilty, this Plea Agreement shall become null and void and neither party will be bound thereto.

28. Defendant and her attorney acknowledge that no threats, promises, or representations have been made, nor agreements reached, other than those set forth in this Plea Agreement to cause defendant to plead guilty.

29. Defendant acknowledges that she has read this Plea Agreement and carefully reviewed each provision with her attorney. Defendant further acknowledges that she understands and voluntarily accepts each and every term and condition of this Agreement.

AGREED THIS DATE: _____

PATRICK J. FITZGERALD
United States Attorney

PATRICIA YOUNG
Defendant

SAMUEL B. COLE
Assistant U.S. Attorney

WILLIAM P. ZIEGELMUELLER
Attorney for Defendant