

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION

UNITED STATES OF AMERICA)	
)	
v.)	No. _____
)	Violations: Title 18, United States
VIRGILIO ORILLO, and)	Code, Sections 1347 & 2
MERIGRACE ORILLO,)	
also known as "Grace Orillo")	

COUNT ONE

The SEPTEMBER 2010 GRAND JURY charges:

1. At times material to this indictment:

(a) Defendant VIRGILIO ORILLO and his wife, defendant MERIGRACE ORILLO, and a third individual owned a business known as Chalice Home Health Services, Inc. ("Chalice").

(b) Defendants VIRGILIO ORILLO and MERIGRACE ORILLO managed Chalice and supervised its daily operations.

(c) Chalice was a home health care provider. Chalice nurses, nurse aides, physical therapists, and occupational therapists provided services to patients at their homes.

(d) Chalice's main business office was located at 6325 North Avondale, Suite C5, Chicago, Illinois ("Chicago Office"). Additionally, Chalice conducted business from two other locations: 340 North Park Blvd., Freeport, Illinois ("Freeport Office"), and 219 Bedford Rd., Morris, Illinois ("Morris Office").

(e) Chalice was enrolled as a provider with the Medicare program since October 2004.

(f) Medicare was a national health care benefit program, as defined at Title 18, United States Code, Section 24, which provided free or below-cost health care benefits to eligible beneficiaries, primarily persons who are sixty-five years of age and older.

(g) The Secretary of the United States Department of Health and Human Services (“HHS”), through the Centers for Medicare and Medicaid Services (“CMS”), which is a federal agency within HHS, administered the Medicare program. CMS contracted with public and private organizations, usually health insurance carriers, to process Medicare claims and perform administrative functions. CMS contracted with Palmetto GBA to administer and pay Part A claims from the Medicare Trust Fund. The Medicare Trust Fund is a reserve of monies maintained by the federal government.

(h) Medicare Part A provided benefits for medically necessary home health and hospital care. Medicare Part B provided benefits for certain medically necessary physician services, outpatient services, and other medical services.

(i) Medicare authorized payment for home health care only if the care was actually provided, and was medically necessary, that is, the services were required because of disease, disability, infirmity, or impairment.

(j) Under Medicare Part A, a patient was eligible for home health care coverage if a patient was “homebound.” “Homebound” was defined as a condition due to illness or injury that restricts a person’s ability to leave his/her place of residence except with

the aid of supporting devices or if he/she had a condition which was such that leaving his/her home was medically contraindicated.

(k) Prior to submitting a claim, the claimant-home health care provider was required to assess the patient and complete an Comprehensive Adult Nursing Assessment with Outcome and Assessment Information Set (“OASIS”) elements form. The OASIS form was used to determine if the patient was homebound, the severity of symptoms, and reimbursement rate to the home health care provider. If after 60 days the patient needed additional home health services, the home health care provider was required to complete a Recertification /Follow-Up Assessment form (“Recertification”). The Recertification form incorporated OASIS elements and was used to determine whether the patient was still eligible for Medicare reimbursed home health care and, if so, the rate of reimbursement.

(l) One section on both the OASIS and Recertification forms that was completed by a nurse during a patient’s assessment was the Activities of Daily Living (“ADL”). The ADL section asked for information about whether or not a patient needed assistance or could do certain activities independently such as combing hair, shaving, dressing one’s own self, using the bathroom, shopping and other activities.

(m) The OASIS and Recertification forms also contained sections in which the examining nurse assessed the patient’s condition, based upon the nurse’s examination, observations, and discussions with the patient.

(n) Home health care providers were required to enter the information collected from the OASIS and Recertification forms into a software program available from CMS or software that conformed to CMS' standard electronic record layout.

(o) The software program determined the rate of reimbursement that Medicare would pay for home health care for the patient.

(p) The rate of reimbursement Medicare paid to the provider depended upon the severity of the symptoms, the patient's daily living activities, and the diagnosis collected from the OASIS and Recertification forms.

2. From at least as early as January 1, 2007, and continuing to at least April 23, 2010, at Chicago, Morris, and Freeport, in the Northern District of Illinois, and elsewhere,

VIRGILIO ORILLO and
MERIGRACE ORILLO,
also known as "Grace Orillo,"

defendants herein, knowingly devised and engaged in a scheme to defraud Medicare, and to obtain money and property owned by, and under the custody and control of, Medicare, by means of materially false and fraudulent pretenses, representations, and promises, in connection with the delivery of and payment for health care benefits, items, and services, which scheme is further described below.

3. It was the object of this scheme that defendants fraudulently caused Chalice to receive more than \$500,000 in benefits from Medicare which Chalice was not entitled to receive.

4. It was a part of the scheme that defendants caused all OASIS and Recertification forms completed by Chalice nurses to be forwarded to the Chicago Office for review.

5. It was further a part of the scheme that defendant MERIGRACE ORILLO reviewed the OASIS and Recertification forms that were prepared by the Chalice nurses.

6. It was further a part of the scheme that defendant MERIGRACE ORILLO frequently altered the entries made by the Chalice nurses on the OASIS and Recertification forms to make it appear that the patient's condition was worse than it actually was and that the patient's need for care was greater than it actually was.

7. It was further a part of the scheme that defendant MERIGRACE ORILLO frequently placed the initials of a Chalice nurse next to the fraudulent alterations to the OASIS and Recertification forms in order to make it appear that the nurse had made or approved the alterations.

8. It was further a part of the scheme that defendant MERIGRACE ORILLO occasionally removed entire pages from OASIS and Recertification forms completed by the Chalice nurses and inserted new pages with fraudulent entries into the OASIS and Recertification forms.

9. It was further a part of the scheme that defendants VIRGILIO ORILLO and MERIGRACE ORILLO caused the fraudulently altered OASIS and Recertification forms to be entered into Chalice's CMS compatible software in order to generate the reimbursement rate for claims to be submitted to Medicare.

10. It was further a part of the scheme that defendants VIRGILIO ORILLO and MERIGRACE ORILLO caused Medicare claims with fraudulently inflated reimbursement rates to be submitted by Chalice to Palmetto GBA.

11. On or about August 21, 2009, at Chicago, in the Northern District of Illinois,

VIRGILIO ORILLO and
MERIGRACE ORILLO,
also known as “Grace Orillo,”

defendants herein, knowingly and willfully executed and attempted to execute the above described scheme to defraud a health care benefit program, namely Medicare, by submitting and causing to be submitted to Palmetto GBA reimbursement claim number 20923301765205ILR for home health services purportedly provided for Freeport Office Patient A, which claim contained a reimbursement amount that had been fraudulently inflated based upon alterations to Patient A’s Recertification form;

In violation of Title 18, United States Code, Sections 1347 and 2.

COUNT TWO

The SEPTEMBER 2010 GRAND JURY further charges:

1. Paragraphs 1 through 10 of Count One of this indictment are realleged and incorporated herein as if fully set forth.

2. On or about August 21, 2009, at Chicago, in the Northern District of Illinois,

**VIRGILIO ORILLO and
MERIGRACE ORILLO,
also known as “Grace Orillo,”**

defendants herein, knowingly and willfully executed and attempted to execute the above described scheme to defraud a health care benefit program, namely Medicare, by submitting and causing to be submitted to Palmetto GBA reimbursement claim number 20923301767205ILR for home health services purportedly provided for Freeport Office Patient B, which claim contained a reimbursement amount that had been fraudulently inflated based upon alterations to Patient B’s OASIS form;

In violation of Title 18, United States Code, Sections 1347 and 2.

COUNT THREE

The SEPTEMBER 2010 GRAND JURY further charges:

1. Paragraphs 1 through 10 of Count One of this indictment are realleged and incorporated herein as if fully set forth.

2. On or about September 22, 2009, at Chicago, in the Northern District of Illinois,

VIRGILIO ORILLO and
MERIGRACE ORILLO,
also known as “Grace Orillo,”

defendants herein, knowingly and willfully executed and attempted to execute the above described scheme to defraud a health care benefit program, namely Medicare, by submitting and causing to be submitted to Palmetto GBA reimbursement claim number 2092650206260ILR for home health services purportedly provided for Freeport Office Patient D, which claim contained a reimbursement amount that had been fraudulently inflated based upon alterations to Patient D’s OASIS form;

In violation of Title 18, United States Code, Sections 1347 and 2.

FORFEITURE ALLEGATION

The SEPTEMBER 2010 GRAND JURY further charges:

1. The allegations of Counts One thru Three of this Indictment are hereby realleged and incorporated as though fully set forth herein for the purpose of alleging forfeiture pursuant to Title 18, United States Code, Section 982.

2. As a result of the violations of Title 18, United States Code, Section 1347, as alleged in the foregoing Indictment,

VIRGILIO ORILLO and
MERIGRACE ORILLO,
also known as “Grace Orillo,”

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

3. The interests of defendant subject to forfeiture pursuant to Title 18, United States Code, Section 982, include but are not limited to the following property: funds in the amount of at least \$500,000.

4. If any of the forfeitable property described above, as a result of any act or omission by 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 of America shall be entitled to forfeiture of substitute property under the provisions of Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b)(1).

All pursuant to Title 18, United States Code, Section 982.

A TRUE BILL:

FOREPERSON

UNITED STATES ATTORNEY