UNITED STATES DISTRICT COURT)
) ss
NORTHERN DISTRICT OF ILLINOIS)

AFFIDAVIT

I, ED LEITELT, being duly sworn, hereby state as follows:

Introduction

1. I am a Special Agent of the Department of Health and Human Services, Office of Inspector General ("DHHS/OIG") and have been so employed for approximately five and a half years. As a DHHS/OIG special agent, I investigate and have received training in the investigation of fraud perpetrated against federal health care programs, including Medicare and Medicaid.

2. This affidavit is submitted for the limited purpose of establishing probable cause in support of a criminal complaint charging Dr. Jaswinder Rai Chhibber ("Chhibber"), who, as explained herein, is the president and sole owner of the Cottage Grove Community Medical Clinic (hereinafter referred to as "CGCM"), with knowingly and intentionally devising and participating in a scheme and artifice to defraud health care benefit programs within the meaning of Title 18, United States Code, Section 24(b), including Blue Cross Blue Shield of Illinois (hereinafter referred to as "Blue Cross"), Medicare and Medicaid, by submitting medical services reimbursement claims for procedures never rendered and procedures performed on patients despite not being medically necessary, all in violation of Title 18, United States Code, Section 1347.

3. The information contained within this affidavit is based on personal knowledge that I have derived from my participation in the investigation of Chhibber's suspected

fraudulent billing practices. In particular, I have participated in witness interviews and reviewed reports of such interviews, including interviews of current and former CGCM employees and patients.[1] Investigating agents with whom I have spoken have further reviewed summary billing records submitted by CGCM to health care benefit program providers and discussed CGCM's bills with individuals (both law enforcement and health care benefit program employees) who have reviewed those claims. I have conducted surveillance of the CGCM and listened to audio recordings of undercover law enforcement personnel who have been examined by Chhibber and members of his CGCM staff. I have further discussed this investigation with other involved law enforcement agents.[2]

4. This affidavit is submitted for the limited purpose of establishing probable cause in support of a criminal complaint. It does not contain all of the facts known to me concerning this investigation.

Background

5. According to billing and provider enrollment records obtained from various health care benefit programs including Medicare and as confirmed by interviews of current and former employees, Chhibber is the president and sole owner of CGCM, which is located at 642 East 79th Street, Chicago, Illinois 60619. According to the Illinois Department of Financial and Professional Regulation, Division of Professional Regulation's website, Chhibber is actively licensed as a physician in Illinois. Current and former CGCM

[1] All witness interviews referenced in this affidavit are described in summary form.

[2] The DHHS/OIG has collaborated with agents of Federal Bureau of Investigation and Department of Labor in this investigation.

employees interviewed by investigating law enforcement agents have explained that Chhibber is an internal medicine physician and that CGCM is Chhibber's family care practice.[3] Those employees have further confirmed that Chhibber is CGCM's primary physician. Claims data reviewed by investigating agents reveals that CGCM and Chhibber are authorized Medicare providers and Chhibber is an authorized Medicaid provider. Blue Cross has informed investigating agents that both CGCM and Chhibber are enrolled Blue Cross plan providers.

6. As explained in greater detail herein, there is probable cause to believe that beginning no later than February 2009 and continuing through March 2010, Chhibber fraudulently billed health care benefit programs, as defined by Title 18, United States Code, Section 24(b), including Blue Cross, Medicare and Medicaid, for services that were not rendered, or, if performed, were not medically necessary and therefore not subject to reimbursement by those health care benefit programs, including echocardiograms, electrocardiograms ("EKGs"), non-invasive vascular studies, nerve conduction studies and carotid doppler ultrasounds.

7. The United States Department of Health and Human Services, Centers for Medicare and Medicaid Services ("CMS") website defines transthoracic echocardiography as an "ultrasonic examination of the heart. . . . [that] affords unique insight into cardiac structure and function." According to the CMS website, echocardiography is only deemed

[3] CGCM employees have further informed investigating agents that, in addition to CGCM, Chhibber works out of a second office that operates under the name JRC Medical Associates and is located at 1601 Tanglewood Avenue, Suite 105, Hanover Park, Illinois 60133.

medically necessary and therefore covered for reimbursement if the patient exhibits certain indicators or symptoms, including cardiomyopathies and heart failure, hypertension, acute myocardial infarction, congenital heart disease, arrhythmias and palpitations, and/or syncope. CMS further states that echocardiography performed for screening purposes or for re-evaluation without a change in clinical status is generally not reimbursable under Medicare.

8. CMS's website describes noninvasive vascular diagnostic studies as physiological studies deemed medically necessary "only if the outcome [of the test] will potentially impact the clinical management of the patient." Accordingly, CMS provides that vascular diagnostic services are deemed medically necessary and therefore covered only when the following conditions are met: (1) signs/symptoms of ischemia or altered blood flow are present; (2) the information is necessary for appropriate medical and/or surgical management; and (3) the test would not be redundant of other diagnostic procedures.

9. CMS's website describes nerve conduction studies as tools used in diagnosing, among other things, traumatic nerve damage and neuromuscular junction disorders. According to CMS, to justify the medical necessity of such tests, Medicare requires that a patient's chart contain documentation supporting the necessity of such testing such as relevant medical history, physical examinations, and results of pertinent diagnostic testing and/or procedures. Studies that are not deemed medically necessary are not entitled to reimbursement.

10. The CMS website characterizes an electrocardiogram (an "EKG") as a exam that provides a graphic representation of electrical activity within the heart that is used to

diagnose and/or manage patients suffering from symptoms associated with cardiac abnormalities. According to CMS, EKG services are deemed covered procedures when there are signs, symptoms or other clinical indications demonstrating the need for the exam, such as when a patient presents with unexplained symptoms suggestive of a cardiac abnormality like chest pain, palpitations, dyspnea, dizziness, or syncope or for a patient with known risks of cardiac disease, like those patients with cardiac arrhythmia or conduction disorders for whom an EKG may serve as a clinical tool. To justify the medical necessity of an EKG, Medicare requires that a patient's chart contain documentation that fully supports the necessity of the exam. Medicare generally will not reimburse for EKG services when rendered as a screening test or as part of a routine examination.[4]

Evidence of Health Care Fraud

Employees' Description of Unnecessary Patient Testing

11. In September and again in December of 2009, investigating FBI agents interviewed a sonographer who was then a part-time CGCM employee concerning Chhibber's medical practice. This individual, who is hereinafter referred to as "Employee A," told investigating agents that Chhibber was ordering sophisticated diagnostic tests for patients, including echocardiograms and ultrasounds, that Employee A believed were not medically justified. In particular, Employee A explained that in order for these types of tests to be appropriate, a patient should first exhibit certain symptoms, such as high blood

[4] The CMS website does note, however, that a screening EKG may be covered if it can be classified as part of "the one-time, 'Welcome to Medicare' preventive physical examination under section 611 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003."

pressure, shortness of breath and/or difficulty breathing.

12. Employee A indicated that he/she has observed Chhibber documenting these types of symptoms in patients' charts and ordering the corresponding tests irrespective of whether a patient had actually reported or otherwise exhibited those symptoms. Employee A explained that he/she believed Chhibber noted these types of nonexistent symptoms in patients' charts in order to justify the unnecessary medical tests he ordered. For example, Employee A stated that he/she was aware of a CGMG patient who received three ultrasounds, an echocardiogram, a carotid doppler test and an abdominal ultrasound during a single visit. According to Employee A, the medical records of the patient were documented to indicate that the patient was suffering from dizziness and abdominal pain. According to Employee A, however, the patient was not experiencing those symptoms at the time the tests were performed.

13. Employee A recalled another situation in which a female patient came to CGCM complaining of arthritis in her knee. According to Employee A, Chhibber agreed to provide the patient an injection to ease her arthritic pain if the patient would also consent to undergo an echocardiogram exam. According to Employee A, certain CGCM employees questioned Chhibber concerning the medical necessity of the echocardiogram test he had ordered. Chhibber, however, insisted that the test be administered.

14. Employee A told investigating agents that Chhibber would routinely order echocardiograms, carotid doppler examinations and abdominal ultrasounds for patients insured by Blue Cross based, in part, on their insurance coverage.

15. Employee A further stated that in the spring of 2009, Blue Cross informed Chhibber that it planned an audit of CGCM's bills. According to Employee A, in preparation for the audit, Chhibber closed CGCM for several days to review and amend patient charts. Employee A further reported that Chhibber ordered a CGCM ultrasound technician, hereinafter referred to as "Employee B," to supplement those patient charts that were missing diagnostic test reports if Chhibber/CGCM had already billed Blue Cross for such tests. Employee A explained that Chhibber signed the replacement reports created by Employee B for the planned Blue Cross audit.

16. Investigating agents have subsequently interviewed Employee B, who worked for Chhibber at CGCM from late 2005 through November 2010.[5] Employee B stated that he/she was the employee responsible for conducting the majority of ultrasound tests ordered by Chhibber at CGCM, including echocardiograms, carotid doppler scans, abdominal ultrasounds, and vascular studies of the leg. Employee B claimed he/she was therefore able to describe the process in which ultrasound tests were generally ordered, performed and recorded at CGCM. In particular, Employee B told investigating agents that Chhibber would generally order patient tests by writing a diagnostic justification for an examination and the corresponding test to be performed in the particular patient's chart. Employee B would then administer the tests ordered by Chhibber.

17. Employee B told investigating agents that he/she believed that a number of the

[5] Employee B worked for CGCM as an ultrasound technician in both a part-time and full-time employee capacity during this period. Although now an ultrasound technician, Employee B was employed over twenty years ago as a medical doctor in a foreign country.

tests Chhibber ordered and he/she performed were unnecessary. In particular, Employee B explained that he/she recalled a number of instances in which patients came to CGCM complaining of various ailments that, in Employee B's opinion, did not require the extensive diagnostic testing subsequently ordered by Chhibber. For example, Employee B recalled instances in which patients came to CGCM complaining of extremity soreness or headaches, but for whom Chhibber would nevertheless order some type of untrasound examination. According to Employee B, Chhibber would document the patient's initial complaint, but would also record other non-reported symptoms in the patients' charts in order to justify the tests he had then ordered. Moreover, according to Employee B, Chhibber would often order patients to undergo the same types of tests on subsequent visits even though the patient's prior test results had been normal. In fact, Employee B estimated that over seventy percent of the tests he/she performed at CGCM failed to detect data suggestive of an adverse condition. Nevertheless, according to Employee B, Chhibber reordered the same tests for some of the same patients when they next appeared at CGCM.

18. Investigating agents have also interviewed a former CGCM medical assistant who worked for Chhibber at CGCM from approximately August 2006 through March 2009 (hereinafter referred to as "Employee C"). Employee C told investigating agents that Chhibber often arrived at CGCM's offices late, after his first scheduled patient appointments. Employee C explained that on many of these occasions, Chhibber would call the CGCM office and order tests, including echocardiograms, to be performed on patients awaiting his arrival. In particular, Chhibber would ask members of his staff to review the patients' charts,

advise him of the symptoms previously diagnosed and tests previously performed for the waiting patients. Employee C explained that Chhibber would then order additional tests to be performed on the waiting patients based on that information alone, before he had re-examined the patients and assessed their current condition.

19. Employee C further stated that Chhibber would record the same type of purported diagnoses in patients' charts to justify the specific tests he ordered irrespective of the patients' actual condition. For example, Employee C stated that Chhibber would routinely note a hematuria diagnosis for the abdominal ultrasound tests he ordered. According to Employee C, Chhibber justified echocardiograms by claiming that the recipient-patients had complained of chest pain and/or exhibited a heart murmur. Employee C further stated that Chhibber sought to justify carotid doppler ultrasounds by noting that the patient had reported a syncope or had exhibited carotid bruit.

20. Investigating agents have also interviewed a certified nursing assistant who worked for Chhibber at CGCM from in or about 2005 through 2008 (hereinafter referred to as "Employee D").[6] Employee D told investigating agents that he/she also believed that Chhibber routinely ordered medically unnecessary tests for patients. Moreover, Employee D stated that, on occasion, Chhibber would bill health care benefit programs for tests that his patients never received, including doppler scans, Holter monitor examinations and blood work laboratory analyses. Employee D told investigating agents that Chhibber generally sent patient blood samples to an outside laboratory for analysis. However, according to Employee

[6] Employee D explained that he/she had various responsibilities during his/her employment with Chhibber which included recording Chhibber's patient diagnoses on billing sheets.

D, Chhibber would, on occasion, bill health care benefit programs for blood work that was not ordered or performed. Rather, according to Employee D, Chhibber would draft his own false laboratory results which were then used to document (*i.e.*, justify) the billings CGCM and Chhibber submitted to the patients' health care benefit programs.

21. Like Employee C, Employee D reported that Chhibber often arrived at CGCM's office hours late. Employee D stated that on many of the days that Chhibber was late, he would call the office and ask for the names of patients waiting to see him. Employee D stated that upon learning the identities of the patients awaiting his arrival, Chhibber would instruct his assistants to perform certain tests on those individuals. Employee D recalled that the majority of the tests run on these waiting patients were ultrasounds, echocardiograms and blood work.

22. Investigating agents have interviewed yet another former CGCM medical assistant who worked for Chhibber at CGCM from in or about late 2004 / early 2005 through February 2009 (hereinafter referred to as "Employee E"). Employee E told investigating agents that in addition to his/her medical responsibilities (*i.e.*, taking patients' vitals, administering injections and drawing blood), Employee E was responsible for completing billing forms and filing CGCM medical records.

23. Like other former CGCM employees interviewed by investigating agents, Employee E reported that he/she was also aware of instances in which Chhibber ordered tests for patients without first examining those individuals. Employee E reported that Chhibber would order tests sight unseen for both existing and new CGCM patients. Moreover,

consistent with Employees C and D, Employee E reported that, when running late for work, Chhibber would call CGCM's office staff, ask the names of patients waiting for him, and order Employee E to pull and review those individuals' charts. Employee E would read Chhibber the information contained within the patients' charts, which, according to Employee E, Chhibber would use to order various diagnostic tests to be performed on the awaiting patients.[7]

24. Investigating agents have interviewed yet another former part-time CGCM employee, who worked for Chhibber from in or about October 2009 to the end of October 2010. This employee, hereinafter referred to as "Employee F," told investigating agents that in addition to taking patients' vitals and filing patient records, he/she was responsible for conducting nerve tests, electrocardiograms, pulmonary function tests, nuclear thallium stress tests, and ankle brachial index tests at CGCM.

25. Employee F stated that in his/her opinion, many of the patient tests ordered by Chhibber were not medically necessary. Like Employees C, D and E, Employee F reported that on many occasions when Chhibber was late for work, he would call the office and order tests, including echocardiograms, electrocardiograms and nerve tests, for patients awaiting his arrival. According to Employee F, Chhibber ordered these tests without first examining

[7] Although investigating agents did not ask Employee E to identify the specific tests that Chhibber would order for these waiting patients, Employee E described this practice of blind testing in a conversation with agents that involved Chhibber's practice of ordering ultrasound, carotid doppler, heart monitor, and echocardiogram tests for CGCM patients.

the patients who received them.[8]

26. Employee F explained that Chhibber appeared to order certain tests, including electrocardiograms, pulmonary function tests and/or nerve tests, for every patient he examined. Employee F further stated that Chhibber would order patients to be retested multiple times despite prior test results that did not indicate any abnormalities. By way of example, Employee F stated that certain Chhibber patients appeared to receive an echocardiogram examination every time they came to CGCM. Employee F stated that he/she saw results for some of these repetitive echocardiogram examinations in patient charts indicating normal heart function for each test performed. Similarly, Employee F told investigating agents that he/she assisted in administering stress thallium tests on Chhibber patients. According to Employee F, despite the fact that the many of these tests appeared normal, Chhibber continued to reorder the same tests for these same patients during subsequent visits.[9]

27. Investigating agents have also interviewed current CGCM employees. In particular, the government has recently questioned two current CGCM medical assistants, hereinafter referred to as "Employee G" and "Employee H." Employee G told investigating agents that he/she has worked full time for Chhibber since March 2009. Employee G's

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[8] Employee F told investigating agents that he/she believed Chhibber only ordered tests for waiting patients that he knew well.

[9] Employee F suggested that one reason patient tests may have been reordered by Chhibber was due to changes in patient medication. However, according to Employee F, Chhibber would continue to order additional tests for the same patients after their change in medication despite prior test results that did not reflect abnormalities or change in patient condition.

responsibilities at CGCM include running various diagnostic tests ordered by Chhibber including electrocardiograms, ankle brachial index tests, bone density tests and hearing tests. Employee H has been employed by Chhibber at CGCM for almost two and a half years. Employee H reported billing, charting and performing certain diagnostic tests, including electrocardiograms as part of his/her CGCM responsibilities.

28. Like other former CGCM employees, Employees G and H confirmed that on many of those days that Chhibber was late for work, Chhibber would call the CGCM office and order tests for patients awaiting his arrival. In particular, Employee G explained that Chhibber asked him/her to review the waiting patients' charts. Chhibber would ask Employee G the patients' names, their insurance provider, and type of tests they had previously received. According to Employee G, Chhibber would then order additional tests based on this information. CGCM's staff would then begin administering the tests ordered by Chhibber prior to his arrival. Employee H reported that he/she too was often asked to perform diagnostic tests on patients, including electrocardiograms, before those patients were actually examined by Chhibber.

29. Employee G told investigating agents that Chhibber sees a number of his patients at short intervals and that it seemed to him/her that Chhibber would order either an electrocardiogram, echocardiogram and/or pulmonary function test for each patient visit. Employee H also claimed that many CGCM's patients are seen by Chhibber on a frequent basis, and that Chhibber would order that they undergo an electrocardiogram during each visit. Employee G stated that in his/her opinion, approximately half of the patients who

received pulmonary function tests and/or electrocardiograms at CGCM did not need those tests. In fact, Employee G reported that Chhibber's patients routinely asked him/her why they needed the tests ordered when they had been subjected to the same tests during a previous visit.

30. Employee G explained to investigating agents that Chhibber tries to backstop the tests he orders by recording a corresponding condition and/or symptom in the patients' charts. For example, Employee G stated that to justify a pulmonary function test, Chhibber enters a note in the patient's chart that indicates that the patient has had breathing issues or heart failure. Similarly, Employee G explained that to backstop the echocardiograms and electrocardiograms he orders, Chhibber would note that the patient tested complained of chest pain, shortness of breath, has exhibited carotid bruit and/or suffered from chronic obstructive pulmonary disease. According to Employee H, Chhibber would note diagnoses of hypertension and/or abnormal heart murmurs in recipient-patients' charts to backstop the electrocardiograms he ordered. Employee G stated irrespective of Chhibber's chart notations, many of the patients who received the aforementioned tests did not actually exhibit the symptoms or have the conditions Chhibber recorded in their records.

31. Investigating agents have also recently interviewed a physician employed by Chhibber in Chhibber's Hanover Park clinic (hereinafter referred to as "Employee I").[10] Employee I told investigating agents that he/she did not believe that Chhibber ordered patient tests that were not medically necessary, explaining that the volume of tests ordered by

[10] Employee I told investigating agents that at the time of his/her interview, he/she only worked at CGCM two hours a week.

Chhibber could be explained by patient conditions. Employee I further stated that to his/her knowledge, Chhibber would not order tests without first examining a patient unless the patient had been referred to Chhibber for tests by another physician. Employee I also stated that he/she was not aware of Chhibber ordering the same tests for multiple patients. Employee I did acknowledge, however, that he/she did not work with Chhibber very often, rarely examined Chhibber's patients, and did not know much about how Chhibber ran his office. Employee I further informed investigating agents that Chhibber currently serves as Employee I's immigration sponsor and that if he/she lost employment with Chhibber, Employee I may be forced to leave the United States.

The Government's Undercover Operation

32. On January 26, 2010, a law enforcement employee operating in an undercover capacity (hereinafter referred to as "UC1") entered CGCM posing as a new patient. UC1 recorded his/her interactions with Chhibber and his CGCM staff during this visit.

33. Upon entering CGCM, UC1 signed a sign-in sheet and was asked to provide his/her driver's license and insurance card to the attendant at the office's reception desk. UC1 presented an undercover Blue Cross insurance provider card and filled out various patient intake forms. After about a thirty minute wait, a woman who UC1 characterized as the office manager, brought UC1 into an examining room. There, the office manager took UC1's vital signs after which UC1 was sent back to the waiting room. After another short wait, UC1 was taken to a different examining room where UC1 was given an electrocardiogram and a pulmonary function test. The tests were administered by a woman

who informed UC1 that the results of the tests were normal. UC1 then returned to the waiting room where UC1 waited approximately two more hours before seeing Chhibber.

34. UC1 was examined by Chhibber for approximately ten to twenty minutes during which UC1 told Chhibber that he/she was there because UC1 had been experiencing itching. During his examination, Chhibber told UC1 that his/her blood pressure was elevated. UC1 told Chhibber that this was the first time he/she had been diagnosed with high blood pressure. Chhibber responded that sometimes CGCM's blood pressure machines read high. At the end of the examination, Chhibber gave UC1 a prescription for Atarax to address UC1's reported itching. In addition, Chhibber wrote on a pad "diabetes, EKG, echo" and handed the note to the office manager.

35. UC1 was then taken to the room where he/she had earlier undergone the electrocardiogram and pulmonary function tests. UC1 was joined by two male CGCM employees who appeared to UC1 to be technicians, who then administered an echocardiogram on UC1. At the end of the test, UC1 was told the results of the echocardiogram were clear.

36. According to billing records obtained from Blue Cross, on or about February 9, 2010, CGCM and Chhibber submitted a reimbursement claim to Blue Cross for services allegedly provided to UC1 on January 26, 2010. The claim indicated UC1 was given an electrocardiogram, a bronchodilation response test, and an ear and pulse oximetry test. The diagnoses on the claim indicated UC1 had unspecified hypertension, shortness of breath and itchiness. The total bill submitted by Chhibber for the examination and tests was $470.

37. On February 23, 2010, another law enforcement employee operating in an undercover capacity (hereinafter referred to as "UC2") entered CGCM posing as a new patient. UC2 recorded his/her interactions with Chhibber and his CGCM staff during this visit.

38. Upon presenting him/herself at the reception desk, UC2 was asked to provide his/her driver's license and insurance card. UC2 also was asked to complete various patient intake forms. After about a thirty minute wait, UC2 was taken into an examining room by a female CGCM employee who took UC2's vital signs and blood pressure. The woman informed UC2 that his/her blood pressure was 140/80, which she described as "a little high." UC2 returned to the waiting room and, after about thirty minutes, was brought into another examining room. There, UC2 met with Chhibber and explained that he/she wanted a general medical checkup. Chhibber performed a general examination of UC2 and informed UC2 that he/she was in good health. Chhibber then sent UC2 to another room where the CGCM employee who had recorded UC2's blood pressure performed an electrocardiogram on UC2.

39. According to billing records obtained from Blue Cross, on or about March 31, 2010, CGCM and Chhibber submitted a reimbursement claim to Blue Cross for the services allegedly provided to UC2 on or about February 23, 2010. The claim indicated UC2 was given an electrocardiogram and an ear and pulse oximetry test. The diagnosis on the claim indicated UC2 had cardiac murmurs. The total charge submitted by Chhibber for his/her exam was $320.

40. On February 16, 2010, another law enforcement employee operating in an

undercover capacity (hereinafter referred to as "UC3") entered CGCM posing as a new patient. UC3 also consensually recorded his/her interaction with Chhibber and his staff during this visit. Upon presenting him/herself, UC3 was asked to fill out paperwork including a new patient background form, a consent to transfer medical records form and a consent for services form. UC3 was also asked to provide his/her driver's license and insurance card. Approximately one hour later, UC3 was taken into an examining room by a woman who took his/her vital signs and blood pressure. This CGCM employee informed UC3 that his/her blood pressure was high at 159/99 and took a second blood pressure reading, which was 149/89. UC3 returned to the waiting room and after about one hour was led to another examining room, where UC3 met with Chhibber. UC3 told Chhibber he/she needed to have a physical for his/her new employment. UC3 and Chhibber then briefly discussed UC3's medical history. Chhibber then performed a general examination of UC3, during which he informed UC3 that UC3 had high blood pressure and inquired about any history of hypertension. UC3 stated that he/she did not believe the blood pressure readings were accurate, to which Chhibber responded that his blood pressure machines were not properly calibrated and would often give high readings. UC3 then observed Chhibber make notations in UC3's medical chart. After which UC3 was taken to another room where an individual who appeared to be a technician performed an echocardiogram on UC3.

41. According to records obtained from Blue Cross, in or about March 2010, CGCM and Chhibber submitted a claim for the services allegedly provided to UC3 on February 16, 2010. The claim indicated UC3 was given an extracranial artery scan, an

echocardiogram, and an ear and pulse oximetry test. The diagnoses on the claim indicated UC3 had hypertension, cardiac murmurs, a weak pulse, and had experienced fainting.[11] The total charges submitted by Chhibber were $1,495.

Chhibber's Reaction To The Government's Investigation

42. According to Employee B, CGCM's staff, including Chhibber, generally became aware of the government's investigation in or about June 2010. Employee B told investigating agents that beginning in the spring to early summer of 2010, Chhibber and Chhibber's wife began reviewing patient charts for missing information. Employee B further reported that shortly before his/her November 2010 interview with law enforcement, Chhibber asked Employee B to review CGCM's patient charts that contained preliminary test reports but did not contain a subsequent, final electronic report that should have been drafted by Chhibber. Chhibber asked Employee B to draft a final report for those charts in which they were missing.

43. Employee B further reported that after learning of the government's investigation, Chhibber amended the manner in which patient exams were performed at CGCM. In particular, Chhibber had previously had Employee B perform patient tests when he (Chhibber) was not physically present in CGCM's office. After learning of law enforcement's inquiry, Chhibber would only order tests when he was present in the office. Employee B opined that this change in practice occurred due to the existence of the pending investigation. Employee B further reported that at or about the time that Chhibber learned

[11] UCS had never reported episodes of fainting during his/her visit to CGCM.

of the investigation, the rate of tests ordered by Chhibber decreased from approximately ten tests per day to one to two.

44. Employee G similarly told investigating agents that once Chhibber learned of the government's investigation, he changed his practice. In particular, according to Employee G, Chhibber no longer ordered bone density, hearing, or impedance cardiography tests. Moreover, Chhibber ceased ordering diagnostic tests when he was not physically present in the CGCM's office. Finally, according to Employee G, the volume of diagnostic tests ordered by Chhibber decreased after he learned of the government's investigation.[12] Employee H further confirmed that he/she noticed that Chhibber had decreased the number of diagnostic tests administered at CGCM after learning of the government's investigation.

45. Chhibber has also spoken with his employees about how they should respond to investigating agents. Employee B stated that days prior to his/her first interview with law enforcement, Chhibber questioned Employee B concerning whether he/she had been approached by law enforcement. Employee B stated that he/she told Chhibber that he/she had not yet been questioned. According to Employee B, Chhibber responded by stating that Employee B would be approached by law enforcement soon. Employee B further reported that Chhibber then told Employee B that when interviewed, Employee B should tell investigating agents that he (Chhibber) was always present for and supervised Employee B's administration of patient tests. Employee B further stated that Chhibber instructed him/her to tell investigating agents that he (Chhibber) reviewed all of the preliminary test reports

[12] However, according to Employee G, Chhibber has not ceased ordering medically unnecessary tests.

produced by Employee B and drafted his own electronic report based on those preliminary findings. Employee B stated that none of the above statements that Chhibber had asked Employee B to say would have been true.

46. Employee B further told investigating agents that Chhibber later asked Employee B whether he/she had "told the truth" when Employee B met with investigating agents, which Employee B explained he/she understood to mean conveyed the information as directed by Chhibber. Employee B responded affirmatively, which he/she understood to mean that he/she had lied to the investigating agents.[13] According to Employee B, Chhibber responded by stating: "That's good. You should always tell the truth."

47. Investigating agents have also spoken to a nuclear medical technologist who is an independent contractor and has worked for Chhibber performing stress tests at CGCM since May 2009 (hereinafter, "Independent Contractor A"). Independent Contractor A told investigating agents that Chhibber was usually present for the tests he/she administered and that when he/she told Chhibber that he/she would be speaking with investigating agents, Chhibber told Independent Contractor A to tell the truth.

Conclusion

48. Based upon the foregoing information, I believe that there is probable cause to believe that beginning no later than February 2009 and continuing through March 2010, Dr. Jaswinder Rai Chhibber knowingly and intentionally devised and participated in a

[13] At that time, Employee B had, in fact, not yet met with investigating agents.

scheme and artifice to defraud health care benefit programs within the meaning of Title 18, United States Code, Section 24(b), including Blue Cross Blue Shield of Illinois (hereinafter referred to as "Blue Cross"), Medicare and Medicaid by submitting medical services reimbursement claims for procedures never rendered and/or performed on patients despite not being medically necessary, all in violation of Title 18, United States Code, Section 1347.

FURTHER AFFIANT SAYETH NOT

_____
ED LEITELT
Special Agent
Department of Health and Human Services

Subscribed and sworn
before me this 16th day of February, 2011

_____
Honorable Jeffrey Cole
United States Magistrate Judge