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OPERATOR OF TWO HOME HEALTH CARE BUSINESSES INDICTED IN ALLEGED \$20 MILLION MEDICARE FRAUD SCHEME

CHICAGO — A Chicago man who operated two home health care businesses, one of which was among the state's largest recipients of Medicare payments, was indicted on federal fraud charges for allegedly swindling Medicare of at least \$20 million over five years, federal law enforcement officials announced today. The defendant, **Jacinto "John" Gabriel, Jr.**, allegedly schemed with others to submit millions of dollars in false claims for reimbursement of home healthcare services purportedly provided to Medicare beneficiaries, which allegedly were never provided, were not medically necessary, or were inflated in price so that he and others could profit from the fraudulently-obtained funds. Gabriel and his co-schemers allegedly used the proceeds for various purposes, including: using more than \$5.5 million in cash to maintain lavish lifestyles, including gambling at casinos in the Chicago area and Las Vegas, and to buy automobiles, jewelry and real estate in the United States and the Philippines; to perpetuate the businesses by paying his employees and providing them with gifts, and to bribe physicians and pay kickbacks to others in exchange for patient referrals.

Gabriel, 43, who had no formal medical training, medical degrees, nor licenses to practice as a health care professional, was charged with two counts of wire fraud, two counts of health care fraud and 11 counts of money laundering in a 15-count indictment returned yesterday by a federal grand jury, announced Patrick J. Fitzgerald, United States Attorney for the Northern District of Illinois. The indictment also seeks forfeiture of \$20 million. He has remained free on bond since he was arrested on preliminary charges in February and he will be arraigned on a date still be determined in U.S. District Court.

“The fraud alleged in this indictment illustrates complete disregard of the needs and interests of Medicare patients,” said Lamont Pugh III, Special Agent-in-Charge of the Chicago Region of the U.S. Department of Health and Human Services Office of Inspector General. “The OIG is determined to aggressively investigate Medicare fraud and will continue to work with our law enforcement partners to ensure that those who perpetrate these types of crimes are held accountable.”

Mr. Fitzgerald and Mr. Pugh announced the charges together with Robert D. Grant, Special Agent-in-Charge of the Chicago Office of Federal Bureau of Investigation, and Alvin Patton, Special Agent-in-Charge of the Internal Revenue Service Criminal Investigation Division. The Railroad Retirement Board Office of Inspector General also participated in the investigation, which is continuing. The investigation is being conducted by the Medicare Fraud Strike Force, which expanded to Chicago earlier this year, and is part of the Health Care Fraud Prevention & Enforcement Action Team (HEAT), a joint initiative between the Justice Department and HHS to focus their efforts to prevent and deter fraud and enforce anti-fraud laws around the country.

According to the indictment, Gabriel did not identify himself as an owner, but in fact exercised ownership and control over Perpetual Home Health, Inc., based in Oak Forest, and Legacy Home Healthcare Services, which was located on the city's north side. Both firms have ceased operating and no longer receive Medicare payments. Between May 2006 and January 2011, Perpetual submitted more than 14,000 Medicare claims seeking reimbursement for services allegedly provided to beneficiaries. As a result of those claims, Perpetual received more than \$38 million in Medicare payments, making it one of the largest, if not the largest, recipients of Medicare payments for home health services in Illinois. Between 2008 and January 2011, Legacy submitted more than 2,000 claims for Medicare reimbursement and received more than \$5 million.

As part of the fraud scheme, Gabriel and his co-schemers allegedly obtained personal information of Medicare beneficiaries to bill Medicare without the beneficiaries' knowledge or consent; created false patient files to support fraudulent Medicare claims and submitted false claims based on those records; used Medicare proceeds to pay himself, co-schemers, employees, and others who assisted him in carrying out the scheme; and concealed the fraud proceeds by directing Perpetual and Legacy to issue checks payable to fictitious entities, his friends and associates.

Among other details, the indictment alleges that Gabriel authorized Perpetual and Legacy to pay various amounts, ranging between \$200 and \$800, to employees and others for each patient they referred and enrolled in home healthcare services. He and others also cold-called Medicare beneficiaries to try to persuade them to enroll with Perpetual and Legacy.

As part of allegedly falsifying patient records, Gabriel directed Perpetual and Legacy personnel to systematically complete standard forms by listing the same false diagnoses, including

arthropathy (joint disease) and hypertension, which enabled them to claim a higher level of Medicare reimbursement, according to the charges.

In addition to the fraud counts, the money laundering charges allege that between last October and December, Gabriel cashed 11 checks in amounts under \$10,000 — usually \$9,000 and all involving fraud proceeds — to avoid federal currency transaction reporting requirements.

Each count of wire fraud and money laundering carries a maximum penalty of 20 years in prison, while each count of health care fraud carries a maximum 10-year prison term. Each wire fraud and healthcare fraud count carries a maximum fine of \$250,000, or an alternate fine totaling twice the loss or twice the gain, whichever is greater. Each money laundering count carries a maximum fine of \$500,000. If convicted, the Court must impose a reasonable sentence under the advisory United States Sentencing Guidelines.

The public is reminded that charges are not evidence of guilt. The defendant is presumed innocent and is entitled to a fair trial at which the government has the burden of proving guilt beyond a reasonable doubt.

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