AUSA Mark E. Schneider (312) 353-5356
AUSA Patrick Otlewski (312) 469-6045

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA

v.

BAHIR HAJ KHALIL,
MOHAMMED KHAMIS RASHED, and
PASCHAL U. OPARAH

CRIMINAL COMPLAINT

CASE NUMBER:

I, the undersigned complainant, being duly sworn on oath, state that the following is true and correct to the best of my knowledge and belief:

COUNT ONE

Beginning not later than in or about 2008, and continuing to in or about July 2011, in the Northern District of Illinois, Eastern Division, **BAHIR HAJ KHALIL** and **PASCHAL U. OPARAH**, defendants herein,

> did knowingly and willfully devise and participate in a scheme to defraud a health care benefit program affecting commerce, namely, Medicare, and to obtain, by means of materially false and fraudulent pretenses, representations, and promises, money and property owned by, and under the custody or control of Medicare, in connection with the delivery of or payment for health care benefits, items, or services; and for the purpose of executing the scheme and attempting to do so, caused a claim to be submitted to Medicare on or about November 18, 2010, for services purportedly rendered to Patient M.G. on or about November 10, 2010;

in violation of Title 18, United States Code, Sections 1347 and 2; and

COUNT TWO

On or about July 2, 2007, in the Northern District of Illinois, Eastern Division, and elsewhere, **BAHIR HAJ KHALIL** and **MOHAMMED KHAMIS RASHED**, defendants herein:

> did knowingly present and cause to be presented an application and document required by the immigration laws or regulations prescribed thereunder which contained a false statement, subscribed as true as permitted under penalty of perjury under Section 1746 of Title 28, United States Code, with respect to a material fact, namely, Form I-140, Immigrant Petition for Alien Worker, and ETA Form 9089, Application for Permanent Employment Certification, attached therewith, in which defendants certified that (1) KHALIL was not then employed by House Call Physicians LLC; (2) KHALIL was not an owner of House Call Physicians LLC; and (3) House Call Physicians LLC intended to employ KHALIL as a “home health aide” earning $8.50 per hour, which certifications the defendants then knew to be false;

in violation of Title 18, United States Code, Sections 1546 and 2; and

I further state that I am a Special Agent with the Federal Bureau of Investigation, and that this complaint is based on the facts contained in the Affidavit which is attached hereto and incorporated herein.

Signature of Complainant
ELLIOT ROTHROCK
Special Agent, Federal Bureau of Investigation

Sworn to before me and subscribed in my presence,

July 19, 2011 at Chicago, Illinois
Date City and State

Jeffrey Cole, U.S. Magistrate Judge
Name & Title of Judicial Officer

Signature of Judicial Officer

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

AFFIDAVIT

I, ELLIOT ROTHROCK, being duly sworn, state as follows:

1. I am a Special Agent with the Federal Bureau of Investigation ("FBI") and have been since 2009. I am currently assigned to the Health Care Fraud Program, the primary purpose of which is to identify and investigate the activities of persons suspected of defrauding Government and private health care programs. As such, I have received specialized training and participated in numerous health care fraud investigations, which have involved consensual monitoring, interviewing witnesses, informants, and others who have knowledge of fraud perpetrated against Medicare. Through my training, education, and experience, I have become familiar with the manner in which healthcare programs are defrauded through misrepresentations submitted to Medicare and other medical benefits providers.

2. This affidavit is based on my personal knowledge, information provided by other law enforcement personnel, law enforcement records, other government records, confidential sources, and undercover recordings. To the extent that consensually recorded communications are summarized below, the summaries do not necessarily include references to all topics covered in the recorded conversation, nor do they include references to all statements made by the speakers on the topics that are described. All quotations from recorded conversations are based upon preliminary transcriptions of those conversations and/or from your

affiant having personally listened to the recordings. In addition, the participants in many of these communications may have used slang terms and code words. Those code words and slang terms, as well as communications in general, are interpreted in this Affidavit based upon (a) my training, experience and knowledge of this investigation, (b) other law enforcement officers' training, experience and knowledge of this investigation, and/or (c) other evidence gathered during the course of the investigation, such as physical surveillance and the review of records.

3. The information contained in this affidavit is provided solely for the purpose of establishing probable cause in support of a criminal complaint against BAHIR HAJ KHALIL, MOHAMMED KHAMIS RASHED, and PASCHAL OPARAH for violations of 18 U.S.C. § 1346 (health care fraud) as to KHALIL and OPARAH, and 18 U.S.C. 1546 (visa fraud) as to KHALIL and RASHED. Because this affidavit is submitted for this limited purpose, I have not set forth each and every fact known to me concerning this investigation.

SUMMARY

4. The FBI, the U.S. Department of Health and Human Services, the U.S. Department of Labor, and the Railroad Retirement Board, are conducting a criminal investigation of BAHIR HAJ KHALIL, MOHAMMED KHAMIS RASHED, and PASCHAL U. OPARAH, in connection with their activities at House Call Physicians LLC ("House Call"), a home health care business located at 10661 South Roberts Road, Suite 103, Palos Hills, Illinois. KHALIL, a Canadian citizen not authorized to work in the United States, is the manager of House Call, which he also

co-owns. RASHED is a co-owner of House Call and has represented himself at various times to be an officer of House Call, including its president and vice-president, and executed visa paperwork on its behalf. OPARAH is podiatric physician whose license is currently suspended by the State of Illinois but who provides podiatry services to House Call clients, which are billed to Medicare.

5. The health fraud scheme set forth below includes several components: (1) billing for services as if they were performed by physicians, when in fact they were performed by physician assistants ("PAs") ; (2) billing for podiatry services as if they were performed by a particular licensed podiatrist, when in fact they were performed by OPARAH, whose license was suspended; and (3) falsely certifying that patients are eligible for home health services when in fact they are not homebound, as required by Medicare rules and regulations, and causing other medically unnecessary services to be provided and billed.

6. Further, KHALIL and RASHED attempted to obtain a visa for KHALIL to be present and work in the United States by materially misrepresenting KHALIL's relationship to House Call and his intended employment.

STATUTORY BACKGROUND

The Medicare Program

7. Congress established the Medicare Program in 1965 when it enacted Title XVIII of the Social Security Act. Medicare is a federal health care program as defined at 42 U.S.C. §1320b-7b(f) and is a health care benefit program as defined at 18 U.S.C. § 24(b). Medicare provides free or below-cost health care

benefits to certain eligible beneficiaries, primarily persons sixty-five years of age or older. Individuals who receive Medicare benefits are often referred to as Medicare beneficiaries

8. Medicare consists of four distinct parts: Part A provides hospital insurance with coverage for inpatient hospital services, skilled nursing care, and home health and hospice care; Part B provides supplementary medical insurance for physician services, outpatient services, and certain home health and preventive services; Part C is a private plan option for beneficiaries that covers all Part A and B services, except hospice; and Part D covers prescription drug benefits.

9. The Centers for Medicare and Medicaid Services ("CMS") is a federal agency within the United States Department of Health and Human Services ("HHS"). CMS administers the Medicare program through its contractors.

10. CMS contracts with public and private organizations, usually health insurance carriers, to process Medicare claims and perform administrative functions. CMS currently contracts with Wisconsin Physician Services ("WPS") to administer and pay Part B claims from the Medicare Trust Fund. The Medicare Trust Fund is a reserve of monies provided by the federal government. WPS processes Medicare Part B claims submitted for physician services for beneficiaries in Illinois.

11. Enrolled providers of medical services to Medicare recipients are eligible for reimbursement for covered medical services. By becoming a participating provider in Medicare, enrolled providers agree to abide by the rules,

regulations, policies and procedures governing reimbursement, and to keep and allow access to records and information as required by Medicare.

12. The American Medical Association has established certain codes to identify medical services and procedures performed by physicians, which is known as the Physicians' Current Procedural Terminology ("CPT") system. CPT codes are widely used and accepted by health care providers and insurers, including Medicare and other health benefit programs.

13. Medicare maintains a Unique Physician/Practitioner Identification Number ("UPIN") System. The purpose of the system is to provide a unique identifier for each physician, non-physician practitioner, or medical group practice requesting or receiving Medicare payment, and to provide beneficiaries and other interested entities with the identification of each physician or non-physician practitioner assigned a UPIN and who are participating in the Medicare program.

14. Providers of health care services to Medicare beneficiaries seeking reimbursement under the program must submit a claim form (an "HCFA 1500") containing certain required information pertaining to the Medicare beneficiary, including the beneficiary's name, health insurance claim number, date the subject service was rendered, location where the service was rendered, type of services provided, the CPT code, number of services rendered, an ICD-9 code reflecting the patient's diagnosis, charges for each service provided, the provider's UPIN, and a certification that such services were personally rendered by the provider.

Home Health Care Services

15. Medicare covers, among other things, home health care, that is, health care services provided to Medicare beneficiaries suffering from illnesses or disabilities which confines them to their homes. Such services include intermittent skilled nursing care, physical therapy, speech therapy, or occupational therapy.

16. Medicare providers are entitled to be paid only for medically-necessary services provided to eligible Medicare beneficiaries. With regard to home health care services, Medicare authorizes payment under the following circumstances: (i) the Medicare beneficiary is "homebound," meaning that his or her ability to leave the home was restricted due to illness or disability; (ii) the homebound beneficiary is under the care of a physician who created a specific plan of care for the beneficiary; and (iii) the beneficiary's physician signed a Medicare form (Form 485) known as a "Home Health Certification and Plan of Care," setting forth, among other things, the beneficiary's diagnosis, medications, functional limitations, and plan of care, followed by a certification that the beneficiary was homebound, was under that physician's care, and was in need of covered home health services.

17. Medicare typically approves payment for home health care services provided over 60-day periods of time, each 60-day period is known as an "episode of care." After the initial 60-day episode of care, a beneficiary may receive additional 60-day episodes of care, but only if a physician re-certifies, in a Form 485, that the beneficiary is still homebound and still in need of home health care services.

18. Medicare requires the home health care provider to conduct a

comprehensive assessment of each patient to determine the patient's eligibility for home health care and the level of skilled care required to adequately care for the patient. In the course of that assessment, the home health care provider is required to gather a specific set of clinical data, known as an Outcome and Assessment Information Set ("OASIS"). Such data typically is gathered by a nurse in a face-to-face visit with the patient, and is recorded on a standard OASIS form.

19. Medicare requires home health care providers to maintain complete and accurate medical records documenting each patient's need for home health care and the specific services provided to each patient. Among the records required to be maintained by home health care providers are OASIS forms, Forms 485 signed by physicians, and nurses' notes.

Medicare Billing by Physician Assistants

20. When a PA (or other non-physician practitioner) renders service(s) to a Medicare beneficiary, the claim form (known as a "HCFA-1500") must contain the UPIN of the PA according to Medicare National Coverage Provision PHYS-026.

21. Medicare allows for "incident to" billing when a non-physician practitioner (such as a PA) performs a service for the billing provider. Medicare provides 100% reimbursement for "incident to" services when the non-physician practitioner performs such services under the "direct supervision" of a physician. "Direct Supervision" is defined as requiring that "the physician must be on the premises and immediately available to provide assistance and direction throughout

the time the practitioner is performing services." This provision is laid out in the Medicare Benefit Policy Manual Chapter 13 sections 60, 60.1, 60.2, and 60.3. But when a non-physician practitioner performs "incident to" services under the "general supervision" of a physician, Medicare only provides reimbursement for 85% of the fees charged. This provision is laid out in Medicare National Coverage Policy PHYS-026.

22. Section 60 of the Medicare Benefit Policy Manual provides that, to be reimbursed as "incident to," services must be an integral, although incidental, part of the physician's professional service, commonly rendered without charge or included in the physician's bill, of a type that are commonly furnished in physician's offices or clinics, and furnished under the physician's direct supervision.

23. Section 60.1 of the Medicare Benefit Policy Manual offers additional explanation regarding the scope of "direct supervision." For purposes of an office visit, "[d]irect supervision in the office setting does not mean that the physician must be present in the same room with his or her aide. However, the physician must be present in the office suite and immediately available to provide assistance and direction throughout the time the aide is performing services." When, however, assisting personnel "perform services outside the office setting, e.g., in a patient's home ..., their services are covered incident to a physician's service only if there is direct supervision by the physician. For example, if a nurse accompanied the physician on house calls and administered an injection, the nurse's services are covered. If the same nurse made the calls alone and administered the injection, the

services are not covered (even when billed by the physician) since the physician is not providing direct supervision."

24. According to Section 60.2 of the Medicare Benefit Policy Manual, "in order for services of a nonphysician practitioner to be covered as incident to the services of a physician, the services must meet all of the requirements for coverage specified in §§60 through 60.1." Thus, a non-physician practitioner—such as a PA—provides services "incident to" a physician's professional services when the PA's services "are furnished as an integral, although incidental, part of the physician's personal professional services, and they must be performed under the physician's direct supervision." Among the services included as "incident to" are those services ordinarily rendered by a physician's staff person as well as "services ordinarily performed by the physician such as minor surgery, setting casts or simple fractures, reading x-rays, and other activities that involve evaluation or treatment of a patient's condition."

25. Section 60.4 of the Medicare Benefit Policy Manual acknowledges that some areas of the country are medically underserved, and grants an exception to the "direct supervision" requirement of the "incident to" provisions set forth in Section 60.2 and noted above. However, Medicare National Coverage Policy PHYS-081 directly states that Medicare will not reimburse services that are "not personally performed or ordered by the rendering/billing provider," and further states that physician services are not reimbursable under the aforementioned "incident to" provisions at all when rendered in the home.

Medicare Billing by Unlicensed Practitioners

26. Medicare does not reimburse for physician services rendered by those not licensed to practice medicine. Specifically, Medicare providers must comply with State and local licensure and certification requirements. *See* 42 C.F.R. § 410.20(b) ("Medicare Part B pays for the services specified in ... this section if they are furnished by one of the following professionals who is legally authorized to practice by the State in which he or she performs the functions or actions, and who is acting within the scope of his or her license."). Under Illinois law, physicians must have a valid license in order to practice medicine in the state. *See* 225 Ill. Comp. Stat. 60/3 ("No person shall practice medicine, or any of its branches, or treat human ailments without the use of drugs and without operative surgery, without a valid, existing license to do so, except that a physician who holds an active license in another state or a second year resident enrolled in a residency program accredited by the Liaison Committee on Graduate Medical Education or the Bureau of Professional Education of the American Osteopathic Association may provide medical services to patients in Illinois during a bonafide emergency in immediate preparation for or during interstate transit."). A person who engages in the unlicensed practice of medicine in Illinois is subject to a $5,000 civil fine. *See* 225 Ill. Comp. Stat. 60/3.5.

FACTS ESTABLISHING PROBABLE CAUSE

Background on House Call

27. HOUSE CALL is a limited liability company organized under the laws of the State of Illinois in 2006, according to Illinois Secretary of State records.

HOUSE CALL lists its principal place of business as 10661 South Roberts Road, Suite 103, Palos Hills, Illinois. The registered agent for HOUSE CALL is KHALIL, who was also listed as LLC manager on filings dated on or about March 28, 2006, March 19, 2007, January 30, 2008, and January 24, 2009, January 21, 2010.

28. KHALIL is not a licensed physician, podiatrist, physcian assistant, registered nurse, or licensed practical nurse in the State of Illinois, according to the Illinois Department of Financial and Professional Regulation online database.

29. HOUSE CALL maintains a publicly-accessible website (www.housephysiciansofillinois.com) that promotes the services offered by the company. According to the website, HOUSE CALL "is dedicated to maintain the health and wellbeing of our adult patients; we have structured our medical management programs with this goal in mind." (sic) HOUSE CALL describes itself as a company that provides "a multitude of medical services to the elderly, homebound, and all others that prefer to be treated in the comfort of their own home." HOUSE CALL claims that it prides itself on providing quality health care treatment to under-serviced patients: "HCP recognizes that medical care for the homebound has traditionally been underserved. We also realize that many others are either too busy or too sick to seek the medical attention they need. House Call Physicians believes that all patients deserve quality medical care." The website further claims that the "health care and wellness of our patients always comes first."

30. According to Medicare records, HOUSE CALL received a

provider number on or about May 15, 2006. The Medicare enrollment application (CMS Form 855B), filed in or about May 2006, listed RASHED as a "partner" in the company effective April 27, 2006, and listed KHALIL as a "5% or greater owner." RASHED signed the form as "vice-president" on May 5, 2006 and KHALIL signed the form as "president" on March 30, 2006.

31. Between January 1, 2008 and May 27, 2011, Medicare reimbursed HOUSE CALL a total of approximately $3,334,814.49 based on approximately 36,864 claims for approximately 2,348 unique beneficiaries, according to TrustSolutions data. In addition, Medicare reimbursed numerous home health agencies for services authorized by physicians associated with HOUSE CALL.

Cooperating Witness A

32. Cooperating Witness A ("CW-A") is a physician who was employed by HOUSE CALL from approximately March 2009 through approximately September 2010. The government had investigated CW-A for health care fraud in the past and, though it declined criminal prosecution, CW-A entered a $700,000 civil settlement with the United States and admitted submitting false claims for medical services. The Illinois Department of Financial and Professional Regulation ("IDFPR") also reprimanded and fined CW-A for failing to disclose the settlement to the IDFPR. When CW-A later approached the government in 2010 to report fraud at HOUSE CALL, he/she was considering filing a lawsuit against HOUSE CALL related to the fraud. After CW-A provided a proffer and agreed to cooperate fully and truthfully, the United States Attorney gave CW-A immunity relating to the

criminal investigation of HOUSE CALL.

33. At various times beginning in approximately August 2010, CW-A provided information to the government. CW-A described a health care fraud scheme at HOUSE CALL that included falsely certifying that patients were homebound and eligible for home health care, in exchange for patient referrals from corrupt home health providers; ordering unnecessary medical tests, some of which unqualified staff performed; ordering medically unnecessary durable medical equipment, including to remunerate patients for agreeing to accept home health services; paying physicians for the pro forma and cursory review of plans of care prepared by PAs; and billing services provided by PAs as if the services were provided by physicians, in addition to other corrupt conduct.

34. Between September 2010 and October 2010, under the direction of agents, CW-A engaged in multiple consensually monitored recordings with KHALIL to discuss the business operations of HOUSE CALL. In a recording on or about September 14, 2010, KHALIL admitted to CW-A, "Yes we are doing gray areas, like, maybe, to you, it's unnecessary, but if it's provided to me why not?" KHALIL was referring to services provided by his company and billed to Medicare after CW-A voiced his displeasure to KHALIL about HOUSE CALL's provision of medical tests to patients that CW-A believed to be unnecessary.

Cooperating Witness B

35. Cooperating Witness B ("CW-B") is a PA who was hired by HOUSE CALL in or about October 2008 and continues to work there. Beginning in

or about October 2010, CW-B provided information to the government.

36. Among other things, CW-B explained that she regularly saw patients without a physician present and that a substantial number of her patients did not appear to be homebound.

37. CW-B provided several examples of patients who were not homebound, including a patient who operated a private taxi service (Patient J.B.), a patient who received home health services because he did not want to pay for parking at a downtown physician's office, and a patient (Patient R.F.) who was rarely home when CW-B visited. CW-B stated that one physician under whom she worked confronted KHALIL about patients being seen who did not qualify for home health services, and KHALIL responded, in effect: if the patients have Medicare, then we'll deal with them, regardless of their need. According to Medicare data, HOUSE CALL billed for services for Patient J.B. and Patient R.F. In addition, other home health agencies billed for services purportedly rendered to both patients.

38. CW-B also said that some patients told CW-B they only received home health services because a patient recruiter paid them to do so. Specifically, CW-B explained that Patient G.K. told CW-B that Patient G.K. was paid $50 per month by a particular patient recruiter to receive home health services. According to Medicare data, HOUSE CALL billed for services rendered to Patient G.K. on multiple occasions in 2010 and 2011. In addition, CW-B identified Patient D.W., who told CW-B that Patient D.W. received services because the same recruiter paid him and because he received medications that he could then resell. According to

Medicare data, HOUSE CALL billed for services rendered to Patient D.W. on one day in April 2011. CW-B also explained that KHALIL offered to pay HOUSE CALL staff for patient referrals, and that the staff complained because the rate KHALIL offered staff for patient referrals was significantly less than the $300 that KHALIL paid to independent patient recruiters for patient referrals.

39. CW-B also described how HOUSE CALL ordered unnecessary durable medical equipment. CW-B explained that early in CW-B's employment CW-B was performing many examinations for motorized wheelchairs: CW-B estimated that approximately 40% of the patients did not need a motorized wheelchair, but the patients were complicit, demanded the wheelchairs, and threatened to take their business elsewhere unless they were provided one. One physician refused to sign the orders; as a result, the orders went to Physician G.M. to sign. At times the staff would use Physician G.M.'s signature stamp for various medical orders when a physician would not approve them. A second example was hospital beds. CW-B described an incident when CW-B visited a patient, learned that the patient had already received a hospital bed, and that when CW-B refused to sign an order for the equipment that had already been provided and that the patient did not need, the home health agency complained to KHALIL, who ordered CW-B to sign the order. CW-B acknowledged signing the order for the medically unnecessary bed.

40. CW-B also stated that HCP regularly performs tests on patients without doctors' orders, including echocardiograms, electromyograms, and bone

density tests. CW-B stated that KHALIL would order the tests, despite not being a medical professional, and that at times he/she would first learn about the tests from his/her patients.

Fraudulent Billing for Visits by Physician Assistants

41. As set forth below, HOUSE CALL bills Medicare for visits by PAs as if the services had been rendered by physicians, including Physician G.M. and Physician S.A., when in fact these physicians rarely if ever see patients.

42. CW-B reported that CW-B visited patients in their homes when CW-B was supposedly under the supervision of Physician G.M., beginning in about May 2010 and continuing to the present. However, Physician G.M. was never present with CW-B for the patient visits. CW-B reported that Physician G.M. has his own medical practice in Joliet, Illinois, and that he was rarely present in HOUSE CALL's office. CW-B, KHALIL, and Physician G.M. meet every few weeks to review the charts for patients that CW-B has recently visited. During these meetings, CW-B informs Physician G.M. of each patient's condition, and Physician G.M. then signs documents in the patient's charts, including CMS-485 forms ("Home Health Certification and Plan of Care").

43. On or about April 8, 2011, CW-B consensually recorded one such meeting with KHALIL and Physician G.M. The FBI provided CW-B with a video and audio recording device that CW-B carried with him/her. During this meeting, Physician G.M. signed a large number of patient documents and asked CW-B questions about the patients he/she had seen. CW-B also asked KHALIL and

Physician G.M. about billing concerns, and told them about a patient's daughter who complained that Medicare had been billed for services performed by Physician G.M. CW-B informed KHALIL and Physician G.M. that the patient told him/her that Physician G.M. had never seen the patient, and that the patient was suspicious of the bill. Physician G.M. responded, "It [the Medicare billing] should say [CW-B] name, not my name. Because I did not see that patient." Physician G.M. sought to minimize documentation with his name on it, asking, "If you can change it to [CW-B]'s name, or just remove my name totally. That would be better. But if you can't, you can't." Physician G.M. then asked KHALIL if he billed "under Physician Assistant, right?" KHALIL responded, "Slash. Physician Assistant, slash the doctor." Physician G.M. asked KHALIL if the visit is [billed as] a Physician Assistant's visit, right? It's not a physician's visit." KHALIL responded, "No." Physician G.M. asked KHALIL if it "makes a difference, right? In the billing?" KHALIL responded, "It does make a difference. Yeah, ten percent. Unless, they, they have different rules. If the physician is within the twenty miles radius, that you can bill." However, as described below, KHALIL's assertion to Physician G.M. that the PA is identified together with the physician on the Medicare billing is false.

44. Prior to working under Physician G.M., CW-B worked with Physician F.A. After Physician F.A. left HOUSE CALL in 2010 and CW-A left HOUSE CALL in autumn 2010, HOUSE CALL replaced them with Physician S.A.

and another doctor.[1] CW-B stated that Physician S.A. supervises two PAs who were hired in late 2010 and early 2011.

45. Agents interviewed Physician S.A. in May 2011. According to Physician S.A., KHALIL hired Physician S.A. to work for HOUSE CALL but was never required to see patients. Instead, KHALIL assigned two PAs who saw the patients. Physician S.A. met the two PAs at HOUSE CALL's office in Palos Hills where he/she reviewed and signed the medical records they prepared and answered questions. KHALIL paid Physician S.A. $2,000 per month by check for this arrangement.

46. CW-A stated that HOUSE CALL also employed Physician F.A. CW-A explained that KHALIL asked Physician G.M. and Physician F.A. to sign at one time large quantities of CMS-485 forms and other physician's orders. KHALIL paid Physician G.M. and Physician F.A. between $1,500 and $2,000 (beyond their salaries) to sign the billing orders. CW-A knew about the arrangement because KHALIL approached CW-A and offered CW-A $1,500 to sign fifty medical billing orders per week. CW-A declined. However, CW-A admitted that, during the early period of his employment, he/she signed orders for patients of other doctors when those doctors were unavailable without being fully aware of the patients' conditions.

47. A review of Medicare billing records for HOUSE CALL for the period January 1, 2009 to March 3, 2011 revealed that HOUSE CALL's billings

[1] CW-B explained that the second doctor visited patients but was fired after sexually assaulting a medical assistant.

omitted and failed to disclose that PAs were providing services in lieu of a physician. Specifically, HOUSE CALL did not submit claims under a PA provider number nor did it use a modifier reflecting that services billed under a physician's provider number were actually provided by a PA. These are the only two ways Medicare is made aware that services have been rendered by a PA, as opposed to a physician.

48. Medicare paid $1,045,007 to HOUSE CALL for services billed under Physician G.M.'s provider number for paid dates April 1, 2008 through March 31, 2011. Medicare paid $113,828.21 to HOUSE CALL for services billed under Physician S.A.'s provider number for the same period.

Fraudulent Billing for Podiatry Services

49. PASCHAL U. OPARAH was licensed by the State of Illinois on or about September 6, 1991 to practice podiatric medicine. According to records of the Illinois Department of Financial and Professional Regulation ("IDFPR"), OPARAH's license was suspended on or about February 6, 2008. The suspension related to controlled substances violations. In addition, OPARAH surrendered his controlled substances license to DEA officers on February 1, 2005. The IDFPR provided law enforcement officials with a copy of a consent order signed by OPARAH on or about November 30, 2007, in which OPARAH acknowledged that he must not visit patients and perform podiatry services until reinstatement of his medical license. The license remained suspended as of June 22, 2011, according to IDFPR records.

50. In approximately October 2008, HOUSE CALL filed a CMS-855R form to reassign Podiatrist A's reimbursement benefits to HOUSE CALL. The

document seeks a retroactive effectiveness date of August 1, 2008. In the application, Podiatrist A's printed last name contains a misspelling, namely, the final "s" is repeatedly omitted, and Podiatrist A's purported signature omits the middle initial that Podiatrist A used in another Medicare filing.

51. Neither CW-A nor CW-B recognized a photograph of Podiatrist A or knew Podiatrist A to work at HOUSE CALL.

52. HOUSE CALL did not file quarterly wage reports for Podiatrist A with the Department of Labor, according to quarterly wage reports for the second quarter of 2008 through the second quarter of 2010.

53. CW-A and CW-B both independently stated that OPARAH is a podiatrist who works at HOUSE CALL, recalled seeing OPARAH at a 2009 Christmas party for the business, and identified OPARAH based on his Illinois Secretary of State ("ISS") photograph. CW-A also produced a Christmas party photograph in which OPARAH is depicted along with other HOUSE CALL staff.

54. Agents interviewed Patient L.G. and his wife Patient M.G. in their home. Patient L.G. and Patient M.G. recalled that they were both seen on multiple occasions by "an African man" who performed nail debridement services on his and his wife's toenails. (According to immigration records, OPARAH was born in Nigeria and became a naturalized U.S. citizen in 2005.) Patient M.G. identified OPARAH in a photo line-up as the person who provided services to her and her husband. (Patient L.G. had not seen the person in some time and indicated he could not identify OPARAH in a photo line-up.) Patient L.G. and Patient M.G. were both

shown a photograph of Podiatrist A and indicated they had never seen the person.

55. Analysis of Medicare billing records provided by TrustSolutions LLC revealed that HOUSE CALL billed Medicare for podiatry services provided to Patient L.G. and M.G. on June 11, 2010, August 30, 2010, and November 10, 2010, and that Medicare paid those claims. The services provided are listed as "Debride Nail, 6 or More" and home visits. These records listed the provider of these services to both patients as Podiatrist A, a female. With respect specifically to the November 10, 2010 service to Patient M.G., HOUSE CALL submitted claim #0210322316670 on or about November 18, 2010, and was reimbursed on or about December 2, 2010.

56. Agents interviewed Patient O.H. in June 2011. Patient O.H. had been treated on multiple occasions in her home by an "African" man, a "foot doctor," who "cut her toenails" and did the same for her son. Patient O.H. said that on one occasion the foot doctor became "indignant" with her, and she called the "House Doctors" to complain. When Patient O.H. was shown a photograph of OPARAH, she identified the person as the foot doctor. When Patient O.H. was shown a photograph of Podiatrist A, Patient O.H. stated that she did not recognize this person and never received podiatry services from her.

57. Medicare claims records show that HOUSE CALL submitted several claims for services rendered to Patient O.H. Each claim submission identified either Podiatrist A, Physician G.M., Physician F.A., or CW-A as the individual who rendered the services to Patient O.H. The only podiatry claims submitted were in the name of Podiatrist A for November 24, 2008, July 9, 2010, and

September 15, 2010.

58. Financial records for a business bank account ending in 3579 at TCF Bank and used by HOUSE CALL, as further described *infra*, show that OPARAH (and other staff) receive regular check payments from HOUSE CALL from this account. There were no payments made to Podiatrist A from this account.

59. Therefore, it appears that HOUSE CALL bills for services performed by OPARAH as if the services were performed by Podiatrist A In total, Medicare paid $463,063 to HOUSE CALL for services billed under Podiatrist A's provider number for paid dates May 1, 2008 through March 31, 2011.

Distribution of Fraud Proceeds

60. KHALIL signed an Electronic Funds Transfer ("EFT") agreement on November 1, 2006, which requested that Medicare deposit reimbursements for HOUSE CALL into a checking account ending with 3579 at TCF Bank. This account was opened on October 30, 2006 and the signature card was signed by both RASHED and KHALIL, with the listed company name of HOUSE CALL PHYSICIANS LLC.

61. Wisconsin Physicians Services ("WPS") began depositing Medicare payments into the account on December 14, 2006. WPS reimbursement payments have continued into this account until at least February 25, 2011, according to the most recent records obtained. Checks to HOUSE CALL employees and associates, including KHALIL, RASHED, OPARAH and Physician G.M., were issued from the account.

62. KHALIL received approximately $387,831 in HOUSE CALL

checks from February 22, 2007 to February 28, 2011. At times these checks were deposited into KHALIL's personal checking account, ending in 3734, also at TCF Bank. Other checks were cashed. KHALIL signed most of the checks issued to him.

63. RASHED received approximately $459,483 in HOUSE CALL checks from February 14, 2007 to February 18, 2011. Many of these checks were deposited into a checking account ending in 6358, maintained by J.P. Morgan Chase. This account was opened on September 21, 2001; the signatories include RASHED, his wife, and a third individual.

64. OPARAH received approximately $301,890 from HOUSE CALL from November 6, 2006 through February 28, 2011. The payments continued subsequent to his suspension. Between approximately February 21, 2008 and February 28, 2011, HOUSE CALL paid OPARAH approximately $261,393. Of note, from October 30, 2006 to February 25, 2011, no paychecks to Podiatrist A were written from the TCF Bank account ending 3579.

Visa Fraud

65. In general terms, an employer who seeks a visa for an alien to work in the United States first must file an ETA Form 9089, Application for Permanent Employment Certification, with the U.S. Department of Labor. The employer discloses the proposed job, including the qualifications, description, and wages; describes steps taken to recruit a U.S. national to fill the position; and provides prevailing wage information, among other things. If the Department of

Labor certifies the application, the employer then submits a Form I-140, Immigrant Petition for Alien Worker, with U.S. Citizenship and Immigration Services, Department of Homeland Security. If the Petition is approved, the alien is then assigned a priority date that determines his position on a waiting list. Based on the waiting list position, eventually the alien becomes eligible to file a Form I-485, Adjustment to Become a Legal Permanent Resident, or a Form I-765, Application for an Employment Authorization Document. This can often take several years.

66. KHALIL was born in Syria and is a Canadian citizen. He has no legal status or authority to work in the United States, according to government records.

67. As noted *supra*, paragraphs 27 and 30, RASHED was listed as partner and vice-president of HOUSE CALL on its Medicare enrollment application filed in May 2006. KHALIL was listed as the HOUSE CALL president on the May 2006 Medicare application and as the LLC manager on Secretary of State filings, beginning in March 2006. Further, RASHED subsequently received not less than $459,483 in proceeds from the business, in checks generally signed by KHALIL.

68. On or about July 2, 2007, a Form I-140 signed under penalty of perjury by "Mohammed Rashed, President," was filed with U.S. Citizenship and Immigration Services. The I-140 sought a visa for KHALIL to work as a "home health aide" at HOUSE CALL. The Petition described HOUSE CALL as a home health business, with eight employees, established on March 28, 2006, with 2006 gross annual income of $310,282 and net annual income of $102,055. The position

for KHALIL was titled "Home Health Aide" and thus described: "Provide Routine, Personal Healthcare, such as bathing, dressing or grooming, to elderly, convalescent or disabled persons or in a residential care facility." The position was described as "new" and the wages listed as "$8.50 per hour".

69. An ETA Form 9089 was filed along with the Form I-140. RASHED had also signed that form on or about May 10, 2007 under penalty of perjury as President of HOUSE CALL. The following statements among others are included on the ETA 9089:

a. The answer "No" is marked in response to the question, "Is the employer a closely held corporation, partnership, or sole proprietorship in which the alien has an ownership interest, or is there a familial relationship between the owners, stockholders, partners, corporate officers, incorporators, and the alien."

b. "Home Health Aide" is listed as the Occupation Title.

c. The offered wage was listed as $8.50 per hour.

d. The job duties were described thus: "Provide Routine, Personal healthcare, such as bathing, dressing or grooming, to elderly, convalescent or disabled persons or in a residential care facility"

e. The answer "No" is provided in response to the question, "Is this application for a professional occupation, other

than a college or university teacher? Professional occupations are those for which a bachelor's degree (or equivalent) is normally required."

f. The answer "No" in provided in response to the question, "Is the alien currently employed by the petitioning employer?"

g. No jobs or other experiences are listed in response to the requirement, "List all jobs the alien has held during the past 3 years. Also list any other experience that qualifies the alien for the job opportunity for which the employer is seeking certification."

70. The ETA Form 9089 also includes an Alien Declaration, signed the same day by KHALIL, declaring under penalty of perjury that, among other things, he was not then employed by HOUSE CALL, that the listed "Alien Work Experience" section was true and correct, and that he intended to accept the "Home Health Aide" position.

71. An accompanying letter from the Department of Labor dated on or about March 28, 2007 stated that the ETA Form 9089 had been accepted for processing on or about March 23, 2007 and that the ETA Form 9089 had been certified and enclosed with the letter.

72. According to the Department of Homeland Security, the I-140 Petition was approved on or about October 15, 2008.

73. I have been informed that representations relating to job title and responsibilities, expected wages, relationship of the proposed employee to the employer, and the proposed employees' prior employment and experience, have the potential to influence the action of the government agency to which the documents are submitted.

74. The investigation has revealed that multiple representations on the Form I-140 and ETA Form 9089 were false. Rather than seeking work in a new "home health aide" position earning $8.50 per hour, with no prior employment or ownership relation with HOUSE CALL, KHALIL was a co-founder, part-owner, and the manager of HOUSE CALL well before the petition was filed in 2007.

75. According to Illinois Secretary of State records, KHALIL was appointed registered agent of HOUSE CALL on March 28, 2006. He was also listed as the LLC manager on filings dated March 28, 2006, March 19, 2007, January 30, 2008, and January 24, 2009, January 21, 2010, each of which he signed.

76. CW-A and CW-B both described KHALIL as the manager of HOUSE CALL.

77. Agents reviewed consensually recorded meetings between CW-B, KHALIL, and Physician G.M. at HOUSE CALL's office in March and April 2011. During both meetings, KHALIL displayed a detailed knowledge of HOUSE CALL's business, its patients, and Medicare, and assumed a position of leadership and control, above what one could reasonably expect of a person employed as a home health aide.

78. Agents also executed a search warrant on the email account "homephysicians@sbcglobal.net," which RASHED listed for contact information on the ETA 9089 and the I-140 Petition. Those emails revealed that KHALIL was using the account to conduct business on behalf of HOUSE CALL and that KHALIL was exercising job responsibilities far in excess of a "home health aide."[2] Certain emails are summarized and excerpted below, preserving the original language, punctuation, and grammatical errors contained therein.

a. KHALIL received resumes from prospective employees. On or about September 12, 2005, an email was sent by a doctor at the University of Illinois-Chicago using the email address "xxxxxxx@uic.edu," entitled "CV." The email stated, "Hi BK, Here is my CV. I worked with [redacted], PA for several years at the Jorge Prieto Health Center of Cook County until I retired in April, 2003 We worked together this weekend at a health fair and he mentioned how much he enjoyed working with you folks. I look forward to meeting you." Attached to the email was a copy of a resume, which detailed the individual's medical education and experience. Other individuals sent similar emails, such as the one sent on or about June 9, 2006, which stated, "Hello BK , My CV is attached. Please send me an email so that I know you received it. Thanks, [redacted]".

[2] During the government's search of the email communications associated with the email account "homephysicians@sbcglobal.net", the government recovered email communications indicating that another person may have also sent and received email messages at the account.

b. KHALIL received patient referrals. On or about October 10, 2005, an email was sent by "dr.mark@patientsfirst.us," with the subject "Community health centers." The email stated, "BK I am including a list of community health centers that I told you about. Mr. [redacted] needs to be referred to one of these agencies for diabetic counseling and help on his medications. Also, I am just confirming with you that I can work on Friday this week for sure, but I will not be able to work on Sat[.]" The email continued with a list of clinics, their addresses, and telephone numbers.

c. KHALIL sought information to prepare 1099 tax filings for HOUSE CALL personnel. On or about February 2, 2006, an email was sent to xxx@hotmail.com, stating, "hi dr qui: this is bk i haven't talked to you in a long time, i hope that every thing is going well with you.i tried to call you on your cell , but its disconnected, and the other # is no answer. for the 1099 i need your social security #,and your address to be able to do it so can you e mail it to me at: homephysicians@sbcglobal.net and i 'll get it for you as soon as i receive it[.]"

d. KHALIL discussed malpractice insurance. On or about September 19, 2006, an email was sent with the subject, "malpractice app." The email states, "hi [redacted]: it was pleasure to meet with you. attached there is the insurance application , please fill it out and e mail it back to me. and i was speaking with Dr. [redacted] today , he mentioned that your insurance with the hospital, maybe will cover you if you worked with us, if you can check on that , will be great. thank you. bahir."

e. KHALIL ordered business cards on which he described himself as the "General Manager" and "Executive Manager" and sought to conceal his full name. On or about September 20, 2006, an email was sent to "Artwork Desk," xxxx@ackoprinting.com, regarding business cards. The email states, "Hi [redacted] : thank you for returning my call the other day. actually [redacted] i have to hold 2 names wich are: [redacted], [redacted]. and i want to add one for myself wich is B.K. GENERAL MANAGER. the rest are approved." A follow-up email sent on or about September 21, 2006, states, "i just need my initial on the card , so just B.K. i dont want bahir khalil." On or about April 18, 2008, an email was received from "Amt Printing," amtprinting@hotmail.com, regarding the layout for four business cards. Attached to the email were four Graphics Interchange Format ("GIF") files, consisting of pictures for the business cards. One of the business cards bore a triangular logo in which the words "House," "Call," and "Physicians," appeared on the sides of the triangle, the company name, "House Call Physicians," under which appeared the name, "B. Khalil" and the title, "Executive Manager."

f. KHALIL placed an advertisement in the Chicago Tribune for the same position he was allegedly applying. On or about January 17, 2007, an email was sent to a Chicago Tribune employee with the subject, "help wanted add." The email states, "hi: attached is the add that i want to place please let me know. thank you BK." On or about January 18, 2007, the Chicago Tribune employee responded back with a price quote for the advertisement and a copy of the advertisement in an attachment. The attachment to the email is a screenshot of a

Microsoft Word document that states, "Health Care-House Call Physicians, LLC, medical services provider requires following personnel Job Title: Home Health Aide Job Description: Provide routine, personal healthcare, such as bathing, dressing, or grooming, to elderly, convalescent or disabled persons in the home of patients or in a residential care facility. Education requirements: Should have high school diploma or foreign equivalent." On or about January 18, 2007, a response was sent back to the Chicago Tribune stating, "here is the add please check it and let me know Bahir." (The ETA 9089 reported that the position had been advertised in the Chicago Tribune, and a review of the newspaper revealed that it had been so advertised.)

79. Also, as described *supra*, KHALIL is the cosigner on a business bank account for HOUSE CALL opened at TCF Bank. This account was opened on October 30, 2006. KHALIL received $82,692 between February 22, 2007 and February 21, 2008 from this account. KHALIL received $130,381.09 in checks payable to him from July 1, 2009 through September 15, 2010. This suggests it is unlikely that KHALIL intended to work for $8.50 per hour.

80. KHALIL also opened a second account at TCF Bank on or about June 8, 2006, as the sole signatory. A review of the records for this account indicates that KHALIL conducted additional financial transactions for HOUSE CALL through this account, including payments to doctors and medical service providers. Between on or about June 8, 2006, and October 8, 2007, this account received $47,950 in cash deposits. Most of the cash deposit slips bear the printed name “Bahir Haj Khalil.” On or about November 1, 2006, a $10,000 cashier’s check from Charter One bank was deposited into this account as well, with the check made out to “Bahir Haj Khalil.”

81. On April 15, 2006 KHALIL signed a form submitted to Wisconsin Physicians Services (the entity contracted to provide Medicare reimbursement for services rendered in Illinois) listing his title as "President" of HOUSE CALL. On the Form CMS 855B, Application for Enrollment, dated March 30, 2006 and signed by KHALIL, KHALIL is listed as having a 5% or greater ownership in HOUSE CALL as of April 1, 2006, and is listed as "President" in the signature and certification section. In addition, as noted, RASHED was listed as a “partner” and signed the signature and certification area as “Vice-President.”

CONCLUSION

82. Based on the above information, I respectfully submit there is probable cause to believe that KHALIL and OPARAH commited healthcare fraud, in violation of 18 U.S.C. § 1346, and that KHALIL and RASHED commited visa fraud, in violation of 18 U.S.C. § 1546.

FURTHER AFFIANT SAYETH NOT.

_____
Elliot Rothrock
Special Agent, Federal Bureau of Investigation

Subscribed and sworn
before me this 19th day of July, 2011

_____
Honorable Jeffrey Cole
United States Magistrate Judge