

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : Hon.
v. : Crim. No. 08-
DARNELL TOLIVER : 18 U.S.C. § 1349

I N F O R M A T I O N

The defendant having waived in open court prosecution by indictment, the United States Attorney for the District of New Jersey charges:

1. At all times relevant to this Information:

The Defendant and his Co-Conspirator

a. Defendant DARNELL TOLIVER was a resident of Piscataway, New Jersey. He was a co-founder and co-owner of Premium Medical Care, LLC, and served as its Director of Marketing.

b. A.R., a co-conspirator not named as a defendant herein, resided in Piscataway, New Jersey. A.R. was a co-founder and co-owner of Premium Medical Care, LLC, and served as its Director of Operations.

Premium Medical Care, LLC

c. Premium Medical Care, LLC ("Premium" or the "Company"), a New Jersey corporation which had its headquarters in Newark, New Jersey, was a medical business practice which

sought to provide medical care to individuals who resided in residential apartment buildings at various locations including Newark, Montclair, East Orange, Jersey City, Plainfield, Neptune, and Red Bank, New Jersey.

d. Premium, under the direction and supervision of defendant DARNELL TOLIVER and his co-conspirator A.R., recruited and hired a number of medical personnel, including physicians, physical therapists, ultrasound technicians, and medical assistants, who they dispatched to the various residential apartment buildings for the purpose of performing medical services, including routine medical examinations, blood pressure screenings, balance testing, and reviewing patients' existing medical conditions and treatment rendered by other unaffiliated physicians. These medical services were generally provided in the community room of the residential apartment buildings.

e. Premium applied to and received approval from Empire Medicare Services ("EMS"), the Medicare carrier for the state of New Jersey, which rendered the Company eligible to submit claims seeking reimbursement for services provided to Medicare beneficiaries in New Jersey. Premium also obtained a Medicare Provider number to submit such claims for reimbursement from the Medicare Program.

The Medicare Program

f. Medicare was a federal health insurance program established by the Social Security Act of 1965, codified as amended in various sections of Title 42 of the United States Code, to provide medical services, among other things, to individuals who qualified under the Social Security Act ("beneficiaries"). Medicare was administered by the Centers for Medicare and Medicaid Services ("CMS"), a federal agency within the United States Department of Health and Human Services. The Medicare Part B program was a federally-funded supplemental insurance program that provided supplementary Medicare insurance benefits for individuals aged 65 or older and certain individuals who were disabled, for various services rendered by providers. Under this program, Medicare paid a large percentage of the costs associated with medical services provided to beneficiaries, that is, approximately 80 percent of the total for which a health care provider submitted a claim.

g. Medicare required health care providers, both individuals and entities, to complete an enrollment application and be approved to participate as a "provider" in the program. Once approved, the provider was assigned a unique Medicare Provider number and was authorized by Medicare to render services to Medicare beneficiaries. Upon enrollment and periodically thereafter, the Medicare provider was furnished with information

relevant to participating in the program and how to bill for services rendered. Each claim for payment, commonly referred to as "reimbursement," submitted on behalf of a health care provider - whether in paper form or electronically - was required to identify the claimant's Medicare provider number.

h. Claims submitted to Medicare required the provider to state a diagnosis of the patient's condition. Medicare required further that the services be rendered consistent with its rules, regulations and policies, many of which were governed by the applicable state's laws and regulations. The provider was also required to certify the location and dates the services were rendered. Providers participating in Medicare were required to agree in writing that they would be responsible for the accuracy of all claims submitted by them, their employees or agents, and that all claims submitted under their provider numbers were accurate, complete and truthful.

i. Under Medicare regulations, Medicare providers seeking to obtain reimbursement from the Medicare Program for services rendered to beneficiaries, accurately and completely must document the beneficiaries' medical record in order to support the medical necessity for the sought reimbursement premised upon the medical services rendered. Furthermore, in documenting the medical services that were rendered to the beneficiary, including the prescription of medical tests, the

ordering physician must provide a legible indication of his/her name and title, and a certification that the service was medically necessary and personally authorized.

j. Medicare contracted with private insurance carriers to administer Medicare in the particular geographic area where the services were provided. Medicare providers forwarded claims for services covered by Medicare to these designated private insurance carriers. EMS processed and handled the payment of Medicare Part B claims submitted by Medicare providers or suppliers of services in the State of New Jersey.

The Conspiracy

2. From on or about December 1, 2004 to on or about April 12, 2006, in Essex County, in the District of New Jersey, and elsewhere, the defendant

DARNELL TOLIVER

knowingly and intentionally conspired and agreed with co-conspirator A.R. and others to execute a scheme and artifice to defraud a health care benefit program, that is, the Medicare Program, and to obtain, by means of false and fraudulent pretenses, representations, and promises, money and property owned by, and under the custody and control of the Medicare Program in connection with the delivery of and payment for health care benefits, items, and services, contrary to 18, United States Code, Section 1347.

The Object of the Conspiracy

3. It was the object of the conspiracy to defraud the Medicare Program by submitting false and fraudulent claims in order to obtain reimbursement payments.

Means and Methods of the Conspiracy

4. Among the means and methods employed by the defendant DARNELL TOLIVER, A.R. and others to carry out the conspiracy and effect its unlawful object were those set forth below.

5. It was part of the conspiracy that defendant DARNELL TOLIVER and his co-conspirator A.R. would recruit C.S., a physician whose medical practice was located in Jersey City, New Jersey.

6. It was further part of the conspiracy that C.S. would never examine or otherwise treat any patients on behalf of Premium, but C.S. nonetheless would provide defendant DARNELL TOLIVER and his co-conspirator A.R. with a series of signed prescription forms. The signed prescription forms would authorize the administration of certain medical procedures, such as bone density tests, ultrasound tests, and physical therapy, while other signed prescription forms would be left blank as to the patient name and the procedure to be prescribed.

7. It was further part of the conspiracy that defendant DARNELL TOLIVER and his co-conspirator A.R. would then use the prescription forms provided by C.S. to seek reimbursement for

Premium in connection with procedures which were not determined to be medically necessary by C.S.

8. It was further part of the conspiracy that defendant DARNELL TOLIVER and his co-conspirator A.R. would submit and cause to be submitted hundreds of reimbursement claims, in Premium's name, to EMS which falsely and fraudulently certified that C.S. determined the services for which reimbursement was sought were "medically indicated and necessary for the health of the patient and were personally furnished" by the physician, or under the physician's "immediate personal supervision by his/her employee."

9. It was further part of the conspiracy that defendant DARNELL TOLIVER and his co-conspirator A.R. would submit and cause to be submitted false and fraudulent claims for tests, which were purportedly prescribed by C.S., for patients who were never examined or otherwise treated by C.S., resulting in the Medicare Program's remittance of approximately \$103,140 for fraudulent reimbursement payments.

In violation of Title 18, United States Code, Section 1349.

CHRISTOPHER J. CHRISTIE
UNITED STATES ATTORNEY