

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : Criminal No. 12-  
 :  
 v. :  
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 : 42 U.S.C. § 1320a-7b(b) (2) (A)  
 ASHOKKUMAR BABARIA : 18 U.S.C. § 2

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 various times relevant to this Information:

The Defendant and Orange Community MRI, LLC

a. Orange Community MRI, LLC ("OCM"), was located in Orange, New Jersey and provided diagnostic testing services to patients, including magnetic resonance imaging ("MRIs"), computed axial tomographies ("CT Scans"), ultrasound imaging ("Ultrasounds"), echocardiograms ("Echos"), and dual-emission X-ray absorptiometries ("DEXA Scans") (collectively, the "Diagnostic Tests").

b. The defendant, ASHOKKUMAR BABARIA ("defendant BABARIA"), was a physician licensed in New Jersey practicing radiology. Defendant BABARIA was the medical director and owner-in-fact of OCM.

## Medicare and Medicaid

c. The Medicare Program ("Medicare") was a federal program that provided free or below-cost health care benefits to certain individuals, primarily the elderly, blind, and disabled. Medicare was a "Federal health care program" as defined in Title 42, United States Code, Section 1320a-7b(f). Individuals who received benefits under Medicare were commonly referred to as "beneficiaries."

d. The Medicare Part B program was a federally funded supplemental insurance program that provided Medicare insurance benefits for individuals aged sixty-five or older, and for certain individuals who were disabled. The Medicare Part B program paid for various medical services for beneficiaries, including the Diagnostic Tests.

e. The Medicaid Program ("Medicaid") was a jointly funded, federal-state health insurance program that provided certain health benefits to the disabled, as well as to individuals and families with low incomes and resources. The federal government provided matching funds to Medicaid and ensured that states complied with minimum standards in the administration of the program.

f. Medicaid was a "Federal health care program" as defined in Title 42, United States Code, Section 1320a-7b(f). Individuals who received benefits under Medicaid were commonly referred to as "recipients."

g. In New Jersey, Medicaid was administered by the New Jersey Department of Human Services. Under New Jersey law, Medicaid paid for certain medical services for recipients, including the Diagnostic Tests.

2. At all times relevant to this Information, OCM was a Medicare- and Medicaid-approved provider of, among other things, the Diagnostic Tests.

#### The Kickback Scheme

3. From at least as early as in or about 2008, until in or about December, 2011, in the District of New Jersey and elsewhere, the defendant,

ASHOKKUMAR BABARIA,

did knowingly and willfully offer and pay remuneration, directly and indirectly, overtly and covertly, in cash and in kind, that is, kickbacks, to physicians and health care providers to induce referrals of patients to OCM for the furnishing and arranging for the furnishing of items and services, that is, the Diagnostic Tests, for which payment may be made in whole or in part under a Federal health care program, that is, Medicare and Medicaid.

#### Object and Means of the Kickback Scheme

4. The object of the kickback scheme was for defendant BABARIA to enrich himself by offering and paying cash to physicians and health care providers to induce the referrals of patients to OCM for the Diagnostic Tests.

5. To execute the kickback scheme, defendant BABARIA negotiated, approved, and paid kickbacks to physicians for each Diagnostic Test referred and provided cash to OCM representatives to pay physicians for the Diagnostic Tests referred to OCM by their practices.

6. To effect the object of the scheme, the following acts, among others, were undertaken:

a. In or about 2008 and 2009, defendant BABARIA visited M.P., a physician and co-schemer not charged as a defendant herein, and paid him kickbacks consisting of approximately \$75 for each of M.P.'s MRI referrals to OCM.

b. In or about 2009, defendant BABARIA met with R.K., a physician and co-schemer not charged as a defendant herein, and negotiated a kickback arrangement whereby OCM would pay R.K. approximately \$75 for each of R.K.'s MRI referrals to OCM.

c. In or about 2009, defendant BABARIA approved a kickback arrangement with S.A., a physician and co-schemer not charged as a defendant herein, whereby OCM would pay S.A. approximately \$100 for each of S.A.'s MRI referrals to OCM, and S.A. agreed to refer as many as 20 MRIs to OCM each month.

d. In or about 2009, defendant BABARIA met with D.P., a physician and co-schemer not charged as a defendant herein, and negotiated a kickback arrangement whereby OCM would

pay D.P. approximately \$100 for each of D.P.'s MRI referrals to OCM.

e. In or about 2009, defendant BABARIA met with S.B., a physician and co-schemer not charged as a defendant herein, and negotiated a kickback arrangement whereby OCM would pay S.B. approximately \$75 for each of S.B.'s MRI referrals to OCM.

f. In or about 2009, defendant BABARIA approved a kickback arrangement with W.L., a physician and co-schemer not charged as a defendant herein, whereby OCM would pay W.L. approximately \$75 for each of W.L.'s MRI referrals to OCM and approximately \$25 for each of W.L.'s Ultrasound and DEXA Scan referrals.

g. In or about 2011, after W.L. called OCM to renegotiate the kickback arrangement in light of W.L.'s high volume of referrals to OCM, defendant BABARIA approved a kickback arrangement with W.L. whereby OCM would pay W.L. approximately \$100 for each of W.L.'s MRI referrals to OCM and approximately \$50 for each of W.L.'s CT Scan referrals to OCM.

All in violation of Title 42, United States Code, Section 1320a-7b(b) (2) (A), and Title 18, United States Code, Section 2.

**FORFEITURE ALLEGATION**

1. The allegations contained in this Information are hereby realleged and incorporated by reference for the purpose of noticing forfeiture pursuant to Title 18, United States Code, Section 982(a)(7).

2. Upon conviction of the offense in violation of Title 42, United States Code, Section 1320a-7b(b)(2)(A), the defendant, ASHOKKUMAR BABARIA, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 982(a)(7), all right, title, and interest in any property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the offense of conviction.

3. If any of the property described above, as a result of any act or omission of the defendant:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided without difficulty, the United States shall be entitled, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section

982(a)(7), to forfeiture of any other property of the defendant, ASHOKKUMAR BABARIA, up to the value of the property described in the preceding paragraph.



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PAUL J. FISHMAN  
United States Attorney

Criminal No. 2012-

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DISTRICT OF NEW JERSEY

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THE UNITED STATES OF AMERICA

vs.

ASHOKKUMAR BABARIA

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By: Scott B. McBride  
Assistant U.S. Attorney  
973-645-2708

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