

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA	:	Criminal No. 12-
	:	
v.	:	
	:	
JOSE CASTANEDA	:	42 U.S.C. § 1320a-7b(b) (1) and
	:	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:

The Defendant and Orange Community MRI, LLC

1. At all times relevant to this Information:

a. Defendant JOSE CASTANEDA was a nurse practitioner licensed in New Jersey who worked out of an office located at 741 Broadway in Newark, New Jersey.

b. Orange Community MRI, LLC ("OCM") was located at 345 Henry Street, Suite 102, Orange, New Jersey. OCM provided services to patients that included magnetic resonance imaging ("MRIs"), ultrasound imaging ("Ultrasounds"), echocardiograms ("Echos"), computed axial tomographies ("CAT Scans" or "CT Scans"), and dual-emission X-ray absorptiometries ("DEXA Scans") (collectively, the "Diagnostic Tests").

2. At various times relevant to this Information, there was a Cooperating Witness (the "CW") who held himself out to be an individual acting on behalf of OCM.

3. Starting from in or about late September 2011 to in or about December 2011, the CW held himself out to be an individual acting on behalf of OCM, at the direction and under the supervision of law enforcement agents with the U.S. Department of Health and Human Services, Office of Inspector General.

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

5. The Medicare Part B program is a federally funded supplemental insurance program that provides supplementary Medicare insurance benefits for individuals aged sixty-five or older, and certain individuals who are disabled. The Medicare Part B program pays for various medical services for beneficiaries, including the Diagnostic Tests.

6. The Medicaid Program ("Medicaid") is a jointly funded, federal-state health insurance program that provides certain health benefits to the disabled, as well as individuals and families with low incomes and resources. The federal involvement in Medicaid is largely limited to providing matching

funds and ensuring that states comply with minimum standards in the administration of the program. Medicaid is a "Federal health care program" as defined in Title 42, United States Code, Section 1320a-7b(f). Individuals who receive benefits under Medicaid are commonly referred to as "beneficiaries."

7. The federal Medicaid statute sets forth the minimum requirements for state Medicaid programs to qualify for federal funding, which is called federal financial participation. 42 U.S.C. §§ 1396 et seq. In New Jersey, the New Jersey Medical Assistance Program is administered by the New Jersey Department of Human Services. Under New Jersey law, Medicaid pays for certain medical services for beneficiaries, including the Diagnostic Tests.

8. 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

9. Starting at least in or about 2010, individuals acting on behalf of OCM made cash payments to certain New Jersey health care practitioners, including CASTANEDA, in exchange for referring patients to OCM for Diagnostic Tests.

10. After the end of each calendar month, individuals acting on behalf of OCM, including CW, printed OCM patient reports that included, among other information, dates of service,

patient names, the referring health care practitioners, the kinds of medical insurance to be billed, and the Diagnostic Tests performed (the "Kickback Reports"). The Kickback Reports were organized by Diagnostic Test, and therefore there was a separate Kickback Report for MRIs, Ultrasounds, Echos, CAT Scans, and DEXA scans. The Kickback Reports were then used to tally the number of OCM patient Diagnostic Tests referred by each health care practitioner and the type of insurance used, and the results of these tallies were used to determine the amount of the kickback payment OCM paid to the health care provider. In the event the Ultrasound Kickback Report indicated that OCM performed an Ultrasound on both the right and left portions of a patient (e.g., right venous doppler and left venous doppler), the right and left Ultrasounds counted as only one Diagnostic Test for the purpose of calculating the kickback payment.

11. Pursuant to CASTANEDA and OCM's agreement, OCM paid CASTANEDA for each Medicare or Medicaid beneficiary Diagnostic Test CASTANEDA referred to OCM. Pursuant to the same agreement, OCM also paid CASTANEDA for certain privately insured patient Diagnostic Tests that CASTANEDA referred to OCM. In the event a patient referred to OCM paid for Diagnostic Tests directly and not through Medicare, Medicaid, or an insurance plan (i.e., the patient "self-paid" for the tests), then CASTANEDA did not receive any payment from OCM.

12. According to the MRI Kickback Report, during September 2011, CASTANEDA referred a total of 27 MRIs to OCM; 25 of those 27 tests were for Medicare or Medicaid beneficiaries. According to the CAT Scan Kickback Report, during September 2011, CASTANEDA referred a total of 19 CAT Scans to OCM; 18 of those 19 tests were for Medicare or Medicaid beneficiaries. According to the Ultrasound Kickback Report, during September 2011, CASTANEDA referred 15 Ultrasounds to OCM; 14 of those 15 tests were for Medicare or Medicaid beneficiaries. According to the DEXA Scan Kickback Report, during September 2011, CASTANEDA referred a total of three DEXA Scans to OCM; all three tests were for Medicare or Medicaid beneficiaries. According to the Echo Kickback Report, during September 2011, CASTANEDA referred a total of five Echo Scans to OCM; all five tests were for Medicare or Medicaid beneficiaries.

13. On or about October 6, 2011, CASTANEDA met with CW at CASTANEDA's office located at 741 Broadway in Newark, New Jersey. During this meeting, CASTANEDA accepted from CW a white envelope containing \$3,500 in cash, which included payments for the 25 MRIs, 18 CAT Scans, 14 Ultrasounds, three DEXA Scans, and five Echo Scans that CASTANEDA referred to OCM and which were performed on Medicare or Medicaid beneficiaries during September 2011.

14. During this October 6, 2011 meeting, CASTANEDA responded "[n]ice" when the CW handed CASTANEDA the envelope and the CW told CASTANEDA in sum and substance that he thought there was approximately \$3,500 in the envelope.

15. According to the MRI Kickback Report, during October 2011, CASTANEDA referred a total of 42 MRIs to OCM; 40 of those tests were for Medicare or Medicaid beneficiaries. According to the CAT Scan Kickback Report, during October 2011, CASTANEDA referred 19 CAT Scans to OCM; 16 of those 19 tests were for Medicare or Medicaid beneficiaries. According to the Ultrasound Kickback Report, during October 2011, CASTANEDA referred 19 Ultrasounds to OCM; 16 of those 19 tests were for Medicare or Medicaid beneficiaries. According to the DEXA Scan Kickback Report, during October 2011, CASTANEDA referred eight DEXA Scans to OCM; all eight tests were for Medicare or Medicaid beneficiaries. According to the Echo Scan Kickback Report, during October 2011, CASTANEDA referred seven Echo Scans to OCM; all seven tests were for Medicare or Medicaid beneficiaries.

16. On or about November 8, 2011, CASTANEDA met with CW at CASTANEDA's office located at 741 Broadway in Newark, New Jersey. During this meeting, CASTANEDA accepted from CW a white envelope containing approximately \$4,620 in cash, which included payments for 40 MRIs, 16 CAT Scans, 16 Ultrasounds, eight DEXA Scans, and seven Echo Scans that CASTANEDA referred to OCM and

which were performed on Medicare or Medicaid beneficiaries during October 2011.

17. During this November 8, 2011 meeting, the CW told CASTANEDA in sum and substance that CASTANEDA was owed \$4,625 but that the CW only had \$4,620 at that time; CASTANEDA told the CW in sum and substance that the CW did not need to worry about the missing five dollars. Noting the size of the \$4,620 payment, CASTANEDA remarked "I think that's my record."

18. From at least in or about 2010 through at least in or about November 2011, in the District of New Jersey, and elsewhere, defendant

JOSE CASTANEDA

did knowingly and willfully solicit and receive remuneration, directly and indirectly, overtly and covertly, in cash and in kind, that is, kickbacks, from Orange Community MRI in return for referring patients to Orange Community MRI for the furnishing and arranging for the furnishing of items and services for which payment may be made in whole or in part under a Federal health care program.

In violation of Title 42, United States Code, Section 1320a-7b(b)(1)(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 offenses in violation of Title 42, United States Code, Section 1320a-7b(b), the defendant, JOSE CASTANEDA, 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 offenses of conviction, including but not limited to a sum of money equal to at least \$8,120 in United States currency.

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;

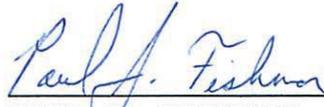
b. has been transferred or sold to, or deposited with, a third party;

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, JOSE CASTANEDA, up to the value of the property described in the preceding paragraph.



PAUL J. FISHMAN
United States Attorney

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INFORMATION

42 U.S.C. § 1320a-7b(b) (1) and 18 U.S.C. § 2

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