

Approved:



STEVE C. LEE
Assistant United States Attorney

Before: KEVIN NATHANIEL FOX
United States Magistrate Judge
Southern District of New York

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UNITED STATES OF AMERICA : SEALED COMPLAINT
:
v. : Violations of 18 U.S.C.
: §§ 1347, 1349 and 2.
:
KELVIN JENNINGS, :
PAMELA JONES, : COUNTY OF OFFENSE:
: NEW YORK
Defendants. :
:
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SOUTHERN DISTRICT OF NEW YORK, ss.:

SHAWN MULLEN, being duly sworn, deposes and says that he is a Special Agent with the Federal Bureau of Investigation ("FBI"), and charges as follows:

COUNT ONE

1. From at least in or about 2003, up through and including in or about 2011, in the Southern District of New York and elsewhere, KELVIN JENNINGS and PAMELA JONES, the defendants, and others, known and unknown, willfully and knowingly combined, conspired, confederated and agreed together and with each other to commit health card fraud in violation of Title 18, United States Code, Section 1347.

2. It was a part and object of the conspiracy that KELVIN JENNINGS and PAMELA JONES, the defendants, and others known and unknown, willfully and knowingly did execute, and attempt to execute, a scheme and artifice to defraud health care benefit programs 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, health care benefit programs, in connection with the delivery of and payment for health care benefits, items and services, in violation of Title 18, United States Code, Section 1347.

OVERT ACTS

3. In furtherance of the conspiracy and to effect the illegal object thereof, the following overt acts were committed in the Southern District of New York and elsewhere:

a. In or about 2008, KELVIN JENNINGS, the defendant, requested payment from an individual for initiation of a fraudulent Medicaid account.

b. In or about 2007, PAMELA JONES, the defendant, initiated the creation of a fraudulent Medicaid account on behalf of an individual who was not eligible for Medicaid.

(Title 18, United States Code, Section 1349).

COUNT TWO

4. From at least in or about 2003, up through and including in or about 2011, in the Southern District of New York and elsewhere, KELVIN JENNINGS and PAMELA JONES, the defendants, and others known and unknown, willfully and knowingly did execute, and attempt to execute, a scheme and artifice to defraud health care benefit programs 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, health care benefit programs, in connection with the delivery of and payment for health care benefits, items and services, to wit, KELVIN JENNINGS and PAMELA JONES fraudulently obtained and transferred Medicaid accounts and Medicaid cards as part of a scheme in which individuals obtained health care benefits through Medicaid that they were not entitled to.

(Title 18, United States Code, Sections 1347 and 2).

The bases for my knowledge and the foregoing charge are, in part, as follows:

5. I am a Special Agent with the Federal Bureau of Investigation (the "FBI"). I have been personally involved in the investigation of this matter. This affidavit is based upon my conversations with law-enforcement agents and others and my examination of reports and records. Because this affidavit is being submitted for the limited purpose of establishing probable cause, it does not include all the facts that I have learned during the course of my investigation. Where the contents of documents and the actions, statements and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

6. Medicaid is a medical assistance program which pays medical expenses for certain qualifying individuals and families, typically those with low income and a lack of financial resources. Medicaid is jointly funded by federal, state, and local governments and is a state-administered program. Medicaid directly reimburses the providers of medical products, services, and other benefits, including pharmacies that provide prescription medication. Each Medicaid beneficiary is provided with a Medicaid benefit card in his or her name and a unique identification number, which is used to keep track of benefits paid by Medicaid programs on behalf of each beneficiary.

7. The Office of Medicaid Management, New York State Department of Health, administers the Medicaid program in New York State, and in order to obtain Medicaid assistance, individuals and families apply through their local Departments of Social Services. The Human Resource Administration ("HRA") is the local Department of Social Services for the five boroughs of New York City, and HRA's Medical Assistance Program ("HRA-MAP") determines eligibility for Medicaid applicants living in the five boroughs of New York City.

8. In order to qualify for Medicaid, a New York City resident or his or her representative can apply for Medicaid by submitting a completed and signed application form at a HRA-MAP office or at an office of a "facilitated enroller," a corporation under contract with the New York State Department of Health. Applicants for Medicaid must also provide relevant documentation, such as birth certificates, recent paycheck stubs or other proof of income, and proof of residence, among other things. Factors generally taken into account by HRA-MAP in determining whether an applicant is eligible for Medicaid include location and place of residence, income, living expenses, outstanding medical bills, and whether the applicant is pregnant, blind, or disabled. Based upon a review of Medicaid rules and regulations set forth by HRA-MAP, I learned that to be eligible for Medicaid, a non-senior non-disabled adult without dependent children between the ages of 21 through 64 must not have income in excess of approximately \$707 per month for one person. A family consisting of two such adults must not have income in excess of approximately \$883 per month. Additionally, recipients of Medicaid must submit documentation every year in which they certify that they remain eligible for Medicaid assistance.

9. Throughout the course of the investigation, I learned that KELVIN JENNINGS and PAMELA JONES, the defendants, were employees of HRA who fraudulently created Medicaid accounts, Medicaid cards, and Medicaid account numbers for individuals who were not entitled to Medicaid benefits. JENNINGS and JONES were

involved in a scheme to distribute fraudulently obtained Medicaid cards to other individuals in exchange for cash payments. JENNINGS is presently employed as an Eligibility Specialist II at HRA, and has worked at HRA from in or about March 1982 to the present. JONES is presently employed as an Eligibility Specialist II at HRA, and has worked at HRA from in or about September 2000 to the present. Based upon my conversations with a representative of HRA, an individual working as an "Eligibility Specialist II" is responsible for reviewing applications for Medicaid benefits, conducting inquiries concerning eligibility for Medicaid benefits, and processing re-certification applications for Medicaid.

10. This investigation was based, in part, on information provided to the FBI by a cooperating witness (the "CW"). The CW has pled guilty to federal charges and is cooperating in the hope of receiving a more lenient sentence. In the past, the CW has provided me and other law enforcement agents with detailed and credible information concerning health care fraud and narcotics trafficking in the New York City area. Moreover, the information provided by the CW has proven accurate and reliable, and in many instances has been corroborated by audio and video recordings and physical surveillance.

11. Based upon my conversations with the CW, I learned that from in or about 2003 through in or about 2011, the CW was involved in a scheme with KELVIN JENNINGS, the defendant, to fraudulently obtain Medicaid cards and to unlawfully obtain health care benefits from Medicaid. Specifically, I learned the following:

a. From in or about September 2005, through in or about October 2005, the CW sold three Medicaid account cards (the "Medicaid cards") to another individual for approximately \$300 to \$400 each. These cards were in the names "Thomas Brown," "James Summers," and "Levar Summers," and each account had a registered address of "30 West 141st Street, Apartment 1N, New York, New York 10037." The CW indicated that the names and the address were fictitious and that no actual application for Medicaid in these names had been submitted. A search of these names in the Welfare Management System ("WMS"), which is a system of the New York State Office of Temporary and Disability Assistance that is used by the HRA to process and store information concerning Medicaid applications from residents of New York City, indicated that Medicaid cards were issued in these names, but HRA had no record of Medicaid applications by these individuals. Moreover, the search revealed that no required information, such as income or assets, had been entered into the

WMS system for these individuals, and there was no supporting information in regard to income or assets for these individuals.

b. The CW indicated from in or about 2003, through in or about 2010, the CW obtained approximately eighteen fraudulent Medicaid accounts, including the accounts referenced in Paragraph 11(a) for "Thomas Brown," "James Summers," and "Levar Summers," from KELVIN JENNINGS, the defendant, that the CW sold to other individuals or used for himself and his family. The CW also obtained fraudulent Medicaid accounts for himself and members of his family through JENNINGS. In exchange for these Medicaid accounts, and accompanying Medicaid cards, the CW paid JENNINGS approximately \$300 to \$400 per Medicaid account. The CW also indicated that he typically paid approximately \$250 to renew each Medicaid account every year. The CW also indicated that he typically met JENNINGS to make the cash payments in the vicinity of the HRA Office at Metropolitan Hospital, located in Manhattan, New York, where JENNINGS is employed.

c. In or about 2008, JENNINGS informed the CW that a female individual from HRA required payment prior to the initiation of a fraudulent account. Subsequent to this conversation, JENNINGS and the CW met, at JENNINGS' request, in front of what was later determined to be the residence of PAMELA JONES, the defendant, at which time JENNINGS received a cash payment from the CW. On another occasion, JENNINGS told the CW that he could not get a Medicaid card for the CW because "my girl was on vacation."

12. Based upon the information set forth above, in or about October 2011, the CW made a series recorded telephone calls with KELVIN JENNINGS, the defendant, under the supervision of law enforcement agents. Based upon these recorded telephone calls, the CW arranged a meeting on or about October 13, 2011, with JENNINGS so that the CW could renew a fraudulent Medicaid account that he had previously obtained from JENNINGS.

13. On or about October 13, 2011, at approximately 12:51 p.m., the CW met with KELVIN JENNINGS, the defendant, at a location in the vicinity of Metropolitan Hospital, in Manhattan. This meeting was audio and video recorded under the supervision of law enforcement agents. Based upon my review of the audio and video recording and my conversations with the CW, I learned that JENNINGS and the CW discussed renewing a fraudulent Medicaid account that the CW had previously received from JENNINGS. Specifically, during this meeting, the CW stated, "Yo, I need to put my card on [re-certify Medicaid cards], man." JENNINGS responded, "I can get it on... I don't even do this shit no more. They are doing so much shit now, that people, they've got like a

fucking unit now [to investigate Medicaid fraud]. They're just going through everybody's shit. Everybody that got Medicaid, they just pick... select that shit at random. You know what I'm saying? Some people that I've dealt with, they got a letter in the mail telling them to bring down your documents. They give you a couple of weeks to bring down the documents. If you don't have it by a certain date, they cut your shit off... This is fucked up." The CW interjected, "I just found my card. I couldn't find that shit." JENNINGS responded, "This is the wrong time... It ain't going to take no week, no two weeks like that. It might take a month, might take three weeks, you know what I'm saying? They doing so much shit, man, that's why I don't even fuck around. I only do, like, people that have their shit and when they get that re-cert they let me know like two months ahead of time... so that way, their shit won't close up, you know what I'm saying?" The CW then asked, "How much they charge you though?" JENNINGS answered, "Same thing..." The CW then said, "All I got is like two bucks [\$200] now. I could give you half of that... I just need it, man. You know they was billing me, right. And then last time I went they told me they couldn't bill me unless I started paying some of it off." JENNINGS then said, "Naw, you don't want to pay that money for all of that shit. And even if you get cut off, we can probably do it again, or maybe do it at another address... but once they use your first card, they're not going to let you come back with another card, with a different number." Shortly thereafter, the CW wrote his Medicaid number for JENNINGS on a piece of paper and gave that to JENNINGS. JENNINGS then stated, "If they can't put that one back on, whatever that address is on that card, you want to use that same information, right?" The CW responded, "Yeah, yeah." Later in the conversation, JENNINGS stated, "Once it's open, burn it out, make the best of it. You need medication, try to get all your medication, make all your appointments... so you can get all your shit taken care of." Soon thereafter, JENNINGS asked, "You gonna give me half?" The CW then handed JENNINGS approximately \$100 in cash as half-payment for renewal of the CW's Medicaid account. JENNINGS then stated, "Like I said, it may be a month... Whenever it's on, I'll leave a message and [say], 'I need you to make me some potato salad,' or some shit like that... I'll check maybe like every two weeks, 'cause I don't want to see my number [HRA employer-identification number] looking for your shit, you know what I'm saying, because they have so much shit now."

14. On or about November 28, 2011, at approximately 10:07 a.m., the CW made a telephone call to KELVIN JENNINGS, the defendant, to ask JENNINGS about whether the CW's Medicaid account had been renewed. During this conversation, JENNINGS stated, "My moms still didn't make no potato salad, but I'm still

gonna try and get you some, so I told you, alright?" The CW answered, "Let me know when." JENNINGS then responded, "I told you I would. No problem. But I told you, you know when I seen you." Based upon my training, experience, familiarity with the investigation, and my conversations with the CW, I believe that when JENNINGS stated "my moms still didn't make no potato salad," that he was indicating to the CW that his female co-worker in HRA had still not re-certified the CW's Medicaid account. Furthermore, JENNINGS was also stating that he was going to continue his efforts to get the CW the re-certified Medicaid account.

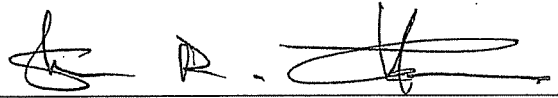
15. As stated earlier in Paragraph 11(a), HRA uses WMS to activate accounts and store information that is used to determine individuals' eligibility for Medicaid benefits. As part of this investigation, an audit of the WMS was conducted which revealed that approximately fourteen fraudulent Medicaid accounts purchased from KELVIN JENNINGS, the defendant, by the CW, were either processed or re-certified by PAMELA JONES, the defendant. In order to process an account, an employee needs to log in using an employee-specific identification number. Each employee of HRA is instructed not to share their employee-specific identification numbers or to use those of others. All fourteen of these fraudulent Medicaid accounts were traced to JONES' employee-specific identification number or the HRA computer terminal assigned to JONES by HRA at the times of these transactions.

16. The fraudulent Medicaid accounts processed at the computer terminal of PAMELA JONES, the defendant, at HRA with JONES' employee-specific identification number included fraudulent Medicaid accounts for "James Summers" and "Levar Summers," as set forth in Paragraphs 11(a) and 11(b). According to HRA records, these fraudulent Medicaid accounts were renewed through JONES' employee-specific identification number. Additionally, HRA and WMS records indicate that KELVIN JENNINGS, the defendant, also conducted re-certification inquiries of fraudulent Medicaid accounts for "James Summers" and "Levar Summers" using JENNINGS' employee-specific identification number.

17. On or about July 6, 2010, the employee-specific identification number of a deceased employee of HRA was used at the workstation of PAMELA JONES, the defendant, to create a fraudulent Medicaid account, which eventually was sold by KELVIN JENNINGS, the defendant, to the CW.

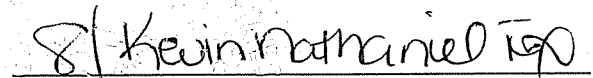
18. Throughout the course of the investigation, through review of records from HRA and other sources and interviews with cooperating witnesses, I learned that the eighteen fraudulent Medicaid accounts sold by KELVIN JENNINGS, the defendant, including the accounts processed and/or re-certified by PAMELA JONES, the defendant, resulted in the billing of approximately \$387,000 to Medicaid.

WHEREFORE, deponent prays that a warrant be issued for the arrest of KELVIN JENNINGS and PAMELA JONES; the defendants, and that they be imprisoned or bailed, as the case may be.



SHAWN MULLEN
Special Agent
Federal Bureau of Investigation

Sworn to before me this
21st day of March, 2012



UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF NEW YORK

