

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>UNITED STATES OF AMERICA</b>	<b>:</b>	<b>CRIMINAL NO.</b> _____
<b>v.</b>	<b>:</b>	<b>DATE FILED</b> _____
<b>GREGORY AKARUE</b>	<b>:</b>	<b>VIOLATIONS:</b>
<b>d/b/a “Helping Hand Health Services”</b>	<b>:</b>	<b>18 U.S.C. § 1349 (conspiracy to commit health care fraud - 1 count)</b>
	<b>:</b>	<b>18 U.S.C. § 1347 (health care fraud - 2 counts)</b>
	<b>:</b>	<b>Notice of forfeiture</b>

**INDICTMENT**

**COUNT ONE**

**(Conspiracy to Commit Health Care Fraud)**

**THE GRAND JURY CHARGES THAT:**

At all times material to this indictment

**INTRODUCTION**

**Defendant**

1. Defendant GREGORY AKARUE was a citizen of Nigeria who entered the United States in or about 1985.
2. Defendant GREGORY AKARUE obtained a fictitious business name in the Commonwealth of Pennsylvania called Helping Hand Health Services (“Helping Hand”), a sole proprietorship. As such, defendant GREGORY AKARUE, d/b/a “Helping Hand,” became a supplier of durable medical equipment (“DME”), including power wheelchairs and scooters, to Medicare beneficiaries.

### **Medicare Program**

3. The Medicare Program (“Medicare”) was a “health care benefit program” as defined by Title 18, United States Code, Section 24(b).

4. Medicare was administered by the Centers for Medicare and Medicaid Services (“CMS”), an agency of the United States Department of Health and Human Services (“HHS”). Individuals who received benefits under Medicare were often referred to as “Medicare beneficiaries.”

5. Medicare Part B authorized payment for certain physician services, outpatient services, and other services, including durable medical equipment (“DME”) that was medically necessary and was ordered by a licensed physician, or other qualified health care providers.

6. DME was equipment that was primarily and customarily used to serve a medical purpose, could withstand repetitive use, and was appropriate for use in the home. DME included power wheelchairs, power wheelchair accessories, power scooters, thermal gloves, diabetic shoes and supplies, knee braces, wrist braces, back braces, heating pads and various other types of equipment.

### **DME Suppliers**

7. In order for a DME supplier to be reimbursed by Medicare for DME provided to a beneficiary, a physician must have determined and certified in writing that the DME was medically necessary for the particular patient. The physician’s authorization could be documented, among other ways, on traditional prescription pads, physician orders, and in letters and certificates of medical necessity (“CMN”). Medicare required that a physician’s

authorization be documented on a CMN for certain expensive items of DME, including power wheelchairs and power scooters.

8. The treating physician must have signed and dated the physician order. The DME supplier was required to have an order from the treating physician on file before dispensing DME to the beneficiary.

9. Other documentation signed by a physician was also required. For example, Medicare required that a detailed description of the DME be included with the CMN order. The treating physician was required to sign and date the CMN order.

10. The DME supplier was issued a unique identification number called a “supplier number.” After receiving a “supplier number,” the DME supplier was then able to submit bills, also known as “claims,” for payment by Medicare for the DME supplied to beneficiaries.

11. With respect to filing claims for payment, Medicare permitted approved DME suppliers to submit Medicare claims on paper claim forms or electronically, such as through the use of a computer.

12. Medicare required that claims contain certain information including: (a) the beneficiary’s name and Medicare identification number; (b) the name and unique identification number of the doctor who ordered the item or service; (c) the item or service that was provided by the supplier; (d) the date of the service; and (e) the charge for the item or service.

### **Power Wheel Chairs**

13. Under Medicare rules, Medicare Part B would pay for approximately 80% of the Medicare allowable fee schedule for a power wheelchair and accessories supplied to a beneficiary, while the beneficiary -- or the beneficiary's secondary insurer -- would be responsible for the coinsurance representing the remaining 20% of the Medicare allowable fee schedule.

14. To be eligible to receive a power wheelchair, Medicare rules also required that a beneficiary exhibit severe weakness of the upper extremities and be unable to walk over long periods of time.

15. In order for a DME supplier to be paid for providing a power wheelchair and accessories to a beneficiary, Medicare required the supplier to obtain documentation that the wheelchair was medically necessary.

16. A specific document, called the HCFA Form 843, also known as the CMN for motorized wheelchair, was required to establish medical necessity. The beneficiary's physician was required to certify that the beneficiary had severe weakness of the upper extremities due to a neurologic, muscular, or cardiopulmonary disease or condition, and that the beneficiary was unable to operate any type of manual wheelchair. The physician was also required to sign the CMN after attesting that he or she was the beneficiary's treating physician and the medical necessity information was true, accurate and complete.

17. The CMN included a section that described the power wheelchair and accessories that were ordered by the beneficiary's treating doctor and contained the DME supplier's charge for these items. This section of the CMN formed the basis for the bill that the

DME supplier would send to Medicare in order to be paid for the power wheelchair and accessories.

18. A DME supplier who billed Medicare electronically for a power wheelchair and accessories was required to maintain the completed and signed CMN in their patient records, to be made available to Medicare upon request. If the claim was submitted electronically, information from the CMN was required to be submitted electronically.

### **THE CONSPIRACY**

19. Beginning in or about 2003, the exact time being unknown to the grand jury, and continuing thereafter until on or about May 15, 2005, in the Eastern District of Pennsylvania and elsewhere, defendant

### **GREGORY AKARUE d/b/a “Helping Hand Health Services”**

conspired and agreed with other persons, known and unknown to the grand jury, to knowingly and willfully execute a scheme and artifice to defraud a health care benefit program, that is Medicare, and to obtain money and property owned by and under the custody and control of Medicare, by means of false and fraudulent pretenses, representations, and promises, in connection with the delivery of and payment for health care benefits, items and services, by submitting and causing to be submitted fraudulent claims for durable medical equipment, including power wheel chairs and accessories provided by Helping Hand Health Services that, as defendant AKARUE well knew, were not medically necessary and which were not authorized by a physician, in violation of Title 18, United States Code, Section 1347.

### MANNER AND MEANS

It was part of the conspiracy that:

20. On or about April 10, 2003, defendant GREGORY AKARUE applied for a fictitious business trade name from the Commonwealth of Pennsylvania to conduct business under the name of Helping Hand Health Services, which had an office located at 3 Neshaminy Interplex Drive, Suite 301, Trevoise, PA 19053-6962.

21. On or about May 12, 2003, defendant GREGORY AKARUE opened and utilized a bank account for Helping Hand Health Services at First Union National Bank, later Wachovia Bank, in which Medicare payments were deposited.

22. On or about May 16, 2003, Defendant GREGORY AKARUE filed a Medicare Provider Enrollment Application with a CMS contractor to become a Medicare DME supplier.

23. To develop business, defendant GREGORY AKARUE, along with two individuals known to the grand jury and identified for purposes of this indictment as "R.G." and "D.B.," obtained the services of other individuals referred to as "bird dogs" or "runners" to recruit Medicare beneficiaries without the knowledge of the beneficiaries' personal physicians, including instances in which the beneficiaries' personal physician had recommended that the beneficiary not use a motorized wheelchair.

24. Defendant GREGORY AKARUE, R.G. and D.B. paid kickbacks to the "bird dogs" and "runners" in the range between \$25.00 to \$50.00 for each referral.

25. Defendant GREGORY AKARUE utilized the services of an individual known to the grand jury as “D.B.,” who received the referral information from the “runners” or “bird dogs” and then attempted to obtain physician signatures on CMNs for Medicare beneficiaries to whom defendant AKARUE, through Helping Hand Health Services, had provided power wheelchairs and accessories.

26. D.B. operated out of an apartment in the Houston, Texas area where she utilized a “drop box/mail box” as a business address and used a fax cover sheet with the label “Global Medical Supply” in communications with physicians from whom she attempted to obtain signatures on CMNs for Medicare beneficiaries who received power wheelchairs and accessories that the physician had not authorized and which were not medically necessary.

27. In addition to offering Medicare beneficiaries power wheelchairs that were not medically necessary, defendant GREGORY AKARUE, R.G. and D.B. allowed Medicare beneficiaries to alternatively choose a much less expensive, but lighter power operated vehicle, also known as a “scooter” instead of a power wheelchair.

28. In some such cases, however, defendant GREGORY AKARUE caused claims to be submitted for power wheel chairs and accessories for which Medicare paid approximately \$4,700, when, in fact, “scooters” were actually supplied, for which Medicare would have paid only about \$1,600.

29. Defendant GREGORY AKARUE caused fraudulent claims to be submitted electronically to Medicare for electric wheelchairs and accessories.

30. Defendant GREGORY AKARUE used the Unique Physician Identification Number (“UPIN”) of at least 7 different physicians from across Pennsylvania and

Ohio on Medicare claims and CMNs, without the physicians' knowledge or approval, which resulted in claims being electronically submitted to Medicare for motorized wheel chairs that the beneficiaries' personal physician had not authorized.

31. Between in or about October 2003 and on or about May 15, 2005 defendant GREGORY AKARUE received approximately \$290,424.89 in fraudulent reimbursement payments from Medicare.

**OVERT ACTS**

In furtherance of the conspiracy, defendant GREGORY AKARUE, and others known and unknown to the grand jury, committed the following overt acts in the Eastern District of Pennsylvania and elsewhere:

<b>OVERT ACT</b>	<b>DATE OF CLAIM</b>	<b>MEDICARE BENEFICIARY/ HICN</b>	<b>DME ITEM</b>	<b>AMOUNT PAID BY MEDICARE</b>	<b>DESCRIPTION</b>
1	11/8/2003	M.J./ XXXXXX6571A	K0011 power wheel chair and accessories	Approximately \$ 4,733.55	Fraudulent use of physician's UPIN (Dr. K.P.)
2	12/9/2003	J.T./ XXXXXX3118A	K0011 power wheel chair and accessories	Approximately \$ 3,105.50	Provided scooter but billed Medicare for power wheelchair and accessories.
3	1/3/2004	W.W./ XXXXXX1134A	K0011 power wheel chair and accessories	Approximately \$ 4,717.55	Fraudulent use of physician UPIN (Dr. C.H.)
4	4/3/2004	R.G./ XXXXXX3291A	KOO11 power wheel chair and accessories	Approximately \$ 4,603.14	Fraudulent use of physician UPIN (Dr. K.P.)

5	4/3/2004	L.B./ XXXXXX2492A	K0011 power wheel chair and accessories	Approximately \$ 4,668.11	Fraudulent use of physician UPIN (Dr. C.H.)
6	4/4/2004	R.J./ XXXXXX2652A	K0011 power wheel chair and accessories	Approximately \$ 4,683.71	Fraudulent use of physician UPIN (Dr. K.P.)
7	4/10/2004	R.C./ XXXXXX4164A	K0011 power wheel chair and accessories	Approximately \$4,683.14	Fraudulent use of physician UPIN (Dr. K.P.)
8	4/10/2004	C.C./ XXXXXX4853A	K0011 power wheel chair and accessories	Approximately \$ 4,683.14	Fraudulent use of physician UPIN (Dr. S.C.)
9	5/15/2004	Y.C./ XXXXXX3984A	K0011 power wheel chair and accessories	Approximately \$ 4,683.14	Fraudulent use of physician UPIN (Dr. C.H.)
10	6/2/2004	A.J./ XXXXXX5514A	K0011 power wheel chair and accessories	Approximately \$4,683.14	Fraudulent use of physician UPIN (Dr. C.H.)
11	6/5/2004	Ma. J./ XXXXXX4498D	K0011 power wheel chair and accessories	Approximately \$4,683.14	Fraudulent use of physician UPIN (Dr. K.P.)
12	6/5/2004	J.H./ XXXXXX3852M	K0011 power wheel chair and accessories	Approximately \$ 4,683.14	Fraudulent use of physician UPIN (Dr. C.H.)

13	6/14/2004	W.C./ XXXX1944A	K0011 power wheel chair and accessories	Approximately \$ 4,603.14	Fraudulent use of physician UPIN (Dr. C.H.)
14	8/9/2004	C.T./ XXXXXX8083A	K0011 power wheel chair and accessories	Approximately \$ 4,953.14	Fraudulent use of physician UPIN (Dr. B.H.)
15	8/9/2004	A.A./ XXXXXX8378M	K0011 power wheel chair and accessories	Approximately \$ 4,776.66	Fraudulent use of physician UPIN (Dr. F.C.)
16	8/28/2004	C.R./ XXXXXX2638A	K0011 power wheel chair and accessories	Approximately \$4,776.66	Fraudulent use of physician UPIN (Dr. C.H.)
17	10/1/2004	W.H./ XXXXXX9299A	K0011 power wheel chair and accessories	Approximately \$4,953.14	Fraudulent use of physician UPIN (Dr. B.H.)
18	10/2/2004	J.R./ XXXXXX1225A	K0011 power wheel chair and accessories	Approximately \$ 4,776.66	Fraudulent use of physician UPIN (Dr. C.H.)
19	10/9/2004	E.F./ XXXXXX6513A	K0011 power wheel chair and accessories	Approximately \$ 4,776.66	Fraudulent use of physician UPIN (Dr. C.H.)
20	3/5/2005	B.F./ XXXXXX2054A	K0011 power wheel chair and accessories	Approximately \$ 4,665.54	Fraudulent use of physician UPIN (Dr. C.J.)

21	4/9/2005	R.F./ XXXXXX4080A	K0011 power wheel chair and accessories	Approximately \$ 4,812.64	Fraudulent use of physician UPIN (Dr. M.L.)
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All in violation of Title 18, United States Code, Section 1349.

**COUNTS TWO AND THREE**

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 1-18 and 20-30 of Count One are incorporated here.
2. On or about the dates listed below, in the Eastern District of Pennsylvania,

and elsewhere, defendant

**GREGORY AKARUE  
d/b/a “Helping Hand Health Services”**

knowingly and willfully executed a scheme and artifice to defraud a health care benefit program, that is Medicare, and to obtain money and property owned by and under the custody and control of Medicare, by means of false and fraudulent pretenses, representations, and promises, in connection with the delivery of and payment for health care benefits, items and services, by submitting and causing to be submitted fraudulent claims for durable medical equipment, including power wheel chairs and accessories provided by Helping Hand Health Services provided to each of the individuals listed below, in the approximate amounts listed below (each claim constituting a separate count of this indictment):

<b>Count</b>	<b>Patient</b>	<b>Equipment</b>	<b>Approximate Date of Claim</b>	<b>Approximate Amount of claim</b>
2	B.F.	KO011 power wheel chair and accessories	March 5, 2005	\$ 4,665.54
3	R.F.	KO011 power wheel chair and accessories	April 9, 2005	\$ 4,812.64

All in violation of Title 18, United States Code, Section 1347.

**NOTICE OF FORFEITURE**

**THE GRAND JURY FURTHER CHARGES THAT:**

1. As a result of the violations of Title 18, United States Code, Sections 1347 and 1349, as charged in this indictment, defendant

**GREGORY AKARUE  
d/b/a “Helping Hand Health Services**

shall forfeit to the United States any and all property, real or personal, involved in such offenses, or any property traceable to such property, including, but not limited to a sum of money equal to \$290,424.89 in United States Currency.

2. If any of the forfeitable property, as describe 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;
- (e) has been commingled with other property which cannot be

divided without difficulty; it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendant up to the value of the property described above.

In violation of Title 18, United States Code, Section 982(a)(7).

**A TRUE BILL:**

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**GRAND JURY FOREPERSON**

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**MICHAEL L. LEVY  
UNITED STATES ATTORNEY**