

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

Case No. **16-20480** **CR-GAYLES**

18 U.S.C. § 1347  
18 U.S.C. § 2  
18 U.S.C. § 982

MAGISTRATE JUDGE  
TURNOFF

UNITED STATES OF AMERICA

vs.

CARLOS CARDENAS,

Defendant.

INDICTMENT

The Grand Jury charges that:

GENERAL ALLEGATIONS

At all times material to this Indictment:

The Medicare Program

1. The Medicare Program (“Medicare”) was a federally funded program that provided free or below-cost health care benefits to certain individuals, primarily the elderly, blind, and disabled. The benefits available under Medicare were governed by federal statutes and regulations. The United States Department of Health and Human Services, through its agency, the Centers for Medicare and Medicaid Services (“CMS”), oversaw and administered Medicare. Individuals who received benefits under Medicare were commonly referred to as Medicare beneficiaries.

2. Medicare programs covering different types of benefits were separated into different program parts. Part D of Medicare (the “Medicare Part D Program”) subsidized the costs of prescription drugs for Medicare beneficiaries in the United States. The Medicare Part D Program was enacted as part of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 and went into effect on January 1, 2006.

3. In order to receive Part D benefits, a beneficiary enrolled in a Medicare drug plan. Medicare drug plans were operated by private companies approved by Medicare. Those companies were often referred to as drug plan sponsors. A beneficiary in a Medicare drug plan could fill a prescription at a pharmacy and use his or her plan to pay for some or all of the prescription.

4. A pharmacy could participate in Part D by entering a retail network agreement directly with a plan or with one or more Pharmacy Benefit Managers (“PBMs”). A PBM acted on behalf of one or more Medicare drug plans. Through a plan’s PBM, a pharmacy could join the plan’s network. When a Part D beneficiary presented a prescription to a pharmacy, the pharmacy submitted a claim either directly to the plan or to a PBM that represented the beneficiary’s Medicare drug plan. The plan or PBM determined whether the pharmacy was entitled to payment for each claim and periodically paid the pharmacy for outstanding claims. The drug plan’s sponsor reimbursed the PBM for its payments to the pharmacy.

5. A pharmacy could also submit claims to a Medicare drug plan to whose network the pharmacy did not belong. Submission of such out-of-network claims was not common and often resulted in smaller payments to the pharmacy by the drug plan sponsor.

6. Medicare, through CMS, compensated the Medicare drug plan sponsors. Medicare paid the sponsors a monthly fee for each Medicare beneficiary of the sponsors’ plans. Such payments were called capitation fees. The capitation fee was adjusted periodically based on various factors, including the beneficiary’s medical conditions. In addition, in some cases where a sponsor’s expenses for a beneficiary’s prescription drugs exceeded that beneficiary’s capitation fee, Medicare reimbursed the sponsor for a portion of those additional expenses.

7. Medicare and Medicare drug plan sponsors were “health care benefit program[s],” as defined by Title 18, United States Code, Section 24(b).

**Medicare Drug Plan Sponsors**

8. Blue Cross and Blue Shield, United Health Group, Inc. (“United”), and Wellcare Health Plan, Inc. (“Wellcare”) were Medicare drug plan sponsors.

**The Defendant and a Related Company**

9. Nuestra Pharmacy and Discount (“Nuestra”) was a Florida corporation that did business in Miami-Dade County, purportedly providing prescription drugs to Medicare beneficiaries.

10. Defendant **CARLOS CARDENAS**, a resident of Miami-Dade County, was the owner of Nuestra.

**COUNTS 1-4**  
**Health Care Fraud**  
**(18 U.S.C. § 1347)**

1. Paragraphs 1 through 10 of the General Allegations section of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

2. From on or about July of 2014, and continuing through on or about February of 2015, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

**CARLOS CARDENAS**

in connection with the delivery of and payment for health care benefits, items, and services, did knowingly and willfully execute, and attempt to execute, a scheme and artifice to defraud a health care benefit program affecting commerce, as defined by Title 18, United States Code, Section 24(b), that is, Medicare, Blue Cross and Blue Shield, United, and Wellcare, and to obtain, by means of materially false and fraudulent pretenses, representations, and promises, money and property owned by, and under the custody and control of, said health care benefit programs.

**Purpose of the Scheme and Artifice**

3. It was the purpose of the scheme and artifice for the defendant and his accomplices

to unlawfully enrich themselves by, among other things: (a) submitting and causing the submission of false and fraudulent claims to health care benefit programs; (b) concealing the submission of false and fraudulent claims to health care benefit programs, and the receipt and transfer of fraud proceeds; and (c) diverting fraud proceeds for their personal use and benefit, the use and benefit of others, and to further the fraud.

**The Scheme and Artifice**

4. **CARLOS CARDENAS** and his accomplices submitted and caused the submission of claims that falsely and fraudulently represented that prescription drugs were medically necessary, prescribed by a doctor, and had been provided by Nuestra to Medicare beneficiaries.

5. As a result of such false and fraudulent claims, Medicare and Medicare prescription drug plan sponsors, through their PBMs, made payments funded by Medicare to Nuestra's corporate bank account.

6. **CARLOS CARDENAS** used the proceeds from the false and fraudulent Medicare claims for his own use and benefit, the use and benefit of others, and to further the fraud.

**Acts in Execution or Attempted Execution of the Scheme and Artifice**

7. On or about the dates set forth as to each count below, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

**CARLOS CARDENAS,**

in connection with the delivery of and payment for health care benefits, items, and services, did knowingly and willfully execute, and attempt to execute, the above-described scheme and artifice to defraud a health care benefit program affecting commerce, as defined by Title 18, United States Code, Section 24(b), that is, Medicare, Blue Cross and Blue Shield, United, and WellCare, and to obtain, by means of materially false and fraudulent pretenses, representations, and promises, money and

property owned by, and under the custody and control of, said health care benefit programs, in that the defendant submitted and caused the submission of false and fraudulent claims seeking the identified dollar amounts, and representing that Nuestra provided pharmaceutical items and services to Medicare beneficiaries pursuant to physicians' orders and prescriptions:

Count	Medicare Beneficiary	Approx. Claim Submission Date	Claim Number	Item Claimed; Approx. Amount Claimed	Medicare Drug Plan Sponsor
1	E.S.	1/09/2015	154098155991 0000491748267	Abilify; \$1200	Blue Cross and Blue Shield
2	E.S.	01/09/2015	154094864661 0000491748267	Seroquel XR; \$300	Blue Cross and Blue Shield
3	Y.H.	1/12/2015	150123100194008998	Abilify; \$908	Blue Cross and Blue Shield
4	Y.H.	01/12/2015	150123100746022998	Januvia; \$337	Blue Cross and Blue Shield

In violation of Title 18, United States Code, Sections 1347 and 2.

**FORFEITURE**  
**(18 U.S.C. § 982)**

1. The allegations contained in this Indictment are re-alleged and incorporated by reference as though fully set forth herein for the purpose of alleging forfeiture to the United States of America of certain property in which the defendant **CARLOS CARDENAS**, has an interest.

2. Upon conviction of the Federal healthcare offense as alleged in this Indictment, the defendant so convicted shall forfeit to the United States of America, pursuant to Title 18, United States Code, Section 982(a)(7), any property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of such violation.

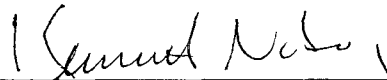
3. The property subject to forfeiture includes, but is not limited to, the following:

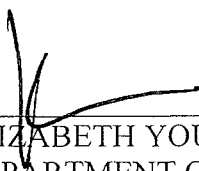
No less than \$743,868.71 (US), which is a sum of money equal in value to the gross proceeds traceable to the commission of the violations alleged in this Indictment, which the United States will seek as a forfeiture money judgment against the convicted defendant, as part of his sentence.

All pursuant to Title 18, United States Code, Section 982(a)(7), and the procedures set forth at Title 21, United States Code, Section 853, as made applicable through Title 18, United States Code, Section 982(b)(1).

A TRUE BILL

FOREPERSON

  
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WIFREDO A. FERRER  
UNITED STATES ATTORNEY

  
\_\_\_\_\_  
ELIZABETH YOUNG  
DEPARTMENT OF JUSTICE  
TRIAL ATTORNEY