

JUL 14 2022

Kevin P. Weiner, Clerk  
By: *[Signature]* Deputy Clerk

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

UNITED STATES OF AMERICA

Criminal Information

*v.*

BRIAN TISDALE

1:22-CR-0234

THE UNITED STATES ATTORNEY CHARGES THAT:

**COUNT ONE**  
**Conspiracy to Defraud the United States and**  
**Pay Health Care Kickbacks**  
**(18 U.S.C. § 371)**

1. Beginning on a date unknown, but at least by on or about March 2020, and continuing until on or about April 2021, within the Northern District of Georgia, and elsewhere, the defendant,

BRIAN TISDALE,

did willfully, that is, with the intent to further the object of the conspiracy, and knowingly, combine, conspire, confederate, and agree with DME Owner 1, Lead Seller 1, Lead Seller 2, Prescription Seller 1, and others known and unknown to the United States Attorney,

a. to defraud the United States by impairing, impeding, obstructing, and defeating through deceitful and dishonest means, the lawful government functions of the United States Department of Health and Human Services in its

administration and oversight of Medicare and Medicare Advantage plan, in violation of Title 18, United States Code 371, and to commit certain offenses against the United States, that is:

b. to defraud a health care benefit program affecting commerce, as defined in Title 18, United States Code, Section 24(b), that is, Medicare, 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 program, 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;

c. to violate Title 42, United States Code, Section 1320a-7b(b)(1), by knowingly and willfully soliciting and receiving remuneration, specifically, kickbacks and bribes, directly and indirectly, overtly and covertly, in return for referring individuals for the furnishing and arranging for the furnishing of any item and service for which payment may be made in whole or in part by Medicare; and for the purchasing, leasing, ordering, and arranging for and recommending the purchasing, leasing and ordering of any good, item and service for which payment may be made in whole and in part by a Federal health care program, that is, Medicare; and

d. to violate Title 42, United States Code, Section 1320a-7b(b)(2), by knowingly and willfully offering and paying remuneration, specifically, kickbacks and bribes, directly and indirectly, overtly and covertly, in return for referring individuals for the furnishing and arranging for the furnishing of any

item and service for which payment may be made in whole or in part by Medicare; and for the purchasing leasing, ordering, and arranging for and recommending the purchasing, leasing and ordering of any good, item and service for which payment may be made in whole or in part by a Federal health care program, that is, Medicare.

2. At all times material to this Information, the defendant, BRIAN TISDALE, engaged in a scheme to buy and use fraudulent prescriptions for durable medical equipment ("DME"). Over the course of the scheme, these prescriptions were used by the defendant, along with other co-conspirators not named herein, to fraudulently bill the Medicare Program ("Medicare") for at least approximately \$6,000,000.

### The Medicare Program

3. Medicare was a federal health care program that provided free or below-cost health care benefits to individuals who were sixty-five years of age or older or disabled. The benefits available under Medicare were governed by federal statutes and regulations. The United States Department of Health and Human Services ("HHS"), through its agency the Center for Medicare and Medicaid Services ("CMS"), oversaw and administered Medicare.

4. Individuals who received benefits under Medicare were commonly referred to as Medicare "beneficiaries."

5. Medicare was a "health care benefit program," as defined by Title 18, United States Code, Section 24(b).

6. Medicare was subdivided into multiple program “parts.” Medicare Part A covered health services provided by hospitals, skilled nursing facilities, hospices, and home health agencies. Medicare Part B covered physician services and outpatient care, including an individual’s access to DME, such as orthotic devices and wheelchairs.

### Durable Medical Equipment

7. Orthotic devices were a type of DME that included rigid and semi-rigid devices, such as knee braces, back braces, shoulder braces, and wrist braces (collectively, “braces”).

8. DME companies, physicians, and other health care providers that provided services to Medicare beneficiaries were referred to as Medicare “providers.” To participate in Medicare, providers were required to submit an application in which the providers agreed to comply with all Medicare-related laws and regulations. If Medicare approved a provider’s application, Medicare assigned the provider a Medicare “provider number.” A health care provider with a Medicare provider number could file claims with Medicare to obtain reimbursement for services rendered to beneficiaries.

9. Enrolled Medicare providers agreed to abide by the policies, procedures, rules, and regulations governing reimbursement. To receive Medicare funds, enrolled providers were required to abide by the Anti-Kickback Statute and other laws and regulations. Providers were given access to Medicare manuals and services bulletins describing billing procedures, rules, and regulations.

10. Medicare reimbursed DME companies and other health care providers for services and items rendered to beneficiaries. To receive payment from Medicare, providers submitted and caused the submission of claims to Medicare, either directly or through a billing company.

11. A Medicare claim for DME reimbursement was required to set forth, among other things, the beneficiary's name and unique Medicare identification number, the equipment provided to the beneficiary, the date the equipment was provided, the cost of the equipment, and the name and unique physician identification number of the physician who prescribed or ordered the equipment.

12. A claim for DME submitted to Medicare qualified for reimbursement only if it was medically necessary for the treatment of the beneficiary's illness or injury and prescribed by a licensed physician.

### **The Defendant and Related Entities**

13. Medihealth Medical Solutions LLC ("Medihealth") was a Mississippi company that did business in Amory, Mississippi. Medihealth was a DME company that purportedly provided braces to patients including Medicare beneficiaries.

14. Liberty Medical DME LLC ("Liberty") was a Georgia corporation that did business in Atlanta, Georgia. Liberty was a DME company that purportedly provided braces to patients including Medicare beneficiaries.

15. Company A was business in Boca Raton, Florida. Company A was in the business of, among other things, selling Medicare patient information to DME companies, including Liberty and Medihealth.

16. Company B was located in Tampa, Florida. Company B was in the business of selling doctors' orders to DME companies, including Liberty and Medihealth.

17. Lead Seller 1 and Lead Seller 2 owned and operated Company A.

18. Prescription Seller 1 owned and operated Company B, among other related companies, located in Boca Raton, Florida and elsewhere.

19. DME Owner 1, a resident of Atlanta, Georgia, was an owner and operator of Liberty.

20. Defendant TISDALE, a resident of Amory, Mississippi, was an owner and operator of Medihealth and Liberty.

#### **Purpose of the Conspiracy**

21. It was a purpose of the conspiracy for defendant TISDALE and his co-conspirators to unlawfully enrich themselves by, among other things: (a) paying kickbacks and bribes in exchange for signed doctors' orders for Medicare beneficiaries for braces that were medically unnecessary, not eligible for reimbursement, and/or not provided as represented; (b) submitting and causing the submission of false and fraudulent claims to Medicare; (c) concealing and causing the concealment of false and fraudulent claims; and (d) diverting fraud proceeds for their personal use and benefit, the use and benefit of others, and to further the fraud.

**Manner and Means of the Conspiracy**

22. The manner and means by which defendant TISDALE and his co-conspirators sought to accomplish the object and purpose of the conspiracy included, among other things, the following:

23. Defendant TISDALE owned and operated Medihealth. Defendant TISDALE and DME Owner 1 owned and operated Liberty.

24. Defendant TISDALE and DME Owner 1 falsely certified to Medicare that they, as well as Medihealth and Liberty, would comply with all federal laws and regulations, including that they would not knowingly present and cause to be presented a false and fraudulent claim for payment by a federal health care program and that they would comply with the federal Anti-Kickback Statute.

25. Defendant TISDALE and DME Owner 1, through Medihealth and Liberty, obtained access to thousands of Medicare beneficiaries by paying kickbacks and bribes to Company A, Lead Seller 1, and Lead Seller 2 in exchange for the referral of Medicare patient information, which included each Medicare beneficiary's name, Medicare number, diagnoses, pain level, and primary care physician.

26. Defendant TISDALE and his co-conspirators obtained Medicare beneficiary information from international call centers, which called the beneficiaries and up-sold them in order to get them to accept braces that call center employees marketed as free or low-cost. In many instances, the DME ordered for these recruited beneficiaries was medically unnecessary.

27. Defendant TISDALE, DME Owner 1, Lead Seller 1, Lead Seller 2, and others disguised the nature and source of these kickbacks and bribes by designating payments as marketing, entering into sham contracts, and generating or causing the generation of fraudulent invoices.

28. After obtaining the Medicare beneficiary information from Company A, Lead Seller 1, and Lead Seller 2, defendant TISDALE and others, on behalf of Medihealth and Liberty, paid kickbacks and bribes to Company B and Prescription Seller 1, through various entities owned and controlled by Prescription Seller 1, in exchange for completed prescriptions for braces and other Medicare-required documents (collectively referred to as “doctors’ orders”).

29. Defendant TISDALE, DME Owner 1, Prescription Seller 1, and others disguised the nature and source of the kickbacks and bribes by designating payments as administrative or management services, as well as entering into sham contracts, and generating fraudulent invoices.

30. A substantial portion of the doctors’ orders that defendant TISDALE and DME Owner 1 purchased from Prescription Seller 1 contained signatures or purported approvals of physicians or other health care providers whose names and professional identifying information were used without their true authorization and prior knowledge.

31. Defendant TISDALE and his co-conspirators, through Medihealth and Liberty, submitted and caused the submission of false and fraudulent claims to Medicare in the approximate amount of \$6,000,475 and received Medicare

reimbursements in the approximate amount of \$3,877,277, for braces that were (a) procured through the payment of illegal kickbacks and bribes; (b) medically unnecessary; (c) ineligible for Medicare reimbursement; and/or (d) not provided as represented.

### Overt Acts

32. In furtherance of the conspiracy, and to accomplish its object and purpose, the conspirators committed and caused to be committed, in the Northern District of Georgia and elsewhere:

33. On or about May 29, 2020, Defendant TISDALE, on behalf of Medihealth, executed a "Marketing Agreement" with Company A that falsely stated that Medihealth would pay Company A a fee of \$250 per hour for marketing services when, in reality, Defendant TISDALE and DME Owner 1 paid Lead Seller 1 and Lead Seller 2, through Company A, \$250 for each billable Medicare patient referral.

34. On or about June 3, 2020, Defendant TISDALE executed a "Management Services Agreement" with a Canadian company used by Prescription Seller 1 to receive kickback payments, but which provided no services itself, that falsely stated that MDS Health would provide management and administrative services for Medihealth when, in reality, Prescription Seller 1 and Company B provided only signed doctors' orders for DME to Medihealth and Liberty in return for kickbacks.

35. On or about July 7, 2020, Defendant TISDALE and DME Owner 1, through Liberty, transferred \$12,500 to Lead Seller 1 and Lead Seller 2, through

Company A, in exchange for detailed beneficiary information for 50 billable Medicare patients.

36. On or about July 30, 2020, Defendant TISDALE and DME Owner 1, through Liberty, transferred \$2,500 to Prescription Seller 1 and Company B, through a Canadian company used by Prescription Seller 1, in exchange for signed doctors' orders for DME to be billed by Liberty.

37. On or about August 3, 2020, Prescription Seller 1 and Company B caused signed doctors' orders to be provided to Liberty via Dropbox in exchange for the July 30, 2020 payment.

38. Between on or about August 3, 2020 and August 5, 2020, Defendant TISDALE and DME Owner 1 caused Liberty to submit claims to Medicare based upon the Orders purchased from Prescription Seller 1 and Company B.

39. On or about October 26, 2020, Defendant TISDALE and DME Owner 1, through Liberty, transferred \$12,500 to Lead Seller 1 and Lead Seller 2, through Company A, in exchange for detailed beneficiary information for 50 billable Medicare patients for Liberty. On that same date Defendant TISDALE, through Medihealth, transferred \$25,000 to Lead Seller 1 and Lead Seller 2, through Company A, in exchange for detailed beneficiary information for 100 billable Medicare patients for Medihealth.

40. On or about November 2, 2020, Defendant Tisdale, through Medihealth, transferred \$15,000 to Prescription Seller 1 and Company B, through a Canadian company used by Prescription Seller 1 to receive kickback payments

but which provided no services itself, in exchange for signed doctors' orders for DME to be billed by both Liberty and Medihealth.

41. On or about November 3, 2020, Prescription Seller 1 and Company B caused signed doctors' orders to be provided to Liberty and Medihealth via Dropbox in exchange for the November 2, 2020 payment.

42. Between on or about November 3, 2020 and November 9, 2020, Defendant TISDALE and DME Owner 1 caused Liberty and Medihealth to submit claims to Medicare based upon the Orders purchased from Prescription Seller 1 and Company B.

All in violation of Title 18, United States Code, Section 371.

#### **Forfeiture**

43. Upon conviction of Count One of this Information, the defendant, BRIAN TISDALE, shall forfeit to the United States of America, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), any property, real or personal, which constitutes or is derived from proceeds traceable to the offense. The property to be forfeited includes, but is not limited to, the following:

MONEY JUDGMENT: A sum of money in United States currency, representing the amount of proceeds obtained as a result of the offense alleged in Count One of this Information.

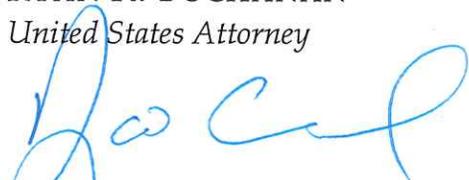
If, any of the property described above, as a result of any act or omission of the defendant:

(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 intends, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c), to seek forfeiture of any other property of the defendant up to the value of the forfeitable property.

RYAN K. BUCHANAN  
*United States Attorney*



DAVID A. O'NEAL  
*Assistant United States Attorney*  
Georgia Bar No. 342071  
david.oneal@usdoj.gov

600 U.S. Courthouse  
75 Ted Turner Drive SW  
Atlanta, GA 30303  
(404) 581-6000; Fax: (404) 581-6181