

18

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA

v.

Case:2:20-cr-20430
Judge: Cox, Sean F.
MJ: Stafford, Elizabeth A.
Filed: 09-16-2020 At 01:52 PM
INDI USA V. KOUZA ET AL (NA)

D-1 RAAD KOUZA, R.Ph.,
D-2 RAMIS KOUZA,

Defendants.

VIO.: 18 U.S.C. § 1349
18 U.S.C. § 1343
18 U.S.C. § 1347
18 U.S.C. § 2
18 U.S.C. § 981
18 U.S.C. § 982

INDICTMENT

THE GRAND JURY CHARGES:

GENERAL ALLEGATIONS

At all times relevant to this Indictment:

The Medicare and Medicaid Programs

1. The Medicare program (“Medicare”) was a federal health care program providing benefits to persons who were 65 years of age or older or disabled. Medicare was administered by the Centers for Medicare and Medicaid Services (“CMS”), a federal agency under the United States Department of Health and

Human Services. Individuals who received benefits under Medicare were referred to as Medicare “beneficiaries.”

2. Medicare covered different types of benefits and was separated into different program “parts.” Medicare Part D subsidized the cost of prescription drugs for Medicare beneficiaries in the United States. Generally, Medicare Part D covered part or all of the costs of prescription drugs dispensed to a Medicare beneficiary if, among other requirements, the prescription drugs were medically necessary and ordered by a physician.

3. By becoming a participating provider in Medicare, enrolled providers agreed to abide by the policies and procedures, rules, and regulations governing reimbursement. In order to receive Medicare funds, enrolled providers, together with their authorized agents, employees, and contractors, were required to abide by all the provisions of the Social Security Act, the regulations promulgated under the Act, and applicable policies, procedures, rules, and regulations issued by CMS and its authorized agents and contractors.

4. Upon certification, the medical provider, whether a clinic or an individual, was assigned a provider identification number for billing purposes (referred to as an “NPI”). When the medical provider rendered a service, the provider submitted a claim for reimbursement to the Medicare contractor/carrier that included the NPI assigned to that medical provider.

5. In order to receive Medicare Part D benefits, a beneficiary enrolled in one of several Medicare drug plans. Medicare drug plans were operated by private health care insurance 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 drugs.

6. Medicare, through CMS, compensated the Medicare drug plan sponsors for providing prescription drug benefits to beneficiaries. 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. The Michigan Medicaid program (“Medicaid”) was a federal and state funded health care program providing benefits to individuals and families who met specified financial and other eligibility requirements, and certain other individuals who lacked adequate resources to pay for medical care. CMS was responsible for overseeing the Medicaid program in participating states, including Michigan.

Individuals who received benefits under Medicaid were referred to as Medicaid “beneficiaries.”

8. Medicaid covered the costs of certain medical services, products, and benefits, including prescription drug benefits, for Medicaid beneficiaries. Generally, Medicaid covered part or all of the costs of prescription drugs dispensed to a Medicaid beneficiary if, among other requirements, the prescription drugs were medically necessary and ordered by a physician.

9. Medicaid paid for covered services either through what was called Medicaid “fee-for-service” or through Medicaid health plans.

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

The Private Health Insurance Program

11. Blue Cross and Blue Shield of Michigan (“BCBS”) was a nonprofit, privately operated insurance company authorized and licensed to do business in the state of Michigan. BCBS provided health care benefits, including prescription drug benefits, to member entities and individuals. Individuals insured by BCBS were referred to as BCBS “members.”

12. BCBS had agreements with participating providers, including pharmacies, to furnish medical services to BCBS members.

13. BCBS was a “health care benefit program,” as defined by Title 18, United States Code, Section 24(b).

Pharmacy Benefit Managers

14. Pharmacy benefit managers (“PBMs”) managed prescription drug benefits provided by Medicare (through Medicare drug plan sponsors), Medicaid health plans, and BCBS. PBMs received, adjudicated, and paid claims on behalf of the health care benefit programs.

15. After a pharmacy dispensed a prescription drug to a beneficiary or member, the pharmacy submitted a claim, typically electronically, to the PBM acting on behalf of the specific health care benefit program. The PBM, on behalf of the health care benefit program, reimbursed the pharmacy, typically electronically, through direct deposits into accounts held, and previously identified, by the pharmacy.

16. CVS Caremark, OptumRx, and Express Scripts were three of several PBMs that managed prescription drug benefits for Medicare (through Medicare drug plan sponsors) and Medicaid health plans. Express Scripts managed prescription drug benefits for BCBS. CVS Caremark processed and adjudicated claims in Arizona. OptumRx and Express Scripts processed and adjudicated claims outside the state of Michigan.

17. CVS Caremark and other PBMs maintained agreements stating that pharmacies were allowed fourteen (14) days from the date of fill to submit claims for reimbursement to PBMs. These agreements also stated that pharmacies were allowed fourteen (14) days from the date of fill to reverse claims for medications that were not dispensed.

The Pharmacies

18. Colosseum, Inc. d/b/a ER Drugs (“ER Drugs”) was a pharmacy and Michigan corporation located at 27260 Eureka Road, Taylor, Michigan 48180.

19. Seaway Pharmacy (“Seaway”) was a pharmacy and Michigan corporation located at 8750 Telegraph Road, Suite 104, Taylor, Michigan 48180.

20. NRK Rx Inc. d/b/a Food Town Drugs (“Food Town”) was a pharmacy and Michigan corporation located at 211 North Telegraph Road, Monroe, Michigan 48162.

The Defendants

21. Defendant RAAD KOUZA, a resident of Wayne County, Michigan, was a licensed pharmacist in Michigan and the owner of Seaway, ER Drugs, and Food Town.

22. Defendant RAMIS KOUZA, a resident of Oakland County, Michigan, was a manager at ER Drugs.

Overview of the Scheme

23. The Defendants and others engaged in a scheme and artifice to defraud Medicare, Medicaid, and BCBS by submitting, and causing the submission of, false and fraudulent claims through interstate wires to Medicare, Medicaid, and BCBS drug plan sponsors through ER Drugs, Seaway, and Food Town. The false and fraudulent claims consisted of prescriptions that were submitted as claims to Medicare, Medicaid, and BCBS drug plan sponsors through ER Drugs, Seaway, and Food Town as if they were dispensed to beneficiaries, but in fact never were dispensed to those beneficiaries.

24. Over the course of the scheme, which began in or about 2010 and continued through approximately 2019, RAAD KOUZA and RAMIS KOUZA submitted and caused to be submitted approximately \$7.4 million in false and fraudulent claims. RAAD KOUZA and RAMIS KOUZA personally profited from their participation in the scheme by receiving fraud proceeds for the personal use and benefit of themselves and others directly or indirectly through interstate wires.

Object and Purpose of the Scheme

25. It was the object and purpose of the conspiracy for RAAD KOUZA, RAMIS KOUZA, and their co-conspirators to unlawfully enrich themselves and others by, among other things: (a) submitting, and causing the submission of, false and fraudulent claims to Medicare, Medicare drug plan sponsors, Medicaid,

Medicaid health plans, and BCBS through ER Drugs, Seaway, and Food Town; (b) concealing, and causing the concealment of, the submission of false and fraudulent claims to Medicare, Medicare drug plan sponsors, Medicaid, Medicaid health plans, and BCBS, and the receipt and transfer of the proceeds of the fraud; and (c) diverting fraud proceeds for the personal use and benefit of the defendants and others.

Description of the Scheme

26. RAAD KOUZA and others maintained NPIs for ER Drugs, Seaway, and Food Town in order to submit claims to Medicare, Medicare drug plan sponsors, Medicaid, Medicaid health plans, and BCBS.

27. RAAD KOUZA, RAMIS KOUZA, and others, on behalf of ER Drugs, Seaway, and Food Town, entered into pharmacy provider agreements with CVS Caremark, OptumRX, and Express Scripts, among other PBMs.

28. RAAD KOUZA, RAMIS KOUZA, and others submitted, and caused the submission of, false and fraudulent claims to Medicare, Medicare drug plan sponsors, Medicaid, Medicaid health plans, and BCBS, via interstate wires and on behalf of ER Drugs, Seaway, and Food Town for prescription drugs that were not dispensed, at times because the beneficiaries were deceased, and were often medically unnecessary.

29. RAAD KOUZA, RAMIS KOUZA, and others submitted, and caused the submission of, false and fraudulent claims to Medicare, Medicare drug plan

sponsors, Medicaid, Medicaid health plans, and BCBS, via interstate wires and on behalf of ER Drugs, Seaway, and Food Town. RAAD KOUZA, RAMIS KOUZA, and others also failed to reverse claims for medications that were not dispensed, which allowed them to maximize the amount of proceeds obtained from Medicare, Medicare drug plan sponsors, Medicaid, Medicaid health plans, and BCBS.

30. False and fraudulent claims that RAAD KOUZA, RAMIS KOUZA, and others electronically submitted, and caused to be electronically submitted, to Medicare, Medicare drug plan sponsors, Medicaid, and Medicaid health plans were processed and adjudicated electronically by CVS Caremark, OptumRx, and Express Scripts, among other PBMs, outside the state of Michigan.

31. False and fraudulent claims that RAAD KOUZA, RAMIS KOUZA, and others electronically submitted, and caused to be electronically submitted, to BCBS were processed and adjudicated electronically by Express Scripts outside the state of Michigan.

32. RAAD KOUZA, RAMIS KOUZA, and others caused an approximate loss of at least \$4,815,960.62 to Medicare and Medicaid because of the false and fraudulent claims that RAAD KOUZA, RAMIS KOUZA, and others submitted, and caused to be submitted, on behalf of ER Drugs and Seaway.

33. RAAD KOUZA, RAMIS KOUZA, and others caused an approximate loss of at least \$583,712.41 to BCBS because of the false and fraudulent claims that

RAAD KOUZA, RAMIS KOUZA, and others submitted, and caused to be submitted, on behalf of ER Drugs and Seaway.

34. RAAD KOUZA and others caused an approximate loss of at least \$1,788,297.34 to Medicare and Medicaid because of the false and fraudulent claims that RAAD KOUZA and others submitted, and caused to be submitted, on behalf of Food Town.

35. RAAD KOUZA and others caused an approximate loss of at least \$217,394.42 to BCBS because of the false and fraudulent claims that RAAD KOUZA and others submitted, and caused to be submitted, on behalf of Food Town.

36. From at least 2010 to 2019, RAAD KOUZA, RAMIS KOUZA, and others received illicit proceeds from the fraudulent scheme through shell companies owned and controlled by RAAD KOUZA and RAMIS KOUZA. RAAD KOUZA and RAMIS KOUZA received these funds in at least one bank account located in the Eastern District of Michigan.

37. RAAD KOUZA, RAMIS KOUZA, and others caused the transfer and disbursement of illicit proceeds derived from the fraudulent scheme to themselves and others.

COUNT 1

**Conspiracy to Commit Health Care Fraud and Wire Fraud
(18 U.S.C. § 1349)**

38. Paragraphs 1 through 37 of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

39. From at least in or around 2010, and continuing through in or around 2019, the exact dates being unknown to the Grand Jury, in Wayne County and Monroe County, in the Eastern District of Michigan, and elsewhere, RAAD KOUZA, RAMIS KOUZA, and others did willfully and knowingly combine, conspire, confederate, and agree to commit certain offenses against the United States, that is:

- (a) to violate Title 18, United States Code, Section 1347, that is, to knowingly and willfully execute a scheme and artifice to defraud health care benefit programs affecting commerce, as defined in Title 18, United States Code, Section 24(b), that is, Medicare, Medicare drug plan sponsors, Medicaid, Medicaid health plans, and BCBS, 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 connection with the delivery of and payment for health care benefits, items, and services; and

- (b) to violate Title 18, United States Code, Section 1343, that is, to knowingly and with the intent to defraud, devise and intend to devise a scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, knowing that the pretenses, representations, and promises were false and fraudulent when made, and did knowingly transmit and cause to be transmitted, by means of wire communication in interstate commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice.

Purpose of the Conspiracy

40. The object and purpose of the conspiracy is described in Paragraph 25 and is re-alleged and incorporated by reference as though fully set forth herein.

Manner and Means of the Conspiracy

41. In furtherance of the conspiracy and to accomplish its object and purpose, the manners and means that were used are described in Paragraphs 26 through 37 and are re-alleged and incorporated by reference as though set forth fully herein.

All in violation of Title 18, United States Code, Section 1349.

COUNTS 2-7
Health Care Fraud
(18 U.S.C. §§ 1347 and 2)

42. Paragraphs 1 through 37 of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

43. Beginning in or around 2010 and continuing through at least in or around 2019, in Wayne and Monroe Counties, in the Eastern District of Michigan, and elsewhere, RAAD KOUZA, as specified below, did knowingly and willfully execute, and attempt to execute, a scheme and artifice to defraud health care benefit programs affecting commerce, as defined in Title 18, United States Code, Section 24(b), that is, Medicare, Medicaid, and BCBS drug plan sponsors, 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 connection with the delivery of and payment for health care benefits, items, and services.

Purpose of the Scheme and Artifice

44. Paragraph 25 of this Indictment is re-alleged and incorporated by reference as though fully set forth herein as a description of the purpose of the scheme and artifice.

The Scheme and Artifice

45. Paragraphs 26 through 37 of this Indictment are re-alleged and incorporated by reference as though fully set forth herein as a description of the scheme and artifice.

Acts in Execution of the Scheme and Artifice

46. On or about the dates set forth below, in Wayne County and Monroe County, in the Eastern District of Michigan, RAAD KOUZA and others did knowingly and willfully execute, and attempt to execute, a scheme and artifice to defraud health care benefit programs affecting commerce, as defined in Title 18, United States Code, Section 24(b), that is, Medicare, Medicaid, and BCBS drug plan sponsors, 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 connection with the delivery of and payment for health care benefits, items, and services, in that RAAD KOUZA and others submitted and caused the submission of false and fraudulent claims for payment and falsely represented that Seaway, Food Town, and ER Drugs provided prescription medications to Medicare and Medicaid beneficiaries, as described in Paragraphs 26 to 37 of this Indictment, with each execution set forth below forming a separate count:

Count	Defendant(s)	Pharmacy	Benef.	Approx. Date of Alleged Fill	Description of Prescription Medication	Approx. Paid Amount
2	D-1 RAAD KOUZA	ER Drugs	D.D.	10/1/2015	Advair	\$1,197.13
3	D-1 RAAD KOUZA	Seaway	M.H.	3/17/2016	Zetia	\$757.72
4	D-1 RAAD KOUZA	Food Town	M.W.	5/16/2016	Atrovent	\$285.68
5	D-1 RAAD KOUZA	Food Town	S.H.	1/24/2017	Ventolin	\$53.44
6	D-1 RAAD KOUZA	Seaway	T.T.	9/12/2017	Breo	\$321.77
7	D-1 RAAD KOUZA	ER Drugs	R.S.	12/14/2017	Advair	\$294.19

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

CRIMINAL FORFEITURE

47. The above allegations contained in this Indictment are incorporated by reference as if set forth fully herein for the purpose of alleging criminal forfeiture to the United States of America of certain property in which RAAD KOUZA and RAMIS KOUZA have an interest, pursuant to 18 U.S.C. §§ 981(a)(1)(C) and 982(a)(7), and 28 U.S.C. § 2461.

48. Upon conviction of violations alleged in this Indictment, RAAD KOUZA and RAMIS KOUZA shall forfeit to the United States: (a) any property constituting, or derived from, any proceeds obtained, directly or indirectly, as a result of such violations, pursuant to 18 U.S.C. § 981(a)(1)(C), together with Title 28 U.S.C. § 2461, and (b) any property, real or personal, that constitutes or is derived,

directly or indirectly, from gross proceeds traceable to the commission of the offense, pursuant to 18 U.S.C. § 982(a)(7).

49. *Money Judgment*: The government shall also seek a forfeiture money judgment from each defendant for a sum of money representing the value of the property subject to forfeiture.

50. *Substitute Assets*: If the property described above as being subject to forfeiture, as a result of any act or omission of either of the defendants:

- 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 that cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to 21 U.S.C. § 853(p) as incorporated by 18 U.S.C. § 982(b) and/or 28 U.S.C. § 2461, to seek to forfeit any other property of defendant, up to the value of the forfeitable property described above.

THIS IS A TRUE BILL.

s/ Grand Jury Foreperson
Grand Jury Foreperson

MATTHEW SCHNEIDER
UNITED STATES ATTORNEY

DANIEL KHAN
Acting Chief
Criminal Division, Fraud Section
U.S. Department of Justice

ALLAN J. MEDINA
Chief, Health Care Fraud Unit
Criminal Division, Fraud Section
U.S. Department of Justice

REGINA MCCULLOUGH
Chief, Health Care Fraud Unit
United States Attorney's Office
Eastern District of Michigan

MALISA DUBAL
Assistant Chief
Criminal Division, Fraud Section
U.S. Department of Justice

s/Claire Sobczak
CLAIRE T. SOBCZAK
PATRICK J. SUTER
Trial Attorneys
Criminal Division, Fraud Section
U.S. Department of Justice

Dated: September 16, 2020

Case:2:20-cr-20430
 Judge: Cox, Sean F.
 MJ: Stafford, Elizabeth A.
 Filed: 09-16-2020 At 01:52 PM
 INDI USA V. KOUZA ET AL (NA)

United States District Court Eastern District of Michigan	Criminal Case Cover
--	----------------------------

NOTE: It is the responsibility of the Assistant U.S. Attorney signing this form to complete it accurately in all respects.

Companion Case Information	Companion Case Number: 20-cr-20292, 20-cr-20264
This may be a companion case based upon LCrR 57.10 (b)(4) ¹ :	Judge Assigned: Hon. Gershwin A. Drain
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	AUSA's Initials: <i>CT</i>

Case Title: USA v. Raad Kouza, et al.

County where offense occurred : Wayne County and Monroe County

Check One: Felony Misdemeanor Petty

Indictment/ Information --- no prior complaint.
 Indictment/ Information --- based upon prior complaint [Case number: _____]
 Indictment/ Information --- based upon LCrR 57.10 (d) [Complete Superseding section below].

Superseding Case Information

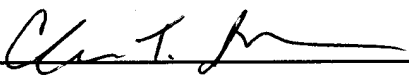
Superseding to Case No: _____ Judge: _____

- Corrects errors; no additional charges or defendants.
- Involves, for plea purposes, different charges or adds counts.
- Embraces same subject matter but adds the additional defendants or charges below:

<u>Defendant name</u>	<u>Charges</u>	<u>Prior Complaint (if applicable)</u>
-----------------------	----------------	--

Please take notice that the below listed Assistant United States Attorney is the attorney of record for the above captioned case.

September 16, 2020
Date


 Claire T. Sobczak, Trial Attorney
 211 West Fort Street, Detroit, MI 48226
 Phone: (202) 591-5418
 Fax: (313) 226-0816
 E-Mail address: Claire.Sobczak@usdoj.gov
 Attorney Bar #: IL 6310208

¹ Companion cases are matters in which it appears that (1) substantially similar evidence will be offered at trial, or (2) the same or related parties are present, and the cases arise out of the same transaction or occurrence. Cases may be companion cases even though one of them may have already been terminated.