

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division

)	
)	
UNITED STATES OF AMERICA,)	
)	Criminal No. 3:20CR <u>072</u>
v.)	
)	
CARLOS GARCIA-SAMUELS)	18 U.S.C. § 1349
)	Conspiracy to Commit Health Care Fraud
<i>Defendant.</i>)	(Count 1)
)	

July 2020 Term — At Richmond, Virginia.

INDICTMENT

THE GRAND JURY CHARGES THAT:

INTRODUCTION

1. Medicaid is a federally-funded program that provides health care services to the poor and indigent. Intensive In-home Therapy (“IIH”) services are among the many mental health services offered by Medicaid in Virginia. IIH services are designed to be targeted and time-limited interventions for children that are at-risk of being removed from their home (or transitioning home after removal) due to a significant behavioral or mental health issue. Medicaid uses contracted private providers to meet the mental health needs of Virginia’s at-risk adolescent population. Providers must be licensed by Virginia and employ qualified counselors and staff, known as Qualified Mental Health Professionals (“QMHP”) and Licensed Mental Health Professionals.

2. From at least January 2014 until at least May 2017, Leo Alfred Jarman, III (“Jarman”) was the Chief Financial Officer at La Solucion Familiar para Adultos Y Ninos, LLC (“LSF”), an IIH company operating from Chesterfield, Virginia, within the Eastern District of

Virginia. Jarman handled the business side of LSF, including hiring staff, doing schedules, payroll and submitted billing to Medicaid.

3. From at least June 2013 until at least January 2018, CARLOS GARCIA-SAMUELS (“SAMUELS”) owned LSF and served as its Chief Executive Officer.

4. Starting in or about January 2014, Conspirator 1 was employed as a QMHP at LSF. In or around January 2015, Conspirator 1 was promoted to the position of Program Director at LSF. Conspirator 1 held this position through at least May 2017.

MEDICAID’S INTENSIVE IN-HOME THERAPY SERVICE PROGRAM

5. The Medicaid program was established by Title 19, Social Security Act of 1965, to provide medical assistance to indigent persons. The United States Department of Health and Human Services and the Commonwealth of Virginia, Department of Medical Assistance Services, administer and supervise the administration of the Medicaid program in Virginia, which is called the Virginia Medical Assistance Program (“Medicaid”). The United States contributes approximately 50% of the cost to the Medicaid program.

6. Medicaid is a “health care benefit program” as defined in 18 U.S.C. § 24(b).

7. IIH services, as the name denotes, are designed to be intensive and, therefore, time limited. The service is designed to correct, modify, or heal a significant mental health issue before that issue results in a child being removed from the home.

8. Medicaid requires its IIH providers to supply qualified counselors to go into an at-risk child’s home and provide a counseling service that specifically addresses that child’s mental health issues. Medicaid sets forth specific qualifications that each counselor must meet to be considered a QMHP.

9. IIH providers that contract with Medicaid receive a manual (“the Manual”) that sets forth the necessary qualifications for counselors, the eligibility criteria for at-risk children, and the rules and regulations related to billing for IIH services. Providers are issued the Manual along with updates outlining participation requirements and guidelines. In addition, the Manual and updates are available online at Medicaid’s website.

10. Services provided by an assigned QMHP are charted in progress notes that each QMHP is responsible for completing. Progress notes must be completed for all service hours for which IIH providers request reimbursement from Medicaid. At all times relevant to the scheme, IIH services were reimbursed at a rate of \$60 per hour. Progress notes must: include all staff actions that address individual service plan (“ISP”) goals, describe recipient behavior, describe all case management services provided, and be completed as soon as possible after services were provided.

11. Medicaid will reimburse providers for up to 10 hours of IIH services per recipient per week.

12. IIH providers must be licensed by the Department of Behavioral Health and Developmental Services. IIH providers are required to sign a participation agreement, and thereby agree to retain all relevant records that Medicaid requires. Additionally, IIH providers sign a provider agreement with Medicaid and Magellan of Virginia (“Magellan”), agreeing to adhere to the policies and regulations explained in the Community Mental Health Rehabilitation Services provider manual and for ensuring that all employees adhere to these policies and regulations. Magellan serves as the Behavioral Health Services Administrator for Medicaid. Medicaid retains authority for and oversight of Magellan entity or entities. Magellan is authorized but not limited to process claims, reimburse providers and maintain data.

13. To receive reimbursement for covered services as set forth in the provider manual, a provider primarily submits electronic claims directly to Magellan's website for reimbursement.

**MEDICAID'S EARLY PERIODIC SCREENING DIAGNOSIS AND TREATMENT
BEHAVIORAL THERAPY PROGRAM**

14. Medicaid also administers the Early Periodic Screening Diagnosis and Treatment ("EPSDT") Behavioral Therapy Program, which provides a variety of behavioral therapy services for children. EPSDT services are designed to enhance communication skills and decrease maladaptive patterns of behavior in the home which, if left untreated, could lead to more complex problems and the need for a greater level of care. At all times relevant to the scheme, EPSDT services were reimbursed at a rate of \$15 per quarter hour.

15. Under Medicaid regulations, children who receive EPSDT services are not eligible for IIH services. EPSDT eligible cases usually lack the reciprocal communicative abilities to benefit from verbal based therapies like IIH, therefore eligibility for EPSDT services would void the individuals' eligibility for IIH services since the two programs are mutually exclusive.

**COUNT 1
(Conspiracy to Commit Health Care Fraud)**

16. Paragraphs 1 through 15 of this Indictment are realleged and reincorporated by reference as though fully set forth herein.

17. From at least January 2014 until at least May 2017, the exact dates being unknown, on the Eastern District of Virginia and elsewhere, Defendant CARLOS GARCIA-SAMUELS and others both known and unknown to the Grand Jury, knowingly and unlawfully

combined, conspired, confederated and agreed together and with each other to commit one or more of the following offenses against the United States, that is:

- a) To knowingly devise and intend to devise a scheme and artifice to defraud the Virginia Medical Assistance Program, a health care benefit program as defined in Title 18, United States Code, Section 24(b), in connection with the delivery and payment for health care benefits, items, and services, in violation of 18 U.S.C. § 1347(a)(1) and;
- b) to knowingly devise and intend to devise a scheme and artifice to defraud and to obtain by means of false and fraudulent pretenses, representations, and promises, any of the money and property owned by, and under the custody and control of the Virginia Medical Assistance Program, and health care benefit program as defined in Title 18, United States Code, Section 24(b), in connection with the delivery and payment for health care benefits, items, and services, in violation of 18 U.S.C. § 1347(a)(2).

PURPOSE OF THE CONSPIRACY

18. It was the purpose of the scheme and artifice to defraud for the defendant to unlawfully enrich himself through the submission of false and fraudulent Medicaid claims for IIH services that were not actually provided or disallowed under the Medicaid regulations.

THE SCHEME AND ARTIFICE

Fraudulent Progress Notes

19. Jarman was responsible for submitting claims for reimbursements to Medicaid.

20. In or about January 2014, Jarman interviewed Conspirator 1 and hired him on the spot as a QMHP.

21. Almost immediately, Jarman instructed Conspirator 1 to fabricate progress notes. Jarman required counselors to document 10 hours of progress notes per week – the maximum that Medicaid would reimburse – regardless of whether the sessions occurred. Samuels also instructed other counselors the same.

22. SAMUELS also instructed counselors that “bundling” sessions was permissible, and Jarman did not refuse to implement the plan. “Bundling” is when a counselor provides IIH services to two or more children at the same time, but writes progress notes and submits reimbursement as if the services happened separately to maximize the hours billed.

23. Throughout the scheme, Jarman and SAMUELS called, emailed, or texted Conspirator 1 when they needed him to fabricate progress notes for sessions that Conspirator 1 had not actually conducted.

24. Throughout the scheme, Jarman routinely reviewed LSF’s software program and identified “unused hours.” That is, if LSF only had fewer than 10 hours of progress notes for a recipient for the week, the remaining hours were “unused.” Jarman instructed Conspirator 1 to write progress notes for the remaining hours, even though no IIH services had been provided.

25. Jarman and SAMUELS paid Conspirator 1 a fee per fraudulent progress note reflecting one hour of IIH services, in addition to Conspirator 1’s typical wages.

26. Conspirator 1 did, in fact, provide some IIH services for Medicaid recipients. While Conspirator 1 was a QMHP, he actually provided 30-40% of the services in his progress notes. That is, as Jarman and SAMUELS well knew, 60-70% of his progress notes were fraudulent. While Conspirator 1 was a Program Director, he actually provided 25% of the services in his progress notes. That is, as Jarman and SAMUELS well knew, 75% of his progress notes were fraudulent.

27. In total, as Jarman and SAMUELS well knew, during the scheme, LSF submitted at least \$212,751 in claims for reimbursement from Medicaid for IIH services supported by Conspirator 1's progress notes that did not, in fact, occur.

28. In addition, as Jarman well knew, SAMUELS submitted progress notes during the scheme that amounted to \$363,360 in IIH claims for reimbursement from Medicaid for IIH services allegedly rendered.

29. SAMUELS did not actually provide these IIH services, and Jarman learned this at some point in time during the scheme.

30. As CEO, SAMUELS provided outreach and marketing services on behalf of LSF. During these sessions, he did not, in fact, provide the requisite intensive therapeutic treatment to recipients that constitutes IIH. SAMUELS also traveled outside of the United States for dates during the scheme in which he claimed to be providing IIH services.

Medical Necessity IIH Fraud

31. As Jarman and SAMUELS knew, LSF subsequently submitted claims to Medicaid for reimbursement for IIH services for clients who were previously in the EPSDT program, even though they knew it is not allowed under the Medicaid regulations.

32. During the scheme, LSF submitted \$63,840.00 in IIH claims for reimbursement from Medicaid for clients who were previously in the EPSDT program.

Unqualified Counselors

33. As Jarman and SAMUELS knew, LSF employed QMHPs who did not meet the requisite Medicaid criteria to provide IIH services.

34. During the scheme, LSF submitted \$285,780 in IIH claims for reimbursement from Medicaid for unqualified QMHPs.

* * *

35. In total, SAMUELS and his co-conspirators, through LSF, submitted at least \$925,461 in IIH claims for reimbursement from Medicaid to which they were not entitled.

(All in violation of 18 U.S.C. § 1349.)

Forfeiture Allegation

Pursuant to Rule 32.2 of the Federal Rules of Criminal Procedure, the defendant is advised that upon conviction for the offense charged in Count One of the Indictment, he shall forfeit to the United States any property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the offense.


The property subject to forfeiture includes but is not limited to:

A sum of money of at least \$925,461 which represents the total proceeds of the offense charged, which shall be reduced to a money judgment against the defendant in favor of the United States.

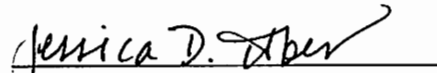
If the property subject to forfeiture cannot be located, the United States will seek an order forfeiting substitute assets.

(In accordance with 18 U.S.C. § 982(a)(7) and 21 U.S.C. § 853(p)).

A TRUE BILL:


FOREPERSON

G. ZACHARY TERWILLIGER
UNITED STATES ATTORNEY


Jessica D. Aber
Assistant United States Attorney

David W. Tooker
Special Assistant United States Attorney

**Pursuant to the E-Government Act,
the original of this page has been
filed UNDER SEAL in the Clerk's Office.**