

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

FILED

APR 30 2020

UNITED STATES OF AMERICA

v.

MATTHEW HARRINGTON (01)

MIRANDA "MANDY"

HARRINGTON (02)

WILLIAM "BILL" ROWLAND (03)

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NO: 4:20CR 108
JUDGE MAZZANT

Clerk, U.S. District Court
Eastern District of Texas

FILED UNDER SEAL

Violation: 18 U.S.C. § 371
(Conspiracy to Pay and Receive
Health Care Kickbacks)

INFORMATION

The United States Attorney charges:

General Allegations

At all times material to this Information:

The Medicare Program (Generally)

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 ("HHS"), 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 was a "health care benefit program," as defined by Title 18, United States Code, Section 24(b) and a "Federal health care program," as defined by Title 42, United States Code, Section 1320a-7b(f).

3. Medicare programs covering different types of benefits were separated into different program “parts.” Part B of the Medicare Program was a medical insurance program that covered, among other things, medical services provided by physicians, medical clinics, laboratories and other qualified health care providers, such as office visits, minor surgical procedures, and laboratory testing, that were medically necessary and ordered by licensed medical doctors or other qualified health care providers.

4. Physicians, clinics, laboratories, and other health care providers that provided services to Medicare beneficiaries were able to apply for and obtain a “provider number.” A health care provider that received a Medicare provider number was able to file claims with Medicare to obtain reimbursement for services provided to beneficiaries.

5. A Medicare claim was required to contain certain important information, including: (a) the Medicare beneficiary’s name and Health Insurance Claim Number (“HICN”); (b) a description of the health care benefit, item, or service that was provided or supplied to the beneficiary; (c) the billing codes for the benefit, item, or service; (d) the date upon which the benefit, item, or service was provided or supplied to the beneficiary; and (e) the name of the referring physician or other health care provider, as well as a unique identifying number, known either as the Unique Physician Identification Number (“UPIN”) or National Provider Identifier (“NPI”). The claim form could be submitted in hard copy or electronically.

6. CMS acted through fiscal agents called Medicare administrative contractors (“MACs”), which were statutory agents for CMS for Medicare Part B. The MACs were private entities that reviewed claims and made payments to providers for services rendered to Medicare beneficiaries. The MACs were responsible for processing Medicare claims arising within their assigned geographical area, including determining whether the claim was for a covered service.

7. To receive Medicare reimbursement, providers applied to the MAC and executed a written provider agreement. The Medicare provider enrollment application, CMS Form 855A, was required to be signed by an authorized representative of the provider. CMS Form 855A contained certifications that the provider agreed to abide by the Medicare laws and regulations, including the anti-kickback statute, and that the provider “will not knowingly present or cause to be presented a false or fraudulent claim for payment by Medicare and will not submit claims with deliberate ignorance or reckless disregard of their truth or falsity.”

Cancer Genomic Tests

8. Cancer genomic (“CGx”) testing used DNA sequencing to detect mutations in genes that could indicate a higher risk of developing certain types of cancers in the future. CGx testing was not a method of diagnosing whether an individual presently had cancer.

9. Medicare did not cover diagnostic testing that was “not reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member.” Title 42, United States Code, Section 1395y(a)(1)(A). Except for certain statutory exceptions, Medicare did not cover “examinations performed for a purpose other than treatment or diagnosis of a specific illness, symptoms, complaint or injury.” Title 42, Code of Federal Regulations, Section 411.15(a)(1). Among the statutory exceptions Medicare covered were cancer screening tests such as “screening mammography, colorectal cancer screening tests, screening pelvic exams, [and] prostate cancer screening tests.” *Id.*

10. If diagnostic testing were necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member, Medicare imposed additional requirements before covering the testing. Title 42, Code of Federal Regulations, Section 410.32(a) provided, “All diagnostic x-ray tests, diagnostic laboratory tests, and other diagnostic tests must be ordered by the physician who is treating the beneficiary, that is, the physician who

furnishes a consultation or treats a beneficiary for a specific medical problem and who uses the results in the management of the beneficiary's specific medical problem.” “Tests not ordered by the physician who is treating the beneficiary are not reasonable and necessary.” *Id.*

11. Because CGx testing did not diagnose cancer, Medicare only covered such tests in limited circumstances, such as when a beneficiary had cancer and the beneficiary’s treating physician deemed such testing necessary for the beneficiary’s treatment of that cancer. Medicare did not cover CGx testing for beneficiaries who did not have cancer or lacked symptoms of cancer.

The Defendants and Related Individuals and Entities

12. MBM Solutions LLC (“MBM”) is a Florida-based limited liability company owned and operated by defendants **Matthew Harrington**, **Miranda Harrington**, and **William Rowland**. MBM purportedly provided marketing services and recruited Medicare beneficiaries for CGx testing.

13. Company A is a Florida-based limited liability company owned and operated by Person A and Person B. Company A purportedly provided marketing services and recruited Medicare beneficiaries for CGx testing.

14. **Matthew Harrington**, a resident of Fort Walton Beach, Florida, was a part-owner and operator of MBM.

15. **Miranda Harrington**, a resident of Fort Walton Beach, Florida, was a part-owner and operator of MBM.

16. **William Rowland**, a resident of Destin, Florida, was a part-owner and operator of MBM.

17. Cooperating Witness 1 (CW1), a resident of Plano, Texas, was a marketer for MBM.

COUNT ONE

**Conspiracy to Pay and Receive Health Care Kickbacks
(Violation of 18 U.S.C. § 371 (42 U.S.C. §§ 1320a-7b(b)(1) and (2))**

18. All previous paragraphs of this information are realleged and incorporated by reference as though fully set forth herein.

19. From in or around November 2018 through in or around August 2019, the exact dates being unknown, in the Sherman Division of the Eastern District of Texas and elsewhere, **Matthew Harrington, Miranda Harrington, and William Rowland** did knowingly and willfully combine, conspire, confederate and agree with each other, Person A, Person B, and others known and unknown, to commit certain offenses against the United States, that is:

a. to violate Title 42, United States Code, Section 1320a-7b(b)(1), by knowingly and willfully soliciting and receiving remuneration, including 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

b. to violate Title 42, United States Code, Section 1320a-7b(b)(2), by knowingly and willfully offering and paying remuneration, including 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.

Object/Purpose of the Conspiracy

20. It was an object/purpose of the conspiracy for **Matthew Harrington, Miranda Harrington, William Rowland**, and their co-conspirators to unlawfully enrich themselves and others known and unknown by offering, paying, soliciting and receiving kickbacks and bribes in exchange for the referral of Medicare beneficiary information that was used to submit and cause the submission of claims to Medicare.

Manner and Means of the Conspiracy

21. The manner and means by which **Matthew Harrington, Miranda Harrington, William Rowland**, and their co-conspirators sought to accomplish the purpose and objects of the conspiracy included, among other things:

22. Operating through their company, MBM, defendants **Matthew Harrington, Miranda Harrington**, and **William Rowland** were marketers and patient recruiters for Company A, purporting to market CGx tests to Medicare beneficiaries. MBM recruited Medicare beneficiaries and marketed CGx tests underneath Company A's umbrella. MBM was one of many marketing sub-groups that operated in a hierarchal payment structure, with Company A at the top.

23. Through their company, MBM, **Matthew Harrington, Miranda Harrington**, and **William Rowland** hired marketers and patient recruiters underneath them to target Medicare beneficiaries at health fairs, senior centers, and other locations, and to induce those Medicare beneficiaries to accept CGx tests regardless of medical necessity.

24. One of these marketers was CW1. CW1 attended a health fair in the Sherman Division of the Eastern District of Texas to induce Medicare beneficiaries to accept CGx tests

regardless of medical necessity. These beneficiaries also resided in the Eastern District of Texas, among other places.

25. MBM representatives, including CW1, collected buccal swabs and personal identifying information from Medicare beneficiaries, which were used to generate completed orders for CGx tests and other Medicare-required documents (collectively referred to as “doctors’ orders”) that were, in turn, used to support claims to Medicare for those tests.

26. The doctors’ orders for CGx tests were signed by doctors who had not seen, spoken to, or otherwise treated the Medicare beneficiaries, and in the absence of any physician-patient relationship.

27. The signed doctors’ orders and buccal swabs collected by MBM were provided to laboratories that billed Medicare for CGx tests that were not eligible for reimbursement.

28. Defendants **Matthew Harrington, Miranda Harrington, and William Rowland**, through MBM, received kickbacks and bribes from Person A and Person B, through Company A, in exchange for the referral of Medicare beneficiaries, CGx tests and the accompanying doctor’s order for the CGx tests. In turn, defendants **Matthew Harrington, Miranda Harrington, and William Rowland**, through MBM, paid kickbacks to the lower-level MBM marketers and patient recruiters underneath them in exchange for the referral of Medicare beneficiaries for CGx tests.

29. MBM received the kickbacks and bribes through electronic deposit into MBM’s bank account.

30. To conceal these illegal kickbacks, defendants **Matthew Harrington, Miranda Harrington, William Rowland**, and lower-level MBM marketers created sham invoices

documenting a fabricated number of hours worked instead of what payment was really for: the number of Medicare beneficiaries referred for CGx tests.

31. Defendants **Matthew Harrington, Miranda Harrington, and William Rowland**, through MBM, recruited Medicare beneficiaries for CGx tests who resided in the Sherman Division of the Eastern District of Texas, among other places.

32. From in or around November 2018 through in or around August 2019, defendants **Matthew Harrington, Miranda Harrington, and William Rowland** received illegal kickbacks and bribes in the approximate amount of \$1,057,830 from Company A in exchange for the referral of Medicare beneficiaries for CGx tests.

33. From in or around November 2018 through in or around August 2019, clinical laboratories associated with Company A submitted and caused the submission of claims to federal health care benefit programs for CGx tests, which were the product of illegal kickbacks paid to defendants **Matthew Harrington, Miranda Harrington, William Rowland**, and others.

Overt Acts

34. In furtherance of the conspiracy, and to accomplish its object and purpose, the conspirators committed and caused to be committed, in the Sherman Division of the Northern District of Texas, and elsewhere, the following overt acts:

a. On or about December 18, 2018, **Miranda Harrington** sent a signed agreement, titled “MBM Solutions & Marketing [] Services Agreement – Medical Screening,” to a potential lower-level marketer, along with a document titled “[Company A] pay structure,” both of which outlined the hierarchal payment structure used by Company A and MBM to pay and receive illegal kickbacks in exchange for the referral of Medicare beneficiaries for CGx tests.

b. On or about March 8, 2019, Company A paid MBM \$26,050.00 in exchange for the referral of Medicare beneficiaries for CGx tests.

c. On or about April 26, 2019, Company A paid MBM \$38,900.00 in exchange for the referral of Medicare beneficiaries for CGx tests.

d. On or about May 10, 2019, Company A paid MBM \$45,900.00 in exchange for the referral of Medicare beneficiaries for CGx tests.

e. On or about May 14, 2019, Company A paid MBM \$31,275.00 in exchange for the referral of Medicare beneficiaries for CGx tests.

f. On or about May 16, 2019, during a conference call, **Matthew Harrington** explained to CW1 and others that payment to MBM marketers was based on the number of beneficiaries for whom a CGx test was approved.

g. On or about May 17, 2019, during another conference call, **William Rowland** congratulated MBM representatives for increasing the number of recruited beneficiaries and encouraged MBM representatives to continue to increase the number of recruited beneficiaries.

(Continued on the next page.)

Respectfully submitted,

JOSEPH D. BROWN
UNITED STATES ATTORNEY

Dated: _____

4/22/2020



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NOTICE OF PENALTY

Count One

Violation: 18 U.S.C. § 371
Conspiracy to Pay and Receive Health Care Kickbacks

Penalty: Imprisonment for not more than five years; a fine not to exceed
\$250,000; a term of supervised release of not more than 3 years.

Special Assessment: \$100.00

(Continued on the next page.)

Respectfully submitted,

JOSEPH D. BROWN
UNITED STATES ATTORNEY

Dated: April 30, 2020

/s/ Brynn A. Schiess

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