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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

UNITED STATES OF AMERICA

v.

**DR. PAULO BETTEGA,
COLIN WILSON,
LINDELL KING,
TIMOTHY HAYNES, and
YNEDRA DIGGS,**

Defendants.

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Criminal No. 4:18-CR-345

UNDER SEAL

**United States Courts
Southern District of Texas
FILED**

FEB 28 2019

David J. Bradley, Clerk of Court

SUPERSEDING INDICTMENT

The Grand Jury charges:

General Allegations

At all times material to this Superseding Indictment, unless otherwise specified:

The Medicare Program

1. The Medicare Program (“Medicare”) was a federal healthcare program providing benefits to individuals who were the age of 65 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. Medicare was a “healthcare benefit program” as defined by Title 18, United States Code, Section 24(b).

2. Medicare was subdivided into multiple Parts. Medicare Part B covered partial hospitalization programs (“PHPs”) connected with the treatment of mental illness. The treatment program of PHPs closely resembled that of a highly structured, short-term hospital inpatient program, but it was a distinct and organized intensive treatment program that offered less than 24-hour daily care.

3. Patients eligible for Medicare coverage of a PHP comprised two groups: (1) those patients who were discharged from an inpatient hospital treatment program, and the PHP is in lieu of continued inpatient treatment; and (2) those patients who, in the absence of partial hospitalization, would require inpatient hospitalization.

4. Medicare guidelines required that patients admitted to a PHP require PHP services at levels of intensity and frequency comparable to patients in an inpatient setting for similar psychiatric illnesses.

5. Under the PHP benefit, Medicare covered the following services: (1) individual and group psychotherapy with physicians, psychologists or other mental health professionals; (2) occupational therapy requiring the skills of a qualified occupational therapist; (3) services of social workers, trained psychiatric nurses and other staff trained to work with psychiatric patients; (4) drugs and biologicals furnished for therapeutic purposes that could not be self-administered; (5) individualized activity therapies that were not primarily recreational or diversionary; (6) family counseling services for which the primary purpose was the treatment of the patient's condition; (7) patient education programs where the educational activities were closely related to the care and treatment of the patient; and (8) diagnostic services.

6. Medicare guidelines specifically excluded meals and transportation from coverage under the PHP benefit.

7. Medicare did not cover programs providing primarily social, recreational or diversionary activities. Medicare excluded from coverage programs attempting to maintain psychiatric wellness and treatment of chronic conditions without acute exacerbation. Psychosocial programs that provided only a structured environment, socialization or vocational rehabilitation were not covered by Medicare.

8. Medicare required that the PHP was provided at a facility that was based in or affiliated with a hospital or provided at a community mental health center (“CMHC”).

9. Individuals who qualified for Medicare benefits were commonly referred to as Medicare “beneficiaries.” Each beneficiary was given a Medicare identification number.

10. Hospitals, physicians and other healthcare 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 healthcare provider with a Medicare provider number could file claims with Medicare to obtain reimbursement for services rendered to beneficiaries.

11. Medicare paid hospitals and other healthcare providers for services rendered to beneficiaries. To receive payment from Medicare, providers submitted or caused the submission of claims to Medicare, either directly or through a billing company.

12. CMS contracted with Medicare Administrative Contractors (“MACs”) to process claims for payment. The MAC that processed and paid Medicare Part B claims for PHP services in Texas was TrailBlazer Health Enterprises, LLC (“TrailBlazer”) and Novitas Solutions, Inc. (“Novitas”).

13. To bill Medicare for services rendered, a provider submitted a claim form (Form 1500) to TrailBlazer or Novitas. When a Form 1500 was submitted, usually in electronic form, the provider certified that: (1) the contents of the form were true, correct and complete; (2) the form was prepared in compliance with the laws and regulations governing Medicare; and (3) the contents of the claim were medically necessary.

14. A Medicare claim for PHP reimbursement was required to set forth the following, among other things: the beneficiary's name and unique Medicare identification number; the item or service provided to the beneficiary; the date the item or service was provided; the cost of the item or service; and the name and unique physician identification number of the physician who prescribed or ordered the item or service.

Defendants, Co-Conspirators, and Entities

15. Behavioral Medicine of Houston PA ("BMH") was a CMHC located at various addresses, most recently at 7830 Westglen Drive, Houston, Texas 77063, within the Southern District of Texas. BMH billed Medicare and Medicaid for PHP and psychiatric services purportedly provided at BMH.

16. **DR. PAULO BETTEGA**, a resident of Fort Bend County, Texas, was the owner, director, and president of BMH. **DR. PAULO BETTEGA** was a medical doctor specializing in psychiatry. **DR. PAULO BETTEGA** was an enrolled Medicare provider and the Medicare-authorized/delegated official for BMH from at least in or around September of 2008 to in or around January of 2018.

17. Ray Michael Garcia recruited Medicare beneficiaries from group homes and other sources on behalf of BMH and assisted **DR. PAULO BETTEGA** in managing the day-to-day operations of BMH.

18. **COLIN WILSON**, a resident of Harris County, Texas, operated and controlled group homes in the Houston, Texas area, and periodically sent his residents to BMH and other PHPs.

19. **LINDELL KING**, a resident of Fort Bend County, Texas, was a purported "driver" for BMH. **LINDELL KING** operated and controlled group homes in the Houston, Texas area, and periodically sent his residents to BMH and other PHPs.

20. **YNEDRA DIGGS**, a resident of Fort Bend County, Texas, operated and controlled group homes in the Houston, Texas area along with **LINDELL KING**, and periodically sent her residents to BMH and other PHPs.

21. **TIMOTHY HAYNES**, a resident of Fort Bend County, Texas, was a purported “driver” for BMH. **TIMOTHY HAYNES** operated and controlled group homes in Houston, Texas area along with Geraldine Caroline, and periodically sent his residents to BMH and other PHPs.

COUNT 1

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

22. Paragraphs 1 through 21 of this Superseding Indictment are realleged and incorporated by reference as though fully set forth herein.

23. From in or around March of 2009 through in or around January of 2018, the exact dates being unknown to the Grand Jury, in the Houston Division of the Southern District of Texas, and elsewhere, the defendants,

**DR. PAULO BETTEGA;
COLIN WILSON;
LINDELL KING;
TIMOTHY HAYNES and
YNEDRA DIGGS;**

did knowingly and willfully combine, conspire, confederate and agree with each other, and others known and unknown to the grand jury, to commit certain offenses against the United States, that is,

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 to commit certain offenses against the United States, that is:

b. 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

c. 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 and in part by a Federal health care program, that is, Medicare.

Purpose of the Conspiracy

24. It was a purpose of the conspiracy for defendants and their co-conspirators to unlawfully enrich themselves by paying and receiving kickbacks and bribes in exchange for the referral of Medicare beneficiaries for whom BMH and **DR. PAULO BETTEGA** submitted claims to Medicare.

Manner and Means of the Conspiracy

25. The manner and means by which defendants **DR. PAULO BETTEGA, COLIN WILSON, LINDELL KING, TIMOTHY HAYNES, YNEDRA DIGGS**, their co-conspirators,

and others sought to accomplish the purpose and object of the conspiracy included, among other things, the following:

- a. Defendant **DR. PAULO BETTEGA** owned and managed BMH.
- b. Defendant **DR. PAULO BETTEGA** maintained a Medicare Provider Number for BMH, which the defendant **DR. PAULO BETTEGA** and his co-conspirators used to submit claims to Medicare for PHP and psychiatric services.
- c. Defendants **COLIN WILSON, LINDELL KING, TIMOTHY HAYNES, YNEDRA DIGGS**, and Geraldine Caroline owned or operated group homes in the Houston, Texas and surrounding areas, in which Medicare beneficiaries lived. Residents of these group homes were often transported to BMH during the day, where they purportedly received partial hospital services.
- d. To obtain Medicare patients, **DR. PAULO BETTEGA** oversaw the payment of healthcare kickbacks to patient recruiters, group home owners—including **COLIN WILSON, LINDELL KING, TIMOTHY HAYNES**, and **YNEDRA DIGGS**—and others in exchange for their sending Medicare beneficiaries to BMH for partial hospital services that were often medically unnecessary, often not provided, or both.
- e. **DR. PAULO BETTEGA** and his co-conspirators paid and caused the payment of kickbacks to patient recruiters, group home owners—including **COLIN WILSON, LINDELL KING, TIMOTHY HAYNES**, and **YNEDRA DIGGS**—and other providers in the form of cash and checks; free transportation, daily meals, and supervision for the residents sent to BMH, which saved group home owners money and time; waiver of Medicare-required copayments; and other incentives, in exchange for their sending Medicare beneficiaries to BMH for partial hospital services that were often medically unnecessary, often not provided, or both.

f. Under the instruction of **DR. PAULO BETTEGA**, Ray Michael Garcia agreed to set up bank accounts to funnel the payment of healthcare kickbacks from BMH to patient recruiters, group home owners—including **TIMOTHY HAYNES**, **LINDELL KING**, and **YNEDRA DIGGS**—and others in exchange for their sending Medicare beneficiaries to BMH.

g. Defendant **DR. PAULO BETTEGA**, Ray Michael Garcia, and others often disguised these illegal kickbacks as payments for transportation, cleaning, or other services, when the payments were in fact for the illegal referral of Medicare beneficiaries to receive Medicare-reimbursed PHP services from Defendant **DR. PAULO BETTEGA**, their co-conspirators, and others.

h. Group home owners, including **COLIN WILSON**, **LINDELL KING**, **TIMOTHY HAYNES**, and **YNEDRA DIGGS**, moved their patients from one PHP to another, often in exchange for money, including to and from BMH, for no medical reason.

i. Many of the Medicare beneficiaries attending BMH did not qualify, need, or want PHP services, but attended only because defendants **COLIN WILSON**, **LINDELL KING**, **TIMOTHY HAYNES**, **YNEDRA DIGGS**, their co-conspirators, and others required them to go as a condition of living at their group homes.

j. In part to maintain control over the Medicare beneficiaries that attended BMH, **YNEDRA DIGGS**, her co-conspirators, and family members opened other entities, including Unified One Community Mental Health Center Inc., which purported to provide Medicare services, and were funded by Medicare. **YNEDRA DIGGS** and her co-conspirators admitted or caused to be admitted patients that attended BMH to that related business.

k. Medicare beneficiaries resided in a group home owned or controlled by **YNEDRA DIGGS**. **YNEDRA DIGGS** was the caretaker and was designated as the Representative Payee for the Medicare beneficiaries' Social Security Income. **YNEDRA DIGGS** and **LINDELL**

KING received kickbacks in the form of cash and checks in exchange for their sending Medicare beneficiaries to BMH for purported partial hospital services.

1. To avoid detection from law enforcement, defendant **TIMOTHY HAYNES** instructed BMH employees on what to tell investigators regarding his involvement in the scheme.

26. From in or around March of 2009 to in or around January of 2018, defendants **DR. PAULO BETTEGA, COLIN WILSON, LINDELL KING, TIMOTHY HAYNES, YNEDRA DIGGS**, their co-conspirators, and others, submitted or caused the submission of approximately \$26,226,463.00 in claims to Medicare for partial hospital and related services that BMH purported provided to beneficiaries whose attendance at these hospitals and PHPs was predicated on illegal kickbacks and bribes. BMH received approximately \$14,487,376.81 on these claims, which was deposited into bank accounts controlled by defendant **DR. PAULO BETTEGA** and others. **DR. PAULO BETTEGA** then paid Ray Michael Garcia illegal kickbacks and bribes. **DR. PAULO BETTEGA** also authorized Ray Michael Garcia to pay illegal kickbacks and bribes to **COLIN WILSON, LINDELL KING, TIMOTHY HAYNES, YNEDRA DIGGS**, their co-conspirators, and others.

Overt Acts

27. In furtherance of the conspiracy, and to accomplish its object and purpose, the conspirators committed and caused to be committed, in the Houston Division of the Southern District of Texas, the following overt acts:

a. On or about April 30, 2015, **DR. PAULO BETTEGA** certified that a Medicare beneficiary who resided in **YNEDRA DIGGS** and **LINDELL KING**'s group home qualified for PHP services at BMH, knowing that the Medicare beneficiary's attendance was secured by illegal kickbacks paid to defendants **YNEDRA DIGGS** and **LINDELL KING**.

b. On or about May 8, 2015, **DR. PAULO BETTEGA** authorized Ray Michael Garcia to pay, and Ray Michael Garcia paid, \$1,500 in a check to defendant **YNEDRA DIGGS** in exchange for sending Medicare beneficiaries to BMH for partial hospital services.

c. On or about May 8, 2015, **DR. PAULO BETTEGA** authorized Ray Michael Garcia to pay, and Ray Michael Garcia paid, \$1,000 in a check to defendant **LINDELL KING** in exchange for sending Medicare beneficiaries to BMH for partial hospital services.

d. On or about January 10, 2017, **DR. PAULO BETTEGA** authorized Ray Michael Garcia to pay, and Ray Michael Garcia paid, \$750 per week in cash to defendant **COLIN WILSON** in exchange for sending Medicare beneficiaries to BMH for partial hospital services.

e. On or about January 11, 2017, **DR. PAULO BETTEGA** certified that a Medicare beneficiary who resided at **COLIN WILSON's** group home qualified for PHP services at BMH, knowing that the Medicare beneficiary's attendance was secured by an illegal kickback paid to defendant **COLIN WILSON**.

f. On or about May 11, 2017, **DR. PAULO BETTEGA** authorized Ray Michael Garcia to pay, and Ray Michael Garcia paid, \$700 cash to defendant **LINDELL KING** in exchange for sending Medicare beneficiaries to BMH for partial hospital services.

g. On or about June 21, 2017, **DR. PAULO BETTEGA** authorized Ray Michael Garcia to pay, and Ray Michael Garcia paid, \$1,500 cash to defendant **LINDELL KING** in exchange for sending Medicare beneficiaries to BMH for partial hospital services.

h. In or about June of 2017, **DR. PAULO BETTEGA** certified that a Medicare beneficiary who resided at **YNEDRA DIGGS and LINDELL KING's** group home qualified for PHP services at BMH, knowing that the Medicare beneficiary's attendance was secured by an illegal kickback paid to defendants **YNEDRA DIGGS and LINDELL KING**.

i. On or about July 21, 2017, **YNEDRA DIGGS** received approximately \$1,000 cash from Ray Michael Garcia in exchange for sending Medicare beneficiaries to BMH for partial hospital services.

j. On or about July 25, 2017, **DR. PAULO BETTEGA** certified that Medicare beneficiary who resided at **YNEDRA DIGGS and LINDELL KING's** group home qualified for PHP services at BMH, knowing that the Medicare beneficiary's attendance was secured by an illegal kickback paid to defendants **YNEDRA DIGGS and LINDELL KING**.

k. Between in or around November 8, 2017 through in or around November 14, 2017, **DR. PAULO BETTEGA** authorized Ray Michael Garcia to pay, and Ray Michael Garcia paid, approximately at least \$750 cash to **TIMOTHY HAYNES** in exchange for sending Medicare beneficiaries to BMH for partial hospital services.

l. In and around the same time period, **TIMOTHY HAYNES** transported patients to BMH in order to receive illegal kickbacks.

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

COUNTS 2 through 8
Anti-Kickback Statute
(42 U.S.C. § 1320a-7b(b), 18 U.S.C. § 2)

28. Paragraphs 1 through 27 of this Superseding Indictment are re-alleged and incorporated by reference as if fully set forth herein.

29. On or about the dates enumerated below, in the Houston Division of the Southern District of Texas, and elsewhere, the defendants **DR. PAULO BETTEGA, COLIN WILSON, LINDELL KING, TIMOTHY HAYNES, and YNEDRA DIGGS**, aiding and abetting each other and aided and abetted by others, known and unknown to the Grand Jury, including Geraldine Caroline and Ray Michael Garcia, as set forth below, did knowingly and willfully offer and pay and did knowingly and willfully solicit and receive remuneration, specifically, kickbacks and

bribes, directly and indirectly, overtly and covertly, in cash and in kind, 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 a Federal health care program, that is, 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:

Count	Defendant(s)	On or About Date(s)	Approximate Amount of Kickback Payment
2	DR. PAULO BETTEGA authorized payment to LINDELL KING	May 8, 2015	\$1,000.00
3	DR. PAULO BETTEGA authorized payment to YNEDRA DIGGS	May 8, 2015	\$1,500.00
4	DR. PAULO BETTEGA authorized payment to COLIN WILSON	January 10, 2017	\$750.00
5	DR. PAULO BETTEGA authorized payment to LINDELL KING	May 11, 2017	\$700.00
6	DR. PAULO BETTEGA authorized payment to LINDELL KING	June 21, 2017	\$1,500.00
7	DR. PAULO BETTEGA authorized payment to YNEDRA DIGGS	July 21, 2017	\$1,000.00
8	DR. PAULO BETTEGA authorized payment to TIMOTHY HAYNES	November 8-14, 2017	At least \$750.00

All in violation of Title 42, United States Code, Section 1320a-7b(b) and Title 18, United States Code, Section 2.

CRIMINAL FORFEITURE
(18 U.S.C. § 982(a)(7))

30. Pursuant to Title 18, United States Code, Section 982(a)(7), the United States of America gives notice to defendants **DR. PAULO BETTEGA, COLIN WILSON, LINDELL KING, TIMOTHY HAYNES, and YNEDRA DIGGS**, that upon conviction, the United States will seek forfeiture of all property, real or personal, that constitutes or is derived, directly or

indirectly, from gross proceeds traceable to the commission of the offenses charged in this Superseding Indictment.

Money Judgment

31. **DR. PAULO BETTEGA, COLIN WILSON, LINDELL KING, TIMOTHY HAYNES, and YNEDRA DIGGS** are notified that upon conviction, a money judgment may be imposed equal to the total value of the property subject to forfeiture, which is at least \$26,226,463.00.

Substitute Assets

32. **DR. PAULO BETTEGA, COLIN WILSON, LINDELL KING, TIMOTHY HAYNES, and YNEDRA DIGGS** are notified that in the event that one or more conditions listed in Title 21, United States Code, Section 853(p) exists, the United States will seek to forfeit any other property of the defendants up to the total value of the property subject to forfeiture.

A TRUE BILL.

ORIGINAL SIGNATURE ON FILE

~~FOR PERSON~~

RYAN K. PATRICK
UNITED STATES ATTORNEY



BRYNN A. SCHIESS
TRIAL ATTORNEY
CRIMINAL DIVISION, FRAUD SECTION
U.S. DEPARTMENT OF JUSTICE