JUSTICE NEWS

Department of Justice

Office of Public Affairs

FOR IMMEDIATE RELEASE Monday, September 16, 2013

"No Show" Doctor Sentenced to 151 Months in Prison in Connection with $77 Million Medicare Fraud Scheme

Gustave Drivas, M.D., 58, of Staten Island, N.Y., was sentenced to serve 151 months in prison for his role as a "no show" doctor in a $77 million Medicare fraud scheme. The State of New York revoked Dr. Drivas's medical license earlier this year.

Acting Assistant Attorney General Mythili Raman of the Justice Department's Criminal Division, U.S. Attorney Loretta E. Lynch of the Eastern District of New York, Assistant Director in Charge George Venizelos of the FBI's New York Field Office and Special Agent in Charge Thomas O'Donnell of the U.S. Department of Health and Human Services Office of Inspector General (HHS-OIG) made the announcement.

Drivas was convicted by a jury on April 8, 2013, of health care fraud conspiracy and health care fraud after a seven-week trial. He was acquitted of kickback conspiracy. Including Drivas, 13 individuals have been convicted of participating in the massive fraud scheme, either through guilty pleas or trial convictions. In addition to the prison term, U.S. District Judge Nina Gershon of the Eastern District of New York sentenced Drivas to three years of supervised release with a concurrent exclusion from Medicare, Medicaid and all Federal health programs, ordered him to forfeit $511,000 and ordered him to pay restitution in the amount of $50.9 million.

The evidence at trial showed that Drivas knowingly authorized his co-conspirators at a Brooklyn medical clinic to use his Medicare billing number to charge Medicare for more than $20 million in medical procedures and services that were never performed. In return, he received more than $500,000 for his role in the scheme. According to court documents, from 2005 to 2010, Drivas was the medical director of or a rendering physician at a clinic in Brooklyn that billed Medicare under three corporate names: Bay Medical Care PC, SVS Wellcare Medical PLLC and SZS Medical Care PLLC (collectively "Bay Medical clinic"). The evidence established that Drivas was a "no show" doctor, who almost never visited the clinic except to pick up his check. The evidence also showed that the clinic paid cash kickbacks to Medicare beneficiaries and used the beneficiaries' names to bill Medicare for more than $77 million in services that were medically unnecessary and never provided.

The government's investigation included the use of a court-ordered audio/video recording device hidden in a room at the clinic in which the conspirators paid cash kickbacks to corrupt Medicare beneficiaries. The conspirators were recorded paying approximately $500,000 in cash kickbacks during a period of approximately six weeks from April to June 2010. This room was marked "PRIVATE" and featured a Soviet -era poster of a woman with a finger to her lips and the words "Don't Gossip" in Russian. The purpose of the kickbacks was to induce the beneficiaries to receive unnecessary medical services or to stay silent when services not provided to the patients were billed to Medicare.

To generate the large amounts of cash needed to pay the patients, Drivas's business partners and co-conspirators recruited a network of external money launderers who cashed checks for the clinic. Clinic owners wrote clinic checks payable to various shell companies controlled by the money launderers. These checks did not represent payment for any legitimate service at or for the Bay Medical clinic, but rather were written to launder the clinic's fraudulently obtained health care proceeds. The money launderers cashed these checks and provided the cash back to the clinic. Clinic employees used the cash to pay illegal cash kickbacks to the Bay Medical clinic's purported patients.

This case was investigated by the FBI and HHS-OIG and was brought as part of the Medicare Fraud Strike Force, under the supervision of the Criminal Division's Fraud Section and the U.S. Attorney's Office for the Eastern District of New York. The case is being prosecuted by Trial Attorney Sarah M. Hall of the Criminal Division's Fraud Section and Assistant U.S. Attorneys William C. Campos and Shannon C. Jones of the Eastern District of New York.

The Medicare Fraud Strike Force operations are part of the Health Care Fraud Prevention & Enforcement Action Team (HEAT), a joint initiative announced in May 2009 between the Department of Justice and HHS to focus their efforts to prevent and deter fraud and enforce current anti-fraud laws around the country. Since its inception in March 2007, the Medicare Fraud Strike Force, now operating in nine cities across the country, has charged more than 1,500 defendants who have collectively billed the Medicare program for more than $5 billion. In addition, HHS's Centers for Medicare & Medicaid Services, working in conjunction with HHS-OIG, is taking steps to increase accountability and decrease the presence of fraudulent providers.

To learn more about the Health Care Fraud Prevention and Enforcement Action Team (HEAT), go to: www.stopmedicarefraud.gov.

13-1032 Criminal Division