

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

RUBY SCOTT,

Defendant.

Case: 2:24-cr-20308

Assigned To : Berg, Terrence G.

Referral Judge: Patti, Anthony P.

Assign. Date : 6/13/2024

Description: INDI USA v SCOTT (JP)

VIO: 18 U.S.C. § 371

42 U.S.C. § 1320a-7b(b)(2)(A)

18 U.S.C. § 2

**INDICTMENT**

**THE GRAND JURY CHARGES:**

**General Allegations**

At all times relevant to this Indictment:

**The Medicare Program**

1. The Medicare program (“Medicare”) was a federal health care program providing benefits to persons who were 65 years of age or over 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 (“HHS”). Individuals who received benefits under Medicare were 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 covered different types of benefits and was separated into different program “parts.” Medicare “Part A” covered certain eligible home health care costs for medical services provided by a home health agency (“HHA”), also referred to as a “provider,” to persons who already qualified for Medicare and who additionally required home health services because of an illness or disability that caused them to be homebound.

4. National Government Services was the CMS intermediary for Medicare Part A in the state of Michigan starting in or around May 2015. AdvanceMed (now known as “CoventBridge”) was the Zone Program Integrity Contractor (“ZPIC”), meaning the Medicare contractor charged with investigating fraud, waste, and abuse.

5. By becoming a participating provider in Medicare, enrolled providers agreed to abide by the policies, procedures, rules, and regulations governing reimbursement, and furthermore, certified that they would not knowingly present, or cause to be presented, false and fraudulent claims. In order to receive Medicare funds, enrolled providers, together with their authorized agents, employees, and contractors, were required to abide by all of 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.

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

7. In order to receive reimbursement for a covered service from Medicare, a provider was required to submit a claim, either electronically or using a form (e.g., a CMS-1500 form or UB-92), containing the required information appropriately identifying the provider, beneficiary, and services rendered.

8. Providers were given and/or provided with online access to Medicare manuals and services bulletins describing proper billing procedures and billing rules and regulations. Providers were authorized to submit claims to Medicare only for services they rendered, and providers were required to maintain patient records to verify that the services were provided as described on the claim. These records were required to be sufficient to permit Medicare, through its contractors, to review the appropriateness of Medicare payments made to the provider.

9. Medicare covered services only if they were medically reasonable and necessary, eligible for reimbursement, provided as represented, and not procured through the payment of kickbacks and bribes.

10. Medicare covered home health services only if, on the claimed dates of service:

- a. the Medicare beneficiary was under the care of a doctor and receiving services under a plan of care established and reviewed regularly by a doctor;
- b. the Medicare beneficiary needed, and a doctor certified that the beneficiary needed, one or more of the following: (i) intermittent skilled nursing care; (ii) physical therapy; (iii) speech-language pathology services; or (iv) continued occupational therapy;
- c. the HHA was approved by Medicare (“Medicare-certified”); and
- d. the Medicare beneficiary was homebound, and a doctor certified that the Medicare beneficiary was homebound.

#### **Federal Anti-Kickback Statute Compliance**

11. To enroll as a Medicare provider, Medicare required providers to agree to abide by Medicare laws, regulations, and program instructions. Medicare further required providers to certify that they understood that payment of a claim by Medicare was conditioned upon the claim and the underlying transaction complying

with these laws, regulations, and program instructions, including the Federal Anti-Kickback Statute (42 U.S.C. § 1320a-7b). Accordingly, Medicare would not pay claims procured through kickbacks and bribes.

### **The Relevant HHA**

12. Delta Home Health Care (“Delta”) was a Michigan company doing business in Farmington, Michigan, in the Eastern District of Michigan. Delta was enrolled as a participating Medicare provider and submitted claims to Medicare. Delta was a HHA that purportedly provided in-home physical therapy and skilled nursing services to patients, including Medicare beneficiaries.

### **The Defendant and Other Individuals**

13. Defendant RUBY SCOTT, a resident of Oakland County, Michigan, was the owner of Delta beginning in or around May 2018.

14. Kysha Marshall, a resident of Macomb County, Michigan, was a patient recruiter paid by Defendant RUBY SCOTT.

### **COUNT 1**

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

15. Paragraphs 1 through 14 of the General Allegations section of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

16. Beginning in at least June 2018, and continuing through at least in or

around May 2021, in the Eastern District of Michigan and elsewhere, the defendant, RUBY SCOTT, did willfully, that is, with the intent to further the objects of the conspiracy, and knowingly combine, conspire, confederate, and agree with Kysha Marshall and others to:

- a. defraud the United States by impairing, impeding, obstructing, and defeating through deceitful and dishonest means the lawful government functions of HHS and CMS in their administration and oversight of Medicare; and
- b. offer and pay remuneration, including kickbacks and bribes, directly and indirectly, overtly and covertly, in cash and in kind to any person to induce such person to refer an individual to a person for the furnishing and arranging for the furnishing of any item and service for which payment may be made in whole and in part under a Federal health care program, that is, Medicare, in violation of Title 42, United States Code, Section 1320a-7b(b)(2)(A).

#### **Purpose of the Conspiracy**

17. It was a purpose of the conspiracy for RUBY SCOTT, Kysha Marshall, and others to unlawfully enrich themselves by: (a) offering and paying kickbacks and bribes to Kysha Marshall to induce Kysha Marshall to refer Medicare beneficiaries to Delta for home health care; (b) submitting or causing the submission

of claims to Medicare for home health care services purportedly provided to beneficiaries who were referred to Delta as a result of the payment of kickbacks and bribes; (c) concealing the submission of false and fraudulent claims to Medicare and the receipt and transfer of the proceeds from the offense; and (d) diverting proceeds of the offense for the personal use and benefit of the defendant and her co-conspirators, and to further the fraud.

### **Manner and Means of the Conspiracy**

18. The manner and means by which RUBY SCOTT and her co-conspirators sought to accomplish the purpose of the conspiracy included, among others, the following:

19. Beginning in or around April 2018, RUBY SCOTT exercised ownership and control over Delta.

20. In or around April 2018, RUBY SCOTT falsely certified to Medicare that Delta would operate in compliance with all Medicare rules and regulations, and federal laws, including that Delta would refrain from violating the Federal Anti-Kickback Statute.

21. From in or around June 2018 through in or around May 2021, RUBY SCOTT paid in excess of approximately \$100,000 in illegal kickbacks and bribes in the form of electronic cash transfers, cash payments, and a check to Kysha Marshall in exchange for the referral of Medicare beneficiaries to Delta by Kysha Marshall.

22. RUBY SCOTT and Kysha Marshall knew and understood that it was illegal to pay and receive kickbacks and bribes in exchange for the referral of Medicare beneficiaries.

23. From in or around June 2018 through in or around May 2021, RUBY SCOTT and others submitted and caused the submission of false and fraudulent claims to Medicare, by and through Delta, in the approximate amount of \$1,771,187 for claims for home health services that were procured through the payment of illegal kickbacks and bribes to Kysha Marshall and therefore were ineligible for reimbursement. Medicare paid Delta approximately \$2,201,607 based on these claims.

#### **Overt Acts**

24. In furtherance of the conspiracy, and to accomplish its objects and purpose, at least one of the co-conspirators committed and caused to be committed, in the Eastern District of Michigan and elsewhere, the following overt acts, among others:

- a. On or about June 21, 2019, RUBY SCOTT paid illegal kickbacks and bribes to Kysha Marshall, totaling approximately \$1,200, in exchange for the referral of Medicare beneficiaries to Delta, for the purpose of billing Medicare.

- b. On or about June 26, 2019, RUBY SCOTT paid illegal kickbacks and bribes to Kysha Marshall, totaling approximately \$810, in exchange for the referral of Medicare beneficiaries to Delta, for the purpose of billing Medicare.
- c. On or about September 4, 2020, RUBY SCOTT paid illegal kickbacks and bribes to Kysha Marshall, totaling approximately \$1,350, in exchange for the referral of Medicare beneficiaries to Delta, for the purpose of billing Medicare.
- d. On or about March 5, 2021, RUBY SCOTT paid illegal kickbacks and bribes to Kysha Marshall, totaling approximately \$1,350, in exchange for the referral of Medicare beneficiaries to Delta, for the purpose of billing Medicare.

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

**COUNTS 2-5**

**Payment of Kickbacks in Connection with a Federal Health Care Program  
(42 U.S.C. §§ 1320a-7b(b)(2)(A); 18 U.S.C. § 2)**

25. Paragraphs 1 through 14 of the General Allegations section and Paragraphs 18 through 23 of the Manner and Means section of Count 1 of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

26. On or about the dates set forth below, in the Eastern District of Michigan and elsewhere, defendant RUBY SCOTT, aided and abetted by, and aiding and abetting others known and unknown to the Grand Jury, did knowingly and willfully offer and pay remuneration, including kickbacks and bribes, directly and indirectly, overtly and covertly, in cash and in kind, including by check, to a person to induce such person to refer an individual to a person for the furnishing and arranging for the furnishing of any item and service for which payment may be made in whole and in part under a Federal health care program, that is, Medicare, as set forth below:

<b>Count</b>	<b>Approximate Date of Payment</b>	<b>Description</b>	<b>Approximate Amount</b>
2	June 21, 2019	Payment to Kysha Marshall	\$1,200
3	June 26, 2019	Payment to Kysha Marshall	\$810
4	September 4, 2020	Payment to Kysha Marshall	\$1,350
5	March 5, 2021	Payment to Kysha Marshall	\$1,350

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

**CRIMINAL FORFEITURE**  
**(18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461;  
18 U.S.C. § 982(a)(7))**

27. The above allegations contained in this Indictment are hereby incorporated by reference as if fully set forth herein for the purpose of alleging criminal forfeiture to the United States of America of certain property in which RUBY SCOTT has an interest, pursuant to Title 18, United States Code, Sections 981(a)(1)(C) and 982(a)(7), and Title 28, United States Code, Section 2461.

28. Upon conviction of violations alleged in this Indictment, RUBY SCOTT 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 Title 18, United States Code, Sections 981(a)(1)(C) and 982(a)(7), together with Title 28, United States Code, Section 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 Title 18 United States Code Section 982(a)(7).

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

30. *Substitute Assets:* If the property described above subject to forfeiture, as a result of any act or omission of the defendant:

- 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 dimensioned 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 the defendant, up to the value of the forfeitable property described above.

THIS IS A TRUE BILL.

/s/ Grand Jury Foreperson

Grand Jury Foreperson

DAWN N. ISON  
UNITED STATES ATTORNEY

s/Glenn S. Leon

GLENN S. LEON

Chief

Criminal Division, Fraud Section

U.S. Department of Justice

s/Mark Chasteen

MARK CHASTEEN

Chief, White Collar Crime Unit

United States Attorney's Office

Eastern District of Michigan

/s/ Shankar Ramamurthy

/s/ Kelly M. Warner

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Dated: June 13, 2024

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United States District Court Eastern District of Michigan	<b>Criminal Case Cover</b>
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NOTE: It is the responsibility of the Assistant U.S. Attorney signing this form to complete it accurately in all respects.

<b>Companion Case Information</b>	Companion Case Number: 23-cr-20366
This may be a companion case based upon LCrR 57.10 (b)(4) <sup>1</sup> :	Judge Assigned: Hon. Nancy G. Edmunds
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	AUSA's Initials:

Case Title: USA v. Ruby Scott

County where offense occurred : Wayne County, Oakland 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>
RUBY SCOTT	18 U.S.C. § 371 42 U.S.C. § 1320a-7b(b) (2)(A) 18 U.S.C. § 2	

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

June 13, 2024  
Date

s/ Kelly M. Warner

Kelly M. Warner, DOJ Trial Attorney  
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<sup>1</sup> 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.