FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF LA
2025JUN20 PM0225
CAROL L. MICHEL, CLERK

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF LOUISIANA

FELONY

BILL OF INFORMATION FOR CONSPIRACY TO DEFRAUD THE UNITED STATES

UNITED STATES OF AMERICA

CRIMINAL NO 25 - 00 159

MARION LEE, M.D.

v.

VIOLATION: 18 U.S.C. § 371

The United States Attorney charges that:

COUNT 1

A. AT ALL TIMES RELEVANT HEREIN:

The Medicare Program

1. The Medicare Program ("Medicare") was a federal health insurance program, affecting commerce, that provided benefits to persons who were 65 years of age and older or disabled. Medicare was administered by the United States Department of Health and Human Services, through its agency, the Centers for Medicare and Medicaid Services ("CMS"). Individuals who qualified for Medicare benefits were commonly referred to as "beneficiaries."

Fee USA
Process
X Dktd
CtRmDep
Doc. No.

- 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," including hospital services ("Part A"), physician services ("Part B"), and prescription drug coverage ("Part D"). Part B covered, among other things, genetic testing, when certain criteria were met.
- 4. Medicare "providers" included physicians, independent clinical laboratories, and other health care providers who provided services to beneficiaries. When seeking reimbursement from Medicare for provided benefits, items, or services, providers submitted the cost of the benefit, item, or service provided together with a description and the appropriate "procedure code," as set forth in the Current Procedural Terminology Manual or the Healthcare Common Procedure Coding System.
- 5. Medicare, in receiving and adjudicating claims, acted through fiscal intermediaries called Medicare administrative contractors ("MACs"), which were statutory agents of CMS for Medicare Part B. The MACs were private entities that reviewed claims and made payments to providers for services rendered to 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.
- 6. The MAC for Medicare Zone JH, which covered Louisiana and Mississippi, among other states, was Novitas Solutions, Inc. ("Novitas").

7. Medicare would not reimburse providers for claims that were not medically reasonable or necessary, or procured through the payment of kickbacks and bribes.

Diagnostic Testing

8. Except for limited statutory exceptions, Medicare only reimbursed clinical laboratories for tests that were "reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member." 42 U.S.C. § 1395y(a)(1)(A). Further, to be reimbursable by Medicare, "[a]ll 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." 42 C.F.R. § 410.32(a). Diagnostic tests included, among others, toxicology tests, respiratory pathogen tests, and, in certain instances as detailed below, genetic tests.

Genetic Testing

- 9. Cancer genetic tests ("CGx" tests) were laboratory tests that used DNA sequencing to detect mutations in genes that could indicate a higher risk of developing certain types of cancers in the future. Pharmacogenetic tests ("PGx" tests) were laboratory tests that used DNA sequencing to assess how genetic makeup would affect the response to certain medications. CGx and PGx testing was referred to collectively as "genetic testing." Neither type of genetic testing determined whether an individual had a disease, such as cancer, at the time of the test.
- 10. To conduct genetic testing, a laboratory had to obtain a DNA sample from the patient. Such samples were typically obtained from the patient's saliva by using a cheek (buccal) swab to collect sufficient cells to provide a genetic profile. The genetic sample was then submitted to the laboratory to conduct the tests. Tests could then be run on different groups or "panels" of

genes. Genetic testing typically involved multiple laboratory procedures that could result in billing Medicare using certain billing codes, each with their own reimbursement rate.

11. Because neither CGx testing nor PGx testing diagnosed diseases or conditions, Medicare only covered such tests in limited circumstances, such as where the genetic testing was ordered by a physician in treating a beneficiary's cancer or to inform a beneficiary's drug therapy, and the results were used in the management of the beneficiary's cancer or drug therapy.

The Defendant and Related Individuals and Entities

- 12. **MARION LEE, M.D.** ("LEE"), a resident of Georgia, was a co-owner and medical advisor of Luminus Diagnostics, LLC (f/k/a "Veritas Laboratories, LLC") ("Luminus"), a limited liability company with a principal place of business in Tifton, Georgia. Luminus operated as a clinical laboratory and Medicare provider. In this capacity, Luminus provided laboratory services to individuals and procured signed orders for genetic testing, including through purported telemedicine.
- 13. David Christopher Thigpen ("Thigpen") was a resident of Hammond, Louisiana. Thigpen was the sole owner and chief executive officer of two clinical laboratories: Akrivis Laboratories LLC ("Akrivis"), a limited liability company with a principal place of business in Hammond, Louisiana, and Dynamic Diagnostics LLC ("Dynamic"), a limited liability company with a principal place of business in Bay St. Louis, Mississippi.
- 14. Co-Conspirator 1 was a co-owner and chief executive officer of Luminus, as well as a signatory on Luminus's corporate bank account.
 - 15. Co-Conspirator 2 was the chief operating officer of Luminus.
 - 16. **LEE** and Co-Conspirator 2 reported to Co-Conspirator 1.

17. **LEE** and Co-Conspirator 2 owned Company 1, a limited liability company registered in Florida, and Co-Conspirator 1 was a silent partner in Company 1. Company 1 purported to provide marketing services for laboratory testing, including services provided by Clinic 1, a medical provider located in Georgia.

B. THE CONSPIRACY

Beginning in or around March 2018, and continuing through at least in or around September 2020, in the Eastern District of Louisiana, and elsewhere, **MARION LEE, M.D.** did knowingly and willfully conspire and agree with Thigpen, Co-Conspirator 1, Co-Conspirator 2, and others, both known and unknown to the United States Attorney, 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.

C. MANNER AND MEANS:

The manner and means by which **LEE** and his co-conspirators sought to accomplish the conspiracy included, among others, the following:

a. In or around June 2012, **LEE** acquired an ownership interest in Luminus, which was disclosed to Medicare as part of Luminus's enrollment. Luminus certified in its Medicare enrollment documentation that the laboratory would comply with all applicable rules, regulations, and program instructions, including the Federal Anti-Kickback Statute, and that it would not knowingly present, or cause to be presented, a false and fraudulent claim for payment by Medicare.

- b. In or around March 2018, LEE, Co-Conspirator 1, Co-Conspirator 2, and others learned that Medicare was reimbursing providers for genetic testing at high rates. LEE, Co-Conspirator 1, Co-Conspirator 2, and others researched Medicare's reimbursement of genetic testing and decided that Novitas, the MAC in charge of Zone JH, would be the most favorable Medicare region to submit claims, in light of Novitas's higher reimbursement rates and higher likelihood of approving claims.
- c. Shortly thereafter, Luminus began transferring large sums of money to various marketing entities, in exchange for signed doctors' orders and DNA specimens for panels of medically unnecessary genetic tests to be run by Luminus, including orders procured through purported telemedicine. The payments to marketers were typically based on the volume and value of the doctors' orders referred. The orders were obtained for the purpose of submitting claims to Medicare for reimbursement.
- d. To ensure that doctors signed the orders for the medically unnecessary genetic tests, **LEE**, Co-Conspirator 1, Co-Conspirator 2, and others intentionally designed their genetic testing requisition forms (a/k/a order forms) to be "dummy proof," including check-the-box preselected panels of genetic tests, prepopulated diagnoses and diagnosis codes based on what Medicare would approve, and language certifying medical necessity for the tests ordered.
- e. To ensure claims would be paid, in or around July 2018, Luminus entered into a sham contract with Akrivis, based in Louisiana, and owned and controlled by Thigpen, for so-called "reference laboratory services." The purpose of the agreement was to enable Luminus to bill for genetic testing from Medicare Zone JH, via Akrivis, where the false and fraudulent claims were more likely to be approved than from Luminus's actual Medicare region in Georgia. In exchange for the genetic testing orders, Akrivis paid Luminus kickbacks of its Medicare

reimbursements. In order to conceal the misconduct, the co-conspirators falsely characterized the kickbacks as legitimate reference laboratory services.

- f. **LEE**, Co-Conspirator 1, Co-Conspirator 2, and Thigpen received complaints from beneficiaries as well as inquiries from Medicare, which indicated that the genetic testing orders were not requested, not needed, and/or results not received, but nevertheless continued to bill Medicare for false and fraudulent genetic testing claims and collect reimbursement. Luminus also continued directly to bill for genetic testing, including for the same beneficiaries that were being billed by Thigpen.
- g. To further profit from the fraudulent scheme, **LEE**, Co-Conspirator 1, and Co-Conspirator 2 formed Company 1, which purported to provide marketing services but actually paid kickbacks to so-called "distributors" in exchange for referring diagnostic tests to be run by Luminus but billed (primarily to private insurance providers) by Clinic 1, with the profits shared amongst co-conspirators. Thigpen also submitted false and fraudulent claims to Medicare for genetic testing referred by providers at Clinic 1 through Akrivis and Dynamic.
- h. In total, from in or around March 2018, through in or around September 2020, **LEE**, Co-Conspirator 1, Thigpen, and others submitted, and caused to be submitted, approximately \$24 million in false and fraudulent claims to Medicare for diagnostic testing, and specifically genetic testing, procured through Luminus, of which Medicare reimbursed over \$4 million. Of that reimbursement, Thigpen paid over \$2 million to Luminus as kickbacks, with Co-Conspirator 1 a benefactor of those funds.

D. OVERT ACTS

In furtherance of the conspiracy, and to accomplish its objects and purpose, **LEE** and his co-conspirators committed, and caused to be committed, in the Eastern District of Louisiana and elsewhere, the following overt acts:

- a. On or about June 6, 2018, **LEE** emailed Thigpen a screen shot of the genes listed on Luminus's genetic testing requisition form, to which Thigpen responded, "I'm ready to get back into 7 figure territory!!" and **LEE** wrote, "Ya me too."
- b. On or about July 1, 2018, Luminus, at the direction of **LEE** and his coconspirators, entered into a sham "reference laboratory services agreement" with Akrivis, at the direction of Thigpen, signed by Co-Conspirator 1, which outlined the percentage Akrivis would pay Luminus in kickbacks in exchange for billing Medicare for false and fraudulent genetic testing orders obtained by Luminus.
- c. On or about May 1, 2019, Akrivis billed Medicare approximately \$4,275.00 for a panel of genetic tests purportedly ordered for beneficiary B.C., date of service March 21, 2019, referring provider V.S., based on a signed doctor's order obtained by Luminus.
- d. On or about November 29, 2019, in response to a Medicare audit, Thigpen emailed Co-Conspirator 1 requesting medical records for certain genetic testing claims billed by Akrivis based on doctor's orders obtained by Luminus.
- e. On or about January 29, 2020, Luminus submitted its own claim to Medicare for approximately \$3,718.22, for a panel of genetic tests purportedly provided to the same beneficiary, B.C., on the same date of service, March 21, 2019, by the same referring provider, V.S., based on the same doctor's order as billed by Akrivis on or about May 1, 2019.

f. On or about June 29, 2020, Luminus billed Medicare approximately \$3,718.22 for a panel of genetic tests purportedly ordered for beneficiary F.G. on August 20, 2019, by the same referring provider, V.S., with the same procedure codes as billed for beneficiary B.C.

g. On or about September 11, 2020, Co-conspirator 2 forwarded **LEE** an email concerning the operations of Company 1, including the status of negotiations with Clinic 1 as of September 11, 2020, **LEE**'s financial contributions to Company 1, and the role of Co-Conspirator 2 and **LEE** in Company 1 going forward.

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

MICHAEL M. SIMPSON ACTING UNITED STATES ATTORNEY

LORINDA I. LARYEA ACTING CHIEF, FRAUD SECTION UNITED STATES DEPARTMENT OF JUSTICE

Nicholas Mosas for KZW

KELLY Z. WALTERS

Trial Attorney

Criminal Division, Fraud Section

United States Department of Justice

NICHOLAS D. MOSES

Assistant United States Attorney

Eastern District of Louisiana

New Orleans, Louisiana

June 20, 2025

t Court	
District	THE
States	FOR THE
United	

EASTERN DISTRICT OF LOUISIANA

UNITED STATES OF AMERICA

VS.

MARION LEE, M.D.

BILL OF INFORMATION FOR CONSPIRACY TO DEFRAUD THE UNITED STATES

Violation(s): 18 U.S.C. § 371

NICHOLAS D. MOSES Assistant United States Attorney