

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA

v.

D-1 NAJAM KHAN  
D-2 WILLIAM OWDISH

Defendants.

Case:2:18-cr-20423  
Judge: Edmunds, Nancy G.  
MJ: Patti, Anthony P.  
Filed: 06-19-2018 At 03:55 PM  
SEALED MATTER (EK)

VIO: 18 U.S.C. § 1349  
18 U.S.C. § 1347  
18 U.S.C. § 371  
42 U.S.C. § 1320a-  
7b(b)(2)(A)-(B)  
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 was a federal health care program providing benefits to persons who were disabled or 65 years of age or older. 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. Individuals who received benefits under Medicare were referred to as Medicare “beneficiaries.”

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2. Medicare was a “health care benefit program,” as defined by Title 18, United States Code, Section 24(b).

3. Medicare has four parts: hospital insurance (Part A), medical insurance (Part B), Medicare Advantage (Part C), and prescription drug benefits (Part D).

4. Specifically, Part A of the Medicare program covered certain eligible home health care costs for medical services provided by a home health agency to beneficiaries who required home health services because of an illness, injury, or medical condition that caused them to be homebound.

5. National Government Services (“NGS”) administered the Medicare Part A program for claims arising in the State of Michigan. Wisconsin Physicians Service (“WPS”) administered the Medicare Part B program for claims arising in the State of Michigan. CMS contracted with NGS to receive, adjudicate, process, and pay Part A claims, including for home health services. NGS received and processed Medicare Part A claims originating in Michigan in Indianapolis, Indiana. CMS contracted with WPS to receive, adjudicate, process, and pay certain Part B claims, including medical services related to home health services.

6. TrustSolutions LLC was the Program Safeguard Contractor for Medicare Part A and Part B in the State of Michigan until April 24, 2012, when it was replaced by Cahaba Safeguard Administrators LLC as the Zone Program

Integrity Contractor (“ZPIC”). Cahaba was replaced by AdvancedMed in May 2015.

7. Payments under the Medicare program were often made directly to a provider of the goods or services, rather than to a Medicare beneficiary. This payment occurred when the provider submitted the claim to Medicare for payment, either directly or through a billing company.

8. Upon certification, the medical provider, whether a clinic, physician, or other health care provider that provided services to Medicare beneficiaries, was able to apply for a Medicare Provider Identification Number (“PIN”) for billing purposes. In its enrollment application, a provider was required to disclose to Medicare any person or company who held an ownership interest of 5% or more or who had managing control of the provider. A health care provider who was assigned a Medicare PIN and provided services to beneficiaries was able to submit claims for reimbursement to the Medicare contractor/carrier that included the PIN assigned to that medical provider.

9. A Medicare claim was required to set forth, among other things, the beneficiary’s name, the date the services were provided, the cost of the services, and the name and identification number of the physician or other health care provider who had ordered the services.

10. By becoming a participating provider in Medicare, enrolled providers agreed to abide by the policies and procedures, rules, and regulations governing reimbursement. To receive Medicare funds, enrolled providers, together with their authorized agents, employees, and contractors, were required to abide by all 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. Health care providers were given and provided with online access to Medicare manuals and services bulletins describing proper billing procedures and billing rules and regulations.

11. Health care providers could only submit claims to Medicare for reasonable and medically necessary services that they rendered. Medicare would not pay claims procured through kickbacks and bribes.

12. Medicare regulations required health care providers enrolled with Medicare to maintain complete and accurate patient medical records reflecting the medical assessment and diagnoses of their patients, as well as records documenting actual treatment of the patients to whom services were provided and for whom claims for payment were submitted by the physician. Medicare requires complete and accurate patient medical records so that Medicare may verify that the services were provided as described on the claim form. These records were required to be

sufficient to permit Medicare, through WPS and other contractors, to review the appropriateness of Medicare payments made to the health care provider.

13. Under Medicare Part A and Part B, home health care services were required to be reasonable and medically necessary to the treatment of the patient's illness or injury. Reimbursement for home health care services required that a physician certified the need for services and established a Plan of Care. Home health care services that were not certified by a physician or were not provided as represented were not reasonable and necessary. Medicare Part B covered the costs of physicians' services, including physician home visits, physician certification and recertification of home health care services, and physician supervision of home health care services. Generally, Medicare Part B covered these costs only if, among other requirements, they were medically necessary, ordered by a physician, and not induced by the payment of remuneration.

14. Medicare coverage for home health care services required that the following qualifying conditions, among others, be met: (a) the Medicare beneficiary is confined to the home; (b) the beneficiary needs skilled nursing services, physical therapy, or occupational therapy; (c) the beneficiary is under the care of a qualified physician who established a written Plan of Care for the beneficiary, signed by the physician and by a Registered Nurse ("RN"), or by a qualified physical therapist if only therapy services are required from the home health agency; (d) skilled nursing

services or physical therapy services are provided by, or under the supervision of, a licensed RN or physical therapist in accordance with the Plan of Care; and (e) the services provided are medically necessary.

15. To receive reimbursement for a covered service from Medicare, a provider must 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, patient, and services rendered, among other things.

#### **The Home Health Agency**

16. Starlite Home Care LLC (“Starlite”) was a Michigan corporation doing business at 27620 Farmington Rd, Suite B-9, Farmington Hills, Michigan. Starlite was enrolled as a participating provider with Medicare and submitted claims to Medicare.

#### **Defendants**

17. Defendant **NAJAM KHAN**, a resident of Wayne County, controlled, owned, and operated Starlite.

18. Defendant **WILLIAM OWDISH**, a resident of Oakland County, was a patient recruiter who referred Medicare beneficiaries to Starlite in exchange for kickbacks and bribes.

**COUNT 1**  
**(18 U.S.C. § 1349—Conspiracy to Commit Health Care Fraud and Wire  
Fraud)**  
**D-1 NAJAM KHAN**  
**D-2 WILLIAM OWDISH**

19. Paragraphs 1 through 18 of the General Allegations section of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

20. From in or around 2010, and continuing through in or around the present, the exact dates being unknown to the Grand Jury, in the Eastern District of Michigan, and elsewhere, **NAJAM KHAN** and **WILLIAM OWDISH** did willfully and knowingly, 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, namely:

(a) to knowingly and willfully execute a scheme and artifice to defraud a health care benefit program affecting commerce, as defined in Title 18, United States Code, Section 24(b), that is, Medicare, and to obtain, by means of materially false and fraudulent pretenses, representations, and promises, money and property owned by, and under the custody and control of, said health care benefit program, in connection with the delivery of and payment for health care benefits, items, and services, in violation of Title 18, United States Code, Section 1347; and

(b) to knowingly and with the intent to defraud devise and intend to devise a scheme and artifice to defraud, and for obtaining money and property by means of materially false and fraudulent pretenses, representations, and promises, knowing that the pretenses, representations, and promises were false and fraudulent when made, and knowingly transmit and cause to be transmitted, by means of wire communication in interstate commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice, in violation of Title 18, United States Code, Section 1343.

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

21. It was a purpose of the conspiracy for **NAJAM KHAN** and **WILLIAM OWDISH**, along with other co-conspirators, to unlawfully enrich themselves by, among other things: (a) submitting or causing the submission of false and fraudulent claims by interstate wire to Medicare for claims based on kickbacks and bribes; (b) submitting or causing the submission of false and fraudulent claims by interstate wire to Medicare for services that were (i) medically unnecessary; (ii) not eligible for Medicare reimbursement; and (iii) not provided as represented; (c) concealing or causing the concealment of the submission of false and fraudulent claims to Medicare and the receipt and transfer of the proceeds from the fraud; and (d) diverting or causing the diversion of the proceeds of the fraud for the personal use and benefit of the defendants and their co-conspirators.

### **Manner and Means**

The manner and means by which the defendants and their co-conspirators sought to accomplish the purpose of the conspiracy included, among others, the following:

22. From in or around 2010 to in or around the present, **NAJAM KHAN** and others would operate, own, or control Starlite.

23. **NAJAM KHAN** and others would pay or cause the payment of kickbacks and bribes to **WILLIAM OWDISH** and others in exchange for referring Medicare beneficiaries to Starlite and providing Medicare beneficiary information that was used to support false and fraudulent claims by Starlite to Medicare.

24. **NAJAM KHAN, WILLIAM OWDISH,** and others would conceal the payment and receipt of these kickbacks and bribes by entering into sham contracts or agreements, creating or causing the creation of shell companies to receive the payments, and/or recording that the kickbacks and bribes were for “staffing,” “translation services,” “transportation,” “IT,” and other false and fraudulent reasons.

25. **NAJAM KHAN, WILLIAM OWDISH,** and others would pay or cause the payment of kickbacks and bribes to Medicare beneficiaries in exchange for signatures by those beneficiaries on documents enabling Starlite to submit or cause the submission of false and fraudulent claims to Medicare.

26. **NAJAM KHAN, WILLIAM OWDISH**, and others falsified, fabricated, altered, and caused the falsification, fabrication, and alteration of medical records, including patient files, home health certifications, treatment plans, and other records, all to support claims for home health services that were obtained through illegal kickbacks and bribes, medically unnecessary, not eligible for Medicare reimbursement, and not provided as represented.

27. **NAJAM KHAN** and others concealed **NAJAM KHAN**'s ownership and managing control of Starlite, and his and his co-conspirators involvement in the scheme, by submitting or causing the submission of false and fraudulent enrollment materials to Medicare that failed to disclose the ownership interest and managing control of **NAJAM KHAN**.

28. **NAJAM KHAN, WILLIAM OWDISH**, and others submitted and caused the submission of false and fraudulent claims through interstate wire to Medicare and were paid by Medicare in an amount in excess of approximately \$6 million for services that were obtained through illegal kickbacks and bribes, medically unnecessary, not eligible for Medicare reimbursement, and not provided as represented.

**COUNT 2**  
**(18 U.S.C. §§ 1347 and 2 – Health Care Fraud)**  
**D-1 NAJAM KHAN**

29. Paragraphs 1 through 18 of the General Allegations section of this

Indictment are re-alleged and incorporated by reference as though fully set forth herein. On or about the dates enumerated below, in Wayne County, the Eastern District of Michigan, and elsewhere, **NAJAM KHAN**, in connection with the delivery of and payment for health care benefits, items, and services, did knowingly and willfully execute, and attempt to execute, a scheme and artifice to defraud a health care benefit program affecting commerce, as defined in Title 18, United States Code, Section 24(b), that is, Medicare, and to obtain, by means of materially false and fraudulent pretenses, representations, and promises, money and property owned by and under the custody and control of Medicare, in connection with the delivery of and payment for health care benefits, items, and services.

#### **Purpose of the Scheme and Artifice**

30. It was the purpose of the scheme and artifice for **NAJAM KHAN** to unlawfully enrich himself and his accomplices by, among other things: (a) submitting or causing the submission of false and fraudulent claims to Medicare for claims based on kickbacks and bribes; (b) submitting or causing the submission of false and fraudulent claims to Medicare for services that were (i) medically unnecessary; (ii) not eligible for Medicare reimbursement; and (iii) not provided as represented; (c) concealing the submission of false and fraudulent claims to Medicare and the receipt and transfer of the proceeds from the fraud; and (d)

diverting proceeds of the fraud for the personal use and benefit of the defendant and his accomplices.

### **The Scheme and Artifice**

31. Paragraphs 22 through 28 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 as a description of the scheme and artifice.

### **Acts in Execution of the Scheme and Artifice**

32. On or about the dates specified below, in Wayne County, the Eastern District of Michigan, and elsewhere, **NAJAM KHAN**, in connection with the delivery of and payment for health care benefits, items, and services, did knowingly and willfully execute, and attempt to execute, the above-described scheme and artifice to defraud a health care benefit program affecting commerce, that is, Medicare, and to obtain, by means of materially false and fraudulent pretenses, representations, and promises, money and property owned by, and under the custody and control of said health care benefit program:

<b>Count Defendant(s)</b>	<b>Medicare Beneficiary</b>	<b>Approximate Date of Service</b>	<b>Description of Items Billed</b>	<b>Approximate Amount Billed to Medicare</b>
2 <b>KHAN</b>	J.J.	6/4/17-8/12/17	Home Health Episode	\$3,125.86

In violation of Title 18, United States Code, Sections 1347 and 2.

**COUNT 3**

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

**D-1 NAJAM KHAN**

**D-2 WILLIAM OWDISH**

33. Paragraphs 1 through 18 of the General Allegations section and Paragraphs 22 to 28 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.

34. From in or around 2010, and continuing through in or around the present, the exact dates being unknown to the Grand Jury, in Wayne County, the Eastern District of Michigan, and elsewhere, **NAJAM KHAN, WILLIAM OWDISH**, and others did willfully, that is, with the intent to further the objects of the conspiracy, and knowingly combine, conspire, confederate and agree with each other, and others known and unknown to the Grand Jury:

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 the Medicare program, in violation of Title 18, United States Code, Section 371, and to commit certain offenses against the United States, that is;

b. to violate Title 42, United States Code, Section 1320a-7b(b)(2)(A), by knowingly and willfully offering and paying remuneration, including kickbacks and bribes, directly and indirectly, overtly and covertly, in cash and in kind to any person

to induce such person: (i) 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; and

c. to violate Title 42, United States Code, Section 1320a-7b(b)(1)(A), by knowingly and willfully soliciting and receiving remuneration, including kickbacks and bribes, directly and indirectly, overtly and covertly, in cash and in kind: (i) in return for referring an individual to a person for the furnishing and arranging for the furnishing of an item and service for which payment may be made in whole and in part under a federal health care program, that is, Medicare.

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

35. It was a purpose of the conspiracy for **NAJAM KHAN, WILLIAM OWDISH**, and their co-conspirators to unlawfully enrich themselves by: (a) offering, paying, soliciting, and receiving kickbacks and bribes to ensure that Medicare beneficiaries would serve as patients at Starlite; and (b) submitting or causing the submission of claims to Medicare for home health services that were purportedly provided to these recruited beneficiaries.

#### **Manner and Means**

The manner and means by which the defendants and their co-conspirators sought to accomplish the purpose of the conspiracy included, among others, the following:

36. Paragraphs 22 to 28 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.

### **Overt Acts**

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 Wayne County, the Eastern District of Michigan, and elsewhere, at least one of the following overt acts, among others:

37. On or about October 24, 2011, **NAJAM KHAN** paid or caused the payment of kickbacks and bribes to **WILLIAM OWDISH** in the form of a check drawn on Citizens Bank account number x8588, held in the name of Starlite, and paid to an account held in the name of **WILLIAM OWDISH**, in exchange for referring Medicare beneficiaries and providing Medicare beneficiary information.

38. On or about June 6, 2012, **NAJAM KHAN** paid or caused the payment of kickbacks and bribes to **WILLIAM OWDISH** in the form of a check drawn on Citizens Bank account number x8588, held in the name of Starlite, and paid to an account held in the name of Sherry Spencer LLC, in exchange for referring Medicare beneficiaries and providing Medicare beneficiary information.

39. On or about March 11, 2016, **NAJAM KHAN** paid or caused the payment of kickbacks and bribes to **WILLIAM OWDISH** in the form of a check

drawn on Citizens Bank account number x8588, held in the name of Starlite, and paid to an account held in the name of Sherry Spencer LLC, in exchange for referring Medicare beneficiaries and providing Medicare beneficiary information.

40. On or about March 15, 2016, **NAJAM KHAN** paid or caused the payment of kickbacks and bribes to **WILLIAM OWDISH** in the form of a check drawn on Citizens Bank account number x8588, held in the name of Starlite, and paid to an account held in the name of Sherry Spencer LLC, in exchange for referring Medicare beneficiaries and providing Medicare beneficiary information.

All in violation of Title 18, United States Code, Section 371 and Title 18, United States Code, Section 2.

**COUNT 4**  
**(42 U.S.C. § 1320a-7b(b)(2)(A)) – Payment of Kickbacks in Connection with a  
Federal Health Care Program)**  
**D-1 NAJAM KHAN**

41. Paragraphs 1 through 18 of the General Allegations section and Paragraphs 22 to 28 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.

42. On or about the date set forth below, in Wayne County, the Eastern District of Michigan, and elsewhere, **NAJAM KHAN** did knowingly and willfully offer or pay remuneration, including kickbacks and bribes, directly and indirectly, overtly and covertly, in cash and in kind, including by check, as set forth below, 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, as set forth below:

Count Defendants	Approximate Date of Payment	Description	Approximate Amount
4 <b>KHAN</b>	March 15, 2016	Check No. 4949 from Starlite	\$875.00

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

**COUNT 5**

**(42 U.S.C. § 1320a-7b(b)(1)(A)) – Solicitation of Kickbacks in Connection with a Federal Health Care Program)**  
**D-2 WILLIAM OWDISH**

43. Paragraphs 1 through 18 of the General Allegations section and Paragraphs 22 to 28 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.

44. On or about the date set forth below, in Wayne County, the Eastern District of Michigan, and elsewhere, **WILLIAM OWDISH** did knowingly and willfully solicit and receive remuneration, including kickbacks and bribes, directly and indirectly, overtly and covertly, in cash and in kind, including by check, as set forth below, in return for referring 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:

Count Defendants	Approximate Date of Payment	Description	Approximate Amount
5 <b>OWDISH</b>	March 15, 2016	Check No. 4949 from Starlite	\$875.00

In violation of Title 42, United States Code, Section 1320a-7b(b)(1)(A) and Title 18, United States Code, Section 2.

**FORFEITURE ALLEGATIONS**  
**(18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461)**

45. The allegations contained in Counts 1-5 of this Indictment are re-alleged and incorporated by reference as though fully set forth herein for the purpose of alleging forfeiture against defendants **NAJAM KHAN** and **WILLIAM OWDISH** pursuant to Title 18, United States Code, Sections 981 and Title 28, United States Code, Section 2461.

46. Pursuant to Title 18, United States Code, Section 981(a)(1)(C), together with Title 28, United States Code, Section 2461, upon being convicted of the crime charged in Count 1 of this Indictment, the convicted defendant(s) shall forfeit to the United States any property, real or personal, which constitutes or is derived from

proceeds traceable to the commission of the offense.

47. Pursuant to Title 18, United States Code, Section 982(a)(7), upon being convicted of the crimes charged in Counts 1 through 5 of this Indictment, the convicted defendant(s) shall forfeit to the United States any property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the offense.

48. Money Judgment: Property subject to forfeiture includes, but is not limited to a forfeiture money judgment equal to: at least \$6,000,000 in United States currency, in the aggregate, or such amount as is proved in this matter, representing the total amount of proceeds and/or gross proceeds obtained as a result of each defendants' violations as alleged in Counts 1-5 of this Indictment;

49. Substitute Assets: If the property described above as being subject to forfeiture, as a result of any act or omission of the defendants:

- 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 diminished 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 Title 28, United States Code, Section 2461, to seek to forfeit any other property of **WILLIAM OWDISH** and **NAJAM KHAN** up to the value of such property.

THIS IS A TRUE BILL.

Grand Jury Foreperson

MATTHEW SCHNEIDER  
United States Attorney

s/WAYNE F. PRATT  
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Date: June 19, 2018