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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA

v.

D-1 DOMINGA RAGHUNATH, and
D-2 ALICIA FABILA,
Defendants.

Case:2:18-cr-20424
Judge: Berg, Terrence G.
MJ: Grand, David R.
Filed: 06-19-2018 At 04:24 PM
SEALED MATTER (dat)

VIO: 18 U.S.C. § 1349
18 U.S.C. § 1347
18 U.S.C. § 982

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 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. 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).

3. Medicare “Part A” 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. Payments for home health services under Medicare Part A were typically made directly to a home health agency or provider based on claims submitted to Medicare for qualifying services that were provided to eligible beneficiaries, rather than directly to the beneficiaries.

4. National Government Services, previously called United Government Services, (“NGS”) was the CMS intermediary for Medicare Part A in the state of Michigan. NGS received and processed Medicare Part A claims originating in Michigan in Indianapolis, Indiana.

5. Cahaba Safeguard Administrators LLC (“Cahaba”) was the Zone Program Integrity Contractor (“ZPIC”) for Medicare Part A and Part B in the state of Michigan. The ZPIC is the contractor charged with investigating fraud, waste, and abuse. AdvanceMed replaced Cahaba in May 2015.

Reimbursement for Home Health Services

6. Home health agencies and other health care providers that provided services to Medicare beneficiaries were able to apply for and obtain a “provider number.” A health care provider that was issued a Medicare provider number was

able to file claims with Medicare to obtain reimbursement for services provided to beneficiaries.

7. A Medicare claim was required to set forth, among other things, the beneficiary's name and Medicare number, the services performed, the date and charge for the services, and the name and provider number of the physician or other health care provider who ordered the services.

8. In order to receive Medicare funds, enrolled providers, together with their authorized agents, employees, and contractors, were required to abide by all Medicare laws, regulations, and program instructions, including the Federal anti-kickback statute. Payment of a claim by Medicare was conditioned upon the claim and the underlying transaction complying with these laws, regulations, and program instructions. Accordingly, Medicare would not pay claims procured through kickbacks and bribes.

9. Medicare providers could submit claims to Medicare only for services they rendered. Medicare reimbursed claims for services only if the services were medically necessary and reasonable.

10. Medicare reimbursed participating home health agencies for home health services provided to a Medicare beneficiary only if the beneficiary qualified for home health benefits. A beneficiary qualified for home health benefits only if:

a. the Medicare beneficiary was under the care of a physician who specifically determined a need for home health services and established a plan of care;

b. the Medicare beneficiary was confined to the home, also referred to as “homebound”, and a physician certified that the Medicare beneficiary was homebound; and

c. the Medicare beneficiary needed, and a physician certified that the beneficiary needed, skilled nursing services, physical therapy, speech therapy, or occupational therapy.

Record Keeping Requirements

11. Medicare Part A regulations required home health agencies to maintain complete and accurate medical records reflecting the medical assessments, diagnoses, and actual treatments of the Medicare beneficiaries to whom services were provided and for whom claims for reimbursement were submitted to Medicare.

12. Medicare Part A regulations required home health agencies to maintain medical records of each visit made by a nurse or therapist to a Medicare beneficiary. The record of a nurse’s visit was required to describe, among other things, the skilled services provided during the visit, the beneficiary’s response to the skilled services provided, the plan for the next visit, and a rationale that explains the need for the

skilled service in light of the beneficiary's overall medical condition and experiences.

The Home Health Agency

13. Anointed Care Services LLC ("Anointed") was a Michigan company doing business at 2295 Metropolitan Parkway, Suite 100, Sterling Heights, Michigan 48310. Anointed was a home health agency that purportedly provided in-home skilled nursing, physical therapy, and other services to homebound patients. Anointed was a Medicare provider and submitted claims to Medicare.

The Defendants

14. DOMINGA RAGHUNATH, a resident of Macomb County, Michigan, was a registered nurse licensed in the state of Michigan.

15. ALICIA FABILA, a resident of Genesee County, Michigan, was a registered nurse licensed in the state of Michigan.

COUNT 1

Conspiracy to Commit Health Care Fraud (18 U.S.C. § 1349)

D-1 DOMINGA RAGHUNATH D-2 ALICIA FABILA

16. Paragraphs 1 through 15 of this Indictment are re-alleged and incorporated by reference as if fully set forth herein.

17. Beginning in or around November 2013 and continuing through in or around April 2016, the exact dates being unknown to the Grand Jury, in Wayne

County, Macomb County, and Genesee County, in the Eastern District of Michigan, and elsewhere, DOMINGA RAGHUNATH, ALICIA FABILA, and others, known and unknown to the Grand Jury, did willfully and knowingly combine, conspire, confederate, and agree 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.

Purpose of the Conspiracy

18. It was a purpose of the conspiracy for DOMINGA RAGHUNATH, ALICIA FABILA, and others to unlawfully enrich themselves by, among other things: (a) submitting and causing the submission of false and fraudulent claims to Medicare for claims based on kickbacks and bribes; (b) submitting and 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 (d) diverting proceeds of the fraud for the personal use and benefit of the defendants and others.

Manner and Means of the Conspiracy

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

20. In or around November 2013, defendants' co-conspirators enrolled Anointed as a Medicare provider.

21. DOMINGA RAGHUNATH, ALICIA FABILA, and their co-conspirators agreed to pay, and paid, kickbacks and bribes in exchange for the referral of Medicare beneficiaries for home health services billed to Medicare.

22. DOMINGA RAGHUNATH, ALICIA FABILA, and their co-conspirators agreed to pay, and paid, kickbacks and bribes to Medicare beneficiaries in exchange for their signatures on home health visit notes and other documents that were used to support claims for home health services billed to Medicare.

23. DOMINGA RAGHUNATH, ALICIA FABILA, and their co-conspirators falsified, fabricated, altered, and caused the falsification, fabrication, and alteration, of medical records and documents, including but not limited to home health visit notes and assessments, to support claims for home health services billed to Medicare.

24. DOMINGA RAGHUNATH, ALICIA FABILA, and their co-conspirators submitted, and caused to be submitted, more than \$1.7 million in false

and fraudulent claims to Medicare for home health care services that were procured through kickbacks and bribes, medically unnecessary, not eligible for Medicare reimbursement, and not provided as represented.

All in violation of Title 18, United States Code, Section 1349.

COUNTS 2-5
Health Care Fraud
(18 U.S.C. §§ 1347 and 2)

D-1 DOMINGA RAGHUNATH
D-2 ALICIA FABILA

25. Paragraphs 1 through 15 of the General Allegations section 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, the exact dates being unknown to the Grand Jury, in Wayne County, Macomb County, and Genesee County, in the Eastern District of Michigan, and elsewhere, DOMINGA RAGHUNATH and ALICIA FABILA did 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.

Purpose of the Scheme and Artifice

27. It was a purpose of the conspiracy for DOMINGA RAGHUNATH and ALICIA FABILA to unlawfully enrich themselves by, among other things: (a) submitting and causing the submission of false and fraudulent claims to Medicare for claims based on kickbacks and bribes; (b) submitting and 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 (d) diverting proceeds of the fraud for the personal use and benefit of the defendants and others.

The Scheme and Artifice

28. Paragraphs 19 through 24 of Count One 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

29. On or about the dates set forth below, the exact dates being unknown to the Grand Jury, in Wayne County, Macomb County, and Genesee County, in the Eastern District of Michigan, and elsewhere, DOMINGA RAGHUNATH and

ALICIA FABILA did 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:

Count	Defendant	Beneficiary	Approximate Dates of Service Billed to Medicare	Description of Service Billed to Medicare	Amount Paid by Medicare
2	D-1 DOMINGA RAGHUNATH	M.S.	11/20/14 – 1/9/15	Episode of Home Health Care	\$3,484.24
3	D-1 DOMINGA RAGHUNATH	E.T.	5/22/15 – 7/8/15	Episode of Home Health Care	\$3,415.69
4	D-2 ALICIA FABILA	C.D.	9/23/15 – 11/14/15	Episode of Home Health Care	\$4,161.50
5	D-2 ALICIA FABILA	H.A.	8/28/15 – 10/13/15	Episode of Home Health Care	\$3,939.39

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

FORFEITURE ALLEGATIONS

(18 U.S.C. § 982(a)(7) and/or 18 U.S.C. § 981 with 28 U.S.C. § 2461)

30. The above allegations contained in this Indictment are incorporated by reference as if set forth fully herein for the purpose of alleging forfeiture pursuant to the provisions of 18 U.S.C. § 982(a)(7) and/or 18 U.S.C. § 981 with 28 U.S.C. § 2461.

31. As a result of the violations of 18 U.S.C. § 1347, as set forth in this Indictment, defendants DOMINGA RAGHUNATH and ALICIA FABILA 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 such violations, pursuant to 18 U.S.C. § 982(a)(7).

32. As a result of the violations of 18 U.S.C. §1349, as set forth in this Indictment, defendants DOMINGA RAGHUNATH and ALICIA FABILA shall forfeit to the United States any property, real or personal, that constitutes or is derived from proceeds traceable to the commission of such violations, pursuant to 18 U.S.C. § 981 with 28 U.S.C. § 2461.

33. Money Judgment: Such property includes, but is not limited to, forfeiture money judgments in an amount to be proved in this matter, representing the total amount of proceeds and/or gross proceeds obtained as a result of defendants' violations, as alleged in this Indictment.

34. 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 21 U.S.C. § 853(p) as incorporated by 18 U.S.C. § 982(b), 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.

Grand Jury Foreperson

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