

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. **18-20528**

18 U.S.C. § 1349

18 U.S.C. § 1347

18 U.S.C. § 371

42 U.S.C. § 1320a-7b(b)(2)(B)

18 U.S.C. § 1956(h)

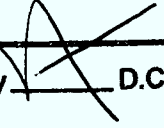
18 U.S.C. § 1957

18 U.S.C. § 2

18 U.S.C. § 982(a)(7)

CR-MORENO

Louis

FILED by  D.C.
JUN 19 2018
STEVEN M. LARIMORE
CLERK U. S. DIST. CT.
S. D. of FLA. - MIAMI

UNITED STATES OF AMERICA

vs.

ANTONIO PEREZ, JR.,

Defendant.

_____ /

INDICTMENT

The Grand Jury charges that:

GENERAL ALLEGATIONS

At all times material to this Indictment:

The Medicare Program

1. The Medicare Program (“Medicare”) was a federally funded program that provided free or below-cost health care benefits to certain individuals, primarily the elderly, blind, and disabled. The benefits available under Medicare were governed by federal statutes and regulations. The United States Department of Health and Human Services, through its agency, the Centers for Medicare and Medicaid Services (“CMS”), oversaw and administered Medicare. Individuals who received benefits under Medicare were commonly referred to as Medicare “beneficiaries.”

2. Medicare programs covering different types of benefits were separated into different program “parts.” Part D of Medicare subsidized the costs of prescription drugs for Medicare beneficiaries in the United States. The Medicare Part D Program was enacted as part of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, and went into effect on January 1, 2006.

3. In order to receive Part D benefits, a beneficiary enrolled in a Medicare drug plan. Medicare drug plans were operated by private companies approved by Medicare. Those companies were often referred to as drug plan “sponsors.” A beneficiary in a Medicare drug plan could fill a prescription at a pharmacy and use his or her plan to pay for some or all of the prescription.

4. A pharmacy could participate in Part D by entering a retail network agreement with one or more Pharmacy Benefit Managers (“PBMs”). A PBM acted on behalf of one or more Medicare drug plans. Through a plan’s PBM, a pharmacy could join the plan’s network. When a Part D beneficiary presented a prescription to a pharmacy, the pharmacy submitted a claim either directly to the plan or to a PBM that represented the beneficiary’s Medicare drug plan. The plan or PBM determined whether the pharmacy was entitled to payment for each claim and periodically paid the pharmacy for outstanding claims. The drug plan’s sponsor reimbursed the PBM for its payments to the pharmacy.

5. A pharmacy could also submit claims to a Medicare drug plan to whose network the pharmacy did not belong. Submission of such out-of-network claims was not common and often resulted in smaller payments to the pharmacy by the drug plan sponsor.

6. Medicare, through CMS, compensated the Medicare drug plan sponsors. Medicare paid the sponsors a monthly fee for each Medicare beneficiary of the sponsors' plans. Such payments were called capitation fees. The capitation fee was adjusted periodically based on various factors, including the beneficiary's medical conditions. In addition, in some cases where a sponsor's expenses for a beneficiary's prescription drugs exceeded that beneficiary's capitation fee, Medicare reimbursed the sponsor for a portion of those additional expenses.

7. Medicare and Medicare drug plan sponsors were "health care benefit program[s]," as defined by Title 18, United States Code, Section 24(b).

8. Medicare required healthcare providers to collect co-payments ancillary to the provision of items or services unless specifically excepted by law or regulation. Requiring beneficiaries to pay for part of the services they receive discourages patients from accepting services they do not need. It is unlawful to routinely waive co-payments under any federal health insurance program, including Medicare. The U.S. Department of Health and Human Services has concluded that reducing co-payments for beneficiaries of government healthcare programs, absent a showing of financial hardship, violates the federal anti-kickback statute. Additionally, a co-payment waiver based on a failure to collect is prohibited if it is not preceded by a good faith collection effort.

Medicare Drug Plan Sponsors

9. Wellcare Health Plans, Inc. ("Wellcare"), CVS Health Corporation ("CVS") and Blue Cross and Blue Shield of Florida, Inc. ("BlueCross/BlueShield") were, among others, Medicare drug plan sponsors.

The Defendant and Related Entity

10. A.R.A. Medical Services Inc. (“A.R.A. Medical”), which did business under the fictional business name Valles Pharmacy Discount (“Valles Pharmacy”), was a Florida corporation, incorporated on or about February 24, 2012, with its principal place of business at 8538 SW 8 Street, Miami, Florida, purportedly providing prescription drugs to Medicare beneficiaries.

11. **ANTONIO PEREZ, JR.** was the president, director, and owner of Valles Pharmacy, and was a signatory on the corporate bank accounts of Valles Pharmacy.

COUNT 1
Conspiracy to Commit Wire Fraud and Health Care Fraud
(18 U.S.C. § 1349)

1. The General Allegations section of this Indictment is realleged and incorporated by reference as though fully set forth herein.

2. From in or around January 2011, through the return of this Indictment, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

ANTONIO PEREZ, JR.,

did willfully, that is, with the intent to further the objects of the conspiracy, and knowingly combine, conspire, confederate, and agree with others, known and unknown to the Grand Jury, to commit offenses against the United States, that is:

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 Medicare drug plan sponsors, 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 programs, 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 to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, knowing the pretenses, representations, and promises were false and fraudulent when made, and for the purpose of executing the scheme and artifice, did knowingly transmit and cause to be transmitted by means of wire communication in interstate and foreign commerce, certain writings, signs, signals, pictures, and sounds, in violation of Title 18, United States Code, Section 1343.

Purpose of the Conspiracy

3. It was a purpose of the conspiracy for the defendant and his co-conspirators to unlawfully enrich themselves by, among other things: (a) submitting and causing the submission of false and fraudulent claims to Medicare and Medicare drug plan sponsors through Valles Pharmacy for prescription medications that were not medically necessary, not eligible for reimbursement and not provided; (b) concealing and causing the concealing of false and fraudulent claims to Medicare and Medicare drug plan sponsors; and (c) diverting fraud proceeds for their personal use and benefit, the use and benefit of others, and to further the fraud.

Manner and Means of the Conspiracy

The manner and means by which the defendant and his co-conspirators sought to accomplish the objects and purpose of the conspiracy included, among other things, the following:

4. **ANTONIO PEREZ, JR.** and his co-conspirators signed retail network agreements with various Medicare drug plan sponsors on behalf of Valles Pharmacy. By entering into these

agreements, **ANTONIO PEREZ, JR.** and his co-conspirators agreed that Valles Pharmacy would, among other things, comply with federal laws regarding the dispensing of prescription drugs.

5. **ANTONIO PEREZ, JR.** and his co-conspirators paid kickbacks and bribes to Medicare beneficiaries, including paying the insurance premiums of beneficiaries and failing to collect copayments from beneficiaries on behalf of Valles Pharmacy, to induce said beneficiaries to obtain prescriptions for pharmaceutical drugs to be used in conjunction with false and fraudulent billing of Medicare through Valles Pharmacy.

6. **ANTONIO PEREZ, JR.** and his co-conspirators submitted and caused to be submitted false and fraudulent claims, via interstate wire transmissions, to Medicare and Medicare drug plan sponsors through Valles Pharmacy for prescription medications that were not medically necessary, not eligible for reimbursement, and not provided, including by submitting claims for reimbursement for prescription medications that Valles Pharmacy never purchased and never dispensed.

7. As a result of such false and fraudulent claims, Medicare prescription drug plan sponsors, through their PBMs, made at least approximately \$8.4 million in overpayments funded by the Medicare Part D Program to Valles Pharmacy.

8. **ANTONIO PEREZ, JR.** and his co-conspirators used the proceeds from the false and fraudulent Medicare Part D claims for their own use, the use of others, and to further the fraud.

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

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

1. The General Allegations section of this Indictment is realleged and incorporated by reference as though fully set forth herein.

2. From in or around January 2011, through the return of this Indictment, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

ANTONIO PEREZ, JR.,

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 by Title 18, United States Code, Section 24(b), that is, Medicare and Medicare drug plan sponsors, 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 programs.

Purpose of the Scheme and Artifice

3. It was a purpose of the scheme and artifice for the defendant and his accomplices to unlawfully enrich themselves by, among other things: (a) submitting and causing the submission of false and fraudulent claims to Medicare and Medicare drug plan sponsors through Valles Pharmacy for prescription medications that were not medically necessary, not eligible for reimbursement and not provided; (b) concealing and causing the concealing of false and fraudulent claims to Medicare and Medicare drug plan sponsors; and (c) diverting fraud proceeds for their personal use and benefit, the use and benefit of others, and to further the fraud.

The Scheme and Artifice

4. Paragraphs 4 through 8 of the Manner and Means section of Count 1 of the 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 or Attempted Execution of the Scheme and Artifice

5. On or about the dates set forth as to each count below, in Miami-Dade County, in the Southern District of Florida, and elsewhere, **ANTONIO PEREZ, JR.**, 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, as defined by Title 18, United States Code, Section 24(b), that is, Medicare and Medicare drug plan sponsors, 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 programs, in that the defendant submitted and caused the submission of false and fraudulent claims seeking the identified dollar amounts, and representing that Valles Pharmacy provided pharmaceutical items and services to Medicare beneficiaries pursuant to physicians' valid orders and prescriptions:

Count	Medicare Beneficiary	Approx. Date of Service	Medicare Claim Number	Item Claimed; Approx. Amount Claimed	Medicare Drug Plan Sponsor
2	M.G.	10/15/2013	35922730259	Celebrex Cap 200MG; \$351	CVS
3	M.G.	3/4/2014	42793391355	Lidoderm 5%; \$1535	CVS

Count	Medicare Beneficiary	Approx. Date of Service	Medicare Claim Number	Item Claimed; Approx. Amount Claimed	Medicare Drug Plan Sponsor
4	M.G.	5/26/2015	53461299595	Lidoderm 5%; \$587	Wellcare
5	M.G.	6/14/2017	66116880590	Advair Diskus 250/50; \$365	BlueCross/ BlueShield

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

COUNT 7
Conspiracy to Pay and Receive Health Care Kickbacks
(18 U.S.C. § 371)

1. The General Allegations section of this Indictment is realleged and incorporated by reference as though fully set forth herein.

2. From in or around January 2011, through the return of this Indictment, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

ANTONIO PEREZ, JR.,

did willfully, that is, with the intent to further the objects of the conspiracy, and knowingly combine, conspire, confederate and agree with others known and unknown to the Grand Jury, to commit certain offenses against the United States, that is:

a. to violate Title 42, United States Code, Section 1320a-7b(b)(1)(B), by knowingly and willfully soliciting and receiving remuneration, including kickbacks and bribes, directly and indirectly, overtly and covertly, in cash and in kind, including by money order, in return for purchasing, leasing, and ordering, and arranging for and recommending, purchasing, leasing, and ordering any good, facility, service, and items for which payment may be made in whole and in part under a federal health care program, that is, Medicare and Medicare drug plan sponsors; and

b. to violate Title 42, United States Code, Section 1320a-7b(b)(2)(B), by knowingly

and willfully offering and paying remuneration, including kickbacks and bribes, directly and indirectly, overtly and covertly, in cash and in kind, including by money order, to a person to induce such person to purchase, lease, order, and arrange for and recommend purchasing, leasing, ordering, and arranging for and recommending purchasing, leasing, and ordering any good, facility, service, and item for which payment may be made in whole and in part under a Federal health care program, that is, Medicare and Medicare drug plan sponsors.

Purpose of the Conspiracy

3. It was a purpose of the conspiracy for the defendant and his co-conspirators to unlawfully enrich themselves by, among other things: (1) offering, paying, soliciting, and receiving kickbacks and bribes to ensure that Medicare beneficiaries would serve as patients of Valles Pharmacy; and (2) submitting and causing the submission of claims to Medicare and Medicare drug plan sponsors for medications that Valles Pharmacy purported to provide to those beneficiaries.

Manner and Means of the Conspiracy

The manner and means by which the defendant and his co-conspirators sought to accomplish the objects and purpose of the conspiracy included, among other things, the following:

4. **ANTONIO PEREZ, JR.** and his co-conspirators signed retail network agreements with various Medicare drug plan sponsors on behalf of Valles Pharmacy. By entering into these agreements, **ANTONIO PEREZ, JR.** and his co-conspirators agreed that Valles Pharmacy would, among other things, comply with federal laws regarding the dispensing of prescription drugs.

5. **ANTONIO PEREZ, JR.** and his co-conspirators paid kickbacks and bribes to Medicare beneficiaries, including paying the insurance premiums of beneficiaries and failing to collect copayments from beneficiaries on behalf of Valles Pharmacy, in exchange for allowing them to use the beneficiaries' personal information and prescriptions to bill Medicare.

6. **ANTONIO PEREZ, JR.** and his co-conspirators submitted and caused to be submitted claims, via interstate wire transmissions, to Medicare and Medicare drug plan sponsors through Valles Pharmacy for pharmaceutical drugs allegedly provided to the recruited Medicare beneficiaries by Valles Pharmacy.

7. **ANTONIO PEREZ, JR.** and his co-conspirators caused Medicare and Medicare drug plan sponsors to pay Valles Pharmacy based upon the claims for medication purportedly provided to the recruited Medicare beneficiaries.

OVERT ACTS

In furtherance of the conspiracy, and to accomplish its objects and purpose, at least one co-conspirator committed and caused to be committed, in the Southern District of Florida, at least one of the following overt acts, among others:

8. On or about January 12, 2017, **ANOTONIO PEREZ, JR.** negotiated or caused to be negotiated money order number ending 1040 in the approximate amount of \$142, made payable to Florida Blue, and purportedly purchased by Medicare beneficiary M.G.

9. On or about March 24, 2017, **ANOTONIO PEREZ, JR.** negotiated or caused to be negotiated money order number ending 6717 in the approximate amount of \$201, made payable to Florida Blue, and purportedly purchased by Medicare beneficiary M.G.

10. On or about June 28, 2017, **ANOTONIO PEREZ, JR.** negotiated or caused to be negotiated money order number ending 4550 in the approximate amount of \$39, made payable to Humana Insurance Company, and purportedly purchased by Medicare beneficiary A.A.

11. On or about July 24, 2017, **ANOTONIO PEREZ, JR.** negotiated or caused to be negotiated money order number ending 6639 in the approximate amount of \$39, made payable to Humana Insurance Company, and purportedly purchased by Medicare beneficiary A.A.

12. On or about July 31, 2017, **ANOTONIO PEREZ, JR.** negotiated or caused to be negotiated money order number ending 7310 in the approximate amount of \$201, made payable to Florida Blue, and purportedly purchased by Medicare beneficiary M.G.

13. On or about February 21, 2018, **ANOTONIO PEREZ, JR.** negotiated or caused to be negotiated money order number ending 2408 in the approximate amount of \$51, made payable to Humana Insurance Company, and purportedly purchased by Medicare beneficiary A.A.

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

COUNTS 8-10
Paying of Kickbacks in Connection with a Federal Health Care Program
(42 U.S.C. § 1320a-7b(b)(2)(B))

1. The General Allegations section of this Indictment is realleged and incorporated by reference as though fully set forth herein.

2. On or about the dates enumerated below as to each count, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

ANTONIO PEREZ, JR.,

did knowingly and willfully offer and pay any remuneration, that is, kickbacks and bribes, directly and indirectly, overtly and covertly, in cash and in kind, including by money order, to a person, to induce such person to purchase, lease, order, and arrange for and recommend purchasing, leasing, and ordering any good, facility, service and item for which payment may be made in whole and in part under a Federal health care program, that is, Medicare and Medicare drug plan sponsors, as set forth below:

Count	Approximate Date	Approximate Kickback Amount
8	1/12/2017	\$142
9	3/24/2017	\$201
10	7/31/2017	\$201

In violation of Title 32, United States Code, Section 1320a-7b(b)(2)(B), and Title 18, United States Code, Section 2.

COUNT 11
Conspiracy to Commit Money Laundering
(18 U.S.C. § 1956(h))

From in or around January 2011, through the return of this Indictment, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

ANTONIO PEREZ, JR.,

did willfully, that is, with the intent to further the objects of the conspiracy, and knowingly combine, conspire, and agree with with others, known and unknown to the Grand Jury, to violate Title 18, United States Code, Section 1956, that is, to knowingly conduct and attempt to conduct a financial transaction affecting interstate and foreign commerce, which transaction involved the proceeds of specified unlawful activity, knowing that the transaction was designed in whole or in part to conceal and disguise the nature, location, source, ownership, and control of the proceeds of specified unlawful activity, knowing that the property involved in the financial transaction represented the proceeds of some form of unlawful activity, in violation of Title 18, United States Code, Section 1956(a)(1)(B)(i).

It is further alleged that the specified unlawful activity is conspiracy to commit health care fraud and wire fraud, in violation of Title 18, United States Code, Section 1349; health care fraud, in violation of Title 18, United States Code, Section 1347; and wire fraud, in violation of Title 18, United States Code, Section 1343.

All in violation of Title 18, United States Code, Section 1956(h).

COUNTS 12-13
Money Laundering
(18 U.S.C. § 1957)

On or about the dates set forth below in each count, in the Southern District of Florida, and elsewhere, the defendant,

ANTONIO PEREZ, JR.,

did knowingly engage and attempt to engage in a monetary transaction affecting interstate and foreign commerce, by, through, and to a financial institution, in criminally derived property of a value greater than \$10,000, and such property having been derived from specified unlawful activity:

Count	Date of Transaction	Description of Monetary Transaction
12	7/29/2015	The negotiation of check number 1354, dated 7/29/2015, in the approximate amount of \$15,000, drawn on the account of ANTONIO PEREZ, JR. ending 0506 at Bank of America and made payable to BB&T Mortgage Payment Center
13	8/7/2017	The negotiation of check number 1483, dated 8/7/2017, in the approximate amount of \$29,867.05, drawn on the account of ANTONIO PEREZ, JR. ending 0506 at Bank of America and made payable to Regions

It is further alleged that the specified unlawful activity is conspiracy to commit health care fraud and wire fraud, in violation of Title 18, United States Code, Section 1349; health care fraud, in violation of Title 18, United States Code, Section 1347; and wire fraud, in violation of Title 18, United States Code, Section 1343.

In violation of Title 18, United States Code, Sections 1957 and 2.

FORFEITURE
(18 U.S.C. § 982)

1. The allegations contained in this Indictment are realleged and incorporated by reference as though fully set forth herein for the purpose of alleging forfeiture to the United States of America of certain property in which the defendant, **ANTONIO PEREZ, JR.**, has an interest.

2. Upon conviction of a violation of, or conspiracy to violate, Title 18, United States Code, Sections 1343, 1347, 1349, and/or Title 42, United States Code, Section 1320a-7b(b), as alleged in this Indictment, the defendant 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 offense, pursuant to Title 18, United States Code, Section 982(a)(7).

3. Upon conviction of a violation of Title 18, United States Code, Sections 1956 and/or 1957, as alleged in this Indictment, the defendant shall forfeit to the United States any property, real or personal, involved in such offense, or any property traceable to such property, pursuant to Title 18, United States Code, Section 982(a)(1).

4. The property subject to forfeiture includes, but is not limited to, the following:

- a. A forfeiture money judgment of at least \$8,415,824;
- b. All funds on deposit in account number 18006900736 at JPMorgan Chase Bank held in the name of A.R.A. Medical Services Inc. d/b/a Valles Pharmacy;
- c. All funds on deposit in account number 005560210898 at Bank of America held in the name of A.R.A. Medical Services Inc. d/b/a Valles Pharmacy;
- d. All funds on deposit in account number 229044749399 at Bank of America held in the name of A.R.A. Medical Services Inc. d/b/a Valles Pharmacy;
- e. All funds on deposit in account number 229020865271 at Bank of America held in the name of **ANTONIO PEREZ, JR.**;

- f. All funds on deposit in account number 005480530506 at Bank of America held in the name of **ANTONIO PEREZ, JR.**;
- g. All funds on deposit in account number 1922323083 at JPMorgan Chase Bank held in the name of **ANTONIO PEREZ, JR.**;
- h. All funds on deposit in account number 3033117127 at JPMorgan Chase Bank held in the name of **ANTONIO PEREZ, JR.**; and
- i. Real property located at 5757 Collins Avenue, Unit 2302, Miami Beach, Florida.

5. If any of the property described above, as a result of any act or omission of a 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 diminished in value; or
- e. has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States to seek forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p).

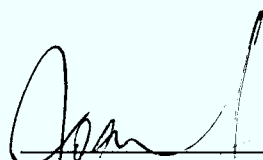
6. The substitute property subject to forfeiture includes, but is not limited to:

- a. Real property located at 862 Cardinal Lane, Key Largo, Florida;
- b. Real property located at 3829 SW 142 Avenue, Miami, Florida; and
- c. Real property located at 5333 Collins Ave, Unit 905, Miami Beach, Florida.

All pursuant to Title 18, United States Code, Section 982(a)(1), (a)(7) and the procedures set forth in Title 21, United States Code, Section 853, as incorporated by Title 18, United States Code, Section 982(b)(1).


TRUE BILL

~~FOREPERSON~~



FOR BENJAMIN G. GREENBERG
UNITED STATES ATTORNEY
SOUTHERN DISTRICT OF FLORIDA

JOSEPH BEEMSTERBOER
DEPUTY CHIEF
CRIMINAL DIVISION, FRAUD SECTION
U.S. DEPARTMENT OF JUSTICE

 FOR

TIMOTHY P. LOPER
TRIAL ATTORNEY
CRIMINAL DIVISION, FRAUD SECTION
U.S. DEPARTMENT OF JUSTICE