

FILED by [Signature]
JUN 12 2018
STEVEN M. LAZLORE
CLERK U.S. DIST. CT.
SOUTHERN DIST. OF FLA.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

18 - 20502

Case No. _____

18 U.S.C. § 1349

18 U.S.C. § 1347

18 U.S.C. § 2

18 U.S.C. § 982(a)(7)

CR-UNGARO

/O'SULLIVAN

UNITED STATES OF AMERICA

vs.

YOSBEL OTANO MELENDEZ and
YARELI PAULA,

Defendants.

_____ /

INDICTMENT

The Grand Jury charges that:

GENERAL ALLEGATIONS

At all times relevant to this Indictment:

Commercial Insurance

1. Fresenius offered an Administrative Services Only (“ASO”) insurance plan to its employees. This employer contracted with the insurance company Blue Cross Blue Shield (“BCBS”) to handle the administrative tasks such as billing, claims handling, and claims payment with respect to claims submitted on behalf of its employees. This ASO insurance plan reimbursed BCBS for the money the insurance company paid out for health benefits for its employees. As such, the employer acted in a self-insured role which means that it was financially responsible for any claim payments to its employees.

2. The ASO insurance plan offered by Fresenius and managed by BCBS was a health care benefit program, as defined in Title 18, United States Code, Section 24(b).

3. BCBS often made payments directly to physicians, medical clinics, or other health care providers, rather than to the beneficiary who received the health care benefits, items, and services. This occurred when the provider accepted assignment of the right to payment from the beneficiary.

4. To obtain payment for treatment or services provided to a beneficiary, physicians, medical clinics, and other health care providers had to submit itemized claim forms to the beneficiary's commercial insurance plan. The claim forms were typically submitted electronically via the internet. The claim form required certain important information, including: (a) the beneficiary's name and Health Insurance Claim Number or other identification number; (b) a description of the health care benefit, item, or service that was provided or supplied to the beneficiary; (c) the billing codes for the benefit, item, or service; (d) the date upon which the benefit, item, or service was provided or supplied to the beneficiary; and (e) the name of the referring physician or other health care provider, as well as a unique identifying number, known either as the Unique Physician Identification Number ("UPIN") or National Provider Identifier ("NPI").

5. When a provider submitted a claim form to a private insurance plan, the provider certified that the contents of the form were true, correct, complete, and that the form was prepared in compliance with the applicable laws and regulations concerning the submission of health care claims. The provider also certified that the services being billed were medically necessary and were in fact provided as billed.

The Defendants and Related Entities

6. Atlantic Mobile Services, Inc. (“Atlantic Mobile”) was a Florida corporation, located at 6065 NW 167th Street, Suite B-7, Miami, FL. 33015. Atlantic Mobile was a medical clinic that purportedly provided commercial private insurance beneficiaries with various medical treatments and services.

7. Defendant **YOSBEL OTANO MELENDEZ** was a resident of Miami-Dade County.

8. Defendant **YARELI PAULA** was a resident of Miami-Dade County.

9. Ruben Hernandez was a resident of Miami-Dade County and the true owner of Atlantic Mobile.

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

1. Paragraphs 1 through 9 of the General Allegations section of this Indictment is re-alleged and incorporated by reference as if fully set forth herein.

2. From in or around February 2013, through in or around May 2016, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendants,

YOSBEL OTANO MELENDEZ and
YARELI PAULA,

did willfully, that is, with the intent to further the objects of the conspiracy, and knowingly combine, conspire, confederate and agree with each other, Ruben Hernandez, and 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, a BCBS and ASO insurance plan managed by BCBS, 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 for obtaining 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 the purpose of the conspiracy for the defendants and their co-conspirators to unlawfully enrich themselves by, among other things: (a) submitting and causing the submission of false and fraudulent claims to health care benefit programs; (b) concealing the submission of false and fraudulent claims to health care benefit programs; (c) concealing the receipt of the fraud proceeds; and (d) diverting the fraud proceeds for their personal use and benefit, and the use and benefit of others, and to further the fraud.

Manner and Means of the Conspiracy

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

4. **YOSBEL OTANO MELENDEZ and YARELI PAULA**, submitted and caused Atlantic Mobile to submit, via interstate wires, approximately \$1,517,600 to BCBS and an ASO

insurance plan managed by BCBS, in claims for reimbursement which falsely and fraudulently represented that various health care benefits were medically necessary, prescribed by a doctor, and had been provided to insurance beneficiaries of BCBS and an ASO insurance plan.

5. As a result of such false and fraudulent claims, BCBS and an ASO insurance plan managed by BCBS made payments to the corporate bank accounts of Atlantic Mobile in the approximate amount of \$980,243.

6. **YOSBEL OTANO MELENDEZ, YARELI PAULA**, and others used the proceeds of the health care fraud for their personal use and benefit, and to further the fraud.

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

COUNTS 2-9
Health Care Fraud
(18 U.S.C. § 1347)

1. Paragraphs 1 through 9 of the General Allegations section of this Indictment is re-alleged and incorporated by reference as if fully set forth herein.

2. From in or around February 2013, through in or around May 2016, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendants,

YOSBEL OTANO MELENDEZ and
YARELI PAULA,

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, BCBS and an ASO insurance plan managed by BCBS, 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 defendants and their accomplices to unlawfully enrich themselves by, among other things: (a) submitting and causing the submission of false and fraudulent claims to health care benefit programs; (b) concealing the submission of false and fraudulent claims to health care benefit programs; (c) concealing the receipt of the fraud proceeds; and (d) diverting the fraud proceeds for their personal use and benefit, and the use and benefit of others, and to further the fraud.

The Manner and Means of the Scheme and Artifice

The Manner and Means of the Conspiracy 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 or Attempted Execution of the Scheme and Artifice

On or about the dates specified as to each count below, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendants, 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, BCBS and an ASO insurance plan managed by BCBS, 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 defendants submitted and caused the submission of false and fraudulent claims seeking the identified dollar amounts, and representing that the pharmacies provided pharmaceutical items and services to BCBS and an ASO insurance plan managed by BCBS beneficiaries pursuant to physicians' valid orders and prescriptions:

Count	Defendant(s)	Beneficiary	Approx. Date Claim Received	Claim Number	Services Claimed; Approx. Amount Claimed
2	YOSEBEL OTANO MELENDEZ and YARELI PAULA	G.P.	01/15/2014	H100000392788972	Application of a Modality to one or more areas; Contrast baths, Each 15 minutes; \$150
3	YOSEBEL OTANO MELENDEZ and YARELI PAULA	G.P.	02/13/2014	H100000394357278	Application of a Modality to one or more areas, Traction, Mechanical; \$150
4	YOSEBEL OTANO MELENDEZ and YARELI PAULA	G.P.	02/18/2014	H100000395438688	Application of a modality to one or more areas; Contrast baths, Each 15 minutes; \$150
5	YOSEBEL OTANO MELENDEZ and YARELI PAULA	V.V.S.	03/14/2014	H100000398939773	Therapeutic Procedure, one or more areas, Each 15 minutes, Neuromuscular reeducation of movement; \$300
6	YOSEBEL OTANO MELENDEZ and YARELI PAULA	V.V.S.	03/19/2014	H100000399877800	Application of a modality to one or more areas, Ultrasound, Each 15 minutes; \$150
7	YOSEBEL OTANO MELENDEZ and YARELI PAULA	V.V.S.	03/19/2015	H100000461726296	Therapeutic Procedure, one or more areas, Each 15 minutes, Therapeutic exercises to develop strength; \$300

Count	Defendant	Beneficiary	Approx. Date Claim Received	Claim Number	Services Claimed; Approx. Amount Claimed
8	YOSEBEL OTANO MELENDEZ and YARELI PAULA	A.P	03/15/2016	H100000523047507	Application of a modality to one or more areas; Electrical Stimulation (Manual), Each 15 minutes; \$150
9	YOSEBEL OTANO MELENDEZ	A.P.	04/08/2016	H100000528301295	Application of a modality to one or more areas, Infrared; \$150

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

FORFEITURE
18 U.S.C. § 982(a)(7)

1. The allegations contained in this Indictment is re-alleged and incorporated by reference as though fully set forth herein for the purpose of alleging forfeiture to the United States of certain property in which the defendants, **YOSBEL OTANO MELENDEZ and YARELI PAULA**, have an interest.

2. Upon conviction of any of the violations of Title 18, United States Code, Sections 1347 or 1349, as alleged in this Indictment, the defendant so convicted 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 Title 18, United States Code, Section 982(a)(7).

3. The property subject to forfeiture includes, but is not limited to, the sum of \$980,243 in United States currency, the gross proceeds traceable to the commission of the health

care fraud offenses alleged in this Indictment, for which the United States will seek a forfeiture money judgment as part of the defendants' sentences.

4. If the property described above as being subject to forfeiture, 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 subdivided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendants up to the value of the above forfeitable property and, in addition, to seek a court order requiring the defendants to return any such property to the jurisdiction of the court for seizure and forfeiture.

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

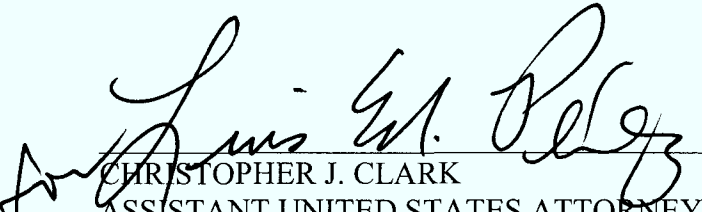
A TRUE BILL



FOR REFERENCE



BENJAMIN G. GREENBERG
UNITED STATES ATTORNEY



CHRISTOPHER J. CLARK
ASSISTANT UNITED STATES ATTORNEY