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SOUTHERN DISTRICT OF CALIFORNIA

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6/27/18 aef

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

April 2018 Grand Jury

18CR2930L

UNITED STATES OF AMERICA,

Case No.

Plaintiff,

I N D I C T M E N T

v.

Title 18, U.S.C., Sec. 1347 -
Health Care Fraud; Title 18,
U.S.C., Sec. 1028A - Aggravated
Identity Theft; Title 18, U.S.C.,
Sec. 1516 - Obstruction of Federal
Audit; Title 18, U.S.C.,
Secs. 982(a)(7) and 982(b) -
Criminal Forfeiture

MARCO ANTONIO CHAVEZ,

Defendant.

The grand jury charges:

INTRODUCTORY ALLEGATIONS

At all times pertinent to this Indictment:

BACKGROUND ON TRICARE

1. TRICARE was the Department of Defense health care program serving uniformed service members, retirees, and their families. TRICARE received in excess of \$100,000 in federal funds each year. The Defense Health Agency oversaw and managed the TRICARE program.

2. TRICARE contractors, through their arrangement with their claims processors, received claims from health care providers. The claims were processed in various locations throughout the U.S. and then

1 aef

1 reimbursements were made by electronic funds transfer (ETF) to the
2 provider's financial accounts or mailed by check to the provider's listed
3 address.

4 3. "XPressClaim" or XPC was a web-based system through which a
5 provider submitted electronic claims for payment directly to TRICARE,
6 using a unique personal security key code. In registering to submit
7 claims through XPC, the provider agreed that he/she "understands that
8 the submission of an electronic medical claim is a claim for TRICARE
9 payment and that anyone who misrepresents or falsifies any record or
10 other information essential to that claim....[may] be subject to fine
11 and imprisonment under federal law."

12 4. Providers were reimbursed by the Defense Health Agency.
13 Benefit dollars were strictly designated to pay for medical care that
14 was received by the eligible beneficiary, for medically necessary
15 services that were actually provided.

16 5. In the western region of the United States, until December 31,
17 2017, United HealthCare Military & Veterans, West (UHC M&V) was the
18 TRICARE Managed Care Support contractor. In that capacity, UHC M&V
19 received claims from providers, reviewed benefits, and issued payments
20 for medically necessary services.

21 6. UHC M&V had a Program Integrity division (UHC M&V PI),
22 responsible for reviewing TRICARE benefits claims for fraud, waste and
23 abuse. Its responsibilities were, among others, to process and analyze
24 TRICARE data, refer suspected fraud to law enforcement, conduct audits
25 of TRICARE billing records on TRICARE's behalf, and ensure program
26 integrity.

1 BACKGROUND ON DEFENDANT

2 7. Defendant MARCO ANTONIO CHAVEZ, (CHAVEZ), was a physician
3 licensed by the State of California Medical Board. His license was
4 issued in the state of California on February 25, 2011.

5 8. In October 2011, CHAVEZ began billing TRICARE for services
6 provided to TRICARE beneficiaries. CHAVEZ offered psychiatry services
7 to TRICARE beneficiaries, including therapy and prescription medications
8 for children and adults diagnosed with ADHD and depression. Beginning
9 in April 2013, CHAVEZ became a network provider for TRICARE under
10 contract with UHC M&V.

11 9. In August 2013, CHAVEZ registered to submit claims through XPC
12 and was issued a unique personal security key code.

13 10. From 2013 to February 2016, CHAVEZ rented space and treated
14 patients at San Diego Mental Health Associates (SDMHA), 3914 3rd Avenue,
15 San Diego, CA, 92101. Starting in February 2016, CHAVEZ treated patients
16 as a sole practitioner at 1855 1st Avenue, Suite 200B, San Diego, CA,
17 92101.

18 Counts 1-30

19 HEALTH CARE FRAUD (18 U.S.C. § 1347)

20 11. Paragraphs 1 through 10 of the Introductory Allegations of
21 this Indictment are realleged and incorporated by reference.

22 12. Beginning on a date unknown to the grand jury and continuing
23 up to and including at least July 2015, within the Southern District of
24 California and elsewhere, defendant MARCO ANTONIO CHAVEZ, (CHAVEZ), with
25 the intent to violate the laws of the United States, did knowingly and
26 willfully execute a material scheme to defraud a health care benefit
27 program (i.e. TRICARE), and to obtain, by means of materially false and
28 fraudulent pretenses, representations, and promises, money and property

1 owned by, and under the custody and control of, TRICARE, in connection
2 with the delivery of and payment for health care benefits, items, and
3 services; in violation of Title 18, United States Code, Section 1347.

4 OBJECT OF THE SCHEME

5 13. It was the purpose of the scheme to use TRICARE beneficiary
6 information to submit false and fraudulent claims to TRICARE for, and
7 receive payment for, services that CHAVEZ never provided.

8 MANNER AND MEANS OF THE SCHEME

9 14. Defendant sought to accomplish the object of his scheme using
10 the following manners and means:

- 11 a. Defendant CHAVEZ obtained patient information from TRICARE
12 beneficiaries when they visited him for treatment.
- 13 b. In addition to submitting claims to TRICARE for the actual
14 visits by patients, CHAVEZ used the patient information to
15 submit false and fraudulent claims to TRICARE for additional
16 dates of service when he did not treat that patient.
- 17 c. To increase the amount of his reimbursement, in the false
18 and fraudulent claims he submitted to TRICARE, CHAVEZ
19 routinely selected the code for the highest-level patient
20 visit, even though CHAVEZ did not see the patient at all on
21 those dates.
- 22 d. CHAVEZ submitted false and fraudulent claims through XPC,
23 using his unique personal security key code, to avoid review
24 by other billing staff.
- 25 e. CHAVEZ caused TRICARE reimbursements to be electronically
26 transferred into an account in his name, controlled by him.
- 27 f. CHAVEZ tried to deflect attention and avoid detection of
28 his fraudulent billing, including by telling patients that

1 they might see entries on their Explanation of Benefit (EOB)
2 forms from TRICARE that they would not recognize.

3 g. CHAVEZ tried to deflect attention and avoid detection of
4 his fraudulent billing, including by telling a billing
5 consultant at SDMHA not to look at his billing records.

6 h. When the TRICARE contractor conducted an audit and requested
7 certain of CHAVEZ's patient files, CHAVEZ tried to deflect
8 attention and avoid detection of his fraudulent billing,
9 including by misrepresenting that he had already sent the
10 files, when he knew those files did not exist.

11 i. When the TRICARE contractor conducted an audit and requested
12 certain of CHAVEZ's patient files, CHAVEZ tried to deflect
13 attention and avoid detection of his fraudulent billing,
14 including by misrepresenting that a member of the office
15 staff had stolen CHAVEZ' TRICARE checks and deposited them
16 without his permission.

17 15. Using these means, CHAVEZ submitted approximately \$928,800 in
18 false and fraudulent claims to TRICARE via XPC.

19 16. On about the dates set forth below, within the Southern
20 District of California and elsewhere, CHAVEZ knowingly and willfully
21 executed the scheme to defraud, by submitting and causing to be submitted
22 to TRICARE false and fraudulent claims for reimbursement for medical
23 services that had not actually been rendered:

Count	Date Submitted	Claimed Date of Service	Patient	CPT Code	Billed Amount	Paid Amount
1	10/8/14	8/26/14	I.H.	99215	\$150.00	\$134.88
2	10/8/14	8/29/14	I.H.	99215	\$150.00	\$134.88
3	10/8/14	9/4/14	I.H.	99215	\$150.00	\$100.00
4	10/8/14	9/9/14	I.H.	99215	\$150.00	\$134.88

Count	Date Submitted	Claimed Date of Service	Patient	CPT Code	Billed Amount	Paid Amount
5	10/8/2014	9/12/14	I.H..	99215	\$150.00	\$134.88
6	12/10/14	10/24/14	S.C.	99215	\$150.00	\$134.88
7	12/10/14	10/27/14	S.C.	99215	\$150.00	\$134.88
8	12/10/14	10/30/14	S.C.	99215	\$150.00	\$134.88
9	12/10/14	11/4/14	S.C.	99215	\$150.00	\$134.88
10	12/10/14	11/7/14	S.C.	99215	\$150.00	\$134.88
11	12/10/14	11/11/14	S.C.	99215	\$150.00	\$134.88
12	1/16/15	10/21/14	J.P.	99215	\$150.00	\$122.88
13	1/16/15	10/24/14	J.P.	99215	\$150.00	\$122.88
14	1/16/15	10/28/14	J.P.	99215	\$150.00	\$122.88
15	1/16/15	10/31/14	J.P.	99215	\$150.00	\$122.88
16	4/22/15	3/2/15	N.T.	99215	\$150.00	122.88
17	4/22/15	3/6/15	N.T.	99215	\$150.00	122.88
18	4/22/15	3/10/15	N.T.	99215	\$150.00	122.88
19	4/22/15	3/12/15	N.T.	99215	\$150.00	88.00
20	4/22/15	3/16/15	N.T.	99215	\$150.00	122.88
21	4/27/15	2/2/15	K.A.	99215	\$150.00	\$134.88
22	4/27/15	2/6/15	K.A.	99215	\$150.00	\$134.88
23	4/27/15	2/9/15	K.A.	99215	\$150.00	\$134.88
24	4/27/15	2/12/15	K.A.	99215	\$150.00	\$134.88
25	4/27/15	2/17/15	K.A.	99215	\$150.00	\$134.88
26	4/27/15	2/23/15	A.L.	99215	\$150.00	\$134.88
27	4/27/15	2/27/15	A.L.	99215	\$150.00	\$134.88
28	4/27/15	3/2/15	A.L.	99215	\$150.00	\$134.88
29	6/17/15	3/10/15	A.L.	99215	\$150.00	\$134.88
30	6/17/15	4/10/15	A.L.	99215	\$150.00	\$134.88

All in violation of Title 18, United States Code, Section 1347.

Counts 31-36

AGGRAVATED IDENTITY THEFT (18 U.S.C. § 1028A)

17. On or about the following dates, within the Southern District of California, defendant MARCO ANTONIO CHAVEZ, during and in relation to a felony violation of Title 18, United States Code, Section 1347, knowingly possessed and used, without lawful authority, a means of identification of another person, to wit: the name, date of birth, and TRICARE beneficiary number, knowing that said means of identification

1 belonged to another person; in violation of Title 18, United States
2 Code, Section 1028A.

Count	Date	Victim
31	10/8/14	I.H.
32	12/10/14	S.C.
33	1/15/15	J.P.
34	4/22/15	N.T.
35	4/27/15	K.A.
36	4/27/15	A.L.

8 Count 37

9 **OBSTRUCTION OF FEDERAL AUDIT (18 U.S.C. § 1516)**

10 18. In or about July 2015, within the Southern District of
11 California and elsewhere, defendant MARCO ANTONIO CHAVEZ, with the
12 intent to deceive and defraud the United States, endeavored to influence,
13 obstruct, and impede an auditor from United HealthCare Military and
14 Veteran Program Integrity, a designated contractor for TRICARE, in the
15 performance of her official duties relating to a federal audit on behalf
16 of TRICARE, an entity receiving in excess of \$100,000, directly and
17 indirectly, from the United States in the one-year period from January 1,
18 2015 to January 1, 2016, by making the misleading and fraudulent
19 statements that a former office manager may have submitted claims that
20 he was unaware of, and cashed the checks; in violation of Title 18,
21 United States Code, Section 1516.

22 CRIMINAL FORFEITURE

23 19. Paragraphs 1 through 17 of this Indictment are realleged and
24 incorporated as if fully set forth herein for the purpose of alleging
25 forfeiture pursuant to Title 18, United States Code, Section 982(a)(7).

26 20. Upon conviction of one or more of the offenses of Health Care
27 Fraud as alleged in Counts 1 through 25 of this Indictment, defendant
28

1 MARCO ANTONIO CHAVEZ, pursuant to Title 18, United States Code,
2 Section 982(a)(7), shall forfeit to the United States:

3 (a) all right, title, and interest in any property, real or personal,
4 that constitutes or is derived, directly or indirectly, from gross
5 proceeds traceable to the commission of such offenses, including, but
6 not limited to:

- 7 i. A red 2016 Jaguar F-type vehicle, VIN
8 SAJWA6ET9G8K246671,
- 9 ii. DAVID YURMAN DIAMOND 10-RING 6MM PAVE STREAMLINE
10 NARROW BAND, STYLE # R05993MTSADI10,
- 11 iii. DAVID YURMAN SAPPHIRE NO SIZE, STYLE # D15165MSSASA,
- 12 iv. DAVID YURMAN SAPPHIRE M-BRACELET PAVE BUCKLE, STYLE #
13 B15157MSSASABKLEM,
- 14 v. DAVID YURMAN RUBY NO SIZE 35MM PAVE TAG, STYLE
15 #D15041MTBARU,
- 16 vi. DAVID YURMAN SAPPHIRE NO SIZE 35MM PAVE TAG, STYLE #
17 D15041MTBASA,
- 18 vii. DAVID YURMAN SAPPHIRE 7-RING PAVE PINKY RING, STYLE #
19 R15468MTBASA7,
- 20 viii. DAVID YURMAN DIAMOND M-BRACELET CHEVRON ID BRACELET,
21 STYLE # B15475MSSADIM,
- 22 ix. DAVID YURMAN DIAMOND 7-RING 8MM CHEVRON BAND, STYLE #
23 R15471MSSADI7,
- 24 x. DAVID YURMAN NO STONES M-BRACELET 5.2MM BOX CHAIN,
25 STYLE # BC0364M88M,
- 26 xi. DAVID YURMAN DIAMOND NO SIZE MEN'S PAVE DOG TAG, STYLE
27 # D05037M88ADI,
- 28

- xii. DAVID YURMAN NO STONES 20 IN-NECKLACE MENS SML BOX CHAIN, STYLE # CHO104M8820,
- xiii. DAVID YURMAN NO STONES 8-RING 6MM STREAMLINE, STYLE # R05996MS88,
- xiv. DAVID YURMAN NO STONES M-BRACELET 6.5MM CABLE CUFF, STYLE # B15247MS8M,
- xv. DAVID YURMAN GREY SAPPHIRE 9-RING PAVE PINKY RING, STYLE # B15555MSSAESM,
- xvi. DAVID YURMAN GREY SAPPHIRE M-BRACELET BOX CHAIN ID, STYLE # B15555MSSAESM,
- xvii. DAVID YURMAN GREY SAPPHIRE NO SIZE 35 MM MEDIUM PA, STYLE # D15225MSSAES,
- xviii. DAVID YURMAN 24 IN-NECKLACE HIGH POLISH, STYLE # CH0248MSS24,
- xix. DAVID YURMAN SAPPHIRE 10-RING 6.5MM 2 ROW, STYLE # R05780MSSASA10;

and (iii) a money judgment against defendant CHAVEZ equivalent to the total amount of gross proceeds derived, directly or indirectly, from such offenses, in an amount not less than \$783,764.37..

21. If any of the above described forfeitable property, as a result of any act or omission of defendant MARCO ANTONIO CHAVEZ:

- (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;

1 it is the intent of the United States, pursuant to Title 18, United
2 States Code, Section 982(b) which incorporates the provisions of Title
3 21, United States Code, Section 853(p), to seek forfeiture of any other
4 property of defendant MARCO ANTONIO CHAVEZ up to the value of the
5 forfeitable property described above;

6 All pursuant to Title 18, United States Code, Sections 982(a)(7)
7 and 982(b).

8 DATED: June 15, 2018.

9 A TRUE BILL:

10 
11 _____
Foreperson

12 ADAM L. BRAVERMAN
13 United States Attorney

14 By: 
15 VALERIE H. CHU
Assistant U.S. Attorney