

ORIGINAL

FILED IN OPEN COURT
U.S.D.C. Atlanta

JUN 26 2018

James A. Mattern, Clerk
By: *[Signature]*
Deputy Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA

v.

ROSA FITZHUGH,
A.K.A. ROSA LEGER,
A.K.A. ROSA CEDENO

Criminal Indictment

No. 1 18 - CR - 242

THE GRAND JURY CHARGES THAT:

COUNTS ONE THROUGH EIGHT

18 U.S.C. § 1347
(Health Care Fraud)

1. From as least as early as in or about January 2015, and continuing until in or about October 2017, in the Northern District of Georgia and elsewhere, defendant ROSA FITZHUGH, aided and abetted by others known and unknown to the Grand Jury, did knowingly and willfully execute and attempt to execute a scheme and artifice to defraud Medicaid, which is a health care benefit program, as defined in Title 18, United States Code, Section 24(b), affecting interstate commerce, and to obtain, by means of materially false and fraudulent pretenses, representations, promises and by the omission of material facts, money and property owned by and under the custody and control of Medicaid, in connection with the delivery of and payment for health care benefits, items, and services.

Background

At all times relevant to this Indictment:

2. Medicaid was a health insurance program that pays medical bills for eligible low-income families. Medicaid was established to provide an array of health care services and benefits to those who, due to economic circumstances, could not otherwise afford such health care services and benefits. Medicaid is jointly funded by State governments and the United States Department of Health and Human Services, acting through the Centers for Medicare and Medicaid Services. Medicaid is a public plan or contract, affecting commerce, under which medical benefits, items, and services are provided to individuals. Medicaid is a “health care benefit program,” as defined by Title 18, United States Code, Section 24(b).

3. Medicaid was administered in the State of Georgia by the Georgia Department of Community Health.

4. Medicaid paid health care providers for services directly and contracted with Care Management Organizations (“CMOs”) to pay health care providers on behalf of Medicaid. These CMOs included Amerigroup Community Care (“Amerigroup”), Peach State Health Plan (“Peach State”) and WellCare of Georgia, Inc. (“WellCare”). Because of the contractual relationship between Medicaid and the CMOs, references in this Indictment to Medicaid include CMOs.

5. Individuals who received benefits under Medicaid were referred to as Medicaid “members.”

6. In order to submit bills to Medicaid for reimbursement for health care

services provided to Medicaid members, one had to be an approved Medicaid provider. A provider obtained this approval by submitting an application to Medicaid and enrolling in certain Medicaid programs or services. If the application met certain minimum qualifications, Medicaid approved the application, and issued the provider a unique identification number called a “provider number.”

7. Once a provider was issued a provider number, the provider could then submit bills, known as “claims,” to Medicaid to obtain reimbursement for services provided to Medicaid members. Each provider number that was issued by Medicaid was linked to a bank account where reimbursements were sent.

8. When a claim for reimbursement was submitted to Medicaid, the provider certified that the contents of the claim were true, correct, complete, and that the claim was submitted in compliance with the laws and regulations governing the Medicaid program.

9. Defendant ROSA FITZHUGH was a licensed professional counselor who owned, controlled, or was associated with Casa Luisa, Inc. and Elevated Staffing, LLC located in Decatur, Georgia, in the Northern District of Georgia.

10. On or about February 7, 2011, defendant ROSA FITZHUGH was issued a licensed professional counselor license by the State of Georgia.

11. On or about and between May 25, 2011 and September 8, 2013, defendant ROSA FITZHUGH enrolled in Medicaid as an individual provider. Defendant ROSA FITZHUGH purportedly provided individual, group, and family psychotherapy services to Medicaid members in Georgia.

12. In or about 2014, WellCare and Amerigroup terminated their provider agreements with defendant ROSA FITZHUGH and she was no longer able to bill Medicaid for psychotherapy services.

Description of the Scheme

13. In or about 2014, defendant ROSA FITZHUGH solicited providers, including licensed professional counselors (LPCs), to work as independent contractors with Elevated Staffing, LLC and Casa Luisa, Inc. Defendant ROSA FITZHUGH did not disclose to LPCs that she was a terminated provider of Amerigroup and WellCare.

14. The exact dates being unknown, Elevated Staffing, LLC and Casa Luisa, Inc. entered into contracts with LPCs or agencies that employed LPCs. Pursuant to the agreements, the LPCs were contracted to supervise individuals providing psychotherapy services and review progress notes.

15. From in or about January 2015, and continuing until in or about October 2017, defendant ROSA FITZHUGH and others operating under her direction fraudulently billed Medicaid using the LPCs provider numbers for services that were not provided by the LPCs.

16. In furtherance of the scheme, defendant ROSA FITZHUGH received Medicaid payments for the fraudulent billing in a bank account she controlled. Defendant ROSA FITZHUGH would then pay LPCs or agency owners, a percentage of the Medicaid payments. In some instances, Medicaid payments were directed to bank accounts held and controlled by the LPCs or agency owners.

After payments were received, the LPCs or agency owners would pay defendant ROSA FITZHUGH or companies she controlled.

17. From in or about January 2015, and continuing until in or about October 2017, defendant FITZHUGH intentionally caused over \$2.4 million dollars in fraudulent claims to be billed to Medicaid for individual and family psychotherapy services that were not provided, or were not provided as billed.

Execution of the Scheme

18. On or about the dates set forth below, within the Northern District of Georgia and elsewhere, defendant ROSA FITZHUGH knowingly and willfully executed and attempted to execute the above described scheme and artifice to defraud Medicaid, a health care benefit program, as defined in Title, 18 United State Code, Section 24(b), affecting interstate commerce, and to obtain money from Medicaid by means of materially false and fraudulent pretenses, representations, and promises, in connection with the delivery of and payment of health care benefits, items and services, including each claim listed below, on or about the dates set forth below, for services purported to be provided to Medicaid members whose initials and Medicaid member identification numbers are listed below:

COUNT	DATE OF SERVICE	MEDICAID MEMBER INITIALS	MEDICAID MEMBER ID. NUMBER	PROVIDER	SOURCE	AMT. PAID
1	05/18/15	A.S.	*****0463	T.P.	WellCare	\$82.50
2	06/08/15	J.S.	*****2841	A.C.	Peach State	\$146.71
3	06/10/15	C.B.	*****8591	R.G.	Amerigroup	\$102.59

4	08/19/15	M.H.	*****5803	T.H.	Amerigroup	\$84.85
5	12/18/15	J.C.	*****5101	V.A.	WellCare	\$82.50
6	10/22/16	M.S.	*****8831	L.H.	Amerigroup	\$42.58
7	01/19/17	B.S.	*****1571	L.H.	Amerigroup	\$42.58
8	08/29/17	F.R.	*****4112	A.W.	Amerigroup	\$84.85

All in violation of Title 18, United State Code, Section 1347 and Section 2.

COUNT NINE

18 U.S.C. § 1028A

(Aggravated Identity Theft)

19. The Grand Jury re-alleges and incorporates by reference Paragraphs 2 through 17 of this Indictment as if fully set forth herein.

20. From as least as early as in or about January 2015, and continuing until in or about October 2017, in the Northern District of Georgia and elsewhere, defendant ROSA FITZHUGH, aided and abetted by others known and unknown to the Grand Jury, did knowingly transfer, possess and use, without lawful authority, a means of identification of another person, that is, she knowingly possessed and used the name and Medicaid recipient number of M.H., an actual person known to the Grand Jury, during and in relation to the federal felony of health care fraud as charged in Count Four of this Indictment, in violation of Title 18, United States Code, Section 1028A(a)(1) and Section 2.

COUNT TEN
18 U.S.C. § 1028A
(Aggravated Identity Theft)

21. The Grand Jury re-alleges and incorporates by reference Paragraphs 2 through 17 of this Indictment as if fully set forth herein.

22. From as least as early as in or about January 2015, and continuing until in or about October 2017, in the Northern District of Georgia and elsewhere, defendant ROSA FITZHUGH, aided and abetted by others known and unknown to the Grand Jury, did knowingly transfer, possess and use, without lawful authority, a means of identification of another person, that is, she knowingly possessed and used the name and Medicaid recipient number of M.S., an actual person known to the Grand Jury, during and in relation to the federal felony of health care fraud as charged in Count Five of this Indictment, in violation of Title 18, United States Code, Section 1028A(a)(1) and Section 2.

COUNT ELEVEN
18 U.S.C. § 1028A
(Aggravated Identity Theft)

23. The Grand Jury re-alleges and incorporates by reference Paragraphs 2 through 17 of this Indictment as if fully set forth herein.

24. From as least as early as in or about January 2015, and continuing until in or about October 2017, in the Northern District of Georgia and elsewhere, defendant ROSA FITZHUGH, aided and abetted by others known and unknown to the Grand Jury, did knowingly transfer, possess and use, without lawful authority, a means of identification of another person, that is, she knowingly possessed and used the name and Medicaid recipient number of B.S., an actual person known to the Grand Jury, during and in relation to the federal felony of health care fraud as charged in Count Seven of this Indictment, in violation of Title 18, United States Code, Sections 1028A(a)(1) and Section 2.

Forfeiture Provision

1. Upon conviction of one or more of the offenses alleged in Counts One Through Eight, defendant ROSA FITZHUGH shall forfeit to the United States pursuant to Title 18, United States Code, Section 981(a)(1)(C); Title 18, United States Code, Section 982(a)(7); and Title 28, United States Code, Section 2641(c), all property, real or personal, which constitutes or is derived, directly or indirectly,

from gross proceeds traceable to the Federal health care offenses, including, but not limited to, the following:

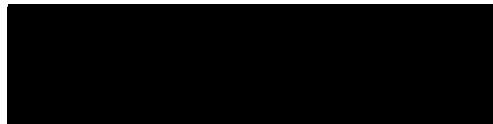
- MONEY JUDGMENT: A sum of money in United States currency representing the amount of proceeds obtained as a result of the offenses.

2. If, as a result of any act or omission of the defendant, any property subject to forfeiture:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third person;
- 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;

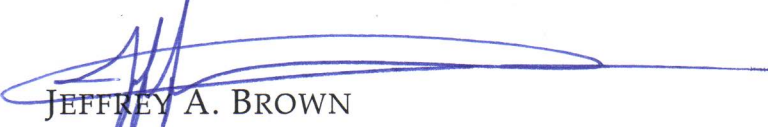
the United States intends, pursuant to Title 18, United States Code, Section 982(b) and Title 21, United States Code, Section 853(p), and Title 28, United States Code, Section 2461(c), to seek forfeiture of any other property of the defendant up to the value of the forfeitable property.


A True BILL



FOREPERSON 0

BYUNG J. PAK
United States Attorney


JEFFREY A. BROWN
Assistant United States Attorney
Georgia Bar No. 088131
600 U.S. Courthouse
75 Spring Street, S.W.
Atlanta, GA 30303
404-581-6000; Fax: 404-581-6181


ELIZABETH K. GROFIC for
Special Assistant United States Attorney
Georgia Bar No. 734138
Georgia Medicaid Fraud Control Unit
Office of the Attorney General
200 Piedmont Avenue, S.E.
19th Floor West Tower
Atlanta, Georgia 30334
(404) 656-5400