

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

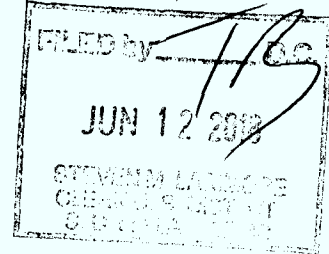
Case No. 18-20175-Cr-Cooke(s)

18 U.S.C. § 1349

18 U.S.C. § 1347

18 U.S.C. § 2

18 U.S.C. § 982(a)(7)



UNITED STATES OF AMERICA

vs.

NIEVES SUAREZ,  
ARLETY GUERRA PRIETO, and  
MARIELA QUINTANA,

Defendants.

SUPERSEDING INDICTMENT

The Grand Jury charges that:

GENERAL ALLEGATIONS

At all times relevant to this Superseding Indictment:

The Medicare Program

1. The Medicare Program ("Medicare") was a federal program that provided free or below-cost health care benefits to certain individuals, primarily the elderly, blind, and 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 ("HHS"). Individuals who received benefits under Medicare were commonly referred to as Medicare "beneficiaries."
2. The Medicare program was divided into different "parts." Part D of Medicare subsidized the costs of prescription drugs for Medicare beneficiaries in the United States. It 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 must be 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”). Each 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 to the 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 upon 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 of a portion of those additional expenses.

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

#### **Medicare Drug Plan Sponsors**

8. Aetna Life Insurance Company (“Aetna”), Cigna Health and Life Insurance Company (“Cigna”), Envision Insurance Company (“Envision”), First Health Life & Health Insurance Company (“First Health”), Medco Containment Life Insurance Company (“Medco”), United Healthcare Insurance Company (“UHC”), and Argus Health Systems (“Argus”), were, among others, Medicare drug plan sponsors.

#### **The Defendants and Related Entity**

9. Golden Owl Pharmacy & Discount Corp. (“Golden Owl Pharmacy”) was a Florida corporation, located at 1874 SW 57<sup>th</sup> Ave, Miami, Florida. Golden Owl Pharmacy was a pharmacy that purportedly provided prescription drugs to Medicare beneficiaries.

10. **NIEVES SUAREZ**, a resident of Miami-Dade County, was the president and registered agent of Golden Owl Pharmacy from on or about January 3, 2011, to on or about November 30, 2012. **NIEVES SUAREZ** was the secretary of Golden Owl Pharmacy from on or about November 30, 2012, to on or about March 10, 2015.

11. **ARLETY GUERRA PRIETO**, a resident of Miami-Dade County, was the vice president of Golden Owl Pharmacy from on or about October 26, 2012, to on or about November 30, 2012. **ARLETY GUERRA PRIETO** was the president and registered agent of Golden Owl Pharmacy from on or about November 30, 2012, to on or about the dissolution of the corporation on September 25, 2015.

12. **MARIELA QUINTANA**, a resident of Miami-Dade County, was a co-owner of Golden Owl Pharmacy.

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

1. The General Allegations section of this Superseding Indictment is re-alleged and incorporated by reference as if fully set forth herein.

2. From in or around October 2012, through in or around March 2015, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendants,

**NIEVES SUAREZ,**  
**ARLETY GUERRA PRIETO, and**  
**MARIELA QUINTANA,**

did willfully, that is, with the intent to further the objects of the conspiracy, and knowingly combine, conspire, confederate and agree with each other and others known and unknown to the Grand Jury, to commit offenses against the United States of America, 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, Aetna, Cigna, Envision, First Health, Medco, UHC, and Argus, 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 commerce, certain writings, signs, signals, 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 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. **NIEVES SUAREZ, ARLETY GUERRA PRIETO, and MARIELA QUINTANA** submitted and caused the submission of claims, via interstate wires, which falsely and fraudulently represented that various health care benefits, primarily prescription drugs, were medically necessary, prescribed by a doctor, and had been provided by Golden Owl Pharmacy to Medicare beneficiaries.

5. As a result of such false and fraudulent claims, Medicare prescription drug plan sponsors, through their PBMs, made payments funded by the Medicare Part D Program to the corporate bank accounts of Golden Owl Pharmacy in the approximate amount of \$915,784.

6. **NIEVES SUAREZ, ARLETY GUERRA PRIETO, MARIELA QUINTANA,** 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 2-5**  
**Health Care Fraud**  
**(18 U.S.C. § 1347)**

1. The General Allegations section of this Superseding Indictment is re-alleged and incorporated by reference as if fully set forth herein.

2. From in or around October 2012, through in or around March 2015, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendants,

**NIEVES SUAREZ,**  
**ARLETY GUERRA PRIETO, and,**  
**MARIELA QUINTANA,**

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, Medicare, Aetna, Cigna, Envision, First Health, Medco, UHC, and Argus, 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 a health care benefit program; (b) concealing the

submission of false and fraudulent claims to a health care benefit program; (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 Scheme and Artifice**

4. The Manner and Means section of Count 1 of this Superseding 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 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, Medicare, Aetna, Cigna, Envision, First Health, Medco, UHC, and Argus, 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 Golden Owl Pharmacy provided pharmaceutical items and services to Medicare beneficiaries pursuant to a physician’s valid orders and prescriptions:

<b>Count</b>	<b>Beneficiary</b>	<b>Approx. Date of Claim Submission</b>	<b>PDE Claim Unique ID Number</b>	<b>Item Claimed; Approx. Amount Claimed</b>	<b>Medicare Drug Plan Sponsor</b>
2	R.P.	09/09/13	3000171886242200000001	Advair Disk Aer 250/50; \$276	Aetna

Count	Beneficiary	Approx. Date of Claim Submission	PDE Claim Unique ID Number	Item Claimed; Approx. Amount Claimed	Medicare Drug Plan Sponsor
3	G.L.	11/12/13	131753547726050998	Advair Disk Aer 250/50; \$267	UHC
4	L.G.	03/20/14	8797735403048B	Namenda Tab 10 MG; \$298	Envision
5	F.R.	04/23/14	8377973404021B	Abilify Tab 20 MG; \$1133	Envision

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 Superseding Indictment are 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, **NIEVES SUAREZ, ARLETY GUERRA PRIETO** and **MARIELA QUINTANA**, 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 violation, pursuant to Title 18, United States Code, Section 982(a)(7).

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

(a) the sum of \$915,784 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 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 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

~~FOREPERSON~~

  
BENJAMIN G. GREENBERG  
UNITED STATES ATTORNEY

  
CHRISTOPHER J. CLARK  
ASSISTANT UNITED STATES ATTORNEY