**UNITED STATES DISTRICT COURT**
**SOUTHERN DISTRICT OF FLORIDA**

**Case No.** 18-20473 CR-COOKE

**18 U.S.C. § 371**
**42 U.S.C. § 1320a-7b(b)(1)(A)**
**18 U.S.C. § 2**
**18 U.S.C. § 982(a)(7)**

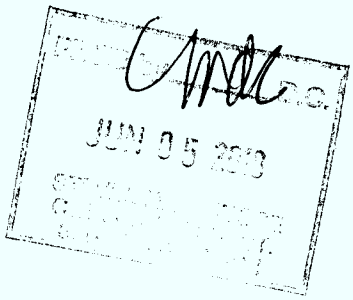
/GOODMAN

**UNITED STATES OF AMERICA**

**v.**

**YAMILET DIAZ,**

**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 federal health care program providing benefits to persons who were 65 or older or disabled. Medicare was administered by the United States Department of Health and Human Services ("HHS"), through its agency, the Centers for Medicare and Medicaid Services ("CMS"). Individuals who received benefits under Medicare were referred to as Medicare "beneficiaries."

2. Medicare was a "health care benefit program," as defined by Title 18, United States Code, Section 24(b).

3. "Part A" of the Medicare program covered certain eligible home health care costs for medical services provided by a home health agency ("HHA") to beneficiaries who required

home health services because of an illness or disability that caused them to be homebound.

4. Physicians, clinics, and other health care providers, including HHAs, that provided services to Medicare beneficiaries were able to apply for and obtain a "provider number." A health care provider that received a Medicare provider number was able to file claims with Medicare to obtain reimbursement for services provided to beneficiaries. A Medicare claim was required to set forth, among other things, the beneficiary's name and Medicare information number, the services that were performed for the beneficiary, the date that the services were provided, the cost of the services, and the name and provider number of the physician or other health care provider who ordered the services.

5. CMS did not directly pay Medicare Part A claims submitted by Medicare-certified HHAs. CMS contracted with different companies to administer the Medicare Part A program throughout different parts of the United States. In the State of Florida, CMS contracted with Palmetto Government Benefits Administrators ("Palmetto"). As administrator, Palmetto was to receive, adjudicate, and pay claims submitted by HHA providers under the Part A program for home health services. Additionally, CMS separately contracted with companies in order to review HHA providers' claims data. CMS first contracted with TriCenturion, a Program Safeguard Contractor. Subsequently, on December 15, 2008, CMS contracted with SafeGuard Services, a Zone Program Integrity Contractor. Both TriCenturion and SafeGuard Services safeguarded the Medicare Trust Fund by reviewing HHA providers' claims for potential fraud, waste, and/or abuse.

## Part A Coverage and Regulations

### Reimbursements

6. The Medicare Part A program reimbursed 100% of the allowable charges for participating HHAs providing home health care services only if the patient qualified for home

health benefits. A patient qualified for home health benefits only if:

(a) the patient was confined to the home, also referred to as homebound;

(b) the patient was under the care of a physician who specifically determined there was a need for home health care and established the Plan of Care ("POC"); and

(c) the determining physician signed a certification statement specifying that the beneficiary needed intermittent skilled nursing care, physical therapy, speech therapy, or continued occupational therapy services; that the beneficiary was confined to the home; that a POC for furnishing services was established and periodically reviewed; and that the services were furnished while the beneficiary was under the care of the physician who established the POC.

**Record Keeping Requirements**

7. Medicare Part A regulations required HHAs providing services to Medicare beneficiaries to maintain complete and accurate medical records reflecting the medical assessment and diagnoses of the patients, as well as records documenting the actual treatment of patients to whom services were provided and for whom claims for reimbursement were submitted by the HHA. These medical records were required to be sufficiently complete to permit Medicare, through Palmetto and other contractors, to review the appropriateness of Medicare payments made to the HHA under the Part A program.

8. Among the written records required to document the appropriateness of home health care claims submitted under Part A of Medicare were: (i) a POC that included the physician order for home health care, diagnoses, types of services/frequency of visits, prognosis/rehabilitation potential, functional limitations/activities permitted, medications/treatments/nutritional requirements, safety measures/discharge plans, goals, and the physician's signature; and (ii) a signed certification statement by an attending physician certifying

that the patient was confined to his or her home and was in need of the planned home health services.

9. Medicare Part A regulations required provider HHAs to maintain medical records of every visit made by a nurse, therapist, and home health aide to a beneficiary. The record of a nurse's visit was required to describe, among other things, any significant observed signs or symptoms, any treatment and drugs administered, any reactions by the patient, any instruction provided to the patient and the understanding of the patient, and any changes in the patient's physical or emotional condition. The home health nurse, therapist, and aide were required to document the hands-on personal care provided to the beneficiary as the services were deemed necessary to maintain the beneficiary's health or to facilitate treatment of the beneficiary's primary illness or injury. These written medical records were generally created and maintained in the form of "clinical notes" and "home health aide notes/observations."

10. Medicare regulations allowed certified HHAs to subcontract home health care services to nursing companies, therapy staffing services agencies, registries, or groups (nursing groups), which would bill the certified HHA. The HHA would, in turn, bill Medicare for all services provided to beneficiaries by the subcontractor. The HHA's professional supervision over subcontracted-for services required the same quality controls and supervision as of its own salaried employees.

**The Defendant, Relevant Entities, and Individuals**

11. Good Friends Services, Inc. ("Good Friends") was a Florida corporation, located at 9500 N. W. 77th Avenue, Suite 28, Hialeah Gardens, Florida, that purported to do business in Miami-Dade County as an HHA.

12. Suley Cao, a resident of Broward County, was the co-owner and president of Good Friends.

13. Consulting, Billing and Serv. Inc. ("Consulting Billing") was a Florida corporation, located at 15476 N. W. 77th Court, Suite 260, Miami Lakes, Florida, that purported to do business in Miami-Dade County.

14. Defendant **YAMILET DIAZ**, a resident of Miami-Dade County, was the president and registered agent of Consulting Billing.

**COUNT 1**
**Conspiracy to Defraud the United States and Receive Health Care Kickbacks**
**(18 U.S.C. § 371)**

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

2. From in or around October 2012, through in or around June 2013, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

**YAMILET DIAZ,**

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

a. to defraud the United States by impairing, impeding, obstructing, and defeating through deceitful and dishonest means, the lawful government functions of the United States Department of Health and Human Services in its administration and oversight of the Medicare program, in violation of Title 18, United States Code, Section 371; and

b. to violate Title 42, United States Code, Section 1320a-7b(b)(1)(A), by knowingly and willfully soliciting and receiving remuneration, including kickbacks and bribes, directly and

indirectly, overtly and covertly, in cash and in kind, in return for referring an individual to a person for the furnishing and arranging for the furnishing of an item and service for which payment may be made in whole and in part under a federal health care program, that is, Medicare.

**Purpose of the Conspiracy**

3. It was a purpose of the conspiracy for **YAMILET DIAZ** and her co-conspirators to unlawfully enrich themselves by: (a) soliciting and receiving kickbacks and bribes in return for referring Medicare beneficiaries to Good Friends to serve as patients; and (b) submitting and causing the submission of claims to Medicare for home health services that Good Friends purported to provide to those recruited beneficiaries.

**Manner and Means of the Conspiracy**

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

4. Suley Cao paid and caused the payment of kickbacks and bribes to **YAMILET DIAZ** and other patient recruiters in return for referring Medicare beneficiaries to Good Friends to serve as patients.

5. **YAMILET DIAZ** accepted kickbacks and bribes from Suley Cao in return for referring Medicare beneficiaries to Good Friends to serve as patients.

6. Suley Cao, **YAMILET DIAZ**, and others caused Good Friends to submit claims to Medicare for home health services purportedly provided to the recruited Medicare beneficiaries.

7. Suley Cao, **YAMILET DIAZ**, and others caused Medicare to make over $600,000 in payments to Good Friends based upon the claims for home health services submitted on behalf of the Medicare beneficiaries recruited by **DIAZ**.

**Overt Acts**

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

1. On or about June 14, 2013, **YAMILET DIAZ** deposited a check, numbered 3564, in the approximate amount of $5,000, written from Good Friends' bank account to Consulting Billing.

2. On or about June 14, 2013, **YAMILET DIAZ** deposited a check, numbered 3565, in the approximate amount of $3,400, written from Good Friends' bank account to Consulting Billing.

3. On or about June 14, 2013, **YAMILET DIAZ** deposited a check, numbered 3566, in the approximate amount of $2,600, written from Good Friends' bank account to Consulting Billing.

4. On or about June 25, 2013, **YAMILET DIAZ** deposited a check, numbered 3581, in the approximate amount of $4,400, written from Good Friends' bank account to Consulting Billing.

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

**COUNTS 2–5**
**Receipt of Health Care Kickbacks in Return for Referring Individuals**
**(42 U.S.C. § 1320a-7b(b)(1)(A))**

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

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

**YAMILET DIAZ,**

did knowingly and willfully solicit and receive remuneration, including kickbacks and bribes, directly and indirectly, overtly and covertly, in cash and in kind, including by check, as set forth below, in return for referring an individual to a person for the furnishing and arranging for the furnishing of any item and service for which payment may be made in whole and in part under a federal health care program, that is, Medicare, as set forth below:

| Count | Approximate Date of Kickback | Approximate Amount |
|---|---|---|
| 2 | June 14, 2013 | $5,000 |
| 3 | June 14, 2013 | $3,400 |
| 4 | June 14, 2013 | $2,600 |
| 5 | June 25, 2013 | $4,400 |

In violation of Title 42, United States Code, Section 1320a-7b(b)(1)(A), and Title 18, United States Code, Section 2.

**FORFEITURE**
**(18 U.S.C. § 982(a)(7))**

1. The allegations contained in this 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 defendant, **YAMILET DIAZ**, has an interest.

2. Upon conviction of a violation of Title 18, United States Code, Section 371, as alleged in Count 1 of this Indictment, or of Title 42, United States Code, Section 1320a-7b(b)(1)(A), as alleged in Counts 2 through 5 of this Indictment, the defendant shall forfeit to the United States, pursuant to Title 18, United States Code, Section 982(a)(7), any property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of such offense.

3. The property to be forfeited includes, but is not limited to, a sum of money equal in value to the gross proceeds traceable to the commission of the offenses alleged in this

Indictment, approximately $306,800, which the United States will seek as a forfeiture money judgment as part of the defendant's sentence.

4. If any of the property described above, as a result of any act or omission of the 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,

the United States shall be entitled to forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p).

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
SOUTHERN DISTRICT OF FLORIDA

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

LESLIE WRIGHT
TRIAL ATTORNEY
CRIMINAL DIVISION, FRAUD SECTION
U.S. DEPARTMENT OF JUSTICE