AFFIDAVIT IN SUPPORT OF APPLICATION FOR CRIMINAL COMPLAINTS AND ARREST WARRANTS

I, Special Agent James Crowley, being first duly sworn, state as follows:

INTRODUCTION AND AGENT BACKGROUND

1. I am a Special Agent with the Federal Bureau of Investigation (FBI). I am currently assigned to the Providence FBI Office and am assigned health care fraud investigations that cover the state of Rhode Island and other areas. I have been employed as a Special Agent with the FBI for over twenty-four years. I have received extensive training to include training at the FBI Academy in Quantico, Virginia.

2. As an FBI Special Agent, I have participated in investigations relating to bank fraud, wire fraud, money laundering, international and domestic terrorism, civil rights, health care fraud, and violent crimes to include drug trafficking and firearms violations. Many of the investigations in which I have participated were national in scope, and required me to work closely, and to share information and intelligence, with members of other law enforcement agencies. I have also assisted with the execution of numerous search and arrest warrants. I am currently responsible for investigating allegations of health care fraud where I have participated in investigations involving those programs and have interviewed witnesses, conducted surveillance, and reviewed claims data, medical records and other business records.

3. I am an "investigative or law enforcement officer of the United States" within the meaning of Title 18, United States Code, Section 2510(7), that is, an officer of the United States who is empowered by law to conduct investigations of, and to make arrests for, offenses enumerated in Title 18 of the United States Code.

PURPOSE

4. This affidavit is submitted in support of criminal complaints and arrest warrants for the following two individuals, herein after referred to by name or as the "TARGET SUBJECTS":

a. Brandon Nowak ("NOWAK"), age 32, is a resident of Providence, Rhode Island

b. Jason Simmons ("SIMMONS"), age 33, is a resident of Foster, Rhode Island

5. As described in more detail below, at all relevant times, NOWAK and SIMMONS were the principals of Alternative Integrative Medicine, LLC dba AIM Health ("AIM Health"). The TARGET SUBJECTS were the co-owners of AIM Health; NOWAK was the President and CEO of AIM Health and SIMMONS was Vice President, Chief Finance Officer and the Compliance Officer.

a. Based on the facts set forth in this affidavit, there is probable cause to believe that the TARGET SUBJECTS have committed violations of federal criminal law, to wit, health care fraud conspiracy, in violation of 18 U.S.C. § 1349, health care fraud, in violation of 18 U.S.C. § 1347, and False Claims, in violation of 18 U.S.C. § 287 (collectively, the "TARGET OFFENSES").

6. This affidavit is based upon my personal knowledge as well as information reported to me by other federal, state, and local law enforcement officers during the course of their official duties, all of whom I believe to be truthful and reliable. This affidavit is also based upon information gathered from interviews of citizen witnesses, reports, official records, law enforcement reports, and my training and experience.

7. Because this affidavit is submitted for the limited purpose described, I have not included each fact known to me concerning this investigation. I have set forth only the facts that I believe are essential to establish probable cause.

CRIMINAL STATUTES

8. Title 18, United States Code, Section 1347, health care fraud, states in relevant part that, "Whoever knowingly and willfully executes, or attempts to execute, a scheme or artifice to defraud any health care benefit program; or to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any health care benefit program [shall be guilty of a felony]" Section 1349 criminalizes conspiracy or attempt to commit health care fraud.

9. Title 18, United States Code, Section 287 makes it a felony to make or present any false, fictitious or fraudulent claim upon the United States to an agency of the United States.

10. The investigation has uncovered evidence that since at least March 14, 2021, continuing through at least April 10, 2024[1], NOWAK, SIMMONS and others conspired to commit health care fraud, committed health care fraud, and submitted false and fraudulent claims in violation of the SUBJECT OFFENSES. Fraudulent claims have been submitted to Medicare, Medicaid, TRICARE, the United States Department of Veterans Affairs ("VA"), United Healthcare ("UHC"), Blue Cross Blue Shield of Rhode Island ("BCBSRI"), Tufts Health Plan ("Tufts"), Neighborhood Health Plan of Rhode Island ("NHPRI"), and Medicare and Medicaid Managed Plans administered by those private payors, in, among others, the following ways:

[1] March 14, 2021 is the date of the first known fraudulent claim in the investigation; although AIM Health purportedly went out of business in late 2023 or early 2024, a fraudulent claim was filed by AIM Health as late as April 10, 2024.

a. **Adding codes to claims prior to submission for payment for services that were not rendered**: At NOWAK's direction and with SIMMONS' knowledge, AIM Health added CPT codes to claims that were electronically submitted to government and private payors for services that did not occur which caused the submission of false claims, to include claims for infrared therapy, hot and cold therapy, therapeutic activity and self-care/home management training.

b. **Billing for a non-covered service**: At NOWAK's direction and with SIMMONS' knowledge, AIM Health billed for acupuncture and evaluation and management ("E/M"), e.g., office visit, codes when in fact, the services being provided are massages being performed by licensed massage therapists. Massage therapy is a non-covered service.

c. **Billing for high complexity office visit codes without providing that level of service, using modifier -25 to avoid triggering automatic denial edits and using credentialed providers to bill for covered and non-covered services rendered by non-credentialed providers:** At NOWAK's direction and with SIMMONS' knowledge, AIM Health billed high complexity E/M (evaluation and management) codes, such as CPT codes 99214 and 99215, for patients when that level of care was neither provided nor permitted to be billed in conjunction with other services. In addition, AIM Health added modifier -25 to these office visit codes in order to avoid the automatic denial edits during claim adjudication that would be triggered when billed with other codes, i.e., acupuncture codes, and allow payment for services that were neither provided nor medically necessary. Finally, AIM Health billed covered and non-covered services rendered by uncredentialed providers under the provider numbers of credentialed providers to receive payment from insurers to which AIM was not entitled.

11. This Court has jurisdiction to issue the requested warrant because it is "a court of competent jurisdiction" as defined by 18 U.S.C. § 2711, 18 U.S.C. §§ 2703(a), (b)(1)(A), and (c)(1)(A). Specifically, the Court is a "district court of the United States . . . that – has jurisdiction over the offense[s] being investigated." 18 U.S.C. § 2711(3)(A)(i).

BACKGROUND

A. Medicare

12. The Medicare program ("Medicare") is a federal health care program providing benefits to persons who are over the age of 65 or disabled. The United States Department of Health and Human Services ("HHS"), through its agency the Centers for Medicare and Medicaid Services ("CMS"), administers Medicare. Medicare is a "health care benefit program" as defined by 18 U.S.C. § 24(b).

13. To enroll in Medicare, all providers are required to submit a Medicare enrollment application to CMS. In submitting the Medicare application, health care providers certify that they understand and will abide by the federal laws and regulations governing their participation in Medicare. This is true whether the application is for an individual or a business. When Medicare approves a provider's application, Medicare issues the provider a unique provider number that is associated with the provider's individual National Provider Identifier ("NPI") number. Upon enrollment, Medicare relies on the provider's assigned number or his/her NPI to identify the rendering provider of the service in claims submitted for payment, as well as a unique provider number or NPI of the entity under which the rendered service has been billed.

14. When a business is enrolled in Medicare, it must ensure that all individual providers rendering services on behalf of the business are credentialed with Medicare, which is the formal process by which a provider becomes enrolled with a payor and assigned a provider number, allowing the services rendered by that provider to be billed. Credentialling ensures that providers rendering services to Medicare beneficiaries have the necessary qualifications to render such services and allows the employing business

to properly and accurately submit claims that reflect the true rendering provider. While Medicare credentials most types of providers, there are some providers who are unable to be credentialed because their specialty does not permit them to render a covered service. For example, while massage therapists must be licensed in the state in which they work, they are unable to be credentialed with Medicare because they do not provide a covered service, e.g., massage.

15. CMS contracts with National Government Services ("NGS") as the Medicare Administrative Contractor in Rhode Island.

16. A Medicare provider is able to electronically file claims with Medicare to obtain reimbursement for services provided to beneficiaries. A Medicare claim is required to set forth, among other things, the beneficiary's name and Health Insurance Claim Number, the services that were performed for the beneficiary, the date the services were provided, any applicable codes that modify or add additional information about the services (known as "modifiers"), the name and identification number of the health care provider who rendered the services and the name and identification number of the entity that billed for the service provided. Each time a provider or entity submits a claim to Medicare, the provider/entity certifies that the claim is true, correct, complete, and complies with all Medicare laws and regulations. Most claims are submitted electronically. Private payors follow the same rules regarding claims submission.

17. CMS has the authority to award contracts to private entities to administer the Medicare program. This program, which is known as a Medicare Advantage Plan or Medicare Part C, follows the same rules and regulations as a traditional Medicare plan. In some instances, the private entity offers additional coverage, but the most significant difference is that the Medicare Advantage Plan is administered directly by a private entity, not CMS. In exchange for administering Medicare, CMS pays a fixed amount to the private company that offers the Medicare Advantage Plan. In Rhode Island, BCBSRI,

UHC, Tufts and NHPRI all offer Medicare Advantage Plans. AIM Health has submitted claims to each of those Advantage Plans.

18. The Medicaid program ("Medicaid") is a federal and state funded health care program providing benefits to low-income persons. As is the case with Medicare, HHS – through CMS - administers Medicaid in conjunction with the states. Medicaid is a "health care benefit program" as defined by 18 U.S.C. § 24(b).

19. The Rhode Island Executive Office of Health and Human Services ("RI EOHHS") operates and administers the Medicaid program, also referred to as "Medical Assistance," in Rhode Island. Since at least 2019, approximately 90% of the Rhode Island Medicaid population is enrolled in Medicaid through a Medicaid Managed Care plan. Like Medicare Managed Care plans, Medicaid Managed Care plans are administered by several private entities in Rhode Island, including as relevant here NHPRI and UHC.

B. How Providers Bill Medicare and Other Payors: CPT and HCPCS Codes and Modifiers

20. In order to bill health care benefit programs such as Medicare, providers use a five-digit number, known as a Current Procedural Terminology ("CPT") code, that identifies the nature and complexity of the service provided. The CPT codes are listed in the CPT manual, which is published annually by the American Medical Association ("AMA"). CPT codes are universally used by health care providers to bill government and private health insurance programs for services rendered. Similarly, Healthcare Common Procedure Coding System ("HCPCS") codes are standard codes that represent medical procedures, supplies, products, and services and are represented by a letter followed by four numeric digits. Virtually every medical procedure has its own CPT or HCPCS code and insurance companies pay a specified amount of money for each CPT code billed.

21. In some instances, providers render a service that is slightly different from the CPT or HCPCS code that represents that particular service. In these instances, providers submit a claim with a modifier, which is a two-digit code (represented by numbers and/or letters) that indicates a service billed with that CPT or HCPCS code that has been altered in some way, but still fits the definition of that code. For example, as is relevant here and discussed in more detail later in this affidavit, a provider can include the modifier -25 with a CPT code which indicates that a patient required a significant and separately identifiable E/M (evaluation and management) service above and beyond what was associated with another procedure or services being reported by the same provider on the same date. In other words, a provider would use modifier -25 with an E/M code if a patient were seen twice in the same day for two unrelated reasons.

22. Typically, providers submit CPT and HCPCS codes and modifiers using a claim form known as a CMS 1500. The CMS 1500 form, completed by the provider or their billing contractor, includes, among other information, the name and provider number of the provider who rendered the service; the name of the patient who received the service; the date the service was performed; a code identifying where the service was provided; the procedure that was rendered (identified by the CPT or HCPCS code); any necessary modifiers; and the diagnosis of the patient's condition for which the service was rendered. Most providers, including AIM, submit claims to Medicare and other private health insurers electronically.

23. When a provider submits a claim, the provider certifies that the services identified on the form were actually provided by a qualified provider, medically indicated and necessary for the health of the patient. In addition, when a provider becomes a participating provider in Medicare and signs the Participating Provider Agreement, that provider agrees to accept assignment of all Medicare benefits for all covered services for all Medicare beneficiaries.

C. TRICARE

24. TRICARE is a multiple option benefit plan established by Congress and funded through federal appropriations and allocated as part of the National Defense Authorization Act. Eligible beneficiaries include all eight branches of the Uniformed Services: Army, Air Force, Navy, Marine Corps, Space Force, National Oceanic Atmospheric Administration, Coast Guard, and the commissioned corps of the Public Health Service. TRICARE benefits are authorized by congressional legislation incorporated in Chapter 55 of Title 10, United States Code, and implemented by the Secretary of Defense and the Secretary of Health and Human Services in Title 32, Code of Federal Regulations, Part 199 (32 C.F.R. 199).

D. Alternative Integrative Medicine, LLC dba AIM Health

25. AIM Health is licensed in the state of Rhode Island as an Organized Ambulatory Care facility ("OACF"). In its license application to the Rhode Island Department of Health, AIM Health indicated that it would provide general medical services, acupuncture, and massage therapy services. The final license application was signed by NOWAK as the Chief Executive Officer ("CEO") on or around January 9, 2020.[2]

26. Within this application, under the section entitled "Executive Summary Symposium Outcome," NOWAK states that the management team for AIM Health consists of himself as the CEO and co-founder, and SIMMONS, who is responsible for ensuring that AIM Health is "in compliance will [sic] all state and federal laws and regulations." In addition, the application indicates that the central service that will be provided is acupuncture.

[2] Based on records provided by the RI Department of Health, NOWAK and SIMMONS negotiated with the state for several months about the construction of the office and permission for a waiver to have an acupuncturist, later described in this affidavit as FE #12, as the Medical Director of AIM Health in order to be in compliance with the RI Rules and Regulations for licensing for Organized Ambulatory Care Facilities. As part of this process, NOWAK and SIMMONS submitted multiple "initial applications" to the Department of Health. The last application is signed by NOWAK on March 10, 2020.

27. The RI Department of Health approved AIM Health's license for the Warwick office retroactive to May 6, 2020. Three additional licenses were approved on January 18, 2022, February 17, 2022 and April 8, 2022. All four licenses are currently closed, having expired on December 31, 2023.[3]

28. AIM Health has been enrolled in Medicare since January 13, 2021. On July 20, 2021, and again on August 19, 2021, NGS received Electronic Funds Transfer Authorization Agreements for AIM Health, which allow for electronic fund transfers for payment of claims submitted to Medicare. Both agreements were signed by NOWAK.

29. A review of the Rhode Island Secretary of State website revealed Alternative Integrative Medicine, Inc., was incorporated on or around November 4, 2019. The fictitious name "AIM Healthier Shop" was filed on April 1, 2020. The fictitious name "A.I.M. Health" was filed on February 13, 2020. The entity type is a domestic profit corporation.

30. The location of the Principal Office is 222 Jefferson Boulevard, Suite # 4, Warwick, RI 02888. The name and address of the Registered Agent is Jason Irving SIMMONS, 222 Jefferson Blvd, Suite #4, Warwick, RI. The officers and directors of the corporation are president and chief executive officer (CEO) Brandon Philip NOWAK, 198 Plainfield Pike, Foster, RI 02825. The Vice President, Chief Finance and Compliance Officer is Jason Irving SIMMONS, 198 Plainfield Pike, Foster, RI 02825.

31. A description of the character of business conducted in Rhode Island states that AIM Health is "Operating as a licensed organized ambulatory care facility with the Rhode Island Department of Health offering pain management / Alternative medicine

[3] Notwithstanding the fact that AIM Health purportedly closed in December 2023 or early 2024, AIM Health submitted a fraudulent claim for payment as recently as April 10, 2024.

/ Holistic healing services, services offered to outpatients generally consist of chiropractic, physical therapy, acupuncture and medical massage."

PROBABLE CAUSE THAT FEDERAL CRIMES WERE COMMITTED

Throughout the Relevant Time Frame, Nowak Was Responsible for Billing

32. Interviews with numerous former employees have shown that NOWAK has been the primary person responsible for billing at AIM Health since its inception. Although at least two individuals were hired by NOWAK as billers for AIM Health, neither of them was responsible for the initial submission of claims and at least one biller was stripped of the responsibility shortly after being hired.

33. For example, Former Employee #4 ("FE #4") was hired as the office manager and billing manager for AIM Health from approximately January 2022 through May 2022. FE #4 was trained on billing by NOWAK, who showed FE #4 how he billed for AIM Health. FE #4 was initially trained on the electronic medical record ("EMR") and billing in a software called Athena, but AIM Health began using a different software, zHealth, in February 2022.

34. FE #4 only handled the billing for AIM Health for a short time, e.g., only in January 2022 when he/she was initially hired. As will be described in more detail later in this affidavit, FE #4 questioned NOWAK about why they were billing office visit codes. NOWAK told FE #4 that AIM Health could bill E&M codes because AIM Health is licensed as an ambulatory care center. FE #4 believed this explanation at first, then continued to question NOWAK about billing the office visit codes. It was at this point that FE #4 was removed from billing and put at the front desk.

35. Former Employee #2 ("FE #2") worked for AIM Health from June 2022 through October 2022 as a billing specialist. FE #2 worked with NOWAK and dealt with insurance claim denials. NOWAK, not FE #2, was responsible for submitting the initial claims to the insurance company. FE #2 was responsible for re-billing insurance

companies following denials. NOWAK always had a justification for the re-billed claim that was initially denied by insurance. If the insurance company did not pay all the submitted billing codes and only approved one claim, for example, NOWAK was fine with that and would state something like, "At least they paid one."

36. Based on my training and experience, I believe that NOWAK's statement about the insurance paying at least one claim is an acknowledgement by NOWAK that the services billed to the insurer were not actually rendered. If they had been provided but AIM Health had not been paid for it, I believe it likely that NOWAK would have worked to resubmit the claim properly instead of accepting any payment that was approved by the insurer. Instead, because NOWAK knew that the claims represented services that he knew were not performed, NOWAK readily accepted any payment from insurers. In any event, the continued and regular denial of payment for certain codes billed over an extended period of time would provide NOWAK with knowledge that he was billing claims improperly in the first instance.

37. Further, FE #2 was aware that NOWAK had set up the billing system at AIM Health. NOWAK set up pre-populated codes in zHealth, the billing software used by AIM Health, and would select the codes to be billed. NOWAK showed FE #2 the codes in the system and told FE #2 this was where he selected the codes. FE #2 stated that he/she never selected the codes because he/she did not handle coding. FE #2 did not set up the pre-populated codes into the billing system. Only NOWAK was responsible for "hitting the button" to send the initial claims to insurance companies.

38. The only individuals who had access to the billing were FE #2 and NOWAK. The providers at AIM could not submit medical claims because NOWAK had restricted the system from them. If a claim was denied, FE #2 would ask NOWAK about the issues.

39. D.N. was the human resources person at AIM Health and had a title of Officer of Operations. D.N. is NOWAK's mother. She would tell FE #2, "We need to get Brandon (NOWAK) out of billing" so he could focus on expanding the business. NOWAK would check the billing to make sure everything going out was the way he wanted. In fact, NOWAK was the account holder and first point of contact with the EMR, zHealth.

40. Another employee, Former Employee # 5 ("FE #5"), was able to see patient invoices in zHealth and was aware of changes in patient files, including additions to the codes that FE #5 originally indicated should be billed for his/her services. Once FE #5 made it clear that he/she could see these changes, his/her access to the billing information in zHealth was revoked. When asked who revoked his/her access, FE #5 stated that he/she believes it was NOWAK.

OFFENSE 1: ADDING CODES TO PATIENT BILLING RECORDS FOR SERVICES THAT WERE NOT RENDERED

41. Since at least October 16, 2020, NOWAK has added CPT codes to claims that were submitted to government and private payors for services that did not occur, causing the submission of false claims, to include claims for infrared therapy (CPT code 97026), hot and cold therapy (CPT code 97010), manual therapy (code 97140), therapeutic activity (code 97530) and self-care/home management training (CPT code 97535).

42. Numerous employees reported seeing codes in the EMR that were billed that did not represent services actually performed, or hearing from patients that codes had been billed to their insurance for services that the patient did not receive. Employees attempted to address these issues with NOWAK and subsequently had their access to the billing section of the EMR almost immediately restricted by NOWAK.

43. The provision of codes 97010 (hot and cold therapy), 97530 (therapeutic activity) and 97535 (self-care/home management training) is pursuant to a treatment plan

documented by a physical therapist, which AIM Health does not employ.[4] In fact, the investigation has revealed that AIM Health has never employed a physical therapist. In addition, the investigation has revealed that while AIM Health has equipment in its possession that provides heat during services, such as heat lamps and a sauna, neither of these is the medical equivalent of providing infrared therapy (code 97026) and cannot be billed as such.

44. Interviews with former employees of AIM Health and patients of AIM Health show patients' insurance, including Medicare, were billed for services the patients stated they did not receive, and the rendering provider stated they did not provide. Further, when patients and employees asked NOWAK about the billing and directly told him that these codes could not be billed because the service was not performed, NOWAK disregarded these inquires and continued to bill for services he knew were not rendered.

45. For example, some patients complained to FE #2 asking why they were charged for so many minutes or why they were billed for heating lamps. When FE #2 asked NOWAK for the explanation, NOWAK told FE #2 that the heat lamp was in the patient room and if it was turned on, then they (the provider) used it.

46. FE #2 discussed his/her billing concerns with NOWAK, advising him, "We can't be billing certain things if we did not provide them." According to FE #2, NOWAK stated "I stopped doing that." In reference to his billing of code 97535 (self-care/home management training), FE #2 told NOWAK he could not bill for sending patients home with a packet. FE #2 began working at AIM Health in June 2022 and left before the end of October 2022.

[4] National Government Services Article A56566, "Billing and Coding: Outpatient Physical and Occupational Therapy Services," effective 12/19/2019.

47. Former Employee #6 ("FE #6") worked as a licensed massage therapist for AIM Health from June 2020 to July 2022. During his/her employment, FE #6 studied to become a physical therapy assistant, for which he/she was licensed in the summer of 2022. FE #6 did not work at AIM Health in any capacity relating to the provision of physical therapy services.

48. FE #6 took screenshots of the billing section of zHealth for several different patients he/she saw at AIM Health. For the first patient, FE #6 told agents that all his/her patients had 60 minutes of treatment, but this patient had nine billable units, which would amount to more than 60 minutes of treatment. The screen shot also showed that AIM Health billed for manual therapy (code 97140) and self-care/home management (code 97535), both of which are required to be performed under the supervision of a physical or occupational therapist. The use of hot/cold therapy, code 97010, was not performed at AIM Health, despite it having been billed for this patient. However, FE #6 stated that NOWAK decided that the table warmer or hot towel wraps qualified for this code.

49. In the screenshot for the second of FE #6's patients, FE #6 noted that this patient was billed for an office visit code and three PT codes, again despite AIM having no physical or occupational therapist on staff. The manual therapy code, 97140, is the closest one that represents the service that FE #6 provided but is still not something FE #6 billed and was added after.

50. Another licensed massage therapist at AIM Health, Former Employee #11 ("FE #11"), started working at the end of 2021 in the Pawtucket office and left AIM Health in mid-July 2023. FE #11 was hired by NOWAK and SIMMONS. While employed at AIM Health, several of FE #11's patients complained about their insurance being billed by AIM Health for services they did not receive. FE #11 was unable to answer why services

were being billed that FE #11 had not performed and directed patients to speak with the front desk.

51. During his/her employment at AIM Health, FE #11 viewed the bills showed to him/her by patients and saw the code for infrared light therapy (code 97026) billed, despite the fact that AIM Health does not provide this service.

52. Former Employee #9 ("FE #9") was hired by AIM Health as an acupuncturist in October 2021 and stopped working at AIM in December 2022. FE #9 worked at the Warwick, RI office.

53. FE #9 would document the services he/she provided in zHealth. Following treatment provided by FE #9, FE #9 would only submit one or two codes into the EMR system, including CPT codes 97810 (for the initial 15 minutes of acupuncture) and 97811 (for each additional 15 minutes of acupuncture). There were other CPT codes in zHealth from which FE #9 could choose; however, they were not appropriate for acupuncture. FE #9 confirmed he/she would enter his/her SOAP notes into zHealth but was not involved with billing. FE #9 never put in more than two codes following his/her acupuncture treatments provided.

54. Some of FE #9's patients came to him/her and complained about their bill from AIM Health. FE #9 observed that some bills had seven codes, to include items such as infrared heat (code 97010), manual therapy (code 97140), and self-care/home management (code 97535), codes that require the service to be performed by either a physical or occupational therapist. FE #9 asked NOWAK about the extra codes on the patients' bill and about the charges for infrared heat. NOWAK told FE #9 they can bill for heat because "there is heat on the table." FE #9 explained he/she believed this to be a reference to the fact that there is a blanket that plugs into the wall to ensure a warm table for the patients. NOWAK told FE #9 that the heat served a "medical purpose."

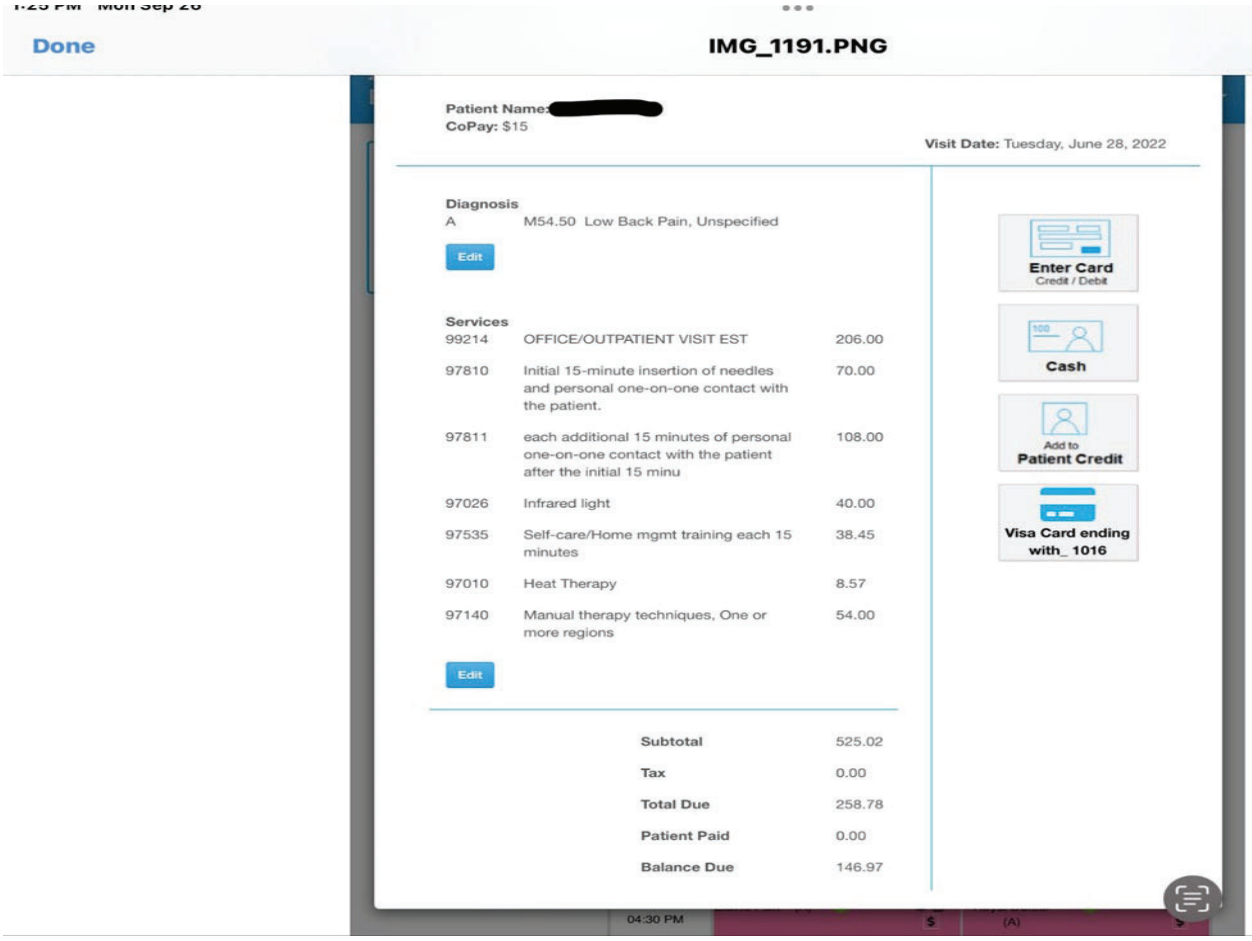
55. As a licensed acupuncturist FE #9 was trained in extra techniques, but FE #9 did not use those techniques at AIM. However, NOWAK told FE #9 that AIM Health could bill for extra techniques. FE #9 told NOWAK, "Just because we can doesn't mean we should if we don't provide the service."

56. As will be discussed later in this affidavit, FE #9 reviewed a patient invoice for Former Patient #2 ("FP #2"). The invoice had seven codes billed by AIM for date of service June 28, 2022: 1) 99214 (Office/Outpatient visit); 2) 97810 (Initial 15-minute insertion of needles and personal one-on-one contact with the patient); 3) 97811 (Each additional 15 minutes of personal one-on-one contact with the patient after the initial 15 minutes); 4) 97026 (Infrared therapy/light); 5) 97535 (Self-care/Home mgmt training each 15 minutes); 6) 97010 (Heat Therapy); and 7) 97140 (Manual therapy techniques, One or more regions).

57. Of the codes listed above, only codes 97810 and 97811 represent the services that FE #9 performed for FP #2. FE #9 told agents that he/she did not add the extra codes to the patient's bill. The service represented by code 97535, self-care/home management, is not even within the scope of his/her practice and was not added by FE #9.

58. FE #9 emailed the invoice of FP #2 to NOWAK, D.N. and either SIMMONS or FE #2, August 4th, 2022:[5]

[5] While FE #9 could recall sending this email to NOWAK and D.N., he/she was not sure whether the third recipient on the email was SIMMONS or the biller at the time, FE #2.



59. In his/her email about the invoice FE #9 stated the following to NOWAK:

"Enclosed is an example of a bill to one of my patient's insurance for a recent visit with me. The codes I enter in my notes are 97810 and 97811. The only other appropriate code to bill for is the office visit itself.[6] The rest of the codes and billing are for services I never perform, and the client never received. I am concerned that my name is on these as the provider, and we are billing for services we do not perform which is not legal. I don't want to get in trouble for this and neither should you. A complete audit of billing should be done and

[6] FE #9 was incorrect in his/her email to NOWAK - Based on the current guidelines regarding billing for acupuncture services, billing an office visit code in addition to the acupuncture code is inappropriate because the acupuncture codes, 97810 and 97811, include payment for the visit itself.

going forward these additional charges should be left off. Just because we CAN bill for something doesn't mean it's right to do so. I don't feel good about this. It feels dishonest."

60. NOWAK responded via email to FE #9 on the same day and stated the following:

"As previously stated the heating elements are for the heat on the table. Over 99% of the time these charges are not reimbursed. So agreed these charges will be removed. The home care includes discussion of what that the patients is to do at home including nutrition exercise etc. Manual therapy includes medical acupuncture according to AMA as seen attached and is the most appropriate thing to use to acupressure, shiatsu, and dry needling. This is also closest modality to account for ear seeds which are commonly used. So going forward we have removed all heat elements as they will not be reimbursed under 2023 guidelines anyways. Hopefully this answers the questions as to the other 2 CPT codes you see."

61. NOWAK's response is inaccurate for several reasons. First, hot/cold therapy (code 97010) refers to the use of hot or cold packs in conjunction with another therapy. The NGS Article previously cited, "Billing and Coding: Outpatient Physical and Occupational Therapy Services," states that code 97010 is a bundled code, e.g., it is meant to be billed with another therapy, and is never paid separately. This code does not apply to the use of a heating element on a massage or acupuncture table. Second, self-care/home management (code 97535) is appropriately used when a provider gives a patient one-to-one instruction or training to be able to adequately perform activities of daily living independently following, for example, hip replacement surgery. Use of this code following acupuncture does not meet this definition and is not appropriate. Finally, manual therapy (code 97140) is NOT the most appropriate code to use for acupuncture because code 97810 and 97811 are specific to the provision of acupuncture.

In fact, code 97140 is defined as "manual therapy techniques, e.g., mobilization/manipulation, manual lymphatic drainage, manual traction, one or more regions, each 15 minutes" and is rendered pursuant to the supervision of a physical therapist with a documented treatment plan. [7]

62. A review of claims billed to BCBSRI by AIM Health for date of service June 28, 2022, for FP #2 revealed the following submitted claims:

Plan	Bene Last Name	Bene First Name	Date of Service	Procedure Code	Prodecure Code Description	Quantity Allowed	Amount Paid to Provider	Billing Provider Name
BCBSRI Medicare Advantage	D	G	6/28/2022	99214	OFFICE O/P EST MOD 30-39 MIN	1	$0.00	Alternative Integrative Medicine, Inc
BCBSRI Medicare Advantage	D	G	6/28/2022	97810	Acupuncture, One Or More Needles, Without Electrical Stimulation; Init 15 Min Pe	1	$17.45	Alternative Integrative Medicine, Inc
BCBSRI Medicare Advantage	D	G	6/28/2022	97811	Acupuncture, One Or More Needles, Without Electrical Stimulation; Ea Addl 15 Min	2	$49.36	Alternative Integrative Medicine, Inc
BCBSRI Medicare Advantage	D	G	6/28/2022	97026	Application, Modality To 1+ Areas; Infrared	1	$0.00	Alternative Integrative Medicine, Inc
BCBSRI Medicare Advantage	D	G	6/28/2022	97535	Self-care/Home mgmt training each 15 minutes	1	$20.86	Alternative Integrative Medicine, Inc
BCBSRI Medicare Advantage	D	G	6/28/2022	97010	Application, Modality To 1+ Areas; Hot/Cold Packs	1	$0.00	Alternative Integrative Medicine, Inc
BCBSRI Medicare Advantage	D	G	6/28/2022	97140	Manual Therapy Techniques, 1+ Regions, Each 15 Min	1	$24.14	Alternative Integrative Medicine, Inc

[7] NGS Article A56566, pages 19 and 20.

63. Despite the fact that FP #2 only received acupuncture on June 28, 2022, represented by codes 97810 and 97811, five additional codes were billed by AIM Health to BCBSRI. These five codes, 99214, 97026, 97535, 97010 and 97140, represented codes that were added to the claim submission for FP #2 and are services that FP #2 did not receive.

64. FE #9 had a conversation with a second patient, whose name he/she could not recall, who was also getting charged for code 97026, infrared light. The patient's insurance would not cover the charge and AIM Health told the patient they needed to pay out-of-pocket. FE #9 told the patient not to pay and go speak with NOWAK. In subsequent conversations with this second patient, FE #9 learned that NOWAK just referred the patient to speak with the biller, despite the fact that NOWAK was the actual biller even though someone else at AIM held that title.

65. Throughout his/her employment at AIM Health, FE #9 estimated the number of patients who complained to FE #9 about what was billed to their insurance was between 30-50 patients. NOWAK and D.N. told FE #9 to tell patients who complained about their bill to speak with the billing person. At that time, FE #2 was the biller and seemed overwhelmed, so instead FE #9 would address any issues with billing or the EMR with NOWAK.

66. This investigation has also identified patients who were aware that their insurance had been billed for services they did not receive and brought this to the attention of the employees at AIM Health.

67. For example, Former Patient #1 (FP #1") began going to AIM around September 2021 and stopped around August 2022. FP #1 learned that Medicare would pay for acupuncture and "medical massage" and heard about AIM Health accepting insurance

for those services.[8] FP #1 received both acupuncture and "medical massage" at the Warwick office of AIM Health. FP #1 began reviewing his/her medical bills around May 2022. FP #1 saw that AIM Health billed his/her insurance for heat therapy (code 97010) and asked NOWAK about billing for heat therapy and infrared light (code 97026). FP #1 stated that he/she specifically told his/her massage therapist not to use any heat during the massage and not to use infrared light on him/her, stating that he/she did not want extra heat on his/her body.

68. FP #1 provided the agents with a copy of a billing statement he/she received from AIM Health dated March 3, 2022. FP #1 brought his/her bill to NOWAK and asked him to explain the $1,205 invoice sent to him/her. He/she also asked NOWAK about the charge for infrared light (code 97026) on his/her bill. FP #1 described NOWAK as being nervous when providing explanations and was trying to get on his computer during the conversation. NOWAK told FP #1 he would look into it and the biller would get back to FP #1. FP #1 then spoke to FE #2 to get his/her bill fixed. FP #1 also complained about being billed for days he/she said they did not receive treatment. After several emails with FE #2, FP #1 received an amended bill from AIM Health for $105.

69. NOWAK told FP #1 he/she could get as many acupuncture and medical massage services as he/she wanted approved because he (NOWAK) could get a doctor to write out a referral that it was necessary for him/her to receive the service.

[8] During the investigation, several patients referred to receiving "medical massage" at AIM Health. When asked to explain how this differed from a traditional massage (a non-covered service), no clear explanation was given. This affiant believes the term "medical massage" was used at AIM Health to perpetuate the idea that massage was a covered service paid for by insurers to counter the broad understanding that traditional massage is an out-of-pocket expense when not performed pursuant to a physical therapist's treatment plan.

70. A review of claims billed to UHC Medicare by AIM Health for FP #1 showed that the CPT code for massage therapy, 97124, was billed eight times by AIM Health, for which it was paid $195.57.[9] In addition, CPT code 97140, for manual therapy, was billed 13 times. As explained earlier regarding claims submitted for FP #2, code 97140 is for manual manipulation during therapy that is provided under the supervision of a physical or occupational therapist as part of a documented treatment plan, none of which was provided at AIM Health. Finally, as will be explained further later in this affidavit, office visit codes 99205 (initial office visit, new patient, level 5), 99214 (established patient office visit, level 4) and 99215 (established patient office visit, level 5) were also billed by AIM Health for FP #1.

71. FP #2 started going to AIM Health in January 2022. FP #2 received acupuncture treatment from FE #9 for pain in his/her lower back. FP #2 is insured by BCBSRI and advised that sometime in July 2022 he/she reviewed her insurance billing statement.

72. FP #2 had questions regarding the billing by AIM Health and asked FE #9 "What is heated therapy?" FE #9 advised FP #2 "does not get heated therapy."

73. FP #2 provided agents with his/her billing statement from BCBSRI from December 2022 and stated he/she did legitimately receive acupuncture, billed under code 97810 (acupuncture 1 or more needles, first 15 minutes) and code 97811, (acupuncture 1 or more needles, each additional 15 minutes). FP #2 told agents that he/she did not receive services described by code 97140 which was for manual (physical) therapy techniques to 1 or more regions, each 15 minutes. BCBSRI also was billed for office visit code 99214 for FP #2 by AIM Health.

[9]As will be explained later in the affidavit, code 97124 is for massage therapy performed under the supervision of a physical therapist pursuant to a physical therapy treatment plan. It is not for traditional massage and cannot be billed for services provided by a massage therapist alone.

74. FP #2 provided his/her billing statement from June 28, 2022, and noted that he/she was again billed by AIM Health for code 99214. FP #2 was also billed for code 97026, application of low energy heat (infrared) to 1 or more areas. FP #2 stated "I never got that treatment." FP #2 did contact BCBS to advise of the billing issues he/she noted.

75. FP #2 reviewed with agents his/her billing statement from July 12, 2022, and stated that he/she was billed for code 97026 (infrared therapy). FP #2 reiterated to agents that he/she did not receive infrared therapy. FP #2 was also billed for code 97535, which is for self-care or home management training, each 15 minutes. FP #2 stated he/she never received instructions for home self-care. FP #2 was billed for code 97010, which is for application of hot or cold packs to 1 or more areas. FP #2 never received any hot or cold treatment. FP #2 was also billed for code 97140, which is for manual (physical) therapy techniques to 1 or more regions, each 15 minutes. FP #2 asked FE #9 what the infrared treatment was, and FE #9 stated "I don't do that." FE #9 told FP #2, that NOWAK stated, "If the bed is heated, we can bill."

76. FP #2 reviewed with agents his/her billing statement from August 2, 2022, where he/she was billed for codes 97535 (self-care/home management), 97010 (hot/cold therapy), 97026 (infrared therapy) and 97140 (manual therapy). FP #2 stated he/she never received those services. FP #2 did receive acupuncture treatment on that date and is always billed for an office visit. FP #2 stated acupuncture is an elective treatment, similar to massage or a manicure or pedicure or even going to see a nutritionist. FP #2 stated "I should only be billed for the needles." FP #2 reiterated he/she never received any home self-care, code 97535.

77. A review of claims billed by AIM Health between June 21, 2022 and December 13, 2022 for FP #2 show that AIM Health billed 57 claims to BCBSRI Medicare

Advantage, including code 97810 and 97811 for acupuncture. However, only 26 of the 56 claims were for acupuncture codes; the remaining codes billed included code 97026 (infrared heat), 97010 (hot/cold therapy), 97535 (self-care/home management), 97140 (manual therapy), and 99214 (E/M level 4). These 31 codes, collectively, represent services that were not rendered to FP #2 and are claims for which AIM Health was paid $276.97.[10]

78. Former Patient #6 ("FP #6") is a TRICARE recipient who sought massage therapy services from AIM Health on eight (8) occasions between October and December 2022. FP #6 had an initial consultation with a "doctor" (no further information) and chose massage therapy as a treatment option over the offered acupuncture and chiropractic services. Massage therapy is not a covered medical treatment under TRICARE; however, FP #6 never paid for his/her massages, nor did he/she receive a bill for services from AIM Health. A review of the AIM Health claims to TRICARE for FP #6 revealed claims and payments for services not rendered, billed under the NPI of the medical director for AIM Health, Former Employee # 12 ("FE #12"), who did not treat FP #6. The following table shows the claim codes, the amount billed by AIM Health and the amount paid by TRICARE:

CPT Code and Description	Modifiers [11]	Total Billed Since October 2022	Total Paid Since October 2022
99215- OFFICE O/P EST HI 40-54 MIN	25	$276	$37.75
97112- NEUROMUSCULAR REEDUCATION	GP59	$354.30	$36.23
97110- THERAPEUTIC EXERCISES	GP59	$236	$19.06

[10] The low paid amount by BCBSRI is because claims submitted by AIM Health, subject to the SIU's knowledge of its questionable billing practices, were being reviewed prior to payment and E/M codes were denied regardless of modifiers used. In contrast, AIM Health billed BCBS Medicare Advantage $2,305.27 for these 31 codes representing services I believe, based on my training and experience and the evidence gathered to date in this investigation, it knew were not provided. BCBS Medicare Advantage is a Medicare Advantage Plan administered by BCBS and funded by CMS.

[11] Modifiers are explained in detail later in the affidavit.

97530-THERAPEUTIC ACTIVITIES	GP59	$76	$7.89
97535- SELF CARE MNGMENT TRAINING	GP59	$38.45	$5.13
99214- OFFICE O/P EST MOD 30-39 MIN	25	$264.20	$52.84
99214- OFFICE O/P EST MOD 30-39 MIN		$660.05	$132.10
97140- MANUAL THERAPY 1/> REGIONS	GP59	$757.24	$104.14

79. The following table shows the number of claims and amounts paid to AIM Health by various public and private payors for services purportedly rendered since October 2020 for infrared therapy, hot/cold therapy, therapeutic activity and home/self-care - all services that could not have been provided at AIM Health because it either lacked the appropriate equipment or personnel to perform the services as billed:

CPT Code and Description	Claim Count	Total Paid Since October 2020
97010 - HOT OR COLD PACKS THERAPY	977	$120.22
97026 - INFRARED THERAPY	1,552	$1,724.39
97140 - MANUAL THERAPY	15,683	$333,257.34
97530 - THERAPEUTIC ACTIVITY	2,278	$44,173.09
97535 - SELF CARE MANAGEMENT TRAINING	4,275	$33,808.02
Grand Total	**24,765**	**$413,083.06**

80. Finally, while manual therapy (code 97140) can be legitimately performed by chiropractors, and in fact is believed by this affiant to have been performed in some instances by chiropractors at AIM Health, both employees and patients at AIM Health

have reported this code being billed yet not provided. These reports relate in particular to services rendered by acupuncturists. This affiant believes that while there are some legitimate claims submitted by AIM Health for manual therapy, it is also the case that this code was fraudulently and intentionally added to claims in order to increase revenue for AIM Health – to allow AIM to bill and receive payment for massage therapy.

OFFENSE 2: BILLING FOR A NON-COVERED SERVICE BY USING E/M CODES, PHYSICAL THERAPY CODES AND ACUPUNCTURE CODES FOR MASSAGES PROVIDED BY LICENSED MASSAGE THERAPISTS

81. Since at least October 1, 2020, AIM Health billed for massages performed by licensed massage therapists using codes for acupuncture, physical therapy and E/M codes when that is not what is being performed. Although acupuncture is a covered service, patients did not receive acupuncture and instead, received massage, which is a non-covered service. In addition, AIM Health billed for massage using physical therapy codes, even though AIM Health never employed a physical or occupational therapist.

Billing Guidelines for Massage Therapy and Physical Therapy

82. The HHS-OIG case agent reviewed the coverage policies and guidelines relating to massage therapy for Medicare, BCBSRI, NHPRI, Tufts and UHC, to include their commercial and Medicare Advantage Plans, that have been in effect since at least January 2020. None of the payors billed by AIM Health, including Medicare, cover massage therapy. In fact, all payors specifically state that massage performed by licensed massage therapists are considered to be a non-covered service.[12]

83. In addition, licensed massage therapists are not enrolled as participating providers with Medicare or private payors because they do not provide a covered service and are

[12] As will be explained later in this affidavit, the only exception to this is for massages provided to individuals covered by the Veterans Administration, which allows for payment of massage therapy in limited circumstances.

therefore not assigned a provider number under which claims can be submitted. So, in order for massage performed by a licensed massage therapist to be paid by insurance, AIM Health has to first submit the claim under a different provider with an assigned provider number, which is not allowed, and then submit the claim using a code that does not accurately represent the service provided, which is also not allowed.

84. While there are CPT codes that cover massage therapy (code 97124) when performed under the supervision of a physical therapist or pursuant to a therapy treatment plan, the employees interviewed by agents, including this affiant, all reported that AIM Health has never employed a physical therapist.

85. The Medicare guidelines list 89 codes that are associated with the provision of physical and occupational therapy services, including several that have been billed by AIM Health since October 2020. The following table lists the physical and occupational therapy-based codes billed by AIM Health, despite the fact that AIM Health has never employed a physical and occupational therapist:

CPT Code and Description	Claim Count	Total Paid Since October 2020
97010 - HOT OR COLD PACKS THERAPY	977	$120.22
97014 - ELECTRIC STIMULATION THERAPY	1	$8.28
97016 - VASOPNEUMATIC DEVICE THERAPY	53	$62.10
97026 - INFRARED THERAPY	1,552	$1,724.39
97028 - ULTRAVIOLET THERAPY	1	$0.00
97035 - ULTRASOUND THERAPY	5	$0.00
97110 - THERAPEUTIC EXERCISES	1,397	$31,518.21
97112 - THERAPY PROCEDURES TO RE-EDUCATE BRAIN-TO-NERVE-	6,394	$143,539.79

TO-MUSCLE FUNCTION, EACH 15 MINS		
97124 - MASSAGE THERAPY	1,481	$10,137.49
97140 - THERAPY PROCEDURE USING MANUAL TECHNIQUE, EACH 15 MINS	15,683	$333,257.34
97530 - THERAPY PROCEDURE USING FUNCTIONAL ACTIVITIES	2,278	$44,173.09
97535 - SELF CARE MANAGEMENT TRAINING	4,275	$33,808.02
Grand Total	**34,097**	**$598,348.93**

86. One of the former "billers" at AIM Health, FE #2, told FE #12, that he/she could get in trouble because AIM Health uses his/her NPI for billing. Employed at AIM Health from June through October 2022 and based on NOWAK's direction, it was FE #2's understanding that it was ok to bill massage services under FE #12.[13]

87. Former Employee #1 ("FE #1") worked for AIM Health from August 2021 until mid-January 2022 as a licensed massage therapist. FE #1 has been a licensed massage therapist since approximately 2007 and has worked in chiropractic practices and is familiar with billing. However, in FE #1's experience, his/her services were not billed to insurance. In fact, FE #1 described this as "unusual" and "absolutely not" FE #1's previous experience with massage.

88. As part of his/her employment at AIM Health, FE #1 would select the codes in the EMR that reflected what services were performed, e.g., a 50-minute massage. FE #1

[13] On August 15, 2023, a search warrant for Zoho Corporation for electronic records was signed in the District of Rhode Island by U.S. Magistrate Judge Lincoln Almond. In the supporting affidavit, FE #12 is identified as CE #1 because the agents believed he/she was still employed at AIM Health at the time. However, an interview with FE #12 in November 2023 revealed that FE #12's last day at AIM Health was May 12, 2023.

was instructed by NOWAK to choose codes 99212 (office visit), 97140 (manual therapy) and a third code he/she could not recall. FE #1 told agents that the instruction from NOWAK was to select the codes that added up to the one hour spent with the patient. FE #1 further told agents that AIM Health was trying to see what codes could be added to be billed. NOWAK told FE #1 that this is what AIM has been doing "to help us grow."

89. Again, FE #1 reported to agents that NOWAK instructed him/her to select the codes necessary to equal one hour of services. FE #1 told agents, "They cracked the puzzle to bill massage to insurance." NOWAK told FE #1 to bill his/her services using codes with units billed in 15-minute increments. For example, if one unit of manual therapy (code 97140) equals 15-minutes, then billing rules allow providers to bill for an additional unit as long as at least an additional 8 minutes of treatment is provided, meaning 30 minutes of treatment are being billed. FE #1 confirmed that NOWAK explained the billing to him/her in this way. FE #1 stated that at the time it made sense because FE #1 was performing a blend of these services, so he/she was under the impression that billing this way was okay.

90. Based on my experience and training, I believe that the ability of NOWAK to explain this level of billing to FE #1 required him to have an understanding of CPT coding.

91. FE #1 recalled that more and more patients came to AIM Health who were "in awe" that insurance covered massage. FE #1 further recalled that within a month of starting at AIM, he/she went from having 1-2 patients per shift to being fully booked for weeks because AIM Health billed insurance for massage.

92. Another licensed massage therapist previously mentioned in this affidavit, FE #6, reported to agents that all patients were scheduled in 60-minute blocks so that NOWAK could get more billable units. When AIM Health used Athena, FE #6 was instructed by

NOWAK to select the codes for neuromuscular re-education (CPT code 97112) and/or manual therapy (CPT code 97140) for the massage services he/she performed at AIM Health. FE #6 told agents that within zHealth, FE #6 had no ability to select the codes for his/her services because he/she did not have access to this feature in the EMR.

93. During his/her employment at AIM Health, FE #6 saw several Explanation of Benefits from his/her patients' insurances and saw dates of service for FE #6's massage with patients being billed under either FE #12, who is a licensed acupuncturist, or FE #5, who is a licensed chiropractor.[14] FE #6 noted that FE #5 would be able to perform manual therapy if he/she was part of the sessions with FE #6's patients, but this did not occur.

94. FE #6 also saw that his/her massage services were being billed under CPT code 97140 (manual therapy). NOWAK told FE #6 that BCBSRI would pay for code 97140. However, FE #6 was aware that this code is for a physical therapy service and FE #6 would only be able to bill this code if he/she was supervised by a physical therapist, which AIM Health did not employ.

95. Finally, while looking for his/her previous notes prior to seeing a patient, FE #6 found the billing section of the EMR. What FE #6 saw prompted him/her to email NOWAK and D.N. about the claims billed for this patient. At this point, the employee access to the billing section of the EMR was revoked from the providers.

96. Another licensed massage therapist, Former Employee #8 ("FE #8"), worked part time for AIM Health for 6-8 months starting in November 2021 in the Warwick location.

[14] Since Acupuncture and chiropractic services are covered services, the aforementioned payors, including Medicare, had assigned provider numbers to FE #12 and FE #5. In contrast, FE #6, a licensed massage therapist, provides non-covered services, e.g., massage, and is not enrolled with insurances. By extension, FE #6 has not been assigned a provider number and his/her services cannot be billed to insurance.

It was FE #8's understanding that insurance paid for massages performed at AIM Health. He/she recalled that they were supposed to code for their services, but FE #8 had not been trained to do this and did not know anything about coding, noting that this was one of the reasons FE #8 left AIM Health.

97. Former Employee #10 ("FE #10") was employed as a massage therapist at AIM Health for approximately two months beginning around October 2020 and was hired by SIMMONS. FE #10 advised that he/she only provided massage therapy and did not provide therapeutic manipulation to clients. AIM Health would bill a client's insurance for massage therapy but FE#10 did not know what codes were used. FE #10 was aware that when individuals walked into AIM Health, they were told that insurance could cover the cost of massage therapy. FE #10 stated that "It didn't feel right" and he/she "did not like" how AIM Health operated.

98. Former Employee #3 ("FE #3") was hired as a chiropractor for AIM Health from January 2022 through March 2022. During his/her employment at AIM Health, FE#3 seldom performed chiropractic treatments. Instead, FE #3 performed evaluations for acupuncture or massage therapy to determine which was the appropriate service for that person.

99. FE #3 told agents that most patients were not appropriate for chiropractic services; rather, most were candidates for "medical massage." For these patients, FE #3 was instructed to complete a treatment plan. FE #3 explained that AIM Health wanted him/her to complete a full treatment plan for chiropractic services, massage services or acupuncture, or all three if necessary.

100. FE #3 was repeatedly told that AIM Health had a different license for the facility that allowed them to perform and bill the services being provided. FE #3 recalled that NOWAK was upset that FE #3 was asking questions, told FE #3 that he/she was "an

idiot" and refused to answer his/her questions. FE #3 tried to speak with Human Resources (HR) about his/her concerns, which was when FE #3 learned that the HR liaison was NOWAK's mother, D.N.

101. One of the former billers for AIM Health, FE #4, was told by NOWAK that massage was covered under a chiropractor as manual therapy (code 97140). NOWAK further told FE #4 to bill massage under "manipulation."[15] FE #4 was also told that if FE #5, a licensed chiropractor, wrote in the treatment plan that a patient would be treated with massage, then AIM Health could bill for it.

102. FE #4 reported to agents that all massages were billed under chiropractic services. All instructions on how to bill were given by NOWAK. D.N. would tell FE #4 to follow what NOWAK said.

103. Patients who were insured by BCBSRI were told they could come in once a week for massage. The investigation has revealed that in order to receive payment for these massages, the practice at AIM Health was that the code for manual therapy (CPT code 97140) would be billed for the massage. FE #4 told agents that this instruction came from NOWAK. He/she recalled instances in which patients would call him/her screaming because their insurance denied payment for the service and NOWAK was sending bills directly to patients after the fact. FE #4 did not generate the bills that went to patients; this was handled by NOWAK. The most involvement by FE #4 with sending bills to patients was folding the letter and placing it in the envelope to mail. FE #4 recalled speaking with a couple of patients who said that NOWAK told them that a service was

[15] It is not clear which code NOWAK meant by "manipulation." However, based on other interviews and a review of the claims submitted by AIM Health, this affiant believes it is either a reference to code 97140 (manual therapy), code 97112 (neuromuscular re-education) or 97110, therapeutic exercise. Regardless of which code was meant by NOWAK, services performed by licensed massage therapists are not covered, either by Medicare or private payors.

covered. FE #4 would tell NOWAK, who would respond that he would not speak with the patient about their billing issue. FE #4 would also overhear NOWAK telling patients "all the time" that their service was covered by insurance when he/she was working at the front desk.

104. In addition to the AIM Health employees' knowledge of massage being billed under acupuncture, chiropractic and physical therapy codes, several patients interviewed by agents, including this affiant, noticed their insurance had been charged for services other than massage.

105. For example, Former Patient #3 ("FP #3") reported going to AIM Health for "physical therapy massage" and acupuncture approximately 12-18 months ago and stopped going in the spring of 2022. FP #3 stated that it seemed too easy to get massage covered by insurance and that AIM Health seemed so "gung-ho" to say that the massage was covered.

106. A review of the claims billed by AIM Health for FP #3 show that the majority of the claims billed were for acupuncture (61 of 123 claims) and E/M codes 99205, 99214 and 99215 (6, 6 and 28 times, respectively). AIM Health was paid $2,731.77 for the E/M codes, while in contrast, AIM Health was paid $1,008.56 for the acupuncture codes.

107. Another patient, Former Patient #5 ("FP #5"), started going to AIM Health approximately 1 ½ years ago. Most of the services FP #5 received at AIM Health were massages, with only a few acupuncture visits and one chiropractic visit in 2023. At FP #5's first appointment at AIM Health, around March 2022, he/she was evaluated by FE #3 – a chiropractor - who recommended only massage therapy. FP #5 is insured by NHPRI. He/she was told by an AIM Health employee that his/her insurance pays for more than one massage per week, so FP #5 receives massage from AIM Health 2-3 times a week.

108. This affiant has reviewed the claims billed to NHPRI for FP #5. Since March 2022, AIM Health has been paid $22,339.36 for claims submitted to NHPRI for FP #5:

CPT Code	Claim Count	Sum of Amount Paid
29581 - APPLICATION OF MULTI-LAYER COMPRESSION, LOWER LEG	4	$0.00
90834 - PSYTX W PT 45 MINUTES	1	$55.63
97010 - HOT OR COLD PACKS THERAPY	6	$0.00
97026 - INFRARED THERAPY	10	$0.00
97110 - THERAPEUTIC EXERCISES	20	$901.16
97112 - NEUROMUSCULAR REEDUCATION	81	$2,663.64
97124 - MASSAGE THERAPY	8	$54.36
97140 - THERAPY PROCEDURE USING MANUAL TECHNIQUE, EACH 15 MINS	130	$5,125.89
97530 - THERAPEUTIC ACTIVITIES	81	$1,984.71
97535 - SELF CARE MNGMENT TRAINING	48	$724.83
97810 - ACUPUNCT W/O STIMUL 15 MIN	1	$0.00
97811 - ACUPUNCT W/O STIMUL ADDL 15M	1	$0.00
98940 - CHIROPRACT MANJ 1-2 REGIONS	1	$0.00
98941 - CHIROPRACT MANJ 3-4 REGIONS	8	$0.00
98960 - EDUCATION AND TRAINING FOR PATIENT SELF-MGMT	3	$0.00
99204 - OFFICE O/P NEW MOD 45-59 MIN	5	$257.86
99213 - OFFICE O/P EST LOW 20-29 MIN	13	$509.50
99214 - OFFICE O/P EST MOD 30-39 MIN	120	$7,842.78
99215 - OFFICE O/P EST HI 40-54 MIN	14	$1,372.92
99402 - PREVENTIVE COUNSELING, 30 MINS	5	$211.36

99403 - PREVENTIVE COUNSELING, 45 MINS	8	$634.72
Grand Total	568	$22,339.36

109. As will be discussed further in the next section, NHPRI was billed for a significant number of office visits for FP #5 when the majority of his/her visits at AIM Health were for massage. In addition, AIM Health billed NHPRI for hundreds of physical therapy codes for FP #5, representing services billed that FP #5 did not receive and services billed by AIM Health in order to receive payment for massage therapy. Notably, FP #5 told agents that he/she had 5-6 acupuncture visits at AIM Health since January 2023, yet only two acupuncture codes (codes 97810 and 97811) have been billed by AIM Health for FE #5, both for the same date of service, under FE #12.

OFFENSE 3: BILLING FOR MEDICALLY UNNECESSARY HIGH COMPLEXITY OFFICE VISIT CODES AND USING MODIFIER -25 TO AVOID AUTOMATIC PAYMENT DENIALS

110. Despite having direct knowledge that billing office visit codes for massage therapy, or billing them in conjunction with acupuncture codes, was not allowed by government and private payors, NOWAK, SIMMONS and AIM Health purposely billed these high complexity codes, including CPT codes 99215 and 99214, for patients when that level of care was neither provided nor permitted to be billed in conjunction with other services.

111. In addition, AIM Health, billed many of these codes with modifier -25. When used properly, modifier -25 is meant to allow payment for a separate and distinct service that has been provided for the same patient on the same date of service as another billed service.[16] However, modifier -25 has been billed by AIM Health with

[16] For example, patient John Doe is seen by his primary care physician for his annual physical. Later the same day, John Doe is seen by a provider at an urgent care facility

office visit codes that were also billed on the same date of service as other codes, i.e., acupuncture codes, that do not allow office visit codes to be billed on the same day for the same patient. This has allowed AIM Health to receive payments to which it was not entitled by circumventing claims adjudication edits that otherwise automatically disallows such codes to be billed together.

112. NOWAK also utilized modifier -GP and -GP59[17] when billing for physical therapy services on TRICARE patients, to include codes 97112, 97110, 97530, 97535, 97140, 97010, 97124, and 97026. Modifier -GP is a two-character code appended to CPT codes to indicate that the services provided are related to physical therapy. Physical Therapy is generally a covered treatment under TRICARE; however, as noted previously, AIM Health did not employ any licensed physical therapists.

113. Former Patient #7 ("FP #7") is a TRICARE recipient who sought treatment at AIM Health for massage therapy and acupuncture. Between June and September 2022, FP #7 visited AIM Health on thirty-nine (39) occasions. AIM Health submitted claims to TRICARE for FP #7's treatments utilizing the modifier -GP and/or -GP59 a total of seventy-five (75) times under the NPI for FE #12, a licensed acupuncturist, not physical therapist. TRICARE repeatedly denied the claims with the description "This provider was not certified/eligible to be paid for this procedure/servi (*sic*)." This denial of payment with specific referral to the ineligible provider served as notice to NOWAK

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for an injury sustained after his physical. The urgent care would bill John Doe's insurance for the visit using modifier -25, signaling to the insurance provider that John Doe's second visit was separate and distinct from the first visit billed, allowing payment for both visits.

[17] Modifier -59 is used to identify procedures/services, other than E/M services, that are not normally reported together, but are appropriate under the circumstances. Documentation must support a different session, different procedure or surgery, different site or organ system, separate incision/excision, separate lesion, or separate injury not ordinarily encountered or performed on the same day by the same individual.

that the billing was incorrect, yet NOWAK continued to submit subsequent claims for physical therapy services.

114. Finally, as will be explained later in this affidavit, AIM Health inappropriately billed for the services of uncredentialed providers, specifically massage therapists who could not be credentialed because they provide a non-covered service (e.g., massage), using the provider numbers of acupuncturists and chiropractors who were already credentialed, namely FE #12 and FE #7. By billing this way, NOWAK received payment from insurers for non-covered services to which he was not entitled.

Meetings with Blue Cross Blue Shield of RI

Initial Meeting with BCBSRI

115. On February 23, 2022, a meeting was held between Investigators with the BCBSRI SIU and AIM employees, including its Medical Director, FE #12; the medical biller at that time, FE #4; and AIM Health owners NOWAK and SIMMONS. This meeting took place via telephone and was documented by BCBSRI. It was noted by BCBSRI SIU Investigators that FE #12 had to leave to see a patient and they were not told if/when FE #12 rejoined the meeting. When BCBSRI Investigators asked, they were told that FE #12 was still with a patient.

116. At the start of this meeting, the following information was provided by AIM Health:

a. Current AIM Health employees included acupuncturists, chiropractors and massage therapists at all locations.
b. AIM Health did not currently employ a physical therapist but had plans to hire a physical therapist and an occupational therapist.[18]

[18] Despite this statement to BCBS SIU, interviews with AIM Health employees revealed that these plans never came to fruition.

c. The current biller, FE #4, began working at AIM Health in January 2022 and was hired to "straighten out the billing." Prior to FE #4 being hired, NOWAK did all the billing but had no billing experience.

117. BCBSRI SIU Investigators told AIM Health that they conducted a review of AIM patient billing records from 2021 and found the following billing issues:

Finding #1: A pattern of billing high complexity office visit code 99215 for all patients under FE #12. Of the ten records requested from AIM Health, only three records were received and those records "seriously lacked documentation to determine what services were performed." In addition, the records did not include a reason for the visit, no times were documented, and no examination was documented.

118. Based on this finding, AIM Health was placed on pre-payment review in January 2022, meaning that AIM Health was required to provide medical records for all services billed, which were reviewed for correct documentation before BCBSRI would pay the claim. Since being on pre-payment review, BCBSRI had requested medical records to support 319 claims submitted by AIM Health through February 22, 2022. Medical records for 100 of the 319 claims were provided by AIM Health, and following its review, BCBSRI determined a 100% error rate.

119. AIM Health employees, including NOWAK and SIMMONS, were advised by BCBSRI SIU Investigators that CPT code 99215 requires a high level of medical decision making for which providers must document one or more chronic illness with severe exacerbation progression or document that the illness or injury poses a threat to life or bodily function. Further, providers must document that the total time spent on the office visit ONLY is 40-54 minutes (not including any other treatments provided on that day). It was noted that the medical records provided by AIM Health did not have time

documented. In fact, the investigation has revealed that AIM did not employ anyone on staff who could exercise this level of medical decision-making.

120. Further, BCBSRI SIU Investigators advised AIM Health that its acupuncture policy states providers should not bill office visit services on the same day as acupuncture unless the office visit is a separately identifiable service and noted that the acupuncture codes 97810 and 97811 include pre-service, intra-service and post-service evaluation and management for the typical factors of history, evaluation, management, and chart documentation done as part of the overall daily treatment.

121. Finally, BCBSRI SIU Investigators advised AIM Health that the complaint or problem addressed during the visit must stand alone as a billable service, must be medically necessary and appropriately documented. When asked if the attendees had any questions about Finding #1, the response from AIM Health was, "okay we understand."

122. BCBSRI SIU also noted the following additional findings:

> Finding #2: Acupuncture services are not documented. BCBSRI SIU Investigators advised AIM Health that the medical records reviewed do not document placement of needles, re-insertion for the add-on additional 15-minute code 97811, nor does it document time spend one-on-one with the patient. When asked if the attendees had any questions about Finding #2, the response from AIM was, "okay we understand."
>
> Finding #3: Services for Massage Therapists were billed under FE #12. BCBSRI SIU Investigators advised AIM Health that BCBSRI does not cover massage therapy rendered by a massage therapist. However, in many instances, the claims submitted to BCBSRI were billed for "acupuncture office visit and massage" and the medical record documented "encounter performed by LMT" ("Licensed Massage

Therapist"). Further, BCBSRI SIU Investigators noted that 51 out of the 100 medical records reviewed by BCBSRI were documented as performed by an LMT.

Finding #4: Services documented as performed by a chiropractor or an acupuncturist who were not credentialed by BCBSRI billed under FE #12.[19] BCBSRI SIU Investigators advised AIM Health that all services must be billed under the NPI of the rendering provider. When asked if the attendees had any questions about Findings #3 and 4, the response from AIM was, "okay we understand."

123. At the conclusion of this meeting, BCBSRI provided AIM Health with copies of its policies on Acupuncture, Coding and Billing and Chiropractor, including policies for its Medicare Advantage Plan, and advised the expectation was for AIM Health to abide by these policies. AIM Health was instructed to document overall time for office visits, one-on-one time for acupuncture, and to ensure the documentation clearly supported the reason for the visit, the specific complaint and the level of service being billed.

124. Further, BCBSRI SIU Investigators advised AIM Health that 1) billing office visits on the same day as acupuncture without a separately identifiable service is not allowed, 2) office visits should be billed by documenting time spent and/or medical decision making, and 3) that BCBSRI expected to see the number of high complexity office billed visits go down.

125. Finally, AIM Health was advised that services rendered by massage therapists are not billable and that services should be billed under the NPI of the provider rendering the service.

[19]By not being credentialed, services performed by these providers would not be billed under the proper rendering provider and were instead billed under the provider at AIM Health who was enrolled with BCBSRI, FE #12.

126. When BCBSRI asked if AIM Health had any questions regarding any of these findings, the answer was "no." It was documented by BCBSRI SIU that one of the owners stated, "they just don't need to take Blue Cross patients." AIM Health was then informed by BCBSRI SIU that FE #12 was under contract as a participating provider for BCBSRI and that the contract required FE #12 to follow BCBSRI payments and policies. AIM Health then stated they did not have any further questions and thanked the investigators for the information and education provided.

127. A Corrective Action Plan ("CAP") was sent via email to FE #4, which detailed these findings and requirements.

Corrective Action Plan

128. In a letter from BCBSRI dated March 4, 2022, and addressed to FE #12, sent via email to FE #4, AIM Health was again advised of the findings by BCBSRI SIU, as described above. However, the CAP also advises AIM Health about its use of modifier -25, noting that the BCBSRI Acupuncture Policy states, "Providers should not file an E&M service on the same date of service as the acupuncture service unless it meets the definition for use of Modifier -25." The CAP further states that the BCBSRI Coding and Payment Policy describes the use of modifier -25 as follows:

a. BCBSRI follows CMS's guidelines regarding correct use of modifier 25 for all products. As noted in the National Government (NGS) Policy Education Article on Modifier 25, use of Modifier 25 indicates a "significant identifiable E&M service by the same physician on the same day of the procedure or other therapeutic service.

129. The CAP continues describing the appropriate use of modifier 25, stating:

a. Both services must be significant, separate, and distinct. In general, Medicare considers E&M services provided on the day of a procedure to

be part of the work of the procedure, and as such, does not make separate payment. The exception to that rule is what the E&M documentation supports that there has been a significant amount of additional work above and beyond what the physician would normally provide, and when the visit can stand along as a medically necessary billable service."

130. Finally, the CAP reiterates that AIM Health agreed that it will no longer bill for services performed by a licensed massage therapist under the credentials of FE #12, noting that BCBSRI does not cover services rendered by licensed massage therapists. The CAP also notes that AIM Health agreed to bill all services under the NPI of the provider who rendered the service.

131. The enclosures with the CAP included, among other documents, the BCBSRI Acupuncture Policy for its commercial and Medicare Advantage plans, the BCBSRI Chiropractic Policy, the BCBSRI Documentation Standards, and the BCBSRI Coding and Payment Guidelines.

132. The CAP was signed on or around March 16, 2022 by FE #12 and received by BCBSRI on the same date.

Follow up Meeting in March 2022 with BCBSRI

133. On March 23, 2022, BCBSRI SIU Investigators again met with SIMMONS, NOWAK, FE #4 and FE #12, as a follow up to the CAP and audit. During this meeting, FE #4 represented to BCBSRI SIU that AIM Health was now using the correct E&M codes and that all staff has been trained on the new codes and documentation.

134. BCBSRI SIU Investigators advised AIM Health that they saw a change in AIM Health billing code 99214 instead of 99215 but noted that the additional records received from AIM Health still did not support billing at this level, nor did the records

support AIM Health's billing an E/M code with the majority of chiropractic and acupuncture codes. BCBSRI SIU again reiterated to AIM Health that not only should each patient not need an evaluation and management with every treatment, but that this separate and distinct service is not documented. BCBSRI SIU Investigators specifically noted that AIM Health continued this billing pattern after receiving the CAP.

135. At the conclusion of this follow up meeting, BCBSRI SIU Investigators advised AIM Health that an overpayment of $58,935.04 was being initiated based on billing codes 99215 and 99205, both level 5 office visit codes.[20] Investigators advised AIM Health that its "documentation was lacking even the basic information to support any service let alone a comprehensive visit. Also, the majority of the E/M were billed with acupuncture and/or therapeutic therapy codes and would not meet separately identifiable requirement."

136. In June 2022, AIM Health agreed to pay BCBSRI a negotiated settlement amount of $29,940.99 for claims submitted with CPT code 99215 in 2021.

137. The meetings with BCBS at the beginning of 2022 reinforced many of the principles of which the investigation has revealed AIM, NOWAK and SIMMONS were already aware that: 1) they could not bill for services that were not provided; 2) they could not bill for the services provided by licensed massage therapists at all because massage is a non-covered service; 3) they could not bill office visit codes unless the service met the requirements of that code, and they could not bill office visit codes in conjunction with acupuncture on the same date of service because payment of the acupuncture code included payment for the visit itself; and 4) they could not bill services rendered by a licensed massage therapist under another provider. Despite this,

[20] CPT code 99205 is a level 5 E&M code for new patients, while CPT code 99215 is a level 5 E&M code for established patients.

AIM Health, NOWAK and SIMMONS continued to fraudulently bill Medicare and the various other payors as outlined in this affidavit.

138. On November 28, 2022, BCBSRI SIU Investigators received an unsolicited call from FE #12, a licensed acupuncturist. FE #12 told investigators, among other things, that he/she documents the service in the medical record and will "click on acupuncture and an office visit sometimes," then clicks submit and sends the information to be billed. NOWAK and the "biller" decide what to code. The most recent biller for AIM Health, FE #2, told FE #12 that NOWAK was changing the codes and he/she was leaving AIM Health because of that.[21]

139. FE #12 also told BCBSRI SIU Investigators that the only service that FE #12 provides at AIM Health is acupuncture.

Billing Guidelines for Acupuncture Services and Statements by AIM Health Employees

140. This affiant has reviewed the coverage and billing guidelines for acupuncture services. Coverage guidelines have slight variations, but generally, Medicare and private payors allow for up to 12 visits within 90 days for patients with a diagnosis of chronic low back pain. In addition, the acupuncture policies state that billing an E/M code of the same date of service as an acupuncture code is not allowable unless use of the E/M code meets the definition for use of modifier -25. In other words, payors – in particular BCBSRI and UHC - instruct their providers that an E/M code can only be billed with an acupuncture code if a separately identifiable procedure is performed. In fact, the BCBSRI Medicare Advantage policy specifically states that payment for CPT codes 97810 and

[21] As previously discussed, FE #12 did not leave AIM Health until May 2023. FE #12 told agents that he/she returned to AIM Health on two separate days in August 2023 but has not worked there since that time.

97811 already includes evaluation of the patient before, during and after acupuncture. Notably, a copy of this policy was provided to NOWAK, SIMMONS and FE #4 following the first meeting in February 2022.

141. Despite having this knowledge, former employees of AIM Health have reported to agents that AIM Health has continued to bill office visit codes for services rendered by licensed massage therapists and/or adding on office visit codes to other services, e.g., acupuncture and chiropractic services.

142. One of AIM Health's former "billers," FE #2, told agents that office visit codes were being billed by AIM Health but were not being selected by the providers rendering the services at AIM Health. FE #2 stated that he/she never selected the codes because he/she did not handle coding. FE #2 did not set up the pre-populated codes into the billing system. Only NOWAK was responsible for "hitting the button" to send the initial claims to insurance companies.

143. The only individuals who had access to the billing were FE #2 and NOWAK. The providers at AIM could not submit medical claims because NOWAK had restricted the system from them. When FE #2 asked NOWAK about billing the office visit codes, he responded that since someone came to the office, AIM Health could bill for the office visit.

144. Further, NOWAK instructed FE #2 to use the modifier -51 when billing.[22] For example, if a massage and another therapy were conducted on the same day, FE #2 told

[22] Although FE #2 told agents that modifier -51 was used, I believe given the subject matter of which he/she was speaking, FE #2 meant modifier -25, which, as described previously in this affidavit, is used to identify a separate and distinct service. In contrast, modifier -51 is used to indicate that multiple procedures, other than E&M services, were performed at the same session.

agents that AIM Health would utilize the modifier in an attempt to ensure both services to be paid.

145. Based on my training and experience, I am aware that frequent use of modifier -25 is indicative of fraud, specifically upcoding, because it bypasses edits in the Medicare contractor's payment software to allow two codes to be paid together on the same day for the same patient that otherwise would not be payable when submitted together. Despite the fact that NOWAK and SIMMONS were instructed by BCBSRI SIU in early 2022 that modifier -25 cannot be used unless a separate and distinct service has been provided, AIM Health continued to use modifier -25 with office visit codes in order to receive payment from several payors.

146. AIM Health's other "biller," FE #4, reported to agents that NOWAK instructed him/her to add an office visit code for all services billed, regardless of insurance, but this changed at one point. AIM Health billed an office visit code with every service until BCBSRI contacted AIM Health with concerns about billing. Once BCBSRI expressed concern, NOWAK instructed FE #4 to stop billing office visit codes only to BCBSRI and continue to bill office visit codes to the other insurance companies.

147. FE #4 recalled the meetings with BCBSRI where SIMMONS, NOWAK, D.N. and FE #4 were told that office visit codes were not covered.[23] Sometime in January 2022, and prior to meeting with BCBSRI, FE #4 questioned NOWAK about why they were billing office visit codes. NOWAK told FE #4 that AIM Health could bill E&M codes because AIM Health is licensed as an ambulatory care center. FE #4 believed this explanation at first, then continued to question NOWAK about billing the office visit codes. It was at this point that FE #4 was removed from billing and put at the front desk.

[23] When FE #4 was interviewed, his/her recollection at the time was that D.N. was present during the meetings with BCBSRI. However, D.N. was not identified to BCBSRI SIU as being present and is not accounted for in BCBSRI SIU's report of the meetings with AIM Health in February or March 2022.

148. FE #3, a licensed chiropractor who worked for AIM from January to March 2022, stated that if he/she examined a patient, he/she would code for that visit based on his/her level of medical decision-making and complexity of the visit. FE #3 is aware that CPT code 99202 is for an initial examination and that code 99205 would only be appropriate for a visit that included, for example, laboratory orders or reviewing test results. Code 99205 would not be appropriate for chiropractic services.

149. Despite this, when FE #3 went to his/her notes in zHealth, he/she saw that his/her codes had been changed to code 99205. FE #3 never performed a re-examination of a patient at AIM Health, which would be represented using E&M codes 99211-99215. However, FE #3 also recalled seeing code 99215 billed for every massage note he/she saw in zHealth.

150. FE #3 told agents that it appeared that AIM Health billed an E&M code for every patient, every visit and every massage. FE #3 told NOWAK, SIMMONS, FE #4 and D.N. that they could not bill this way. FE #3 does not know who changed the codes in zHealth. While both FE #4 and NOWAK had the ability to change the codes, FE #4 told FE #3 that it was NOWAK who changed the codes.

151. FE #3 provided a resignation letter dated March 20, 2022, where FE #3 laid out all his/her concerns. FE #3 emailed the resignation letter to SIMMONS, FE #4, FE #5, and NOWAK and D.N. Within the resignation letter FE #3 stated, among other things, the following: “I would have liked to respectfully give a two weeks' notice, but recent action by the company and company policy changes regarding billing behavior have caused me concern for my own license.” FE #3 continued, “The company wanting to bill insurance companies E&M codes for my regular chiropractic office visits is improper billing, regardless of license held by the facility.” Finally, FE #3 wrote: “Further improper billing behavior includes the use of the "99215" code for acupuncture

and massage therapy visits, and I have verbally spoken both to the billing manager and the CEO about it repeatedly since my first day on the job - E&M codes are never a proper code to bill for a session of massage therapy, and the E&M codes ending in "5" are for highly complex, highly involved medical decision making processes certainly not eligible to be used by this facility. This has been repeatedly brought up with management in person."

152. Other chiropractors employed at AIM Health reported similar experiences to agents. For example, FE #5 was hired by SIMMONS and NOWAK as a chiropractor for AIM from approximately February 2022 through December 2022. FE #5 only used two codes for his/her services: CPT code 98940, which was the initial code for chiropractic adjustments, and CPT code 98941, which was used when he/she adjusted more than three segments. FE #5 was aware that CPT code 97140 was for "soft tissue work" (e.g., manual therapy) and that CPT code 99203 was for new patients. FE #5 did use CPT code 99203 for new patients; however, FE #5 never used CPT code 99205. FE #5 told agents that he/she might use CPT code 99204 if he also performed a neurological examination, but this was rare.

153. FE #5 began seeing codes added in zHealth, including office visit codes 99213 or 99203. FE #5 noted that code 99213 is only for an evaluation or new issue of an established patient. FE #5 "hardly ever" used code 99213. When he/she did use it, it would be three months after the initial visit with the patient, which was when FE #5 performed a follow up evaluation. Despite this, FE #5 began seeing code 99213 being added in zHealth to patients insured by NHPRI. These codes were added by someone; FE #5 reiterated that he believes the codes were added by NOWAK. FE #5 recalled that NOWAK had disagreements with a "biller," FE #4, then later had disagreements with the other "biller," FE #2. FE #5 believes that FE #4 was trying to do things the "correct way," but NOWAK had control over the billing. FE #5 has this understanding because of

emails he/she received from D.N. and NOWAK that specifically said that NOWAK was in charge and in control of the billing.

154. FE #5 recalled an instance when he/she went to a particular patient's file in zHealth to review the notes from the patient's previous visit and he/she saw additional CPT codes that FE #5 would never use. The note that FE #5 had previously written for that patient was gone entirely. When FE #5 emailed NOWAK about it, NOWAK responded that it was a system error.

155. FE #5 emailed NOWAK and said that the "hospital-level" code, e.g., code 99215, cannot be used to bill for FE #5 services. There was also a code that was used by physical therapists, CPT code 97535 (self-care/home management), that was in the notes FE #5 saw for his/her patient, but FE #5 did not provide this service for this patient. There was also a third code that was added, but FE #5 could not remember which code it was. FE #5 told agents that 2-3 codes were added to the codes that FE #5 had originally indicated should be billed for his services.

156. In the email, FE #5 told NOWAK that he (NOWAK) cannot use these codes because it was fraudulent and that it is "risky business" to add codes just to get compensation from insurance. NOWAK's response was to reiterate that it was a system error and that was why FE #5's note was gone and codes had been added.

157. FE #5 saw twelve patients per day, on average, while at AIM Health. When asked how many of his/her patients had CPT codes added to their invoices, FE #5 stated that all the NHPRI patients he saw had codes added.

158. In explaining a screenshot shown to agents for a patient seen by FE #6, a licensed massage therapist, FE #6 told agents that he/she only provided massage to this patient. When asked why only an office visit code was billed in this screenshot, FE #6 told

agents that he/she asked the same question to NOWAK. FE #6 asked NOWAK about the inconsistent billing, e.g., billing many different codes for some patients and then only an office visit for others. When NOWAK did not respond to FE #6's questions, FE #6 would copy D.N. on the email. If FE #6 still did not receive a response, he/she would then copy SIMMONS on the email. SIMMONS response was typically "oh my god."

159. Another chiropractor employed by AIM Health, Former Employee # 7 ("FE #7") was hired as a chiropractor for AIM and worked there from January 18, 2022, through February 2022. AIM Health transitioned to using zHealth as its EMR shortly after FE #7 began working. FE #7 entered the billing codes that corresponded with the services he/she was providing, which included CPT code 99202 and 99203 for initial patients, then a manual adjustment code that FE #7 could not recall. He/she would use 2-3 codes at most for each visit, depending on the patient.

160. FE #7 would enter his codes in the morning, but by the afternoon he/she would see that the codes were changed to higher level codes. When asked what he/she meant by "higher level," FE #7 stated that he/she looked up the codes he/she saw, which were CPT codes 99205 and 99215, which FE #7 described as "ER codes." FE #7 did not find out who was changing the codes but stated, if he/she had to guess, it was NOWAK because NOWAK had access to the billing and showed FE #7 how to use the EMR.

161. FE #7 recalled that he/she first saw changes to the billing codes on February 4, 2022. FE #7 first spoke with "biller" FE #4 about it and asked if he/she knew what was happening. FE #4 told FE #7 that he/she would let NOWAK know. At the end of the same day, NOWAK showed up at the office and FE #7 discussed the changed codes with him. NOWAK tried to reassure FE #7 that he (NOWAK) could bill for higher codes because AIM Health was licensed as a higher-level medical facility and that they were allowed to bill this way.

162. FE #7 asked a former professor about the billing situation at AIM Health and was told by the professor that this was a "red flag" and that his/her services were being "upcoded." FE #7 recalled that NOWAK did not confirm that he was the one to make the coding changes, but NOWAK did attempt to justify the codes that were being billed by saying that AIM Health was a higher-level medical facility.

163. FE #7 met with FE #4, NOWAK, D.N. and SIMMONS on Monday, February 7, 2022 about the concerns FE #7 raised. During this meeting, FE #7 was asked to repeat what he/she had said the previous week. FE #7 told them that he/she was not comfortable with what was being billed and that it was fraudulent to bill those codes. FE #7 also told them that the codes they were billing were illegal. They asked FE #7 what he/she thought they should do to solve the issue, and FE #7 told them they needed to get the proper equipment to be able to bill what they were billing. FE #7 recalled that NOWAK, SIMMONS and D.N. were "frozen" when he/she said they were billing for things that were not medically necessary. FE #7 told them that he/she was performing basic treatments, but they were billing a high-level treatment code. FE #7 also told them that what they billed was "above my pay grade."

164. Another employee, Former Employee #13 ("FE #13")[24], told agents that he/she once saw the pop-up screen in zHealth that listed the codes billed for a particular patient. FE #13 was surprised by the amounts that AIM Health charged for the services and when he/she asked NOWAK about it, NOWAK told FE #13 that AIM Health could bill higher amounts because it was considered to be an outpatient clinic. FE #13 also observed that an office visit code was being billed with his/her services.

[24] In the electronic search warrant to Zoho Corporation, signed by U.S. Magistrate Lincoln Almond on August 15, 2023, the supporting affidavit identified FE #13 as CE #2, as he/she was a current employee at that time. AIM Health has since closed operations at the end of 2023 and no longer has any current employees.

165. Another employee, FE #11, reported to agents that he/she has also observed office visit codes billed for a patient in addition to other codes on the bill that the patient did not want and did not receive.

166. As previously discussed in this affidavit, several patients interviewed by agents reported seeing claims for office visits in addition to other services billed by AIM Health. For example, a review of claims billed to UHC Medicare by AIM Health for FP #1 showed that the office codes 99205, 99214 and 99215 were billed by AIM Health for FP #1 once, 24 times and 38 times, respectively, for which it was paid $4,081.32. Finally, modifier -25 was billed with these E/M codes in 60 of the 63 claims for FP #1, resulting in the claim being paid for 49 of the 63 times it was billed.

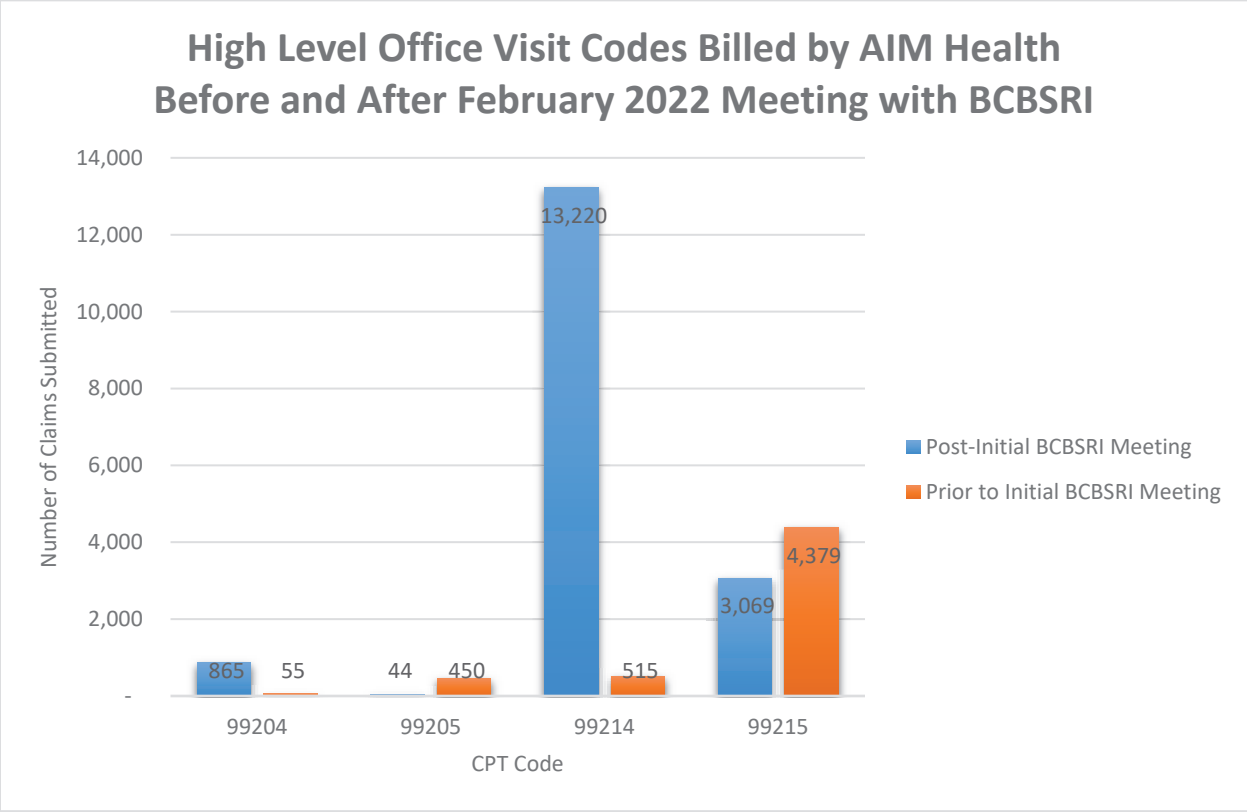
Offense 3 - Summary

167. In summary, I have reviewed claims submitted by AIM Health to Medicare and multiple other payors for dates of service between October 1, 2020, and January 4, 2024. During this period, AIM Health submitted 7,448 claims for 99215 (level 5 office visit for an established patient) and was paid $446,581.41; 3,069 of these claims were submitted on dates of service of February 23, 2022, or later, e.g., after being advised by BCBSRI SIU that this code was inappropriate to bill. During the same period, AIM Health submitted 494 claims for code 99205 (level 5 office visit for a new patient) and was paid $27,538.25; 44 of these claims were submitted after meeting with BCBSRI SIU Investigators.

168. In addition, during the same period AIM Health billed code 99214 (level 4 office visit for an established patient) 13,735 times, for which they were paid $579,320.48. Of this, 13,220 claims were submitted after February 23, 2022, e.g., after meeting with BCBSRI. AIM Health was paid $565,257.80 for these claims. Similarly, AIM Health submitted 920 claims for code 99204 (level 4 office visit for a new patient) between October 2020 and January 2024, for which it was paid $53,259.46. Of these, 865 claims

for code 99204 were submitted after February 23, 2022, e.g., after being educated by BCBSRI SIU Investigators. AIM Health was paid $51,242.98 for code 99204 submitted after being educated by BCBSRI.

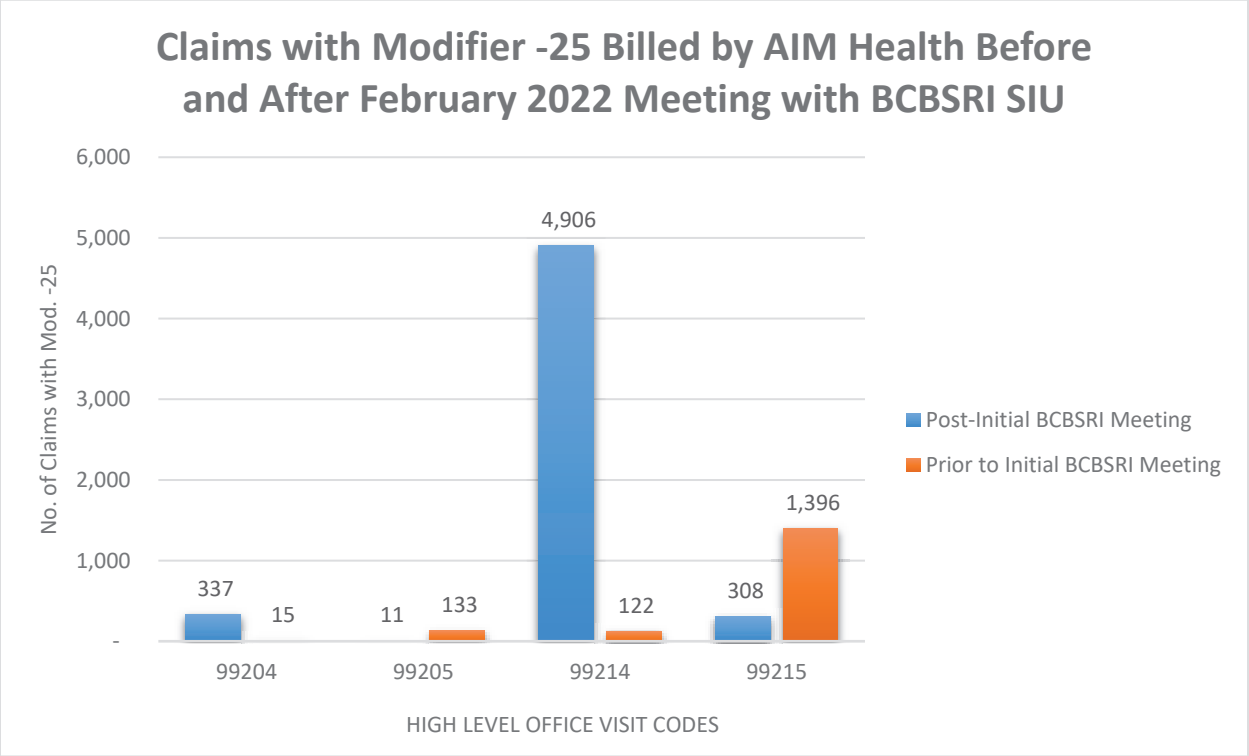
169. Based on my training and experience, and the information gathered to date in this investigation, as the following chart shows, I believe that after the meeting with BCBSRI, AIM Health changed their billing pattern to significantly reduce the number of claims submitted for codes 99205 and 99215, the highest level of initial and established patient office visit codes, respectively, in favor of billing codes 99204 and 99214, in order to avoid being flagged for continued fraudulent submissions of high-level office visit codes.



170. In addition, despite being told repeatedly that the use of modifier -25 should not be billed with an office visit code on the same day as an acupuncture service unless a documented service that is separate and distinct from the acupuncture service has been

provided, AIM Health not only continued to bill office visit codes with modifier -25, but, in fact, increased their use of this modifier in order to receive payment for which they were not entitled from various insurances.

171. The following chart represents the number of claims with which AIM Health billed modifier -25 before and after its initial meeting with BCBSRI SIU Investigators with high level office visits:



172. As the chart above shows, in the 17 months prior to the BCBSRI SIU meeting, AIM Health billed modifier -25 with a high-level office visit (codes 99204, 99205, 99214 and 99215) 1,666 times. In contrast, in the 16 months AFTER the initial meeting, AIM Health billed modifier -25 with the same high-level office visit codes 5,562 times, more than THREE TIMES the number of claims in the period before the meeting. Based on my experience, combined with the evidence outlined in this affidavit, I believe this shows NOWAK and SIMMONS had knowledge of how claims for services rendered at AIM Health should be billed yet shows an intent to defraud government and private payors in

order to receive payment using billing methods they knew caused the submission of fraudulent claims.

OFFENSE 3A – USE OF CREDENTIALED AIM EMPLOYEES TO RECEIVE PAYMENT FOR NON-COVERED SERVICES RENDERED BY NON-CREDENTIALED AIM EMPLOYEES.

173. As discussed at the beginning of this section, I believe that AIM Health has also used the billing provider numbers of certain AIM Health employees to bill Medicare and other payors for non-covered services rendered by licensed massage therapists using office visit codes and the other codes discussed in depth under Offenses 1 and 2.

174. For example, services rendered by other providers, both for covered and non-covered services, are being billed under FE #12, an acupuncturist who is credentialed with Medicare and other payors to which AIM Health submits claims.

175. This affiant reviewed the claims that have been submitted by AIM Health to Medicare and multiple other providers, including BCBSRI, under FE #12:

Rendering Provider: FE #12	Oct. 2020-Jan. 2024	
CPT Code	Claim Count	Amount Paid
20551	5	$260.44
20552	54	$867.98
20553	323	$12,430.73
97010	807	$73.35
97014	1	$8.28
97016	53	$62.10
97026	1,304	$1,373.95
97110	631	$11,260.04
97112	4,283	$94,911.17
97124	932	$6,675.04
97140	8,508	$203,423.64
97530	2,152	$42,109.35
97535	3,459	$26,955.38

97810	4,979	$55,594.40
97811	4,983	$98,215.86
99202	4	$88.04
99203	151	$7,290.44
99204	703	$44,471.87
99205	425	$21,561.05
99211	33	$29.60
99212	39	$384.76
99213	878	$17,610.16
99214	10,333	$485,832.09
99215	4,997	$247,867.40
99402	302	$10,990.72
99403	524	$31,339.30
Grand Total	**50,863**	**$1,421,687.14**

176. As outlined in the chart above[25], AIM Health routinely submits claims under FE #12's billing number for non-acupuncture services, including office visits and physical therapy codes. Within the chart, the acupuncture codes, e.g., the only codes that accurately represent the services that FE #12 is licensed to provide, are highlighted in green; all other codes represent services either not performed by FE #12 or those services that FE #12 cannot provide. Based on statements made by former employees of AIM Health, combined with patient statements and reviewed claims data, I believe AIM Health used FE #12's billing number to receive fraudulent payments from insurers, both by billing for services not rendered at all and billing for non-covered services, e.g., massages (Offenses 1 and 2, respectively).

177. In addition, based on my training and experience and the information obtained throughout this investigation, I believe this chart represents NOWAK and SIMMONS' scheme to obtain payment for massages (a non-covered service) using office visit codes.

[25] Because so many different CPT codes were billed under FE #12, this chart only contains the codes that either have already been discussed in this affidavit or codes for which AIM Health had received significant payment. Despite this, the chart represents more than 99% of what was billed by AIM Health under FE #12.

Further, the billing represented illustrates what I believe to be AIM Health's practice of adding on office visit codes to acupuncture codes in order to increase payments, which NOWAK and SIMMONS have been told is not permitted. For example, more than 15,000 claims for codes 99214 and 99215 have been billed under FE #12, compared to the 9,962 acupuncture claims billed (codes 97810 and 97811). Assuming FE #12 legitimately provided roughly 9,900 acupuncture services to AIM Health clients over approximately three years, the billing of office visit codes (99214 and 99215) at one and a half times the amount of acupuncture services is likely only explained by AIM Health having added an office visit to be billed with every acupuncture code AND billing massages performed by licensed massage therapist at AIM Health under FE #12's provider number.

178. Similar to FE #12, I have reviewed the claims submitted by AIM Health to Medicare and other payors under the provider number for FE #7, a chiropractor who was credentialed with Medicare and other payors. The following chart represents the claims billed by AIM Health under FE #7 to Medicare and private payors:

Rendering Prov.: FE #7	DOS: Nov. 24, 2021 through June 4, 2022	
Row Labels	Count of ICN	Sum of Amt Paid To Prov
97010	105	$38.30
97026	6	$2.85
97110	55	$190.30
97112	374	$3,205.91
97124	150	$1,148.19
97140	515	$4,551.12
97530	66	$1,284.05
97535	280	$1,903.44
97810	8	$1.41
97811	8	$61.37
98940	133	$263.64
98941	23	$0.00
98942	2	$0.00
98960	16	$12.29
99202	27	$190.00
99203	5	$12.00
99204	23	$936.65
99205	21	$1,012.66
99211	4	$0.00
99212	10	$2.00
99213	81	$681.07
99214	350	$9,175.49
99215	111	$3,468.48
99401	1	$0.00
J8499	1	$0.00
Grand Total	**2,375**	**$28,141.22**

179. As this chart shows, AIM Health billed significantly more codes under FE #7 than FE #7 told agents he/she used to represent his/her services. Notably, high-level office visit codes 99205 and 99215, both of which FE #7 told agents he/she did not use, were billed by AIM Health 21 times and 111 times, respectively. Also notable is the fact that the first date of service billed for FE #7 is November 24, 2021, 2021, which is two months BEFORE FE #7 began working at AIM Health.

180. A further review of the claims submitted by AIM Health using FE #7's billing information shows 56 claims submitted with dates of service PRIOR to FE #7's employment. For all 56 claims, the date of submission of the claims was AFTER FE #7 resigned from AIM Health. FE #7's last day working at AIM was February 18, 2022;

however, 1,693 claims were billed with dates of service between February 19, 2022 and June 4, 2022 that list FE #7 as the rendering provider. I have a question on this para?

181. In summary, based on information provided by multiple employees of AIM Health and reviewing claims data, I believe that, like FE #12, AIM Health used FE #7's billing information to submit claims for services that were either rendered by another provider and/or for non-covered services in order to receive payment from insurers to which he was not entitled.

FRAUDULENT BILLING TO THE DEPARTMENT OF VETERANS AFFAIRS

182. I have been assisted in this investigation by a Special Agent with the United States Department of Veterans Affairs, Office of Inspector General (VA-OIG), who has observed a pattern of fraudulent billing practices by AIM Health which is substantially similar to the pattern described throughout this affidavit.

183. The Department of Veterans Affairs (VA) is a federal cabinet-level agency comprised of three branches. The branch concerned with providing healthcare to eligible veterans is the Veterans Health Administration (VHA). VHA operates a network of hospitals and healthcare facilities in the United States and its territories. In some circumstances, VHA cannot provide a given treatment in-house for the veteran, or it could provide the service but wait times are considered excessive. In these situations, VHA can refer a veteran to Community Care (VACC). VACC is a program wherein non-VA providers treat veterans. The non-VA providers are then reimbursed by VHA. VHA is billed by these community care providers through Optum. Optum approves or denies claims and disburses payment to the provider. VHA then pays Optum directly. VACC generally mirrors Medicare guidelines. As with any provider billing Medicare or private medical insurance, industry standardized billing codes are utilized.

184. VACC allows both acupuncture and massage therapy for veterans when that veteran's VA-employed primary care doctor believes such treatment would be beneficial. In the case of massage therapy, VHA strictly limits the first visit to sixty minutes. Subsequent visits are limited to only thirty minutes. Massage therapy is restricted to the affected area of the body. In other words, if the veteran's complaint is limited to lower back pain, only the lower back is eligible for the therapy. No other therapies can be billed unless previously agreed upon between the provider and VHA. VACC is authorized on the basis of a specified number of visits. Typically, visits are authorized in blocks of five to ten appointments. Through discussion with their primary care provider, veterans can have their visit allotments extended and covered by VA. Veterans cannot be billed directly by the community provider, nor can they be charged a missed appointment fee.

INAPPROPRIATE BILILNG CODES WERE USED BY AIM HEALTH TO BILL VHA

185. Between 2021 and March 2023, a total of 166 veterans (beneficiaries) were seen by AIM Health as part of the VACC Program. All claims and payouts referenced below fall into this timeframe.

186. Infrared light therapy (CPT code 97026) was billed to 44 beneficiaries (constituting a total of 107 claims) at a total cost of $4,121.20. VHA paid out $354.59. This service was not offered by AIM Health, nor did AIM Health employ the licensed physical therapist required to use such a code.

187. Self-care management training (CPT code 97535) was billed to 87 beneficiaries (constituting a total of 486 claims) at a total cost of $18,327.62; VHA paid out $15,031.85 to AIM Health. This billing code would not have been covered under the scope of a VHA authorized visit.

188. Hot or cold pack therapy (CPT code 97010) was billed to 46 beneficiaries (133 claims) for a total of $1,826.84. This therapy was not actually performed at AIM Health. VHA ultimately did not pay for any of this therapy, despite AIM Health's attempts to charge for the therapy.

189. Therapeutic activities (CPT code 97530) was not an appropriate code to bill VA. Between March 10, 2022, and March 11, 2023, AIM Health billed VHA across 60 beneficiaries (constituting 276 claims) for a total of $17,136.73. VA paid $11,892.03.

190. Neuromuscular reeducation (CPT code 97112) was billed to 79 beneficiaries (constituting 387 claims). AIM Health billed a total of $34,471.52. VHA paid $20,404.50. This code is used to bill for therapy provided by a licensed occupational therapist to improve a patient's motor function. The code is normally associated with rehabilitation and not massage. VA offers rehabilitation and, short of excessive wait times, would not normally refer a veteran to community care for such treatment. Additionally, AIM Health did not employ a licensed occupational therapist capable of providing this treatment.

191. Use of dynamic activities to improve functional performance (CPT code 97530) is a code typically associated with rehabilitation, and is not used for massage therapy. AIM Health did not employ any staff licensed to employ techniques that would be appropriate for the use of this code. Examples of activities that would allow use of this include lifting weights, throwing objects such as a ball, and pushing/pulling exercises. Between 2022 and the first three months of 2023, AIM Health billed VHA $17,136.73 using this code. VHA paid $11,892.03.

192. Manual therapy techniques (CPT code 97140) is a code used for physical therapy and rehabilitation; services AIM Health was not licensed to perform. Between 2021 and 2023, AIM billed VHA for $21,216.35. VHA paid out $11,116.17 on these claims.

193. AIM Health regularly used CPT code 97535 to bill VHA. This code is used to teach a patient how to use assistive technology, activities of daily living such as bathing, and other tasks associated with occupational therapy. This code is outside the scope of services provided by AIM Health and does not conform with thirty minutes of VHA authorized massage therapy. In 2021 and 2022, AIM Health sought $18,327.62 from VHA. Of this, VHA paid out $15,031.85.

194. The total amount VHA paid for all the aforementioned inappropriate codes is $133,405.99. AIM was using inappropriate billing codes to collect significantly more money than they were eligible to receive from VHA based on the guideline of only 30 minutes of massage therapy per visit.

AIM HEALTH USED HIGH COMPLEXITY CODES TO BILL VHA

195. The level 5 office visit code for new patients, CPT code 99205, was used by AIM Health to bill VHA. This code is used when a practice has to evaluate a new patient with complex issues. There were 22 beneficiaries with 23 associated claims. AIM billed VHA for an all-time total of $9,039. VHA paid $4,159.43. Of note, this code was not billed to VHA at all in February and March of 2022 following the aforementioned meetings with BCBSRI SIU. It was billed a total of $693 in April and $231 in May. It was not billed again in 2022, nor was it billed in 2023. For the available data range of 2021 to 2023, VHA paid $4,159.43 under this code.

196. The level 5 office visit code for established patients, CPT code 99215 is a code used by providers to document visits by patients with complex medical histories. It is typically used by medical doctors. This code was billed for 32 VHA beneficiaries (94 claims) for $23,564.64. VHA paid $15,405.68. Use of this code continued after the February 2022

meeting with BCBSRI. Similar to policies issued by other payors, the use of this code for massage therapy is not appropriate.

197. CPT code 99204 is appropriate when a new patient requires a "moderate level of medical decision making." This code was not used by AIM Health at all in 2021; however, use of this code after the February 2022 meeting with BCBSRI increased. A total of $14,042.88 was billed to VA under this code in 2022. Use of the code continued in 2023. In the first three months of 2023 (January to March) it was used to bill VHA $4,293.56. For both years, the total paid by VHA under this code was $18,366.44.

198. CPT code 99214 is used for a patient who is already established with the provider, but whose office visit also requires a "moderate level of medical decision making." AIM Health first billed this code to VHA in December of 2021 for a total of $270.72. Use of this code increased significantly following the February 2022 meeting with BCBSRI, with VHA eventually paying out for thousands of dollars per month. The grand total paid for this code in 2022 was $84,060,99. In the first three months of 2023 (January to March) AIM Health was paid $26,938.51 by VHA for code 99214. The total amount paid to AIM Health by VHA between 2021 and 2023 was $111,270.22.

199. The available data supports the allegation that AIM Health switched from using "high level" codes 99205 and 99215 and substituted codes 99204 and 99214 after being warned by BCBSRI that use of the high-level codes was inappropriate.

200. AIM Health frequently used modifier code "25" (patient required significant service above/beyond typical interaction) frequently in conjunction with the aforementioned high complexity codes when billing VHA, possibly to avoid an automatic denial by Optum. Between May 2021 and March 2023, modifier 25 was used in claims submitted for 164 of the 166 VA patients seen at AIM. The claim count with this

modifier was 1,145 (out of 1,188 total claims during this period). AIM billed VA $195,181.02; VHA paid $148,299.21.

201. In all, AIM Health's use of high complexity codes and modifiers between 2021 and 2023 caused VHA to pay a grand total of $297,500.98.

INTERVIEWS OF NOWAK AND SIMMONS

202. On August 17, 2023, NOWAK was interviewed by this affiant and the Special Agent from HHS-OIG. During the course of this interview, NOWAK made numerous false and misleading statements.

Among other things, NOWAK claimed that services provided at AIM Health included acupuncture, chiropractic services, physical therapy, massage therapy, stretch therapy and primary care. He further told agents that AIM Health employed two physical therapists, one since 2021 and the other since 2022.

203. NOWAK told agents that these two individuals were licensed with the Rhode Island Department of Health as physical therapists. When asked what services they provided at AIM Health, NOWAK could only recall them providing "stretch therapy."

204. NOWAK told agents that AIM Health used a platform called "Care Cloud" for billing, explaining that this system was "AI-based" and tells providers what to bill. He further stated that AIM Health had previously employed two billers, FE #2 and FE #4, but exaggerated the lengths of their employment with AIM. NOWAK stated that FE #4 had worked for AIM Health throughout all of 2021 and that FE #2 was hired right after FE #4 left AIM Health, from March 2022 through January 2023. In reality, as previously mentioned in this affidavit, FE #4 worked for AIM Health from January through mid-May 2022, while FE #2 worked for AIM Health from June to October 2022. I believe that NOWAK made these statements to agents in order to make it seems as though AIM

Health employed billers that were responsible for the claims submitted to various payors and to distance himself from the billing, despite clear evidence of his hands-on involvement in the billing for AIM Health.

205. NOWAK also told agents that all patients at AIM Health had a plan of care that was created by the various Medical Directors for AIM Health and that the Medical Directors, including FE #12, recommended services for patients if the patient wanted a specific service. NOWAK also claimed that if a massage therapist is "certified" then AIM Health can bill insurance for their services. NOWAK further stated that massage therapists at AIM Health chose what codes to bill for their services and that the biller only reviews what has already been submitted. Notably, this statement by NOWAK contradicts every statement provided to agents by the massage therapist, and other providers, at AIM Health.

206. NOWAK also told agents that he does not do the billing for AIM Health and would only assist FE #2 if FE #2 asked him to. NOWAK further stated that it was FE #2 who trained him on billing, stating, "I don't know billing." He also told agents that FE #2 gave him a list of codes to "put into the system" and that the same process was in place with FE #4, i.e., FE #4 trained NOWAK on the codes to use at AIM Health.

207. NOWAK further told agents that in between hiring of the billers, he would handle the billing. NOWAK stated that SIMMONS did not handling billing for AIM Health and instead, SIMMONS was responsible for the "legal compliance" for AIM.

208. NOWAK told agents that massage services were billed by AIM Health as massage and that no other code was billed. Later in the interview, NOWAK stated that the massage therapist enters their notes into the EMR, then chooses from a list of codes that they can bill. When asked what CPT codes the massage therapist could choose from, NOWAK stated that massage, stretch therapy and "home coaching" (believed to be code

97535) were included in this list. NOWAK described "home coaching" as telling the patient what they could do at home. NOWAK then stated that FE #4 told him that AIM Health could bill for this service.

209. As previously discussed in this affidavit, FE #4 told agents that he/she was trained by NOWAK on the codes to bill for AIM Health, not the other way around. In fact, when FE #4 began to question NOWAK about what was being billed, NOWAK revoked FE #4's access to billing and instructed him/her to work the front desk.

210. Further, when asked how AIM Health could bill for massage when most other providers charge patients out-of-pocket for this service, NOWAK stated that it is because AIM Health is set up as a hospital system and has a physician employed, which is why AIM can bill for massage and other companies cannot. NOWAK told agents that if a body scan, height, weight and blood pressure is taken prior to a massage, then an office visit and a massage code can be billed. He further told agents that the VA credentials massage therapists and that all of AIM Health's massage therapists have NPIs and are credentialed.

211. When asked about whether any AIM Health employees has raised concerns about what was being billed for their services, NOWAK told agents that one chiropractor had staid that billing for a particular code was not allowed (NOWAK did not specify which code). NOWAK then told agents that no chiropractors came to speak with him about what AIM Health was billing and that instead, they spoke with FE #2.

212. When asked about office visit codes billed by AIM Health, NOWAK told agents that these codes were billed for services such as assessments, blood pressure and body scanning. He further stated that when AIM Health bills for an office visit, this means that an assessment was performed by one of the "doctors" at AIM Health. NOWAK then

noted that in Rhode Island, an acupuncturist is given the title of "doctor," so if an acupuncturist reads results from a test, then this is billed as an office visit.

213. NOWAK further told agents that if a patient's height, weight, and blood pressure were taken, and then the scheduled service was provided, then AIM Health would bill for an office visit with, for example, acupuncture treatment. NOWAK stated that to his knowledge, this was how AIM could bill. When asked how he came to this understanding, NOWAK stated that FE #4 told him this.

214. Throughout the interview with NOWAK, he repeatedly stated that FE #4 had told him how to bill. In fact, NOWAK told agents that it was FE #4 who told him that he could bill for an office visit after taking a patient's height, weight and blood pressure.

215. NOWAK then told agents that no one told him that AIM Health could not bill office visit codes. He then stated that AIM Health stopped billing BCBSRI for massages because billers were billing for office visits when massages were performed.

216. When questioned further about his involvement in billing, NOWAK admitted to agents that administrative side of the billing software might show NOWAK as doing most of the billing for AIM.

217. On August 17, 2023, SIMMONS was interviewed by this affiant and the Special Agent from HHS-OIG. Among other things, SIMMONS stated that he and NOWAK own AIM Health. SIMMONS stated that he deals with compliance, business insurance, the licensure of providers and "back-end stuff."

218. SIMMONS stated that NOWAK has always had a hand in billing. He further stated that training of the billers hired by AIM Health was provided by NOWAK. SIMMONS told agents that he did not take any training for medical billing but that NOWAK "trained himself a lot" on medical billing.

219. SIMMONS acknowledged meeting with BCBS regarding billing issues, resulting in a settlement and Corrective Action Plan. SIMMONS acknowledged that BCBS informed AIM Health that "medical massage" was not covered. SIMMONS stated that AIM no longer accepts BCBS for medical massage but continues to accept other insurance companies for massage services. SIMMONS claimed he is not aware of how billing is conducted at AIM.

220. SIMMONS said he got his understanding of billing from NOWAK. He was aware that NOWAK would use the notes entered by providers into zHealth and use that information to do the billing. SIMMONS told agents that AIM Health has never utilized a third-party billing company; all billing for AIM Health has been in-house.

221. SIMMONS was aware that claims submitted to insurance by AIM Health were billed under the Medical Director or the business.

222. SIMMONS told agents that he believed an office visit could be billed to insurance if it is part of a treatment plan or a referral from a doctor. At the time of the interview, SIMMONS was aware of an AIM Health employee, who is licensed as an aesthetician, who was conducting treatment plans, along with other AIM Health employees.

223. SIMMONS stated that AIM Health has never employed a physical therapist, although he was aware that the company had employed massage therapists who were also licensed as physical therapy assistants.

CONCLUSION

Based on the facts and circumstances set forth in this affidavit, I submit that there exists probable cause to believe that from on or about March 14, 2021 through on or about at least April 10, 2024, BRANDON NOWAK and JASON SIMMONS committed

heath care fraud, in violation of 18 U.S.C. 1347, conspiracy to commit heath care fraud, in violation of 18 U.S.C. 1349, and Filed False Claims, in violation of 18 U.S.C. 287, and aided and abetted each other in the same.

Respectfully submitted,

James P. Crowley
Special Agent
Federal Bureau of Investigation

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by Telephone
(specify reliable electronic means)

June 6, 2024
Date

Judge's signature

Providence RI
City and State

Magistrate Judge Lincoln D. Almond

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

IN RE COMPLAINT	Case No. 1:24-MJ-37LDA

MOTION TO SEAL

The Government moves that this Motion to Seal and the attached documents (including the Complaint, Arrest Warrant, Cover Sheet, Cover Sheet Attachment and Affidavit) be sealed until further Order of this Court.

Respectfully submitted,

UNITED STATES OF AMERICA
By its attorneys,

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United States Attorney

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SO ORDERED:

LINCOLN D. ALMOND
UNITED STATES MAGISTRATE JUDGE

Dated: June 6, 2024