

Jun 14, 2016STEVEN M. LARIMORE
CLERK U.S. DIST. CT.
S.D. OF FLA. - MIAMIUNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
16-20453-CR-ZLOCH/HUNT

Case No. _____

18 U.S.C. § 371

18 U.S.C. § 982

UNITED STATES OF AMERICA

vs.

FELIX LAMELAS,**Defendant.****INFORMATION**

The United States Attorney charges that:

GENERAL ALLEGATIONS

At all times relevant to this Information:

The Health Insurance Programs

1. The Medicare Program ("Medicare") was a federal health care program providing benefits to persons who were 65 or older or disabled.
2. Medicare was a "health benefit program," as defined by Title 18, United States Code, Section 24(b), and a "Federal health care program," as defined by Title 42, United States Code, Section 1320-7b(f).
3. Medicare was administered by the United States Department of Health and Human Services ("HHS") through its agency, the Centers for Medicare & Medicaid Services ("CMS"). Individuals who received benefits under Medicare were referred to as Medicare "beneficiaries."

4. Part B of Medicare covered partial hospitalization programs (“PHPs”) connected with the treatment of mental illness. The treatment program of PHPs closely resembled that of a highly-structured, short-term hospital inpatient program, but it was a distinct and organized intensive treatment program that offered less than 24-hour daily care and was designed, in part, to reduce medical costs by treating qualifying individuals outside the hospital setting.

5. Under the PHP benefit, Medicare covered the following services: (1) individual and group therapy with physicians or psychologists (or other authorize mental health professionals); (2) occupational therapy; (3) services for social workers, trained psychiatric nurses, and other staff trained to work with psychiatric patients; (4) drugs and biologicals furnished for therapeutic purposes that cannot be self-administered; (5) individualized activity therapies that are not primarily recreational or diversionary; (6) family counseling (for treatment of the patient’s condition); (7) patient training and education; and (8) diagnostic services.

6. Medicare generally required that the PHP provided at a facility that is hospital-based or hospital-affiliated, but Medicare also allowed PHP to be provided in a Community Mental Health Center (“CMHC”), which is a provider type under Part A of Medicare.

7. Medicare required that, to qualify for the PHP benefit, the services must have been reasonable and necessary for the diagnosis and active treatment of the individual’s condition. The program also must have been reasonably expected to improve or maintain the condition and functional level of the patient and to prevent relapse or hospitalization. The program must have been prescribed by a physician and furnished under the general supervision of a physician and under an established plan of treatment that meets Medicare requirements.

8. Typically, a patient who needed this intensive PHP treatment had a long history of mental illness that had been treated. Patients were ordinarily referred either (a) by a hospital after full inpatient hospitalization for severe mental illness or (b) by a doctor who was trying to

prevent full inpatient hospitalization for a severely mentally ill patient the doctor had been treating.

9. Medicare guidelines specifically excluded meals and transportation from coverage under the PHP benefit.

10. Medicare did not cover programs involving primarily social, recreational, or diversionary activities. Psychosocial programs that provided only a structured environment, socialization, or vocational rehabilitation were not covered by Medicare.

11. In order to receive payment from Medicare, a CMHC, medical clinic, or a physician was required to submit a health insurance claim form to Medicare, called a Form 1450. The claims may have been submitted in hard copy or electronically. A CMHC, medical clinic, and physician may have contracted with a billing company to transmit claims to Medicare on their behalf.

12. Medicare Part B was administered in Florida by First Coast Service Options, which, pursuant to contract with the United States Department of Health and Human Services, served as a contracted carrier to receive, adjudicate and pay Medicare Part B claims submitted to it by Medicare beneficiaries, physicians, or CMHCs. Medicare Part B paid CMHCs and physicians directly for the cost of PHP services furnished to eligible Medicare beneficiaries, provided that the services met Medicare requirements.

13. Florida Medicaid covered community mental health services, including PHP treatment.

14. An "Assisted Living Facility" or "ALF" was a facility licensed by the Florida Agency for Health Care Administration, whether operated for profit or not, which undertook through its ownership or management to provide housing, meals, and one or more personal

services for a period exceeding 24 hours to one or more adults who were not relatives of the owner or administrator.

The Defendant, Relevant Entities and Individuals

15. Greater Miami Behavioral Healthcare Center, Inc. ("Greater Miami"), was a Florida corporation that purported to operate a CMHC in Miami, Florida at the following addresses: 5040 NW 7th Street, Miami, FL 33126 and 7000 NW 52nd Street, Miami, FL 33166.

16. HNB-Stell Care, Inc. ("HNB") was a Florida corporation located at 2405 Riverlane Terrace, Ft. Lauderdale, FL 33312.

17. Dean Butler, a resident of Miami-Dade County, was the owner, Director and Administrator of Greater Miami, and a Director for HNB.

18. Nery Cowan, a resident of Miami-Dade County, was an Administrator and Director for Greater Miami.

19. Irina Mora, a resident of Miami-Dade County, was the Director of Finance for Greater Miami.

20. Defendant **FELIX LAMELAS** was a resident of Miami-Dade County.

**CONSPIRACY TO DEFRAUD THE UNITED STATES
AND RECEIVE HEALTH CARE KICKBACKS
(U.S.C. § 371)**

From in or around September of 2006, and continuing through in or around April of 2012, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

FELIX LAMELAS,

did willfully, that is, with the intent to further the objects of the conspiracy, and knowingly combine, conspire, confederate, and agree with Dean Butler, Nery Cowan, Irina Mora, and others known and unknown to the United States Attorney, to commit offenses against the United States, that is:

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

b. to knowingly and willfully solicit and receive remuneration, including kickbacks and bribes, directly and indirectly, overtly and covertly, in cash and in kind, in return for referring an individual to a person for the furnishing and arranging for the furnishing of any item and service for which payment may be made in whole and in part by a Federal health care program, that is, Medicare, in violation of Title 42, United States Code, Section 1320a-7b(b)(1)(A).

PURPOSE OF THE CONSPIRACY

21. It was a purpose of the conspiracy for **FELIX LAMELAS** and his co-conspirators to unlawfully enrich themselves by: (a) soliciting and receiving kickbacks and bribes in return for referring Medicare beneficiaries to Greater Miami to serve as patients; and (b) submitting and causing the submission of claims to Medicare for PHP services that Greater Miami purportedly provided to those beneficiaries.

MANNER AND MEANS OF THE CONSPIRACY

The manner and means by which the defendant and his co-conspirators sought to accomplish the objects and purpose of the conspiracy included, among other things:

22. **FELIX LAMELAS** accepted kickbacks in return for referring Medicare beneficiaries to Greater Miami to serve as patients.

23. **FELIX LAMELAS** caused Greater Miami to submit claims to Medicare based on PHP services purportedly provided to his recruited beneficiaries.

24. **FELIX LAMELAS** caused Medicare to make payments to Greater Miami based upon claims for PHP services purportedly provided to his recruited beneficiaries.

OVERT ACTS

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

1. On or about September 12, 2011, **FELIX LAMELAS** deposited HNB check #4295, in the approximate amount of \$9,680.
2. On or about March 15, 2012, **FELIX LAMELAS** deposited HNB check #4398, in the approximate amount of \$2,212.
3. On or about April 18, 2012, **FELIX LAMELAS** deposited HNB check #4418, in the approximate amount of \$9,680.

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

FORFEITURE **(18 U.S.C. § 982)**

1. The allegations in this Information are re-alleged and incorporated by reference as though fully set forth herein for the purpose of alleging forfeiture to the United States of America of certain property in which **FELIX LAMELAS** has an interest.
2. Upon conviction of the violations of Title 18, United States Code, Section 371, and conspiracy to violate Title 42, United States Code, Section 1320a-7b(b)(1)(A) as alleged in this Information, the defendant shall forfeit to the United States of America, pursuant to Title 18, United States Code, Section 982(a)(7), any property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of such violation.

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

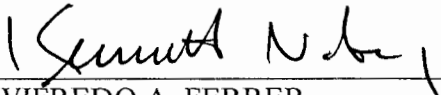
(1) a sum of money equal in value to the property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the federal health care offense, as defined in Title 18, United States Code, Section 24, alleged in this Information; and

(2) Substitute Property: If any of the property described above, as a result of any act or omission of the defendant:

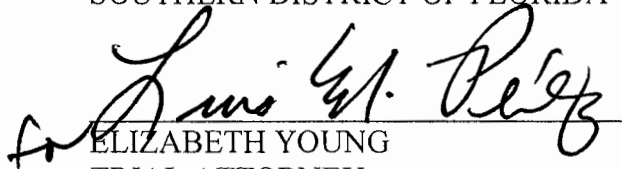
- (1) cannot be located upon the exercise of due diligence;
- (2) has been transferred or sold to, or deposited with, a third party;
- (3) has been placed beyond the jurisdiction of the court;
- (4) has been substantially diminished in value; or
- (5) has been commingled with other property which cannot be divided without difficulty,

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

All pursuant to Title 18, United States Code, Section 982 (a)(7) and the procedures set forth at Title 21, United States Code, Section 853, as made applicable by Title 18, United States Code, Section 982(b).



WIFREDO A. FERRER
UNITED STATES ATTORNEY
SOUTHERN DISTRICT OF FLORIDA



ELIZABETH YOUNG
TRIAL ATTORNEY
CRIMINAL DIVISION, FRAUD SECTION
U.S. DEPARTMENT OF JUSTICE