

UNITED STATES DISTRICT COURT
for the
Eastern District of Michigan

United States of America,

Plaintiff,

v.

Johnny Younan

Case: 2:15-mj-30285

Assigned To : Unassigned

Assign. Date : 6/16/2015

Description: SEALED MATTER (LCB)

Defendant(s).

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief:

On or about the date(s) of October 2010 to present, in the county of Wayne
in the Eastern District of Michigan, the defendant(s) violated:*Code Section*

18 U.S.C. § 371

42 U.S.C. § 1320a-7b(b)

Offense Description

Conspiracy to Pay or Receive Health Care Kickbacks.

Payment of Kickbacks

This criminal complaint is based on these facts:

See attached Affidavit.

I hereby certify that the foregoing is
a true copy of the original on file in this
Office.
Continued on the attached sheet.



CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

BY: 

Deputy

Sworn to before me and signed in my presence.

JUN 16 2015

Date: _____

City and state: Detroit, Michigan_____
*Complainant's signature*_____
Special Agent Justin Bidwell, HHS-OIG-OI_____
Printed name and title

DAVID R. GRAND

*Judge's signature*_____
Honorable David R. Grand, U.S. Magistrate Judge
Printed name and title

AFFIDAVIT IN SUPPORT OF COMPLAINT

The undersigned, Justin Bidwell, being first duly sworn, hereby deposes and states as follows:

1. I, Justin Bidwell, hereinafter referred to as the Affiant, am a Special Agent employed by the United States Department of Health and Human Services (HHS), Office of Inspector General (OIG), Office of Investigations (OI). I have been so employed since July 2010. I am an investigative or law enforcement officer of the United States within the meaning of 18 U.S.C. § 2510 (7), in that I am empowered by law to conduct investigations and to make arrests for federal felony offenses.

2. As part of my duties, I am authorized to conduct investigations, audits, and inspections in connection with the administration and enforcement of laws, regulations, orders, contracts, and programs in which HHS is, or may be, a party of interest, and perform other duties on behalf of the Secretary of HHS. As a Special Agent with HHS-OIG, I have received basic criminal investigator training as well as specialized training in the investigation of fraud and financial crimes. I have gained experience in how to conduct such investigations through specialized trainings, seminars, courses, and from my participation in previous HHS-OIG investigations. I was previously employed as an Assistant Prosecuting Attorney in

both Wayne and Macomb Counties in the state of Michigan, totaling approximately eight years. I was also detailed to the United States Attorney's Office for the Eastern District of Michigan for three years as a Special Assistant United States Attorney. My primary responsibility during the last thirteen years has been the investigation and prosecution of felony crimes. My current responsibility is investigating health care fraud committed against the federally-funded health care programs commonly known as Medicare and Medicaid.

3. I have knowledge of the facts set forth in this Affidavit as a result of my participation in the investigation, as well as, information provided to me by other law enforcement agents involved in this investigation and others. Information pertinent to this investigation was also provided by Cahaba Safeguard Administrators, LLC (CSA), a private entity which contracts with HHS to perform investigations and audits designed to protect the Medicare program from waste, fraud, and abuse. In May 2015, CSA was replaced by AdvanceMed as the zone program integrity contractor (ZPIC) for Michigan. The ZPIC is responsible for the protection of the Medicare Trust Fund through detecting fraud, waste, and abuse.

I. OVERVIEW

4. I have been involved in an investigation of JOHNNY YOUNAN related to conspiracies to pay or receive kickbacks, in violation of 42 U.S.C. § 1320a-7b(b), and 18 U.S.C. § 371.

5. As set forth below, YOUNAN has paid kickbacks to Medicare beneficiaries and arranged for some beneficiaries to receive prescriptions for controlled substances in order to provide their Medicare information to DOCTOR-1 who then billed the Medicare program for services that were not rendered and/or medically unnecessary.

6. Additionally, as reflected in the bank records and witness statements, YOUNAN received kickbacks for referring patients to DOCTOR-1's practice and obtaining referrals and home health certifications that allowed the home health agencies to bill Medicare—using the information they purchased from YOUNAN—for services that were not rendered and/or medically unnecessary.

7. Finally, YOUNAN has attempted to recruit others to join in this kickback and health care fraud conspiracies.

II. BACKGROUND

A. Origin of the Investigation

8. In 2014, DEA Detroit, the FBI, Department of Health and Human Services, Office of Inspector General, Office of Investigations (“HHS-OIG”), and Blue Cross Blue Shield of Michigan (BCBS) initiated an investigation into an alleged health care fraud scheme and related illegal pharmaceutical drug trafficking operation in southeast Michigan based on information provided, in part, by a Confidential Human Source (“CHS” or “CS”).

B. The Medicare Program

9. The Medicare Program (Medicare) is a federally-funded health care program providing benefits to persons who are over the age of sixty-five or disabled and was established by Congress in 1965, as Title 18 of the Social Security Act and codified at Title 42, United States Code, Section 1395. The Medicare program is administered through the Centers for Medicare and Medicaid Services (CMS), formerly the Health Care Financing Administration (HCFA). CMS is a division of the Department of Health and Human Services (DHHS) of the United States Government.

10. Medicare is a “health care benefit program,” as defined by Title 18, United States Code, Section 24(b).

11. Medicare has four parts: hospital insurance (Part A), medical insurance (Part B), Medicare Advantage (Part C), and prescription drug benefits (Part D). Medicare Part B helps pay the cost of physician services, laboratory services, durable medical equipment, and supplies, and other health services and supplies not paid by Part A.

12. Part D of the Medicare program subsidizes the costs of prescription drugs for Medicare beneficiaries in the United States. It was enacted as part of the Medicare Prescription Drug, Improvement and Modernization Act of 2003 and went into effect on January 1, 2006. Part D benefits are administered by private insurance plans that are reimbursed by Medicare through CMS.

13. Beneficiaries can obtain Part D benefits in two different ways: they can join a Prescription Drug Plan which covers only prescription drugs; or they can join a Medicare Advantage Plan that covers both prescription drugs and medical services.

14. Typically, a Medicare beneficiary enrolled in a Medicare Part D plan would fill their prescription at a pharmacy utilizing their Medicare Part D plan coverage to pay for the prescription. The pharmacy then submits the prescription

claim for reimbursement to the beneficiary's Medicare Part D plan for payment under the beneficiary's Health Insurance Claim Number and/or Medicare Plan Identification Number.

III. FACTS SUPPORTING PROBABLE CAUSE

15. Evidence supporting probable cause has been gathered through numerous investigative measures, including, but not limited to: (A) information provided by a Confidential Source ("CS"); (B) witness interviews; and (C) analysis of bank records.

A. Confidential Source-1

16. In February 2014, CS-1 provided information regarding YOUNAN. CS-1 knows YOUNAN and knows him to be a patient recruiter for DOCTOR-1. YOUNAN is not a medical professional. CS-1 stated that YOUNAN started bringing patients in to see DOCTOR-1 approximately two years prior to February 2014. CS-1 stated that YOUNAN typically brought in two or three patients every Tuesday and Friday to see DOCTOR-1 for drugs and home care. Originally, YOUNAN brought the patients to DOCTOR-1's practice location in Sterling Heights; DOCTOR-1 moved in or around May 2014, and CS-1 observed YOUNAN bringing patients to DOCTOR-1 at his/her new office also located in Sterling Heights, Michigan.

17. CS-1 observed YOUNAN arranging for prescriptions for controlled substances for the beneficiaries YOUNAN recruited to DOCTOR-1's practice. CS-1 stated that YOUNAN takes for himself both a copy of any drug prescriptions for the patients and the patient's identification. CS-1 stated that YOUNAN has taken the prescriptions for his patients himself and filled them at local pharmacies. CS-1 stated that YOUNAN claimed to have made \$500,000 in the first two months of 2014 from working with the Michigan Department of Human Services (DHS), Disability Determination Services (DDS), Family Independent Agency (FIA), and taking patients into DOCTOR-1's office.

18. CS-1 also stated that YOUNAN offered WITNESS-2 \$100 per patient that s/he brought into DOCTOR-1's office. CS-1 stated that YOUNAN always has \$100 bills and observed YOUNAN pay patients with one or two \$100 bills in the parking lot of DOCTOR-1's old office location.

19. CS-1 also provided evidence of YOUNAN and DR-1's involvement in medical testing and home health care fraud as well. In March 2014, CS-1 provided agents with additional information regarding DOCTOR-1's medical practice. That month, CS-1 was present when YOUNAN brought in patients to DOCTOR-1's office. CS-1 identified the patients YOUNAN had brought in to see DOCTOR-1 on March 14, 2014: L.G., D.E., R.M., B.M., and J.M.

20. A review of billing data showed that DOCTOR-1 billed Medicare for Electromyography (EMG) tests purportedly performed on L.G., D.E., and R.M. on March 14, 2014 for a total of \$4,172.11. According to CS-1, s/he believes that all of YOUNAN's patients get EMGs at DOCTOR-1's office, regardless of need. S/he has seen their EMG results, all of which are normal.

21. Additionally, according to the Medicare data, all five received prescriptions for home health care services on that date. CS-1 noted generally that all of YOUNAN's patients walked into DOCTOR-1's office unassisted and did not appear to need home care services. In total, DOCTOR-1 billed \$5,146.29 for services purportedly performed on YOUNAN's five beneficiaries on March 14, 2014.

22. In May 2015, CS-1 provided information to agents regarding YOUNAN at DOCTOR-1's new office in Sterling Heights. CS-1 observed that YOUNAN appeared to have his own office within DOCTOR-1's medical practice with unfettered access to the patient files. Once, when CS-1 was saying goodbye to YOUNAN in the doorway to his office at the new location, CS-1 overheard YOUNAN providing Medicare beneficiary information to an unknown person on the other end. YOUNAN stated the name, date of birth, and Medicare number of Medicare beneficiary J.K. over the phone. Data analysis confirmed that the

Medicare beneficiary information belonged to J.K. and that s/he was a patient at DOCTOR-1's office and had been billed in the past for services there. DOCTOR-1 has certified J.K. for home health services at least 5 times since February 2013.

23. Later in May 2015, CS-1 provided additional information to agents regarding DOCTOR-1's medical practice and its new location. CS-1 observed Medical Assistant (MA)-1 provide Medicare beneficiary A.S.'s information over the phone to YOUNAN from the front desk. CS-1 knew it was YOUNAN because MA-1 was next to CS-1 at the time and MA-1 referred to the individual on the phone as YOUNAN, and MA-1 told CS-1 that YOUNAN was on the phone. Data analysis confirmed that DOCTOR-1 was listed as the referring physician for home health care services billed to Medicare for A.S. A.S. also had prescriptions for controlled substances, hydrocodone bitartrate-acetaminophen, and other medications written by DOCTOR-1 and filled at local pharmacies in 2015.

24. On a recording from May 2015 at DOCTOR-1's office, YOUNAN is heard asking about patient files and jokes about bringing a patient file to his house. YOUNAN's office can be seen in the video.

25. Later in May 2015, on another recording, YOUNAN is heard on a telephone call with an office worker at DOCTOR-1's office asking about a specific patient.

B. Witness Interviews

1. Witness-1

26. In December 2014, WITNESS-1 was interviewed by agents regarding his/her knowledge and observations of DOCTOR-1's medical practice. DOCTOR-1 had previously leased office space inside of another medical practice's building in Sterling Heights. WITNESS-1 was working at a medical practice that shared a suite with DOCTOR-1 at that location. During that time, WITNESS-1 observed YOUNAN and another patient recruiter (Recruiter-2) bring in groups of patients to see DOCTOR-1 at that location. WITNESS-1 observed the patients waiting to be seen by DOCTOR-1 in the lobby for five to six hours prior to being seen for medical tests. WITNESS-1 observed YOUNAN and Recruiter-2 verbally fight over the alleged theft of patients. WITNESS-1 described the patients that YOUNAN brought to see DOCTOR-1 as appearing destitute. In your Affiant's experience, patient recruiters often target indigent individuals and drug-seekers because they are more likely to give up their Medicare beneficiary information for money or controlled substance prescriptions.

27. During this same time period, WITNESS-1 also became aware that DOCTOR-1 was running EMG tests on his/her patients. WITNESS-1 stated that s/he was present at the office when EMG tests were purportedly being done on

DOCTOR-1's patients, including patients from YOUNAN, and WITNESS-1 did not hear any patient reactions during the tests. WITNESS-1 stated that s/he had the same test done on her/him and that s/he screamed. Approximately 72% of DOCTOR-1's Medicare beneficiaries received at least one nerve conduction test.

28. While WITNESS-1 was in the same office suite as DOCTOR-1's medical practice, s/he took calls from DOCTOR-1's patients who constantly requested drugs. In addition to conducting EMG tests, DOCTOR-1 also wrote prescriptions for controlled substances, home health care, and physical therapy. WITNESS-1 never observed any physical therapists or occupational therapists providing services out of DOCTOR-1's office but WITNESS-1 believed that DOCTOR-1 was billing for those services. The Medicare billing confirms that DOCTOR-1 billed for physical therapy from his/her former Sterling Heights location.

29. WITNESS-1 also observed YOUNAN sell a bag of pills for cash in the parking lot to the medical office.

2. Witness-2

30. In April 2015, WITNESS-2 was interviewed regarding his/her knowledge of DOCTOR-1's medical practice in Sterling Heights. WITNESS-2 used to work as a medical assistant (MA) for doctors in the same building as

DOCTOR-1's medical practice before DOCTOR-1 moved across the parking lot to his/her new location in the spring of 2014.

31. WITNESS-2 had a number of duties while working at this location: s/he (a) translated for patients; (b) checked patients' vitals including blood pressure, height, weight, and eyes; (c) conducted pulmonary function tests when necessary; (d) prepared patient files for the doctor's evaluation; (e) filled out the face sheets and received schedules from the State of Michigan for patient appointments; and (f) assigned the patients randomly to the doctors depending upon which doctor would be present on any particular day.

32. WITNESS-2 stated that s/he observed individuals s/he referred to as "friends" of patients bringing them into DOCTOR-1's office. WITNESS-2 also observed DOCTOR-1 meet privately with the "friends" in the lunchroom area behind a closed door. YOUNAN was one of the "friends" that WITNESS-2 observed at DOCTOR-1's office. WITNESS-2 also observed the "friends" receive prescriptions for the patients that they brought into DOCTOR-1's office.

33. YOUNAN asked WITNESS-2 if s/he knew anyone that was over 60 or eligible for Medicare that s/he could bring into DOCTOR-1's office for treatment. YOUNAN offered to pay WITNESS-2 \$100 for each patient that s/he could bring into DOCTOR-1's office. WITNESS-2 declined.

34. WITNESS-2 stated that DOCTOR-1 would reserve whole days to see YOUNAN's patients. YOUNAN's patients wanted Vicodin, according to WITNESS-2, and WITNESS-2 heard YOUNAN tell DOCTOR-1 what a particular patient needed, referring to medications.

D. Analysis of Bank Records

35. An analysis of YOUNAN's bank records, including records for two companies that he owns – JY&M LLC and JY Office Solutions, LLC – shows payroll checks from DOCTOR-1's companies.

36. In addition to the payroll checks, DOCTOR-1 paid YOUNAN \$76,800 in 50 checks beginning in October 2010. DOCTOR-1 signs the checks, and all checks are in multiples of \$100, except for two checks that are in multiples of \$75.

37. JOHNNY YOUNAN also received checks from 13 home health agencies, totaling more than \$220,000, from 2010 to 2013.

38. YOUNAN also deposited over \$75,000 in cash to his accounts between 2010 and 2013

XIII. CONCLUSION

39. In summary, the evidence shows that JOHNNY YOUNAN has conspired with others to pay or receive healthcare kickbacks, and that YOUNAN paid or received healthcare kickbacks to obtain Medicare beneficiary information that was used to arrange the furnishing of medical services that were not rendered and/or medically unnecessary.

40. Based on your affiant's training and experience and the facts presented herein, your affiant respectfully submits there is probable cause to believe that YOUNAN violated 18 U.S.C. § 371 and 42 U.S.C. § 1320a-7b(b)

41. As such, your affiant respectfully requests that arrest warrants be issued for JOHNNY YOUNAN.

Justin Bidwell, HHS-OIG

Sworn to and subscribed before me on this 16th day of June 2015.

DAVID R. GRAND

HONORABLE DAVID R. GRAND

United States Magistrate Judge

Eastern District of Michigan