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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

Case:2:15-cr-20362
Judge: Edmunds, Nancy G.
MJ: Stafford, Elizabeth A.
Filed: 06-16-2015 At 01:48 PM
INDI USA v DANESHVAR (dat)

UNITED STATES OF AMERICA,

Plaintiff,

v.

DR. GERALD DANESHVAR,

Defendant.
_____/

VIO: 18 U.S.C. § 1349
18 U.S.C. § 981(a)(1)(C)
28 U.S.C. § 2461

INDICTMENT

THE GRAND JURY CHARGES:

General Allegations

At all times relevant to this Indictment:

1. The Medicare program was a federal health care program providing benefits to persons who were over the age of 65 or disabled. Medicare was administered by the Centers for Medicare and Medicaid Services ("CMS"), a federal agency under the United State Department of Health and Human Services. Individuals who received benefits under Medicare were referred to as Medicare "beneficiaries."

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

3. The Medicare program has three primary components: hospital insurance (Part A), medical insurance (Part B), and prescription drug benefits (Part D). Part B of Medicare covered the cost of physicians' services and other ancillary services not covered by Part A. Home visits by physicians and associated laboratory and diagnostic testing are paid for by Medicare Part B. Home health care is covered by both Medicare Part A and Medicare Part B.

4. Wisconsin Physicians Service ("WPS") administered the Medicare Part B program for claims arising in the state of Michigan. CMS contracted with WPS to receive, adjudicate, process, and pay certain Part B claims, including services related to home health and diagnostic testing.

5. TrustSolutions LLC was the Program Safeguard Contractor for Medicare Part A and Part B in the state of Michigan until April 24, 2012, when it was replaced by Cahaba Safeguard Administrators LLC.

6. Physicians, clinics, and other health care providers that provided services to Medicare beneficiaries were able to apply for and obtain a Medicare provider number. A health care provider who was issued a Medicare provider number was able to file claims with Medicare to provide reimbursement for services provided to beneficiaries.

7. By becoming a participating provider in Medicare, enrolled providers agreed to abide by the policies and procedures, rules, and regulations governing reimbursement. To receive Medicare funds, enrolled providers, together with their authorized agents, employees, and contractors, were required to abide by all the provisions of the Social Security Act, the regulations promulgated under the Act, and applicable policies and procedures, rules, and regulations, issued by CMS and its authorized agents and contractors.

8. Health care providers were given and/or provided with online access to Medicare manuals and services bulletins describing proper billing procedures and billing rules and regulations.

9. Providers of health care services to Medicare beneficiaries seeking reimbursement under the program were required to submit a claim form, called a CMS 1500, with certain information regarding the Medicare beneficiary, including the beneficiary's name, health insurance claim number, date the service was rendered, location where the service was rendered, type of service provided, number of services rendered, the procedure code, a diagnosis code, charges for each service provided, the provider's unique identifier, and a certification that such services were personally rendered by the provider.

10. Providers could only submit claims to Medicare for services they rendered and for services that qualified for that particular billing code. Medicare

Part B regulations required health care providers enrolled with Medicare to maintain complete and accurate patient medical records to verify that the services were provided as described on the claim form. These records were required to be sufficient to permit Medicare, through WPS and other contractors, to review the appropriateness of Medicare payments made to the health care provider under the Part B program.

Visiting Physician and Home Health Care "Homebound" Requirement

11. Medicare's coverage for an in-home physician visit requires the physician to document the reason a house call was necessary; for example, an office visit would require ambulance transport or excessive physical effort or cause pain, or the patient is home-bound.

12. Medicare coverage for home health services requires that the following qualifying conditions, among others, be met: (a) the Medicare beneficiary is homebound; (b) the beneficiary needs skilled nursing services, physical therapy, and/or occupational therapy; (c) the beneficiary is under the care of a qualified physician who established a written plan of care for the beneficiary, signed by the physician and by a registered physical therapist or registered nurse from the home health agency; (d) services are provided by, or under the supervision of, a registered therapist or registered nurse in accordance with the plan of care; and (e) the services provided are medically necessary.

13. Under the Medicare statute, a beneficiary is homebound if the individual is confined to home because of a condition, due to an illness or injury, that restricts the ability of the individual to leave his or her home except with the assistance of another individual or the aid of a supportive device (such as crutches, a cane, a wheelchair, or a walker), or if the individual has a condition such that leaving his or her home is medically contraindicated.

14. Home health services are certified and billed for in 60-day increments known as "episodes." Each episode requires its own certification. To certify a patient, a physician must sign a form entitled, "Home Health Certification and Plan of Care," which is sometimes referred to as a "Form 485."

15. Medicare authorized payment for home visits and at-home physician services only if those services were actually provided and were medically necessary. Medicare did not authorize payment for services and treatment that were not actually provided or for which that patient did not meet the criteria necessary to justify the claimed service or treatment.

CPT Codes

16. Physician visits to a patient's home are billed to Medicare using codes established by the American Medical Association, referred to as "Current Procedural Terminology" or "CPT codes." The CPT system provided a national

coding practice for reporting services performed by physicians and for payment of Medicare claims.

17. For a physician to be able to bill a home visit under these codes, the record must document, among other things, the medical necessity of the home visit made in lieu of an office or outpatient visit.

18. A physician visit to a new patient's home is billed using CPT codes 99341 through 99345. A physician visit to an established patient's home is billed using CPT codes 99347 through 99350. For each of these series of CPT codes, a higher code number corresponds to a more in-depth and time-consuming level of service, with a correspondingly higher reimbursement amount.

19. Medicare payments for claims submitted using CPT codes 99349 and 99350 were more than the payments for claims submitted using CPT codes 99347 and 9938, with the payment for claims submitted using CPT code 99350 approximately three times higher than the payment for claims submitted using CPT code 99347.

The Company

20. Lake MI Mobile Doctors, PC ("Mobile Doctors" or "MD") was headquartered in Chicago, Illinois, and had a registered address in Southfield, Michigan. Articles of incorporation for Mobile Doctors were filed in Michigan in or around July 2008. Mobile Doctors purported to provide in-home physician

services, operating from the registered address of 24445 Northwestern Highway, Suite 206, Southfield, Michigan 48075. Mobile Doctors was owned, operated, and controlled by Dike Ajiri and others. Ajiri was indicted separately in the Northern District of Illinois in December 2013 on charges related to Mobile Doctors.

Defendant and Co-Conspirator

21. Defendant DR. GERALD DANESHVAR, a resident of Oakland County, Michigan, worked as a physician at Mobile Doctors. Mobile Doctors billed Medicare for purportedly necessary medical services provided by DANESHVAR.

22. Co-Conspirator Dike Ajiri, is a resident of Chicago, Illinois, and the owner of Mobile Doctors. Ajiri conspired with the Defendant and other co-conspirators, known and unknown to the Grand Jury, to commit healthcare fraud.

23. Other co-conspirators, both known and unknown, worked at Mobile Doctors during the period of August 2012 to August 2013. The co-conspirators conspired with DR. GERALD DANESHVAR and Dike Ajiri to commit healthcare fraud.

COUNT 1

(18 U.S.C. § 1349 – Conspiracy to Commit Health Care Fraud)

24. Paragraphs 1 through 23 of the Indictment are re-alleged and incorporated by reference, as though fully set forth herein.

25. From in or about August 2012, and continuing through in or about August 2013, the exact dates being unknown to the Grand Jury, in Wayne County, in the Eastern District of Michigan, and elsewhere, the defendant, DR. GERALD DANESHVAR, and co-conspirators both known and unknown, did participate in a scheme to defraud a health care benefit program affecting commerce, as defined in Title 18, United States Code, Section 24(b), namely Medicare, and to obtain, by means of materially false and fraudulent pretenses, representations, and promises, money under the custody and control of that program in connection with the delivery of and payment for health care benefits and services, which scheme is further described below.

Purpose of the Conspiracy

26. It was a purpose of the conspiracy for defendant DR. GERALD DANESHVAR, co-conspirator Dike Ajiri, and others to unlawfully enrich themselves by, among other things, (a) submitting false and fraudulent claims to Medicare; (b) causing others to submit false and fraudulent claims to Medicare; (c) concealing the submission of false and fraudulent claims to Medicare and the receipt and transfer of the proceeds from the fraud; and (d) diverting proceeds of the fraud for the personal use and benefit of the defendant and his co-conspirators.

Manner and Means

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

27. Dike Ajiri would incorporate Lake MI Mobile Doctors in Michigan in or about July 2008. Ajiri would execute a Medicare provider enrollment application for Mobile Doctors, and would obtain a Medicare provider number for Mobile Doctors and licensed physicians working at Mobile Doctors.

28. Mobile Doctors, through Ajiri, DR. DANESHVAR, and other known and unknown co-conspirators engaged in a scheme to charge Medicare for: (a) the highest billing codes for both new and existing patients, even when the highest codes were not supported by either the time or complexity of the visit; (b) unnecessary testing; and (c) referrals for home health services for non-homebound beneficiaries.

29. Dike Ajiri would instruct Mobile Doctors physicians and employees of Mobile Doctors to bill for high-level complexity codes even where the physician visits did not justify it, to order unnecessary medical testing, and to refer home health care for patients who were not homebound.

30. DR. DANESHVAR was hired by Mobile Doctors in or about August 2012, and worked at the Southfield location.

31. DR. DANESHVAR would bill all patient visits at the top two complexity codes for new and established patients even though he did not perform visits of that level or complexity, and the patients were not homebound.

32. DR. DANESHVAR would order and bill to Medicare medically unnecessary tests.

33. DR. DANESHVAR would refer non-homebound patients for home health care, which would then be billed to Medicare.

34. Between in or about August 2012 and in or about August 2013, Mobile Doctors would bill Medicare Part B for approximately $1,484,951 for services purportedly provided by DR. DANESHVAR. Medicare Part A paid approximate $3,362,931 for home health referrals by DR. DANESHVAR.

Forfeiture Allegations

(18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461)

35. The above allegations contained in this Indictment are incorporated by reference as if set forth fully herein for the purpose of alleging forfeiture pursuant to the provisions of Title 18, United States Code, 981.

36. As a result of the violation of Title 18, United States Code, Section 1349, as set forth in this Indictment, defendant DR. DANESHVAR shall forfeit to the United States any property, real or personal, constituting, or derived from, any

proceeds obtained, directly or indirectly, as a result of such violation, pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461.

37. *Substitute Assets*: If the property described above as being subject to forfeiture, as a result of any act or omission of the defendant:

a. Cannot be located upon the exercise of due diligence;

b. Has been transferred or sold to, or deposited with, a third party;

c. Has been placed beyond the jurisdiction of the Court;

d. Has been substantially diminished in value; or

e. Has been commingled with other property that cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to 21 U.S.C. § 853(p) as incorporated by 18 U.S.C. § 982(b) and/or 28 U.S.C. § 2461, to seek to forfeit any other property of the defendant up to the value of the forfeitable property described above.

38. *Money Judgment*: A sum of money equal to at least $4,599,186.15 in United States currency, or such amount as is proved at trial in this matter, representing the total amount of proceeds obtained as a result of defendant's violations of 18 U.S.C. §1349, as alleged in the Indictment.

All pursuant to Title 18, United States Code, § 981(a)(1)(C) and 28 U.S.C. § 2461.

THIS IS A TRUE BILL.

S/Grand Jury Foreperson

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Dated: June 16, 2015