UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA,	§	
	§	**Criminal No.**
v.	§	
	§	**UNDER SEAL**
YOLANDA HAMILTON, M.D.,	§	
	§	
Defendant.	§	

H 17 418

INDICTMENT

The Grand Jury charges:

General Allegations

At all times material to this Indictment, unless otherwise specified:

1. The Medicare Program ("Medicare") was a federal healthcare program providing benefits to individuals who were over the age of 65 or disabled. Medicare was administered by the United States Department of Health and Human Services, through its agency, the Centers for Medicare and Medicaid Services ("CMS"). Individuals receiving benefits under Medicare were referred to as Medicare "beneficiaries."

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

3. "Part A" of the Medicare program covered certain eligible home-healthcare costs for medical services provided by a home healthcare agency ("HHA") to beneficiaries requiring home-health services because of an illness or disability causing them to be homebound. Payments for home-healthcare services were typically made directly to a HHA based on claims submitted to the Medicare program for qualifying services that had been provided to eligible beneficiaries, rather than to the beneficiaries.

4. "Part B" of the Medicare program covers eligible physician and outpatient medical services provided by a participating Part B service provider and provided to Medicare beneficiaries with a medical need for the provided service. Claims for qualifying Part B services are typically reimbursed in part to the Part B provider based on contract rates determined by Medicare. For Part B services, Medicare beneficiaries are required to bear financial responsibility for a portion of the Medicare contract rate, typically a twenty percent co-payment, which is paid directly by the Medicare beneficiary to the Part B provider.

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

6. The Medicare program paid for home-health services only if the patient qualified for home-healthcare benefits. A patient qualified for home-healthcare benefits only if:

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

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

c. the determining physician signed a certification statement specifying that:

i. the beneficiary needed intermittent skilled nursing services, physical therapy, or speech therapy;

ii. the beneficiary was confined to the home;

iii. a POC for furnishing services was established and periodically reviewed; and

iv. the services were furnished while the beneficiary was under the care of the physician who established the POC.

7. The Medicaid program was a state administered health insurance program funded by the United States government and by the State of Texas. The Medicaid program helped pay for reasonable and necessary medical procedures and services, such as physician services, provided to individuals who were deemed eligible under state low-income programs.

8. The State of Texas contracted with Texas Medicaid & Healthcare Partnership to process and pay claims submitted by healthcare providers.

9. The Medicaid program in Texas could pay a portion of a claim originally submitted to Medicare in the event the patient had both Medicare and Medicaid coverage. This portion was generally a percentage of the amount Medicare allows for the billed charge. Such claims were automatically sent to Medicaid once processed by Medicare. Medicaid would pay its portion if Medicare originally allowed the claim.

DEFENDANT

10. **YOLANDA HAMILTON**, a physician licensed by the State of Texas, is a resident of Harris County, Texas.

11. **YOLANDA HAMILTON** was the owner and operator of a medical clinic, HMS Health and Wellness Center, PLLC ("HMS Health"). HMS Health was located at 6776 Southwest Freeway, Suite 530, Houston, Texas 77074.

COUNT 1

Conspiracy to Commit Healthcare Fraud
(Violation of 18 U.S.C. § 1349)

12. Paragraphs 1 through 11 are re-alleged and incorporated by reference as if fully set forth herein.

13. From in or around January 2012 to in or around August 2016, the exact dates being unknown to the Grand Jury, in the Houston Division of the Southern District of Texas, and elsewhere, Defendant

YOLANDA HAMILTON

did knowingly and willfully combine, conspire, confederate and agree with others known and unknown to the grand jury, to violate Title 18, United States Code, Section 1347, that is, to execute a scheme and artifice to defraud a healthcare benefit program affecting commerce, as defined in Title 18, United States Code, Section 24(b), that is, Medicare, and to obtain, by means of materially false and fraudulent pretenses, representations and promises, money and property owned by, and under the custody and control of, said healthcare benefit program, in connection with the delivery of and payment for healthcare benefits, items, and services.

Purpose of the Conspiracy

14. It was a purpose of the conspiracy for **YOLANDA HAMILTON**, and others known and unknown to the Grand Jury, to unlawfully enrich themselves by (a) signing false and fraudulent POCs, and other medical documents, for Medicare beneficiaries, (b) causing the submission and concealment of false and fraudulent claims to Medicare, and the receipt and transfer of proceeds from the fraud, and (c) causing the diversion of the proceeds of the fraud for the personal use and benefit of Defendant and her co-conspirators.

Manner and Means of the Conspiracy

The manner and means by which Defendant sought to accomplish the purpose of the conspiracy included, among other things:

15. Owners of HHAs, as well the patient recruiters or "marketers," directed Medicare and Medicaid beneficiaries or patients to visit HMS Wellness to be certified and recertified for home-health services by **YOLANDA HAMILTON**. The owners of HHAs, as well as the marketers working with them, often paid patients to sign up, and remain with, an HHA for purported home-health services.

16. **YOLANDA HAMILTON** had a purported medical visit with the patients referred to HMS Wellness by co-conspirators at HHAs.

17. **YOLANDA HAMILTON** and other co-conspirators, known and unknown, made it appear as if patients qualified for and received home-health services under Medicare when those services were not medically necessary, not provided or both.

18. **YOLANDA HAMILTON** fraudulently certified and recertified patients for home-health services by falsely stating in medical documents that patients qualified for home-health services under Medicare. **YOLANDA HAMILTON** specifically falsely certified and recertified that patients were confined to the home and had a medical need for home-health services.

19. **YOLANDA HAMILTON** maintained a Medicare provider number, which **YOLANDA HAMILTON** used to submit Part B claims to Medicare and Medicaid for certifying and recertifying patients for home-health services who did not qualify for those services under Medicare.

20. **YOLANDA HAMILTON** also used her Medicare provider number to submit Part B claims to Medicare for medically unnecessary tests performed on the HHA-referred patients.

21. In addition to billing Medicare and Medicaid for fraudulently certifying and recertifying patients for home-health services, **YOLANDA HAMILTON** charged a $60 per-patient "fee" for certifying and recertifying patients for home-health services.

22. **YOLANDA HAMILTON** knew that the $60 "fee" was an illegal kickback for certifying and recertifying patients for home-health services and disguised the true nature of the payment by calling it the patient's "co-pay" or "20% fee" for purported medical services.

23. **YOLANDA HAMILTON** also knew that co-conspirators at the HHAs, not the patients, frequently paid the $60 illegal kickback.

24. **YOLANDA HAMILTON** also knew that co-conspirators at HHAs billed Medicare for purported home-health services on behalf of the same patients who she fraudulently certified and re-certified for the same.

25. From in or around January 2012 to in or around August 2016, **YOLANDA HAMILTON** submitted, and caused the submission of, approximately $2.8 million in Part B claims to Medicare for certifying and recertifying patients for home-health services. Medicare paid **YOLANDA HAMILTON** approximately $275,000 on these claims.

26. From in or around January 2012 to in or around August 2016, co-conspirators at HHAs, known and unknown, submitted, and caused the submission of, approximately $13.8 million to Medicare in claims for home-health services submitted by HHAs where **YOLANDA HAMILTON** was listed as the attending physician. Medicare paid HHAs approximately $15.8 million on these claims.

All in violation of Title 18, United States Code, Section 1349.

COUNT 2
Conspiracy to Solicit and Receive Healthcare Kickbacks
(Violation of 18 U.S.C. § 371)

27. Paragraphs 1 through 11 and 15 through 26 are re-alleged and incorporated by reference as if fully set forth herein.

28. From in or around January 2012 through in or around August 2016, the exact dates being unknown to the Grand Jury, in the Houston Division of the Southern District of Texas, and elsewhere, Defendant

YOLANDA HAMILTON

did knowingly and willfully combine, conspire, confederate and agree with others known and unknown to the Grand Jury, to commit certain offenses against the United States, that is, to violate Title 42, United States Code, Section 1320a-7b(b)(1), by knowingly and willfully soliciting and receiving remuneration, specifically, kickbacks and bribes, directly and indirectly, overtly and covertly, in return for referring individuals for the furnishing and arranging for the furnishing of any item and service for which payment may be made in whole or in part by Medicare; and for the purchasing, leasing, ordering, and arranging for, and recommending the purchasing, leasing, and ordering of any good, item, and service for which payment may be made in whole or in part by a Federal healthcare program, that is, Medicare.

Purpose of the Conspiracy

29. It was a purpose of the conspiracy for Defendant **YOLANDA HAMILTON** to unlawfully enrich herself by soliciting and receiving kickbacks and bribes from co-conspirators at HHAs in exchange for referring Medicare beneficiaries for home-health services that were billed to, and paid by, Medicare by co-conspirators at HHAs.

Manner and Means of the Conspiracy

The manner and means by which Defendant **YOLANDA HAMILTON** and her co-conspirators sought to accomplish the object and purpose of the conspiracy included, among other things, the following:

30. Paragraphs 1 through 11 and 15 through 26 are re-alleged and incorporated by reference as though fully set forth herein.

Overt Acts

31. In furtherance of the conspiracy, and to accomplish its object and purpose, the conspirators committed and caused to be committed, in the Houston Division of the Southern District of Texas, the following overt acts:

32. From in or around January 2012 through in or around August 2016, **YOLANDA HAMILTON** charged a $60 "fee" or "co-payment" to certify and re-certify each patient for home-health services.

33. Between those approximate dates, **YOLANDA HAMILTON** instructed her employees of HMS Wellness not to release any POCs, and other home-health paperwork, to HHAs until the $60 "fee" was paid.

34. Between those approximate dates, co-conspirators, known and unknown, at HHAs frequently paid each patient's $60 "fee" in order to receive the POCs, and other home-health paperwork, signed by **YOLANDA HAMILTON**.

35. Between those approximate dates, **YOLANDA HAMILTON** certified and recertified patients to receive home-health services with whichever HHA paid the patient's $60 fee.

COUNTS 3-6

False Statements Relating to Health Care Matters
(Violation of 18 U.S.C. § 1035)

36. Paragraphs 1 through 11 and 15 through 26 of this Indictment are re-alleged and incorporated by reference as if fully set forth herein.

37. On or about the dates set forth below, in Harris County, in the Southern District of Texas, and elsewhere, Defendant

YOLANDA HAMILTON

did knowingly and willfully make materially false, fictitious, and fraudulent statements and representations, and make and use materially false writings and documents, as set forth below, knowing the same to contain materially false, fictitious, and fraudulent statements and entries, in connection with the delivery of and payment for health care benefits, items, and services, and in a matter involving a health care benefit program, specifically Medicare:

Count	Medicare Beneficiary	HHA	Approximate Certification Period	Description	Approximate Medicare Payment
3	K.M.	Rhythmic	Oct. 12, 2013 to Dec. 10, 2013	Certification	$1,408.85
4	B.M.	Destiny	Dec. 17, 2013 to Feb. 14, 2014	Recertification	$2,663.44
5	W.M.	Nexcare	Aug. 17, 2014 to Oct. 13, 2014	Recertification	$1,402.36
6	R.M.	Vital	July 24, 2015 to Sept. 21, 2015	Recertification	$1,467.79

All in violation of Title 18, United States Code, Section 1035.

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

Pursuant to Title 18, United States Code, Section 982(a)(7), the United States of America gives notice to Defendant **YOLANDA HAMILTON** that upon conviction, all property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of such offense is subject to forfeiture.

Money Judgment

38. Defendant **YOLANDA HAMILTON** is notified that, upon conviction, a money judgment may be imposed equal to the total value of the property subject to forfeiture, which is approximately $16,000,000.

Substitute Assets

39. Defendant **YOLANDA HAMILTON** is notified that if any of the forfeitable property, or any portion thereof, as a result of any act or omission of Defendant or her co-conspirators:

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

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

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

d. has been substantially diminished in value; or

e. has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States to seek forfeiture of any other property of Defendant up to the total value of the property subject to forfeiture, pursuant to Title 21, United States Code, Section 853(p), incorporated by reference in Title 18, United States Code, Section 982(b)(1).

A TRUE BILL

ORIGINAL SIGNATURE ON FILE

FOREPERSON

ABE MARTINEZ
ACTING UNITED STATES ATTORNEY

Scott P. Armstrong
TRIAL ATTORNEY
CRIMINAL DIVISION
FRAUD SECTION
U.S. DEPARTMENT OF JUSTICE