

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

18-20505-MOORE

Case No. _____

18 U.S.C. § 1349

18 U.S.C. § 371

42 U.S.C. § 1320a-7b(b)(1)(A) MAGISTRATE JUDGE

18 U.S.C. § 2

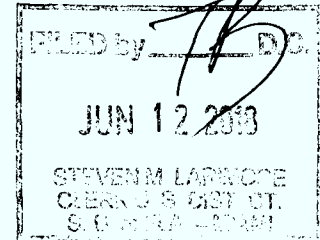
18 U.S.C. § 982(a)(7) SIMONTON

UNITED STATES OF AMERICA

v.

TANIA GUDIN,

Defendant.



INDICTMENT

The Grand Jury charges that:

GENERAL ALLEGATIONS

At all times material to this Indictment,

The Medicare Program

1. The Medicare program ("Medicare") was a federal health care program providing benefits to persons who were 65 or older or disabled. Medicare was administered by the United States Department of Health and Human Services ("HHS"), through its agency, the Centers for Medicare and Medicaid Services ("CMS"). 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. "Part A" of the Medicare program covered certain eligible home health care costs

for medical services provided by a home health agency (“HHA”) to beneficiaries who required home health services because of an illness or disability that caused them to be homebound.

4. Physicians, clinics, and other health care providers, including HHAs, that provided services to Medicare beneficiaries were able to apply for and obtain a “provider number.” A health care provider that received 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 information number, the services that were performed for the beneficiary, the date that the services were provided, the cost of the services, and the name and provider number of the physician or other health care provider who ordered the services.

5. CMS did not directly pay Medicare Part A claims submitted by Medicare-certified HHAs. CMS contracted with different companies to administer the Medicare Part A program throughout different parts of the United States. In the State of Florida, CMS contracted with Palmetto Government Benefits Administrators (“Palmetto”). As administrator, Palmetto was to receive, adjudicate, and pay claims submitted by HHA providers under the Part A program for home health services. Additionally, CMS separately contracted with companies in order to review HHA providers’ claims data. CMS first contracted with TriCenturion, a Program Safeguard Contractor. Subsequently, on December 15, 2008, CMS contracted with SafeGuard Services, a Zone Program Integrity Contractor. Both TriCenturion and SafeGuard Services safeguarded the Medicare Trust Fund by reviewing HHA providers’ claims for potential fraud, waste, and/or abuse.

Part A Coverage and Regulations

Reimbursements

6. The Medicare Part A program reimbursed 100% of the allowable charges

for participating HHAs providing home health care services only if the patient qualified for home health benefits. A patient qualified for home health 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 health care and established the Plan of Care ("POC"); and
- (c) the determining physician signed a certification statement specifying that the beneficiary needed intermittent skilled nursing care, physical therapy, speech therapy, or continued occupational therapy services; that the beneficiary was confined to the home; that a POC for furnishing services was established and periodically reviewed; and that the services were furnished while the beneficiary was under the care of the physician who established the POC.

Record Keeping Requirements

7. Medicare Part A regulations required HHAs providing services to Medicare beneficiaries to maintain complete and accurate medical records reflecting the medical assessment and diagnoses of the patients, as well as records documenting the actual treatment of patients to whom services were provided and for whom claims for reimbursement were submitted by the HHA. These medical records were required to be sufficiently complete to permit Medicare, through Palmetto and other contractors, to review the appropriateness of Medicare payments made to the HHA under the Part A program.

8. Among the written records required to document the appropriateness of home health care claims submitted under Part A of Medicare were: (i) a POC that included the physician order for home health care, diagnoses, types of services/frequency of visits, prognosis/rehabilitation potential, functional limitations/activities permitted, medications/treatments/nutritional requirements, safety measures/discharge plans, goals, and the

physician's signature; and (ii) a signed certification statement by an attending physician certifying that the patient was confined to his or her home and was in need of the planned home health services.

9. Medicare Part A regulations required provider HHAs to maintain medical records of every visit made by a nurse, therapist, and home health aide to a beneficiary. The record of a nurse's visit was required to describe, among other things, any significant observed signs or symptoms, any treatment and drugs administered, any reactions by the patient, any instruction provided to the patient and the understanding of the patient, and any changes in the patient's physical or emotional condition. The home health nurse, therapist, and aide were required to document the hands-on personal care provided to the beneficiary as the services were deemed necessary to maintain the beneficiary's health or to facilitate treatment of the beneficiary's primary illness or injury. These written medical records were generally created and maintained in the form of "clinical notes" and "home health aide notes/observations."

10. Medicare regulations allowed certified HHAs to subcontract home health care services to nursing companies, therapy staffing services agencies, registries, or groups (nursing groups), which would bill the certified HHA. The HHA would, in turn, bill Medicare for all services provided to beneficiaries by the subcontractor. The HHA's professional supervision over subcontracted-for services required the same quality controls and supervision as of its own salaried employees.

The Defendant, Relevant Entities, and Individuals

11. The New City Medical Center, Inc. ("New City") was a Florida corporation, located at 4118 W. 12th Avenue, Hialeah, FL, that purported to do business in Miami-Dade County as a medical clinic.

12. Defendant **TANIA GUDIN**, a resident of Miami-Dade County, was the president and registered agent of New City.

13. Miller Home Care, Inc. (“Miller”), located at 9745 SW 72nd Street, Suite 214, Miami, FL; Maya Home Health Care Corp. (“Maya”) located at 126 E. 49th Street, Hialeah, FL; and Floridian Home Health Care Corp. (“Floridian”), with locations at 4445 W. 16th Avenue, Suite 403, Hialeah, FL, and 9920 SW 72nd St., #206, Miami, FL, were Florida corporations that purported to do business in Miami-Dade County as HHAs.

14. Marlen Trujillo and Antonio Suarez, both residents of Miami-Dade County, owned and operated Miller, Maya, and Floridian.

15. Healthylife Home Care, Inc. (“Healthylife”), located at 2780 SW 87th Avenue, Suite 108, Miami, FL; ACM Home Health Corp. (“ACM”), with locations at 900 W. 49th Street, #510, Hialeah, FL, and 2748 SW 87th Avenue, Miami, FL; and Humanity Home Health, Inc. (“Humanity”), located at 959-A, SW 87th Avenue, Miami, FL, were Florida corporations that purported to do business in Miami-Dade County as HHAs.

16. Rafael Arias, a resident of Miami-Dade County, owned and operated Healthylife, ACM, and Humanity.

17. Belkis Bello, a resident of Miami-Dade County, operated Healthylife and ACM.

COUNT 1
Conspiracy to Commit Health Care Fraud and Wire Fraud
(18 U.S.C. § 1349)

1. The General Allegations section of this Indictment is re-alleged and incorporated by reference as though fully set forth herein.

2. From in or around July 2011, through in or around November 2014, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

TANIA GUDIN,

did willfully, that is, with the intent to further the objects of the conspiracy, and knowingly combine, conspire, confederate, and agree with Marlen Trujillo, Antonio Suarez, Rafael Arias, Belkis Bello, and others known and unknown to the Grand Jury, to commit certain offenses against the United States, that is:

a. to knowingly and willfully execute a scheme and artifice to defraud a health care 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 health care benefit program, in connection with the delivery of and payment for health care benefits, items, and services, in violation of Title 18, United States Code, 1347; and

b. to knowingly and with the intent to defraud, devise and intend to devise a scheme and artifice to defraud, and for obtaining money and property by means of materially false and fraudulent pretenses, representations, and promises, knowing that the pretenses, representations, and promises were false and fraudulent when made, and did knowingly transmit and cause to be transmitted, by means of wire communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice, in violation of Title 18, United States Code, Section 1343.

Purpose of the Conspiracy

3. It was a purpose of the conspiracy for **TANIA GUDIN** and her co-conspirators to unlawfully enrich themselves by, among other things: (a) submitting and causing the submission of false and fraudulent claims to Medicare based on kickbacks and bribes; (b) submitting and causing the submission of false and fraudulent claims to Medicare for services that were medically

unnecessary, not eligible for Medicare reimbursement, and never provided; (c) concealing the submission of false and fraudulent claims to Medicare and the receipt and transfer of fraud proceeds; and (d) diverting fraud proceeds for their personal use and benefit, the use and benefit of others, and to further the fraud.

Manner and Means of the Conspiracy

The manner and means by which **TANIA GUDIN** and her co-conspirators sought to accomplish the objects and purpose of the conspiracy included, among other things, the following:

4. Marlen Trujillo and Antonio Suarez paid and caused the payment of kickbacks and bribes to **TANIA GUDIN** and other co-conspirators in return for referring Medicare beneficiaries to Maya and Floridian to serve as patients.

5. **TANIA GUDIN** accepted kickbacks and bribes, including in the form of cash and checks, from Marlen Trujillo and Antonio Suarez in return for referring Medicare beneficiaries to Maya and Floridian to serve as patients.

6. **TANIA GUDIN** provided and caused to be provided fraudulent documentation, including falsified prescriptions for home health care services, for the beneficiaries she referred to Maya and Floridian.

7. Rafael Arias and Belkis Bello paid and caused the payment of kickbacks and bribes to **TANIA GUDIN** and other co-conspirators in return for referring Medicare beneficiaries to HealthyLife, ACM, and Humanity to serve as patients.

8. **TANIA GUDIN** accepted kickback and bribes, including in the form of cash, from Rafael Arias and Belkis Bello in return for referring Medicare beneficiaries to HealthyLife, ACM, and Humanity to serve as patients.

9. Marlen Trujillo, Antonio Suarez, Rafael Arias, Belkis Bello, **TANIA GUDIN**, and

others caused Maya, Floridian, Healthylife, ACM, and Humanity to submit false and fraudulent claims to Medicare, through the use of interstate wires, for home health services purportedly provided to the recruited beneficiaries, which services were medically unnecessary, not eligible for Medicare reimbursement, and never provided.

10. Marlen Trujillo, Antonio Suarez, **TANIA GUDIN**, and others caused Medicare to make approximately \$1.36 million in payments to Maya and Floridian based upon claims for home health services submitted on behalf of the beneficiaries recruited by **GUDIN**.

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

COUNT 2
Conspiracy to Pay and Receive Health Care Kickbacks
(18 U.S.C. § 371)

1. The General Allegations section of this Indictment is re-alleged and incorporated by reference as though fully set forth herein.

2. From in or around July 2011, through in or around November 2014, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

TANIA GUDIN,

did willfully, that is, with the intent to further the objects of the conspiracy, and knowingly, combine, conspire, confederate, and agree with Marlen Trujillo, Antonio Suarez, Rafael Arias, Belkis Bello, and others known and unknown to the Grand Jury, to commit certain 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;

b. to violate Title 42, United States Code, Section 1320a-7b(b)(1)(A), by knowingly and willfully soliciting and receiving 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 an item and service for which payment may be made in whole and in part under a federal health care program, that is, Medicare; and

c. to violate Title 42, United States Code, Section 1320a-7b(b)(2)(A), by knowingly and willfully offering and paying remuneration, including kickbacks and bribes, directly and indirectly, overtly and covertly, in cash and in kind, to any person to induce such person to refer an individual to a person for the furnishing and arranging for the furnishing of an item and service for which payment may be made in whole and in part under a federal health care program, that is, Medicare.

Purpose of the Conspiracy

3. It was a purpose of the conspiracy for **TANIA GUDIN** and her co-conspirators to unlawfully enrich themselves by, among other things: (a) offering, paying, soliciting, and receiving kickbacks and bribes in return for referring Medicare beneficiaries to various Miami-area HHAs, including Maya, Floridian, Healthylife, ACM, and Humanity, to serve as patients; and (b) submitting and causing the submission of claims to Medicare for home health services that Maya, Floridian, Healthylife, ACM, and Humanity purported to provide to the recruited beneficiaries.

Manner and Means of the Conspiracy

The manner and means by which **TANIA GUDIN** and her co-conspirators sought to accomplish the objects and purpose of the conspiracy included, among other things, the following:

4. Marlen Trujillo and Antonio Suarez paid and caused the payment of kickbacks and bribes to **TANIA GUDIN** and other co-conspirators in return for referring Medicare beneficiaries

to Maya and Floridian to serve as patients.

5. **TANIA GUDIN** accepted kickbacks and bribes, including in the form of cash and checks, from Marlen Trujillo and Antonio Suarez in return for referring Medicare beneficiaries to Maya and Floridian to serve as patients.

6. Rafael Arias and Belkis Bello paid and caused the payment of kickbacks and bribes to **TANIA GUDIN** and other co-conspirators in return for referring Medicare beneficiaries to HealthyLife, ACM, and Humanity to serve as patients.

7. **TANIA GUDIN** accepted kickback and bribes, including in the form of cash, from Rafael Arias and Belkis Bello in return for referring Medicare beneficiaries to HealthyLife, ACM, and Humanity to serve as patients.

8. Marlen Trujillo, Antonio Suarez, Rafael Arias, Belkis Bello, **TANIA GUDIN**, and others caused Maya, Floridian, HealthyLife, ACM, and Humanity to submit claims to Medicare for home health services purportedly provided to the recruited beneficiaries.

9. Marlen Trujillo, Antonio Suarez, **TANIA GUDIN**, and others caused Medicare to make approximately \$1.36 million in payments to Maya and Floridian based upon claims for home health services submitted on behalf of the beneficiaries recruited by **GUDIN**.

Overt Acts

In furtherance of the conspiracy, and to accomplish its objects and purpose, at least one of the 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 August 18, 2011, **TANIA GUDIN** accepted two checks, numbered 2905 and 2906, each in the approximate amount of \$8,800, written from the Miller bank account to New City.

2. On or about December 15, 2011, **TANIA GUDIN** accepted a check, numbered 1359, in the approximate amount of \$15,400, written from the Maya bank account to New City.

3. On or about October 26, 2012, **TANIA GUDIN** accepted a check, numbered 2229, in the approximate amount of \$2,200, written from the Maya bank account to New City.

4. On or about March 1, 2013, **TANIA GUDIN** accepted a check, numbered 1018, in the approximate amount of \$8,800, written from the Floridian bank account to New City.

5. On or about June 27, 2013, **TANIA GUDIN** accepted a check, numbered 1347, in the approximate amount of \$4,400, written from the Floridian bank account to New City.

6. On or about July 3, 2013, **TANIA GUDIN** accepted a check, numbered 1378, in the approximate amount of \$2,200, written from the Floridian bank account to New City.

7. On or about August 29, 2013, **TANIA GUDIN** accepted a check, numbered 1822, in the approximate amount of \$11,000, written from the Floridian bank account to New City.

8. On or about September 6, 2013, **TANIA GUDIN** accepted a check, numbered 1830, in the approximate amount of \$8,800, written from the Floridian bank account to New City.

9. On or about September 26, 2013, **TANIA GUDIN** accepted a check, numbered 1888, in the approximate amount of \$4,400, written from the Floridian bank account to New City.

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

COUNTS 3-7

**Receipt of Health Care Kickbacks in Return for Referring Individuals
(42 U.S.C. § 1320a-7b(b)(1)(A))**

1. The General Allegations section of this Indictment is re-alleged and incorporated by reference as though fully set forth herein.

2. On or about the dates set forth below as to each count, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

TANIA GUDIN,

did knowingly and willfully solicit and receive remuneration, including kickbacks and bribes, directly and indirectly, overtly and covertly, in cash and in kind, including by check, as set forth below, 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 under a federal health care program, that is, Medicare:

Count	Approximate Date of Kickback	Approximate Amount
3	June 27, 2013	\$4,400
4	July 3, 2013	\$2,200
5	August 29, 2013	\$11,000
6	September 6, 2013	\$8,800
7	September 26, 2013	\$4,400

In violation of Title 42, United States Code, Section 1320a-7b(b)(1)(A), and Title 18, United States Code, Section 2.

FORFEITURE
(18 U.S.C. § 982(a)(7))

1. The allegations contained in this Indictment are re-alleged and incorporated by reference as though fully set forth herein for the purpose of alleging forfeiture to the United States of certain property in which the defendant, **TANIA GUDIN**, has an interest.

2. Upon conviction of a violation of Title 18, United States Code, Section 1349, as alleged in Count 1 of this Indictment, and/or a violation of Title 18, United States Code, Section 371, as alleged in Count 2 of this Indictment, and/or a violation of Title 42, United States Code, Section 1320a-7b(b)(1)(A), as alleged in Counts 3 through 7 of this Indictment, the defendant shall forfeit to the United States, 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 offense.

3. The property to be forfeited includes, but is not limited to, a sum of money equal in value to the gross proceeds traceable to the commission of the offenses alleged in this Indictment, which the United States will seek as a forfeiture money judgment as part of the defendant's sentence.

4. If any of the property described above, 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 which cannot be divided without difficulty,

the United States 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)(1).

A TRUE BILL


FOREPERSON


BENJAMIN G. GREENBERG
UNITED STATES ATTORNEY
SOUTHERN DISTRICT OF FLORIDA

JOSEPH BEEMSTERBOER
DEPUTY CHIEF
CRIMINAL DIVISION, FRAUD SECTION
U.S. DEPARTMENT OF JUSTICE


LESLIE WRIGHT
TRIAL ATTORNEY
CRIMINAL DIVISION, FRAUD SECTION
U.S. DEPARTMENT OF JUSTICE