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STEPHEN L. JARIMORE
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

13-20275

Case No. _____

18 U.S.C. § 1349
18 U.S.C. § 1347
18 U.S.C. § 2
18 U.S.C. § 982 (a)(7)

CR-MIDDLEBROOKS/

Garber

UNITED STATES OF AMERICA

vs.

RAFAEL MEANA
and
JANET FARIGOLA,

Defendants.

INDICTMENT

The Grand Jury charges that:

GENERAL ALLEGATIONS

At all times relevant to this Indictment:

The Medicare Program

1. The Medicare Program ("Medicare") was a federal program that provided free or below-cost health care benefits to certain individuals, primarily the elderly, blind, and disabled. Medicare was administered by the Centers for Medicare and Medicaid Services ("CMS"), a federal agency under the United States Department of Health and Human Services ("HHS"). Individuals who received benefits under Medicare were commonly 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 was divided into different "parts." "Part A" of the Medicare program covered health services provided by hospitals, skilled nursing facilities, hospices, and home health agencies. "Part B" of the Medicare program covered, among other things, medical services provided by physicians, medical clinics, and other qualified health care providers, as well as medications rendered "incident to" such services. The Medicare Advantage Program, formerly known as "Part C" or "Medicare+Choice," is described in further detail below.

4. Medicare Part B was administered in Florida by First Coast Service Options, a company that contracted with CMS to receive, adjudicate, process, and pay certain Part B claims.

5. Payments under the Medicare Program were often made directly to the physician, medical clinic, or other qualified provider of the medical goods or services, rather than to the beneficiary. This occurred when the provider accepted assignment of the right to payment from the beneficiary. In that case, the provider submitted the claim to Medicare for payment, either directly or through a billing company.

6. Physicians, medical clinics, and other health care providers that provided services to Medicare beneficiaries were able to apply for and obtain a "provider number." A health care provider who was issued a Medicare provider number was able to file bills, known as "claims," with Medicare to obtain reimbursement for services provided to beneficiaries. The claim form was required to contain certain important information, including: (a) the Medicare beneficiary's name and Health Insurance Claim Number ("HICN"); (b) a description of the health care benefit, item, or service that was provided or supplied to the beneficiary; (c) the billing codes for the benefit, item, or service; (d) the date upon which the benefit, item, or service was provided or supplied to the beneficiary; and (e) the name of the referring physician or other health care provider, as well as a unique identifying number, known either as the Unique Physician

Identification Number ("UPIN") or National Provider Identifier ("NPI"). The claim form could be submitted in hard copy or electronically.

7. When a claim was submitted to Medicare, the provider certified that the contents of the form were true, correct, complete, and that the form was prepared in compliance with the laws and regulations governing the Medicare program. The provider further certified that the services being billed were medically necessary and were in fact provided as billed.

8. Pursuant to federal statutes and regulations, Medicare only paid for health care benefits, items or other services that were medically necessary and ordered by a licensed doctor or other licensed, qualified health care provider.

The Medicare Advantage Program

9. The Medicare Advantage Program, formerly known as "Part C" or "Medicare+Choice," provided Medicare beneficiaries with the option to receive their Medicare benefits through a wide variety of private managed care plans, including health maintenance organizations ("HMOs"), provider sponsored organizations ("PSOs"), preferred provider organizations ("PPOs"), and private fee-for-service plans ("PFFS"), rather than through the original Medicare program (Parts A and B).

10. Private health insurance companies offering Medicare Advantage plans were required to provide Medicare beneficiaries with the same services and supplies offered under Parts A and B of Medicare. To be eligible to enroll in a Medicare Advantage plan, a person must be entitled to benefits under Part A and Part B of the Medicare Program.

11. A number of companies including Blue Cross and Blue Shield of Florida ("BCBS") and their related subsidiaries and affiliates contracted with CMS to provide managed care to Medicare Advantage beneficiaries through various plans.

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

13. These entities, including BCBS, through their respective Medicare Advantage programs, often made payments directly to physicians, medical clinics, or other health care providers, rather than to the Medicare Advantage beneficiary that received the health care benefits, items, and services. This occurred when the provider accepted assignment of the right to payment from the beneficiary.

14. To obtain payment for treatment or services provided to a beneficiary enrolled in a Medicare Advantage plan, physicians, medical clinics, and other health care providers had to submit itemized claim forms to the beneficiary's Medicare Advantage plan. The claim forms were typically submitted electronically via the internet. The claim form required certain important information, including: (a) the Medicare Advantage beneficiary's name and HICN or other identification number; (b) a description of the health care benefit, item, or service that was provided or supplied to the beneficiary; (c) the billing codes for the benefit, item, or service; (d) the date upon which the benefit, item, or service was provided or supplied to the beneficiary; and (e) the name of the referring physician or other health care provider, as well as a unique identifying number, known either as the Unique Physician Identification Number ("UPIN") or National Provider Identifier ("NPI").

15. When a provider submitted a claim form to a Medicare Advantage program, the provider party certified that the contents of the form were true, correct, complete, and that the form was prepared in compliance with the laws and regulations governing the Medicare program. The submitting party also certified that the services being billed were medically necessary and were in fact provided as billed.

16. The private health insurance companies offering Medicare Advantage plans were paid a fixed rate per beneficiary per month by the Medicare program, regardless of the actual number or type of services the beneficiary receives. These payments by Medicare to the insurance companies were known as "capitation" payments. Thus, every month, CMS paid the health insurance companies a pre-determined amount for each beneficiary who was enrolled in a Medicare Advantage plan, regardless of whether or not the beneficiary utilized the plan's services that month. CMS determined the per-patient capitation amount using actuarial tables, based on a variety of factors, including the beneficiary's age, sex, severity of illness, and county of residence. CMS adjusted the capitation rates annually, taking into account each patient's previous illness diagnoses and treatments. Beneficiaries with more illnesses or more serious conditions would rate a higher capitation payment than healthier beneficiaries.

The Defendants and Related Entities

17. Lord's Medical & Rehab Center, Inc. ("Lord's") was a Florida corporation with a place of business in Miami-Dade County. Lord's was a medical clinic that purportedly provided Medicare Advantage beneficiaries with various medical items and services.

18. Defendant **RAFAEL MEANA** was a resident of Miami-Dade County. **MEANA** was at various times listed as the president of Lord's on the Articles of Incorporation.

19. Defendant **JANET FARIGOLA** was a resident of Miami-Dade County.

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

1. Paragraphs 1 through 19 of the General Allegations section of this Indictment are realleged and incorporated by reference as if fully set forth herein.

2. From in or around February 2010, and continuing through in or around July 2011, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendants,

RAFAEL MEANA
and
JANET FARIGOLA,

did knowingly and willfully combine, conspire, confederate and agree with each other and 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 health care benefit program affecting commerce, as defined in Title 18, United States Code, Section 24(b), that is, Medicare and BCBS, 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 programs, in connection with the delivery of and payment for health care benefits, items, and services.

PURPOSE OF THE CONSPIRACY

3. It was the purpose of the conspiracy for the defendants and their co-conspirators to unlawfully enrich themselves by, among other things: (a) submitting and causing the submission of false and fraudulent claims to a health care benefit program; (b) concealing the submission of false and fraudulent claims to a health care benefit program; (c) concealing the receipt of the fraud proceeds; and (d) diverting the fraud proceeds for their personal use and

benefit, and the use and benefit of others, and to further the fraud.

MANNER AND MEANS OF THE CONSPIRACY

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

4. **RAFAEL MEANA** and **JANET FARIGOLA** and their co-conspirators submitted and caused Lord's to submit approximately \$5,497,047 in Medicare Advantage claims to BCBS for reimbursement, such claims falsely and fraudulently representing that medical services were prescribed by a doctor and provided to Medicare Advantage beneficiaries by Lord's.

5. As a result of such false and fraudulent claims, **RAFAEL MEANA** and **JANET FARIGOLA** caused BCBS to deposit approximately \$2,240,134 into Lord's corporate bank accounts.

6. **RAFAEL MEANA** and **JANET FARIGOLA**, and their co-conspirators used the proceeds of the health care fraud for their personal use and benefit, and the use and benefit of others, and to further the fraud.

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

COUNTS 2-10
Health Care Fraud
(18 U.S.C. § 1347)

1. Paragraphs 1 through 19 of the General Allegations section of this Indictment are realleged and incorporated by reference as if fully set forth herein.

2. From in or around February 2010, and continuing through in or around July 2011, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendants,

**RAFAEL MEANA
and
JANET FARIGOLA,**

in connection with the delivery of and payment for health care benefits, items, and services, did knowingly and willfully execute, and attempt to 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 BCBS, 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.

Purpose of the Scheme and Artifice

3. It was a purpose of the scheme and artifice for the defendants to unlawfully enrich themselves by, among other things: (a) submitting and causing the submission of false and fraudulent claims to a health care benefit program; (b) concealing the submission of false and fraudulent claims to a health care benefit program; (c) concealing the receipt of the fraud proceeds; and (d) diverting the fraud proceeds for their personal use and benefit, and the use and benefit of others, and to further the fraud.

The Scheme and Artifice

4. The allegations contained in paragraphs 4 through 6 of the Manner and Means section of Count 1 of this Indictment are realleged and incorporated by reference as though fully set forth herein as a description of the scheme and artifice.

Acts in Execution or Attempted Execution of the Scheme and Artifice

5. On or about the dates specified as to each count below, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendants, in connection with the delivery of and payment for health care benefits, items, and services, did knowingly and willfully execute,

and attempt to execute, the above-described scheme and artifice to defraud a health care benefit program affecting commerce, that is, Medicare and BCBS, 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 that the defendants submitted and caused the submission of false and fraudulent claims to BCBS seeking the identified dollar amounts, and representing that Lord's provided medical items and services to Medicare Advantage beneficiaries pursuant to physicians' orders and prescriptions:

Count	Medicare Beneficiary	Approx. Date claim Received	BCBS Claim Number	Services Claimed; Approx. Amount Claimed
2	D.M.	02/04/2011	F100000224863315	Injection, Pyridoxine HCL, 100 MG (J3415); \$900
3	D.M.	02/04/2011	F100000224865224	Injection, Thiamine HCL, 100 MG (J3411); \$500
4	D.M.	02/04/2011	F100000224865290	Injection, Pyridoxine HCL, 100 MG (J3415); \$900
5	C.Q.	02/10/2011	F100000225676974	Injection, Thiamine HCL, 100 MG (J3411); \$500
6	C.Q.	02/10/2011	F100000225677271	Injection, Pyridoxine HCL, 100 MG (J3415); \$ 900
7	C.Q.	02/11/2011	F100000225867546	Injection, Pyridoxine HCL, 100 MG (J3415); \$ 900
8	M.T.	03/07/2011	F100000229260970	Injection, Thiamine HCL, 100 MG (J3411); \$500
9	M.T.	03/08/2011	F100000229404603	Injection, Pyridoxine HCL, 100 MG (J3415); \$900
10	M.T.	03/08/2011	F100000229404644	Injection, Pyridoxine HCL, 100 MG (J3415); \$900

In violation of Title 18, United States Code, Sections 1347 and 2.

FORFEITURE
(18 U.S.C. § 982)

1. The allegations contained in this Indictment are realleged 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 the defendants, **RAFAEL MEANA** and **JANET FARIGOLA** have an interest.

2. Upon conviction of any violation of Title 18, United States Code, Sections 1347 or 1349, as alleged in Counts 1 through 10 of this Indictment, the defendants shall forfeit to the United States all of their respective right, title, and interest in any property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of such violation(s), pursuant to Title 18, United States Code, Section 982(a)(7).

3. The property subject to forfeiture includes, but is not limited to, the following:
The sum of \$2,346,416 in United States currency, which amount is equal to the gross proceeds traceable to the commission of the violations alleged in this Indictment, which the United States will seek as a forfeiture money judgment as part of each defendant's sentence.

4. If the property described above as being subject to forfeiture, as a result of any act or omission of the defendants,

- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to, or deposited with a third person;
- (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 subdivided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendants up to the value of the above forfeitable property and, in addition, to seek a court order requiring the defendants to return any such property to the jurisdiction of the court for seizure and forfeiture. The property that will be sought for forfeiture pursuant to Title 21, United States Code, Section 853(p) includes, but is not limited to, the following:

(i) The real property located at 8849 NW 185th Street, Hialeah, Miami-Dade County, Florida, and all appurtenances thereon and fixtures therein; Folio No. 30-2009-010-0020; titled in the name of Janet Farigola;

(ii) One (1) 2000 Wellcraft 24' motor vessel, HIN: Welac02D000, Florida Tag: FL2082LP, registered in the name of Janet Farigola;

(iii) One (1) 1994 Petebuilt Conventional 377 Tractor Truck, VIN: 1XPCCR9XXRN351325, Florida Tag: N4249A, registered in the name of Janet Farigola;

(iv) One (1) 1994 Petebuilt Conventional 377 Tractor Truck, VIN: IXPCCR9X1RN351326, Florida Tag: N4253A, registered in the name of Janet Farigola; and

(v) One (1) 2008 Land Rover, Range Rover Sport HSE, vehicle, VIN: SALSF25448A179026, Florida Tag: 92HDF, registered in the name of Janet Farigola.

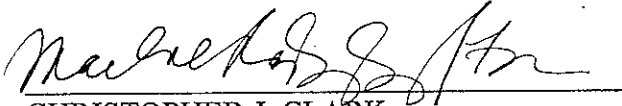
All pursuant to Title 18, United States Code, Section 982(a)(7); and the procedures set forth at Title 21, United States Code, Section 853, as made applicable through Title 18, United States Code, Section 982(b)(1).

A TRUE BILL

FOREPERSON



WIFREDO A. FERRER
UNITED STATES ATTORNEY



CHRISTOPHER J. CLARK
ASSISTANT UNITED STATES ATTORNEY