

JUN 16 2016

11

JUDGE COLEMAN

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA

v.

MARISTEL CANETE,
also known as "Maristel Rose Jorgenson,"
also known as "Marie Jorgenson,"
also known as "Beth Jorgenson,"
EMMANUEL AGNO,
CARMENCITA AGNO and
ANTONIO CLAVERO

)
) No. 15 CR 689 **MAGISTRATE JUDGE BROWN**
)
) Judge Coleman
)
) Violations: Title 18, United States
) Code, Section 371 and Title 42,
) United States Code, Sections
) 1320a-7b(b)(1)(A) and (b)(2)(A)
)
) **Superseding Indictment**
)
)

COUNT ONE

The SPECIAL JANUARY 2015 GRAND JURY charges:

1. At times material to this Superseding Indictment:

The Medicare Program

a. Medicare was a federally funded program that provided free or below-cost health care benefits to persons who were over the age of 65 or suffered from a qualifying disability. Medicare was administered by the Centers for Medicare and Medicaid Services, also known as CMS, a federal agency under the United States Department of Health and Human Services. Individuals who received benefits under Medicare were often referred to as Medicare beneficiaries.

b. Medicare was a "health care benefit program," as defined in Title 18, United States Code, Section 24(b), and a "Federal health care program," as defined in Title 42, United States Code, Section 1320a-7b.

c. Medicare programs covering different types of benefits were separated into different program parts. Covered benefits under Part A of Medicare included, among other things, medically necessary in-home health care services for persons who were confined to their homes. CMS contracted with Palmetto GBA to process Medicare claims submitted for home health services for beneficiaries in Illinois.

d. A beneficiary was eligible for home health care coverage if, among other conditions, that beneficiary had a condition due to illness or injury that severely restricted his or her ability to leave their place of residence.

e. Medicare typically approved the provision of home health care to beneficiaries who were confined to their homes in 60-day periods. The 60-day periods were referred to as cycles, or episodes of care, and an initial cycle of home health care was known as a “Start of Care” cycle. A physician was required to approve a beneficiary’s plan of care, which was typically prepared by the home health agency, and to certify that the beneficiary was confined to his or her home on a Home Health Certification and Plan of Treatment form, sometimes known as a Form 485. Subsequent cycles of care were referred to as recertifications because a beneficiary was required to be recertified by a physician to receive additional 60-day cycles of home health care.

The Defendants and Related Companies

f. Axis Health Care Services, Inc. was a corporation organized under the laws of the State of Illinois. Axis was located in Schaumburg, Illinois. Axis offered home health care services to Medicare beneficiaries who purportedly were confined to their homes, and through its officers and agents submitted claims to Medicare for reimbursement for home health care services purportedly provided to Medicare beneficiaries.

g. Defendant CARMENCITA AGNO, a resident of Streamwood, Illinois, was an owner and president of Axis.

h. Defendant EMMANUEL AGNO, a resident of Streamwood, Illinois, was an owner and manager of Axis.

i. Defendant ANTONIO CLAVERO, was a resident of Chicago, Illinois.

j. Marcan Consulting, Inc. was a corporation organized under the laws of the State of Illinois. Marcan was located in Schaumburg, Illinois.

k. American Homecare Services, Inc., was a corporation organized under the laws of the State of Illinois. AHS was located in Blue Island, Illinois.

l. Defendant MARISTEL CANETE, a resident of Schaumburg, Illinois, was the owner of Marcan and AHS.

2. Beginning at least as early as in or around March of 2012, and continuing through at least in or around April of 2016, in the Northern District of Illinois, Eastern Division, and elsewhere,

MARISTEL CANETE,
EMMANUEL AGNO,
CARMENCITA AGNO and
ANTONIO CLAVERO

defendants herein, together and with others known and unknown to the Grand Jury, did conspire:

a. to knowingly and willfully offer and pay any remuneration, including kickbacks and bribes, directly and indirectly, overtly and covertly, from defendants EMMANUEL AGNO, CARMENCITA AGNO, ANTONIO CLAVERO and others to defendant MARISTEL CANETE, CS-1 and others, to induce the referral of Medicare beneficiaries to Axis and other home health agencies, for the furnishing and arranging for the furnishing of home

health care services for which payment may be made in whole or in part under a Federal health care program, namely, Medicare, in violation of Title 42, United States Code, Section 1320a-7b(b)(2)(A); and

b. to knowingly and willfully solicit and receive any remuneration, including kickbacks and bribes, directly and indirectly, overtly and covertly, from defendants EMMANUEL AGNO, CARMENCITA AGNO, ANTONIO CLAVERO and others to defendant MARISTEL CANETE, CS-1 and others, to induce the referral of Medicare beneficiaries to Axis and other home health agencies, for the furnishing and arranging for the furnishing of home health care services for which payment may be made in whole or in part under a Federal health care program, namely, Medicare, in violation of Title 42, United States Code, Section 1320a-7b(b)(1)(A).

Overview of the Conspiracy

3. It was part of the conspiracy that defendants and their co-conspirators agreed to unlawfully enrich themselves by (i) offering, paying, soliciting and receiving kickbacks in return for referring Medicare beneficiaries to Axis and other home health agencies to serve as home health patients, (ii) using the referred Medicare beneficiary information to obtain payments from Medicare for home health services purportedly provided to those beneficiaries by Axis and other home health agencies, and (iii) concealing the recruitment and referral of Medicare beneficiaries, and the solicitation, offer, payment and receipt of kickbacks.

4. It was further part of the conspiracy that defendants EMMANUEL AGNO, CARMENCITA AGNO, ANTONIO CLAVERO and other co-conspirators offered and paid, and caused to be offered and paid, kickbacks to defendant MARISTEL CANETE, CS-1 and others in

return for the referral of Medicare beneficiaries to Axis and other home health agencies for home health services paid for by Medicare.

5. It was further part of the conspiracy that defendant MARISTEL CANETE and others recruited Medicare beneficiaries for referral to Axis and other home health agencies, knowing that many of the beneficiaries were not homebound and did not need or receive all the home health services that were billed to Medicare.

6. It was further part of the conspiracy that defendant MARISTEL CANETE solicited and received at least \$300,000 in kickbacks from EMMANUEL AGNO, CARMENCITA AGNO and others in exchange for the referral of Medicare beneficiaries to Axis and other home health agencies for home health services paid for by Medicare.

7. It was further part of the conspiracy that defendants EMMANUEL AGNO, CARMENCITA AGNO, ANTONIO CLAVERO and MARISTEL CANETE used false and fraudulent written marketing contracts that were designed to conceal the true nature of their agreement, which was the payment and receipt of money in exchange for the referral of Medicare beneficiaries to Axis and other home health agencies.

8. It was further part of the conspiracy that defendants EMMANUEL AGNO, CARMENCITA AGNO, ANTONIO CLAVERO, MARISTEL CANETE and others submitted to Medicare, and caused to be submitted to Medicare, claims for home health services purportedly provided to the beneficiaries referred to Axis and other home health agencies by CANETE.

9. It was further part of the conspiracy that defendants EMMANUEL AGNO, CARMENCITA AGNO, MARISTEL CANETE and others caused Medicare to pay Axis

approximately \$2.8 million based upon claims submitted for home health services purportedly provided to Medicare beneficiaries referred to the home health agencies by CANETE.

10. It was further part of the conspiracy that defendant EMMANUEL AGNO, CARMENCITA AGNO, ANTONIO CLAVERO, MARISTEL CANETE and their co-conspirators misrepresented, concealed, hid, and caused to be misrepresented, concealed and hidden, the purpose of the conspiracy and acts done in furtherance of the conspiracy.

Overt Acts

11. In furtherance of and to effect the objects of this conspiracy, the defendants and their co-conspirators committed and caused to be committed, in the Northern District of Illinois, at least one of the following overt acts, among others:

The kickback transactions charged in Counts Two through Nineteen of this Superseding Indictment, each of which constitutes an overt act in furtherance of the conspiracy;

In violation of Title 18, United States Code, Section 371.

COUNTS TWO THROUGH TEN

The SPECIAL JANUARY 2015 GRAND JURY further charges:

On or about the dates set forth below, in the Northern District of Illinois, Eastern Division, and elsewhere,

EMMANUEL AGNO and
CARMENCITA AGNO,

defendants herein, did knowingly and willfully offer and pay any remuneration, including kickbacks and bribes, directly and indirectly, overtly and covertly, in dollar amounts as set forth below, to MARISTEL CANETE to induce the referral of Medicare beneficiaries to Axis for the furnishing and arranging for the furnishing of any item and service for which payment may be made in whole or in part under a Federal health care program, namely, Medicare:

COUNT	APPROXIMATE DATE	KICKBACK AMOUNT
2	03/30/2012	\$1,500
3	06/07/2012	\$1,500
4	11/29/2012	\$1,500
5	06/07/2013	\$15,000
6	08/14/2013	\$9,000
7	08/01/2014	\$2,500
8	09/16/2014	\$500
9	12/10/2014	\$5,000
10	08/28/2015	\$1,500

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

COUNTS ELEVEN THROUGH NINETEEN

The SPECIAL JANUARY 2015 GRAND JURY further charges:

On or about the dates set forth below, in the Northern District of Illinois, Eastern Division, and elsewhere,

MARISTEL CANETE,

defendant herein, did knowingly and willfully solicit and receive any remuneration, including kickbacks and bribes, directly and indirectly, overtly and covertly, in dollar amounts as set forth below, in return for referring Medicare beneficiaries to Axis for the furnishing and arranging for the furnishing of any item and service for which payment may be made in whole or in part under a Federal health care program, namely, Medicare:

COUNT	APPROXIMATE DATE	KICKBACK AMOUNT
11	03/30/2012	\$1,500
12	06/07/2012	\$1,500
13	11/29/2012	\$1,500
14	06/07/2013	\$15,000
15	08/14/2013	\$9,000
16	08/01/2014	\$2,500
17	09/16/2014	\$500
18	12/10/2014	\$5,000
19	08/28/2015	\$1,500

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

FORFEITURE ALLEGATION

The SPECIAL JANUARY 2015 GRAND JURY further alleges:

1. The allegations in Counts One through Nineteen of this Superseding Indictment are realleged and incorporated here for the purpose of alleging forfeiture pursuant to Title 18, United States Code, Section 982(a)(7).

2. As a result of their violations of Title 18, United States Code, Section 371 and Title 42, United States Code, Section 1320a-7b(b)(1)(A) and (b)(2)(A), as alleged in the foregoing Indictment,

MARISTEL CANETE,
EMMANUEL AGNO,
CARMENCITA AGNO and
ANTONIO CLAVERO

defendant herein, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 982(a)(7), any and all right, title and interest they may have in any property, real and personal, that constitutes and is derived, directly and indirectly, from gross proceeds traceable to commission of the charged offenses.

3. The interests of the defendants subject to forfeiture to the United States pursuant to Title 18, United States Code, Section 982(a)(7), include, but are not limited to the total amount of Medicare reimbursements made on claims submitted on behalf of beneficiaries for whom defendants paid or received kickbacks, and the total amount of kickbacks paid or received by defendants.

4. If any of the forfeitable property described above, as a result of any act or omission by the defendants:

- 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 of America shall be entitled to forfeiture of substitute property under the provisions of Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b)(1).

All pursuant to Title 18, United States Code, Section 982(a)(7).

A TRUE BILL:

FOREPERSON

UNITED STATES ATTORNEY