

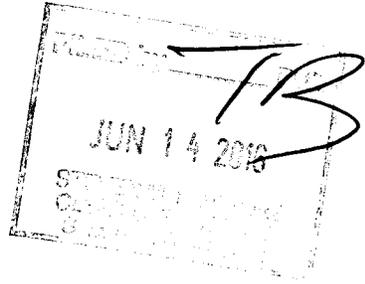
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. **16-20460**

CR-COOKE

/TORRES

18 U.S.C. § 1349
18 U.S.C. § 1347
18 U.S.C. § 2
18 U.S.C. § 982



UNITED STATES OF AMERICA

vs.

**REINALDO MOREY and
NIURKA DE LA CARIDAD MOREY,**

Defendants.

_____ /

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 federally funded program that provided free or below-cost health care benefits to certain individuals, primarily the elderly, blind, and disabled. The benefits available under Medicare were governed by federal statutes and regulations. The United States Department of Health and Human Services, through its agency, the Centers for Medicare and Medicaid Services (“CMS”), oversaw and administered Medicare. Individuals who received benefits under Medicare were commonly referred to as Medicare “beneficiaries.”

2. Medicare programs covering different types of benefits were separated into different program parts. Part D of Medicare (the “Medicare Part D Program”) subsidized the costs of prescription drugs for Medicare beneficiaries in the United States. The Medicare Part D Program was

enacted as part of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 and went into effect on January 1, 2006.

3. In order to receive Part D benefits, a beneficiary enrolled in a Medicare drug plan. Medicare drug plans were operated by private companies approved by Medicare. Those companies were often referred to as drug plan sponsors. A beneficiary in a Medicare drug plan could fill a prescription at a pharmacy and use his or her plan to pay for some or all of the prescription.

4. A pharmacy could participate in Part D by entering a retail network agreement directly with a plan or with one or more Pharmacy Benefit Managers (PBMs). A PBM acted on behalf of one or more Medicare drug plans. Through a plan's PBM, a pharmacy could join the plan's network. When a Part D beneficiary presented a prescription to a pharmacy, the pharmacy submitted a claim either directly to the plan or to a PBM that represented the beneficiary's Medicare drug plan. The plan or PBM determined whether the pharmacy was entitled to payment for each claim and periodically paid the pharmacy for outstanding claims. The drug plan's sponsor reimbursed the PBM for its payments to the pharmacy.

5. A pharmacy could also submit claims to a Medicare drug plan to whose network the pharmacy did not belong. Submission of such out-of-network claims was not common and often resulted in smaller payments to the pharmacy by the drug plan sponsor.

6. Medicare, through CMS, compensated the Medicare drug plan sponsors. Medicare paid the sponsors a monthly fee for each Medicare beneficiary of the sponsors' plans. Such payments were called capitation fees. The capitation fee was adjusted periodically based on various factors, including the beneficiary's medical conditions. In addition, in some cases where a sponsor's expenses for a beneficiary's prescription drugs exceeded that beneficiary's capitation fee, Medicare reimbursed the sponsor for a portion of those additional expenses.

7. Medicare and Medicare drug plan sponsors were “health care benefit program[s], as defined by Title 18, United States Code, Section 24(b).

Medicare Drug Plan Sponsors

8. Silverscript Insurance Company (“Silverscript”), United Healthcare Insurance Company (“United”), Medco Containment Life Insurance Company (“Medco”), Humana Insurance Company (“Humana”), and WellCare Prescription Insurance, Inc. (“WellCare”) were Medicare drug plan sponsors.

The Defendants and a Related Company

9. Dalice Medical Equipment (“Dalice”) was a Florida corporation doing business in Miami-Dade County, purportedly providing prescription drugs to Medicare beneficiaries.

10. Defendant **REINALDO MOREY**, a resident of Miami-Dade County, was the owner of Dalice.

11. Defendant **NIURKA DE LA CARDIAD MOREY**, a resident of Miami-Dade County, was the pharmacist-in-charge at Dalice.

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

1. Paragraphs 1 through 11 of the General Allegations section of this Indictment are re-alleged and incorporated by references as though fully set forth herein.

2. From in or around September 2007, and continuing through in or around February 2016, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendants,

REINALDO MOREY and
NIURKA DE LA ~~CARDIAD~~ MOREY,
CARDIAD NSL

did willfully, that is, with the intent to further the objects of the conspiracy, and knowingly combine, conspire, confederate, and agree with each other, and others known and unknown to the Grand Jury, to commit offenses against the United States, that is:

a. to knowingly and willfully execute a scheme and artifice to defraud health care benefit program affecting commerce, as defined in Title 18, United States Code, Section 24(b), that is, Medicare and Medicare drug plan sponsors, 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, in violation of Title 18, United States Code, Section 1347; and

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

PURPOSE OF THE CONSPIRACY

3. It was a 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 Medicare; (b) concealing the submission of false and fraudulent claims to Medicare; and (c) diverting fraud proceeds for the personal use and benefit of themselves and others.

MANNER AND MEANS

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

4. **REINALDO MOREY** and **NIURKA MOREY** submitted and caused the submission of claims that falsely and fraudulently represented various health care benefits, primarily prescription drugs, were medically necessary, prescribed by a doctor, and provided to Medicare beneficiaries by Dalice.

5. As a result of such false and fraudulent claims, Medicare prescription drug plan sponsors, through their PBMs, made overpayments funded by the Medicare Part D Program to Dalice, in the approximate amount \$3,401,423.

6. **REINALDO MOREY** and **NIURKA MOREY** used the proceeds from the false and fraudulent Medicare Part D claims for their own benefit and use, the benefit and use of others, and to further the fraud.

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

COUNTS 2-5
Health Care Fraud
(18 U.S.C. § 1347)

1. Paragraphs 1 through 11 of the General Allegations section of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

2. From in or around September 2007, and continuing through in or around February 2016, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendants,

REINALDO MOREY and
NIURKA DE LA CARIDAD MOREY,
CARIDAD *NSL*

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 by Title 18, United States Code, Section 24(b), that is, Medicare and Medicare drug plan sponsors, 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.

Purpose of the Scheme and Artifice

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

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 re-alleged 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 set forth as to each count below, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendants,

**REINALDO MOREY and
NIURKA DE LA CARIDAD MOREY,**

in connection with the delivery of and payment for health care benefits, items, and services, did knowingly and willfully, in concert with others known and unknown to the Grand Jury, execute, and

attempt to execute, the above-described scheme and artifice to defraud a health care benefit program affecting commerce, as defined by Title 18, United States Code, Section 24(b), that is, Medicare and Medicare drug plan sponsors, 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 that the defendants submitted and caused the submission of false and fraudulent claims seeking the identified dollar amounts, and representing that Dalice provided pharmaceutical items and services to Medicare beneficiaries pursuant to physicians' orders and prescriptions:

Count	Medicare Beneficiary	Approx. Claim Submission Date	Claim Number	Item Claimed; Approx. Amount Claimed	Medicare Drug Plan Sponsor
2	R.M.	07/03/2012	1218548098481199989110	Abilify;\$590	Silverscript
3	R.M.	08/03/2012	1221642925130259979110	Abilify;\$590	Silverscript
4	C.J.A.	08/14/2012	122273825820012997	Singular;\$163	United
5	C.J.A.	02/09/2015	150402810894072999	Nexium;\$179	United

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

FORFEITURE
(18 U.S.C. § 982)

1. 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, **REINALDO MOREY** and **NIURKA DE LA**

CARIDAD MOREY, have an interest.

2. Upon conviction of a Federal healthcare offense, as alleged in this Indictment, the defendant so convicted shall forfeit to the United States of America, 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 violation.

3. Upon conviction of a violation of Title 18, United States Code, Section 1343, or a conspiracy to commit same, as alleged in this Indictment, the defendant so convicted shall forfeit to the United States of America, pursuant to Title 18, United States Code, Section 981(a)(1)(C), any property, real or personal, that constitutes or is derived, from proceeds traceable to the commission of such violation. The property subject to forfeiture includes, but is not limited to:

a. the sum of at least \$3,401,423,65 in United States currency, which is a sum of money equal in value to the gross proceeds traceable to the commission of the violation alleged in this Indictment, which the United States will seek as a forfeiture money judgment as part of the defendant's sentence.

b. all principal, deposits, interest, dividends and other amounts credited to the JP Morgan Chase account number 942703605 in the name of Dalice Medical Equipment.

All pursuant to Title 18, United States Code, Sections 982(a)(7) and 981(a)(1)(C), 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) and Title 28, United States Code, Section 2461(c).

A TRUE BILL

FOREPERSON



WIFREDO A. FERRER
UNITED STATES ATTORNEY



ELIZABETH YOUNG
TRIAL ATTORNEY
CRIMINAL DIVISION, FRAUD SECTION
U.S. DEPARTMENT OF JUSTICE