

ORIGINAL

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NORTHERN DIST. OF TX
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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

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DEPUTY CLERK

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UNITED STATES OF AMERICA

CASE NO.

v.

HARLAN R. HILL (01)
LATECIA P. HILL (02)
PEARLE L. MADERE (03)

3-16 CR 266-L

INDICTMENT

The Grand Jury charges:

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

General Allegations

1. The Medicare Program (Medicare) was a federal health care program providing benefits to persons who were over the age of 65 or disabled. Individuals receiving benefits under Medicare were referred to as Medicare beneficiaries.
2. Medicare was a "health care benefit program," as defined by 18 U.S.C § 24(b).
3. Physicians, clinics, and other health care providers that provided services to Medicare beneficiaries could apply for and obtain a Medicare provider number. A health care provider that was issued a Medicare provider number had the ability to file claims with Medicare to obtain reimbursement for services provided to beneficiaries. To submit a claim, Medicare required providers to truthfully 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 health care provider that rendered the services.

4. For billing and reimbursement purposes under Medicare Part B, Medicare directed providers to describe services provided by using Current Procedural Terminology (CPT) codes. CPT codes were shorthand descriptors of services defined by the American Medical Association and widely available and used by health care providers.

Total Senior Ear Care

5. Total Senior Ear Care (TSEC) purported to provide hearing-related services to Medicare beneficiaries living in nursing homes. These hearing services, however, were not provided and fraudulently billed to Medicare for reimbursement. **Harlan Hill** owned and operated the company. **Latecia Hill** served as administrator, ran the day-to-day operations, and provided direction to employees. **Pearle Madere** also ran the day-to-day operations of the company, directed employees, and marketed TSEC to nursing homes. **Harlan Hill** enrolled TSEC as a Medicare provider effective on or about August 2011, although at the time he and **Latecia Hill** owned and operated Elder Ear, a company substantially similar to TSEC. TSEC had two office locations; the first located at 9535 Forest Lane, Suite 123, Dallas, Texas; and the second located at 8330 Lyndon B Johnson Freeway, Suite 570, Dallas, Texas – both in the Northern District of Texas, Dallas Division.

Count One

Conspiracy to Commit Health Care Fraud
(Violation of 18 U.S.C. § 1349 (18 U.S.C. § 1347))

6. The Grand Jury adopts, realleges, and incorporates by reference all the general allegations set forth in paragraphs 1 through 5 of this Indictment.

The Conspiracy

7. Beginning on or about August 2011, the exact date being unknown to the Grand Jury, and continuing through on or about April 2016, in the Dallas Division of the Northern District of Texas, and elsewhere, the defendants, **Harlan Hill, Latecia Hill, and Pearle Madere** did knowingly, intentionally, and willfully combine, conspire, confederate, and agree with each other and with other persons known and unknown to the Grand Jury, to commit certain offenses against the United States, that is, to knowingly and willfully execute, and attempt to execute, a scheme and artifice: (a) to defraud Medicare, a health care benefit program as defined in 18 U.S.C. § 24(b); and (b) to obtain money and property owned by and under the custody and control of Medicare, a health care benefit program as defined in 18 U.S.C. § 24(b), by means of materially false and fraudulent pretenses, representations, and promises, in connection with payments for health care services, namely hearing-related services and testing, in violation of 18 U.S.C. § 1347.

The Purpose of the Conspiracy

8. It was part of the conspiracy that **Harlan Hill, Latecia Hill, and Pearle Madere**, and others, known and unknown to the Grand Jury, would and did unlawfully enrich themselves by: (a) submitting false and fraudulent claims to Medicare,

a health care benefit program as defined in 18 U.S.C. § 24(b), for hearing-related services and testing; and (b) concealing from Medicare, a health care benefit program as defined in 18 U.S.C. § 24(b), the nature and existence of the conspiracy.

The Manner and Means of the Conspiracy

9. The manner and means by which **Harlan Hill, Latecia Hill, Pearle Madere**, and their coconspirators sought to accomplish the purpose of the conspiracy included, among others, the following, all of which occurred in the Dallas Division of the Northern District of Texas, and elsewhere:

A. TSEC – the Fraudulent Business Model

10. **Harlan Hill, Latecia Hill, and Pearle Madere**, through their business TSEC, falsely represented to Medicare that physicians performed comprehensive ear evaluations, ear lavages, and hearing testing on Medicare beneficiaries, when those services were not provided. **Harlan Hill, Pearle Madere**, and other marketers would contact nursing facilities and convince the administrators and social workers that TSEC staff would provide on-site ear care to their residents, including comprehensive evaluations by Ear, Nose and Throat physicians, ear lavages or cleanings, and hearing testing. The facilities, or “cost centers” as TSEC called them, would then contract with TSEC for the described comprehensive services to provide to their patients. Many of the facilities required the patients to consent to this type of treatment. TSEC provided authorization forms informing the patient, or patient’s guardian, that the patient would receive “comprehensive ear healthcare and audiological hearing services.”

11. Medicare beneficiaries, however, did not receive comprehensive ear health care from TSEC physicians or staff. Instead, TSEC physicians and medical assistants would go to a facility and would routinely see as many as 100 patients in a day, often spending less than 5 minutes with each patient. These contracted physicians and medical assistants would do a complete “sweep” of the facility and see every patient available, regardless of the need for hearing-related services. Many of the patients “visited” were unresponsive and had no way to communicate whether they wanted the service or not. **Latecia Hill** and **Pearle Madere** instructed staff that if a patient gave an eye movement or made a sound, the staff could interpret that as consent and proceed with the exam, cleaning, or ear-probe testing. This fraudulent business created by **Harlan Hill**, **Latecia Hill**, and **Pearle Madere** caused Medicare to pay TSEC over \$5,100,000 for services never rendered or necessary.

B. Fraudulent Medicare Billing for Physician Exams

12. **Harlan Hill**, **Latecia Hill**, and **Pearle Madere**, engaged in a scheme to defraud Medicare, by causing the submission of claims for reimbursement for physician services that falsely represented to Medicare that physicians A.M. and M.W. conducted comprehensive patient exams, when, in fact, A.M., M.W., and other physicians – unknown to Medicare – did not provide comprehensive services, but rather cursory exams that had no medical value. Additionally, TSEC often billed Medicare falsely representing which physician performed the “evaluation.” At the direction of **Harlan Hill**, TSEC billers submitted claims indicating physician A.M. provided services

through August 2015. A.M. resigned his position with TSEC on or about June 2014, and no longer worked for the company.

13. At the direction of **Harlan Hill** and **Latecia Hill**, TSEC billers submitted claims based on a billing list rather than what actually occurred during the patient visit, or the medical need for the service. For ear evaluations, the billing list indicated for billers to use CPT code 99305, for the initial visit, and CPT code 99309, for a follow-up visit. By using CPT code 99305, an initial nursing facility visit, TSEC claims falsely represented to Medicare that a physician spent approximately 35 minutes face-to-face with the patient, where the physician took a comprehensive history, provided a comprehensive exam, and used medical decision making of moderate complexity. By using CPT code 99309, a subsequent nursing facility visit, TSEC claims falsely represented that a physician spent approximately 25 minutes face-to face with a patient taking a detailed interval history; performing a detailed examination; and making medical decisions of moderate complexity.

14. **Harlan Hill**, **Latecia Hill**, and **Pearle Madere** engaged in fraudulently submitting bills to Medicare for comprehensive patient examinations, when patient visits were cursory at best. Progress notes, or documentation of the patient encounters, often show no medical history, and very little, if any information documenting the exam or medical decisions made. Physicians seemingly just placed an otoscope in the patients' ear and checked to see if they had ear wax, then ordered ear lavages (ear wax cleanings) even if the patient did not need or want the cleaning. Contrary to bills submitted, physicians did not, and could not have, spent 35 minutes with

a patient, or even 25 minutes with a patient, based on the sheer number of patients seen in each facility per day. On dates claiming services were rendered, the defendants, **Harlan Hill, Latecia Hill, and Pearle Madere**, caused to be submitted claims totaling a time of well-over 24 hours in a day. For example:

DATE OF SERVICES ALLEGEDLY RENDERED USING CPT CODE 99305, (Initial Nursing Facility Visit; typically 35 minutes in duration)	TOTAL HOURS BILLED ON THE DATE OF SERVICE UNDER PHYSICIAN A.M.	NUMBER OF BENEFICIARIES BILLED FOR SERVICES
September 13, 2013	63 Hours	108
August 19, 2014	67 Hours	115
September 12, 2014	71 Hours	122
December 3, 2014	67 Hours	114
December 9, 2014	67 Hours	115

DATE OF SERVICES ALLEGEDLY RENDERED USING CPT CODE 99309, (Subsequent Nursing Facility Visit; typically 25 minutes in duration)	TOTAL HOURS BILLED ON THE DATE OF SERVICE UNDER PHYSICIAN A.M.	NUMBER OF BENEFICIARIES BILLED FOR SERVICES
December 26, 2013	90 Hours	217
December 27, 2013	95 Hours	227
December 31, 2013	76 Hours	182
December 17, 2014	77 Hours	184
December 31, 2014	62 Hours	149

DATE OF SERVICES ALLEGEDLY RENDERED USING CPT CODE 99305, (Initial Nursing Facility Visit; typically 35 minutes in duration)	TOTAL HOURS BILLED ON THE DATE OF SERVICE UNDER PHYSICIAN M.W.	NUMBER OF BENEFICIARIES BILLED FOR SERVICES
April 21, 2015	37 Hours	63
May 13, 2015	31 Hours	53
May 19, 2015	28 Hours	48
May 22, 2015	27 Hours	47
July 29, 2015	26 Hours	45

DATE OF SERVICES ALLEGEDLY RENDERED USING CPT CODE 99309, (Subsequent Nursing Facility Visit; typically 25 minutes in duration)	TOTAL HOURS BILLED ON THE DATE OF SERVICE UNDER PHYSICIAN M.W.	NUMBER OF BENEFICIARIES BILLED FOR SERVICES
February 4, 2015	35 Hours	85
March 24, 2015	49 Hours	118
March 25, 2015	47 Hours	112
March 30, 2015	40 Hours	96
April 15, 2015	62 Hours	149

C. Fraudulent Medicare Billing for Hearing Tests

15. At the direction of **Harlan Hill** and **Latecia Hill**, all Medicare beneficiaries were diagnosed with the same condition – sensorineural hearing loss – regardless of their true condition. In order for a Medicare claim to be paid, a diagnosis code had to be submitted as part of the claim to indicate the relevant physical condition of the beneficiary. TSEC billers, at the direction of **Harlan Hill**, and based on the billing

list, provided the same diagnosis code, 389.10, indicating sensorineural hearing loss, for nearly every Medicare beneficiary claim submitted.

16. At the direction of **Harlan Hill**, **Latecia Hill** and **Pearle Madere**, medical assistants performed unnecessary hearing-related screenings. **Harlan Hill** submitted or caused to be submitted bills for these screenings, that falsely represented that other types of diagnostic hearing tests were performed – when in fact those tests were not provided. **Latecia Hill** and **Pearle Madere** instructed medical assistants, not trained in providing hearing tests, to either check the box for an Ero Scan or perform the screenings using a Ero Scan device; a device that does not actually perform a hearing test, but rather is placed in the ear canal to measure pressure in the ear. Medicare requires diagnostic testing to be ordered by a physician, be medically necessary, and be used in the treatment of the beneficiary. Although **Harlan Hill** and TSEC billers billed Medicare for the tests, physicians never ordered the tests, physicians never reviewed the test results, and physicians never used the tests as part of any medical or hearing-related treatment – all contrary to Medicare regulations.

All in violation of 18 U.S.C. § 1349 (18 U.S.C. § 1347).

Counts Two through Fifteen
Health Care Fraud
(Violation of 18 U.S.C. §§ 1347 and 2)

17. The Grand Jury adopts, realleges, and incorporates by reference all the allegations set forth in the general allegations of this Indictment and Count One.

18. For each count listed in the chart below, the defendants **Harlan Hill**, **Latecia Hill**, and **Pearle Madere**, on or about the date stated, in the Dallas Division of the Northern District of Texas, knowingly and willfully executed the above-described scheme and artifice to defraud and to obtain, by means of materially false and fraudulent pretenses and representations, money and property owned by and under the custody and control of Medicare, a health care benefit program as defined in 18 U.S.C. § 24(b), in connection with the delivery of and payment for health care benefits, items, and services, in that **Harlan Hill**, **Latecia Hill**, and **Pearle Madere** submitted or caused to be submitted the listed claims for reimbursement knowing those claims were materially false and fraudulent, in that the claims falsely represented that a physician performed a comprehensive ear examination, an ear cleaning or a hearing test, when in fact no service had been rendered because the beneficiary refused service, was not actually present for a service, was unresponsive, or the evaluation would risk injury to the patient:

Count	Medicare Beneficiary	Date of Service	Beneficiary Condition Noted	CPT Code Billed	Amount Billed	Amount Paid
2	R.B.	September 17, 2012	Refused Services	69210	\$51.00	\$40.80
3	D.T.	April 9, 2013	Nonresponsive	99305	\$130.00	\$96.43

Count	Medicare Beneficiary	Date of Service	Beneficiary Condition Noted	CPT Code Billed	Amount Billed	Amount Paid
4	D.C.	April 19, 2013	Nonresponsive	92557 92587 99305 99308	\$260.00	\$90.74
5	B.C.	September 16, 2013	Could not awaken	92567 92588 99305	\$216.00	\$131.38
6	R.J.	June 26, 2014	Could not wake up	92567 92588 99305 69210	\$412.00	\$153.11
7	Gu.C.	December 3, 2014	Refused	92567 92588 99305	\$151.00	\$114.05
8	T.B.	December 3, 2014	Hospital	92567 92588 99305	\$151.00	\$114.05
9	Gl.C.	December 3, 2014	Refused	92567 92588 99305	\$151.00	\$114.05
10	P. M.	December 3, 2014	Hospital	92567 92588 99305	\$151.00	\$114.05
11	F.C.	December 8, 2014	Refused	92557 92587 99309	\$151.00	\$114.05
12	L.B.	March 19, 2015	Refused	92557 92587 99308	\$132.00	\$101.40
13	C.G.	March 23, 2015	No response	92567 92588 99309	\$151.00	\$110.09
14	B.V.	March 23, 2015	Unable to locate patient	92567 92588 99309	\$151.00	\$110.09
15	J.P.	March 25, 2015	Exam too risky for possible pt. injury	92567 92588 99309	\$151.00	\$110.09

All in violation of 18 U.S.C. §§ 1347 and 2.

Forfeiture Notice

(18 U.S.C. § 982(a)(7), 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c))

19. Pursuant to 18 U.S.C. § 982(a)(7), 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c), upon conviction for the offenses charged in Counts One through Fifteen, the defendants, **Harlan Hill** and **Latecia Hill**, shall forfeit to the United States any property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the respective offenses, including, but not limited to the following:

- a) The real property located at 1105 Winding Brook Drive, Garland, Dallas County, Texas, and more specifically described as Lot 26 in Block 1 of the Oaks at Stoney Creek No. 2, an addition to the city of Garland, Texas, according to the plat thereof recorded in volume 99243, page 46 of the map records of Dallas County, Texas; together with all buildings, fixtures and other real property improvements located on said real property; and the benefits and appurtenances on or appertaining to said real property and improvements; [Sought from Harlan Hill and Latecia Hill]
- b) \$85,476.70 in funds seized from BB&T Account Number XXXXXXXXX9010, in the name of Total Senior Ear Care, PLLC;
- c) \$240.25 in funds seized from BB&T Account Number XXXXXXXXXX3891, in the name of Harlan Hill;
- d) 2011 Mercedes-Benz, VIN WDDKK5GFXBF082366;
- e) 2013 Maserati Quattraporte, VIN ZAM39NKA9D0066795.

20. Pursuant to 21 U.S.C. § 853(p), as incorporated by 18 U.S.C. § 982(b)(1) and 28 U.S.C. § 2461(c), 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 intends to seek forfeiture of any other property of the defendant up to the value of the forfeitable property described above.

A TRUE BILL



FOREPERSON

JOHN R. PARKER
UNITED STATES ATTORNEY

A handwritten signature in cursive script that reads "Katherine Pfeifle".

KATHERINE E. PFEIFLE
Assistant United States Attorney
Texas State Bar No. 24041912
1100 Commerce Street, Third Floor
Dallas, Texas 75242-1699
Telephone: 214.659.8600
Facsimile: 214.659.8805
Email: katherine.pfeifle@usdoj.gov

A handwritten signature in black ink, consisting of several large, overlapping loops and flourishes, positioned above a horizontal line.

UNITED STATES MAGISTRATE JUDGE

No Criminal Matter Pending