

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MAINE

UNITED STATES OF AMERICA

v.

Paulo D. Braga

2016 JUN 20

A 10: 14

Case No. 2:16-mj-131-JHR

Violation:

Title 18, U.S. Code, 1347

CRIMINAL COMPLAINT

COUNT ONE  
(Health Care Fraud)

I, Catherine A. Richard, the complainant in this case, being duly sworn, state that the following is true and correct to the best of my knowledge and belief:

1. At all times relevant to this complaint,
  - a. The defendant, Paulo Braga, was licensed as a clinical professional counselor by the Maine State Board of Counseling and a certified clinical supervisor by the Maine State Board of Alcohol and Drug Counselors.
  - b. Medicaid was a health care program jointly funded by federal and state sources that provided health insurance and nursing home coverage to disabled and low-income individuals. In Maine, Medicaid was known as MaineCare and was administered by the Maine Department of Health and Human Services (MDHHS) pursuant to federal and state regulations.
  - c. To get reimbursed by MaineCare, a provider was required to submit a claim, either electronically or in writing. The claim was required to include information identifying the medical provider, the patient, the date or dates of service, and the services rendered. Medical providers were authorized to submit claims to Medicare only for medically necessary services that they actually rendered. MaineCare providers were also required to maintain patient records verifying the provision of services.

d. MaineCare covered comprehensive behavioral health assessments and counseling services provided by independent Licensed Clinical Professional Counselors who were enrolled as MaineCare providers.

e. The defendant was enrolled as a Medicaid provider with MDHHS and submitted claims for reimbursement to MaineCare through a third-party billing company, Health Associates of Maine, for comprehensive behavioral health assessments and counseling.

2. From on or about April 3, 2011 and continuing to on or about April 30, 2012, in the District of Maine and elsewhere, the defendant,

**PAULO D. BRAGA**

did knowingly and willfully execute and attempt to execute a scheme and artifice to defraud Medicaid, a health care benefit program, 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, Medicaid, in connection with the delivery of and payment for health care benefits, items and services, by submitting false and fraudulent claims for services that were not rendered.

3. All in violation of Title 18, United States Code, Section 1347.

4. This criminal complaint is based on the facts set forth in my affidavit, dated June 20, 2016, which is attached hereto and incorporated herein by reference.



Catherine A. Richard  
Special Agent  
U.S. Dept. of Health and Human Services  
Office of Inspector General

Sworn to before me and signed in my presence.

Dated: June 20, 2016, at Portland, Maine.



John H. Rich III  
United States Magistrate Judge

### **AFFIDAVIT IN SUPPORT OF A CRIMINAL COMPLAINT**

I, Catherine A. Richard, a Special Agent of the United States Department of Health and Human Services, Office of the Inspector General, Office of Investigations, having been duly sworn, depose and state:

1. I am currently a Special Agent assigned to the Boston Regional Office, Office of Investigations, Office of Inspector General, U.S. Department of Health and Human Services (“HHS-OIG”). I have been so employed since September 11, 2011. Since becoming a Special Agent, I have received training related to fraud detection and investigation from a variety of sources including, but not limited to, the Federal Law Enforcement Training Center and HHS-OIG. Throughout my Federal Law Enforcement career I have participated in numerous investigations involving violations of federal criminal and civil law. As a federal agent, I am authorized to investigate violations of laws of the United States and am a law enforcement officer with the authority to execute warrants issued under the authority of the Federal Government.

2. As set forth in the following paragraphs, there is probable cause to believe that Paulo D. Braga (“Braga”) violated 18 U.S.C. § 1347, Health Care Fraud.

#### **Background**

3. Braga, originally from Brazil, first came to the United States in 1971 on a non-immigrant tourist visa. On November 10, 1975, Braga became a Lawful Permanent Resident in the United States, and naturalized on May 7, 1981.

4. Medicaid is a health care program jointly funded by federal and state sources that provided health insurance and nursing home coverage to disabled and low-income individuals.

In Maine, Medicaid is known as MaineCare and is administered by the Maine Department of Health and Human Services (“MDHHS”) pursuant to federal and state regulations.

5. To get reimbursed by MaineCare, a provider is required to submit a claim, either electronically or in writing. The claim is required to include information identifying the medical provider, the patient, the date or dates of service, and the services rendered. Medical providers are authorized to submit claims to MaineCare only for medically necessary services that they actually rendered. MaineCare providers are also required to maintain patient records verifying the provision of services.

6. MaineCare covers comprehensive behavioral health assessments and counseling services provided by independent Licensed Clinical Professional Counselors (“LCPC”) who were enrolled as MaineCare providers.

7. In April of 2013, I was assigned to the investigation of Braga, an LCPC who operated as a sole proprietor with offices in Windham and Portland, Maine. He closed his practice in 2013 and he permitted his licenses to expire on December 31, 2013.

8. In 2011 and 2012, Braga was enrolled as a Medicaid provider with MDHHS and submitted claims for reimbursement to MaineCare through a third-party billing company, Health Affiliates Maine (“HAM”), for comprehensive behavioral health assessments and counseling.

9. HHS-OIG received a complaint from Mary Hendricks (“Hendricks”), who was then a Comprehensive Health Planner with the Maine Department of Health and Human Services, Division of Program Integrity (“PI”). According to Hendricks, Braga was billing MaineCare for services on days when he did not see a patient, and was falsifying records to document counseling sessions that did not occur.

### **The Investigation**

10. The information set forth below results from, among other sources, discussions with witnesses, information provided to me by other credible law enforcement personnel, the review of records from the Maine Department of Health and Human Services, Division of Program Integrity, the U.S. Department of Immigration and Customs Enforcement, Homeland Security Investigations, Health Affiliates Maine, business records, and publicly-filed documents. Information was also acquired as a result of investigative interviews.

11. This information is set forth solely for the limited purpose of this application and is by no means exhaustive. Where actions, conversations or statements of others are related herein, they are related in substance and in part unless otherwise noted. Where I assert that a statement or observation was made, I did not personally hear the statement or make the observation unless specifically so stated. Instead, the information was provided by a witness, an investigator, or another law enforcement officer, either verbally or in writing, who had direct or indirect knowledge of the statement or observation. Where I assert that an event took place on a particular date, I am asserting that it took place on or about the date alleged.

#### Site Visits

12. In February of 2013, Hendricks, another PI employee, and employees with the Maine Office of Substance Abuse (“OSA”) conducted a site visit, which was scheduled by OSA, at Braga’s Windham, Maine, office.

13. Hendricks said that Braga was not aware that PI employees would be accompanying OSA during its scheduled site visit. For PI purposes, Hendricks prepared a list of twenty-five MaineCare beneficiaries whose files she wanted to review. None of the twenty-five MaineCare beneficiary files were available at the Windham location. Instead, Hendricks ended up scanning two OSA client files, which she would later review, as these client files were

MaineCare beneficiaries. Before Hendricks scanned or reviewed these files, OSA employees pulled out all of the substance abuse information.

14. Hendricks found the client files to be inadequate, possessing minimum demographic information, and enough member information for billing purposes. Hendricks said that there was a significant amount of shredded paper all over the office floor. Hendricks said that Braga knew about OSA's visit and that he had been provided with OSA's list of records to be reviewed before the February 2013 site visit.

15. A few weeks after the February 2013 site visit with OSA, Hendricks and another PI employee conducted a second unannounced site visit at Braga's Portland location. After arriving, however, this office was closed and Hendricks was told that Braga was usually at his Windham office on Mondays and Fridays and was at the Portland office on Tuesdays, Wednesdays, and Thursdays. After learning this, the PI employees went to Braga's Windham location. Prior to this site visit, Hendricks put together a record request of seventy unique MaineCare members. To get the seventy unique MaineCare members, Hendricks chose the most recent five year billing period, and picked one hundred random dates of service from this period. These one hundred random dates of service were chosen through a Department of Defense software system PI used for these purposes. The seventy unique MaineCare members then came as a result of all the unique members out of the one hundred random dates of service.

16. During this site visit, Braga told Hendricks that he did not have many of the records she was looking for. Braga said that HAM, the billing agency he utilized to bill claims to the State of Maine, had a lot of his records. Because Braga was only licensed as an LCPC, he did not have the ability to bill claims to the State of Maine directly, and was thus required to utilize a billing agent to submit claims to MaineCare. Braga's son and his son's fiancé were at

Braga's Windham office during PI's site visit and were preparing records for an audit that HAM requested.

17. Later in the day, PI employees and Braga went to Braga's Portland office. This office was more organized and Braga was able to produce more of the requested records from the Portland location. In total, Braga provided PI with thirty-three out of the seventy requested patient files during the site visit.

18. PI was not able to obtain a copy of Braga's appointment calendar. Braga told Hendricks that he and his secretary's communicate by their cellular phones to schedule appointments. Braga told Hendricks that often a client would not show up or would cancel an appointment and that clients would drop in to meet with him unannounced.

#### **PI's Record Review**

19. As earlier stated, Hendricks was a Comprehensive Health Planner ("CHP") for PI. As a CHP, Hendricks was responsible for reviewing behavioral health records for compliance with the MaineCare Benefits Manual. Entities she was responsible for reviewing were mental health agencies, private practice individuals or groups, and psychologists. Additionally, Hendricks was responsible for oversight of the State's exclusion program.

20. After conducting site visits and gathering records from Braga's practices, Hendricks reviewed many of the thirty-three MaineCare patient files. Below is a list of some of the discrepancies Hendricks found throughout her review:

- a. Progress notes did not address any significant issue, were repetitive, and were often duplicative or identical to other progress notes. Some of the patient files also contained multiple progress notes for the same date of service, which violates MaineCare regulations.

b. Braga was billing mental health codes for clients that were supposed to be seeing him for substance abuse treatment/DEEP. Braga's progress notes do not reflect substance abuse counseling.

c. Braga's progress notes were often identical to other notes within clients' files.

d. Treatment plans were not unique to a client's issues.

e. Client signature pages seemed to have been photocopied by Braga and used for multiple entries.

f. Additionally, when Hendricks looked at the MaineCare claims submitted by Braga, she discovered that Braga billed for a counseling session with a client on a date when the client was in the hospital giving birth.

#### OSA Record Review

21. Every two years DEEP providers who are enrolled as counselors under the State of Maine's Driver Education and Evaluation Program ("DEEP") are required to have a review of their records. Ann Levesque ("Levesque"), who is an employee with OSA, completed Braga's review, and during this review, Braga provided the standard five patient files to be looked at. Levesque said that these patient files were "perfect," and Levesque felt like Braga spent a lot of time making them "[that] perfect."

22. Levesque said that Braga had two sets of records for his clients: one set of records was with HAM and the other set was at his office. Because Braga is an LCPC, MaineCare regulations require him to bill under a billing agency. At the time that HAM was submitting billing claims for Braga, it did not have a license to bill for substance abuse. Because of this, the records Braga provided to HAM, and the codes used to bill, were for mental health services.



None of the records HAM had contained a substance abuse assessment or diagnosis, or indicated that the client had an OUI conviction. HAM terminated Braga in March of 2013; however, prior to firing Braga, HAM placed him on a plan of correction due to his lack of paperwork. Braga then became a Sweetser affiliate provider, where Sweetser would submit Braga's MaineCare claims to the State.

23. On average, Braga kept DEEP clients for fourteen to eighteen months. The norm for counseling sessions of DEEP providers is three to four months. Levesque said that most of the progress notes in the patient files had nothing to do with the treatment plans. Levesque noticed that notes from one patient file were photocopied and placed in multiple patient files. These notes contained the same date with the client's name changed.

24. Levesque said that Braga has family in Brazil and that he may have been billing for days he was in Brazil.

#### **International Travel Records**

25. Certified international travel records obtained by the U.S. Department of Immigration and Customs Enforcement, Homeland Security Investigations ("HSI"), show that Braga had left the United States and returned to the United States on the dates set forth below:

Name	Inbound or Outbound	Destination	Date	Time
Paulo Braga	out	Sao Paulo, Brazil	2/3/2010	
Paulo Braga	in	DC-Dulles	2/15/2010	
Paulo Braga	out	Sao Paulo, Brazil	4/15/2010	
Paulo Braga	in	Newark, NJ	4/26/2010	
Paulo Braga	out	Sao Paulo, Brazil	4/2/2011	10:20 PM
Paulo Braga	in	Atlanta, GA	4/11/2011	5:45 AM
Paulo Braga	out	Sao Paulo, Brazil	4/21/2012	10:35 PM
Paulo Braga	in	NY-JFK	4/30/2012	6:30 AM
Paulo Braga	out	Sao Paulo, Brazil	12/18/2013	
Paulo Braga	in	Detroit, MI	12/29/2013	

**OIG Document Review**

26. In January of 2015, OIG requested records from HAM that it used to bill Braga's claims to the State of Maine. OIG requested full and complete copies of all of Braga's client files, among other records.

27. Based on a review of the above certified international records from HSI, from claims data obtained from PI, and client files obtained from HAM, I noticed that many of Braga's progress notes were duplicative or identical of one another. When comparing Braga's dates of international travel in 2011 and 2012, to the claims submitted to MaineCare, I noticed that Braga submitted fifty-three claims to MaineCare, described below, for services allegedly rendered to MaineCare members when he was traveling outside of the United States or just returning to the United States.

MaineCare Claim Number	Patient Initials	First Date of Service	Last Date of Service	Paid Amount	Claim Paid Date
000011104E29785001	TL	4/8/2011	4/8/2011	\$126.00	4/20/2011
000011111E14686001	FF	4/11/2011	4/11/2011	\$124.00	4/27/2011
000011118E14189001	AN	4/6/2011	4/6/2011	\$84.00	5/4/2011
000011125E17068001	PV	4/5/2011	4/5/2011	\$82.00	5/11/2011
000011125E17618001	KL	4/6/2011	4/6/2011	\$84.00	5/11/2011
000011125E17676001	LL	4/5/2011	4/5/2011	\$82.00	5/11/2011
000011125E17845001	HL	4/7/2011	4/7/2011	\$126.00	5/11/2011
000011125E17880001	JR	4/5/2011	4/5/2011	\$124.00	5/11/2011
000011132E29022001	NG	4/9/2011	4/9/2011	\$124.00	5/18/2011
000011160E25758001	NA	4/7/2011	4/7/2011	\$84.00	6/15/2011
000011172E16385001	KF	4/3/2011	4/3/2011	\$166.00	6/29/2011
000011174E11934001	JN	4/8/2011	4/8/2011	\$84.00	6/29/2011
000011202E14918001	CD	4/6/2011	4/6/2011	\$84.00	7/27/2011
000011231E05834001	TL	4/8/2011	4/8/2011	\$84.00	8/31/2011
000011277E19585001	KH	4/7/2011	4/7/2011	\$84.00	10/19/2011


MaineCare Claim Number	Patient Initials	First Date of Service	Last Date of Service	Paid Amount	Claim Paid Date
000012004E27189001	JH	4/7/2011	4/7/2011	\$82.00	1/11/2012
000012117E15459001	MS	4/21/2012	4/21/2012	\$84.00	5/2/2012
000012124E25565001	SD	4/24/2012	4/24/2012	\$84.00	5/9/2012
000012124E25635001	SD	4/27/2012	4/27/2012	\$84.00	5/9/2012
000012124E26162001	SH	4/26/2012	4/26/2012	\$124.00	5/16/2012
000012131E27618001	AP	4/21/2012	4/21/2012	\$84.00	5/16/2012
000012131E27651001	AP	4/25/2012	4/25/2012	\$84.00	5/16/2012
000012131E27684001	AP	4/28/2012	4/28/2012	\$84.00	5/16/2012
000012131E27723001	FM	4/26/2012	4/26/2012	\$124.29	5/23/2012
000012132E17644001	BB	4/30/2012	4/30/2012	\$84.00	5/23/2012
000012132E17647001	BB	4/30/2012	4/30/2012	\$84.00	5/23/2012
000012138E28186001	CD	4/25/2012	4/25/2012	\$126.00	6/20/2012
000012138E28250001	BL	4/24/2012	4/24/2012	\$82.00	5/30/2012
000012138E28261001	BL	4/28/2012	4/28/2012	\$82.00	5/30/2012
000012138E28317001	MT	4/24/2012	4/24/2012	\$84.00	5/23/2012
000012138E28325001	MT	4/27/2012	4/27/2012	\$84.00	5/23/2012
000012138E28363001	EA	4/26/2012	4/26/2012	\$124.00	5/23/2012
000012138E28434001	MS	4/25/2012	4/25/2012	\$126.00	5/23/2012
000012138E28471001	BL	4/21/2012	4/21/2012	\$82.00	5/30/2012
000012138E28705001	TN	4/24/2012	4/24/2012	\$84.00	5/23/2012
000012145E35693001	KF	4/27/2012	4/27/2012	\$82.00	6/6/2012
000012145E35923001	AM	4/23/2012	4/23/2012	\$82.00	6/6/2012
000012145E35998001	GD	4/29/2012	4/29/2012	\$82.00	5/30/2012
000012145E36006001	GD	4/22/2012	4/22/2012	\$124.00	5/30/2012
000012145E36009001	SH	4/30/2012	4/30/2012	\$124.00	6/6/2012
000012145E36362001	HM	4/30/2012	4/30/2012	\$84.00	5/30/2012
000012146E09600001	JN	4/23/2012	4/23/2012	\$124.00	6/6/2012
000012146E09726001	JN	4/30/2012	4/30/2012	\$124.00	6/6/2012
000012159E20236001	CB	4/27/2012	4/27/2012	\$126.00	6/13/2012
000012166E23439001	AO	4/27/2012	4/27/2012	\$124.00	6/20/2012
000012180E26162001	GS	4/22/2012	4/22/2012	\$82.00	7/3/2012
000012180E34176001	JS	4/26/2012	4/26/2012	\$84.00	7/11/2012
000012201E24338001	AD	4/28/2012	4/28/2012	\$84.00	7/25/2012

MaineCare Claim Number	Patient Initials	First Date of Service	Last Date of Service	Paid Amount	Claim Paid Date
000012208E38670001	TA	4/26/2012	4/26/2012	\$84.00	8/8/2012
000012249E41270001	EL	4/25/2012	4/25/2012	\$84.00	9/12/2012
000012249E41318001	GL	4/29/2012	4/29/2012	\$82.29	9/12/2012
000012271E24549001	SG	4/25/2012	4/25/2012	\$126.00	10/3/2012
000012306E25231001	RF	4/30/2012	4/30/2012	\$82.00	11/7/2012
			<b>TOTAL</b>	\$5,202.58	

28. Based on MaineCare claims data HHS-OIG received from PI, Braga billed services for forty MaineCare clients and was paid a total of \$5,202.58 for the above dates when he was out of the United States.

#### Conclusion

29. Based on the information set forth above, there is probable cause to believe that Paulo D. Braga knowingly and willfully executed and attempted to execute a scheme and artifice to defraud Medicaid, a health care benefit program, 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, Medicaid, in connection with the delivery of and payment for health care benefits, items and services, by submitting false and fraudulent claims for services that were not rendered, in violation of Title 18, United States Code, Section 1347.

  
 Catherine A. Richard  
 Special Agent  
 U.S. Department of Health and Human Services  
 Office of Inspector General

Personally appearing before me on this 20<sup>th</sup> day of June, 2016, and swearing to the truthfulness of the foregoing affidavit.



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John H. Rich III  
United States Magistrate Judge