

JUN 26 2018

JULIA D. DUDLEY, CLERK
BY: 
DEPUTY CLERK

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF VIRGINIA
DANVILLE DIVISION
JUNE 26, 2018, SESSION

UNITED STATES OF AMERICA

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INDICTMENT

v.

Criminal No.: 4:18-CR-000 116

VICKIE PHANELSON ADAMS
LATOYA LITCHEL PRESTON

In Violation of:
18 U.S.C. § 1347
18 U.S.C. § 2

INTRODUCTION

At all times material to this Indictment:

1. The "Grants to States for Medical Assistance Program," commonly referred to as "Medicaid," was established in 1965, and provides medical assistance services to eligible indigent persons. Such persons may include the aged, blind, disabled, pregnant women, and dependent or needy children. Medicaid services are authorized and reimbursed within guidelines stated in specified state and federal regulations.

2. The United States Department of Health and Human Services (HHS) and the Commonwealth of Virginia, Department of Medical Assistance Services (DMAS) administer and supervise the administration of the Medicaid Program in Virginia. The United States government contributes at least fifty percent of the cost of the Medicaid program, with the remaining monies provided by the Commonwealth. Medicaid is a

"health care benefit program" affecting commerce, as defined by Title 18, United States Code, Section 24(b).

4. Provider participation in the Medicaid program is voluntary. A participating provider is a person, organization, or institution, with a valid participation agreement who or which will (1) provide the service, (2) submit a truthful claim, and (3) accept as payment in full the amount paid by the Virginia Medicaid Program.

5. DMAS has established procedures in accordance with the regulations of the United States Department of Health and Human Services to compensate providers for services provided to Medicaid recipients. Each provider that becomes a certified Medicaid provider signs a Medicaid participation agreement acknowledging that he or she will abide by all DMAS participation requirements and guidelines. The Medicaid participation agreement also requires the provider to keep such records as are necessary to fully disclose the services actually provided to Medicaid recipients.

COUNTS ONE THROUGH TEN

(Health Care Fraud, MPowering Kids Mentoring, 18 U.S.C. §§ 1347 and 2)

The Grand Jury charges:

1. The Introduction to this Indictment is incorporated by reference into these Counts of the Indictment as if fully set forth herein.

2. **VICKIE PHANELSON ADAMS** owned and operated MPowering Kids Mentoring, LLC (MPowering Kids), from August 2010 to December 2014. On August 18, 2010, on behalf of MPowering Kids, **VICKIE PHANELSON ADAMS** signed a Medicaid Provider Agreement to provide after school Therapeutic Day Treatment (TDT) to eligible juvenile recipients. **VICKIE PHANELSON ADAMS** and MPowering Kids Mentoring, agreed to abide by the rules and regulations of Medicaid.

3. TDT is defined and described as follows, pursuant to Title 12, Virginia Administrative Code 35-105-20,:

"Therapeutic day treatment for children and adolescents" means a treatment program that serves (i) children and adolescents from birth through age 17 and under certain circumstances up to 21 with serious emotional disturbances, substance use, or co-occurring disorders or (ii) children from birth through age seven who are at risk of serious emotional disturbance, in order to combine psychotherapeutic interventions with education and mental health or substance abuse treatment. Services include: evaluation; medication education and management; opportunities to learn and use daily living skills and to enhance social and interpersonal skills; and individual, group, and family counseling.

4. To provide the Medicaid reimbursable TDT service, a person must be a Qualified Mental Health Professional – Child (QMHP-C). The qualifications for a QMHP-C are described in Title 12, Virginia Administrative Code 35-105-20, as follows:

A "Qualified Mental Health Professional-Child (QMHP-C)" means a person in the human services field who is trained and experienced in providing psychiatric or mental health services to children who have a mental illness. To qualify as a QMHP-C, the individual must have the designated clinical experience and must either (i) be a doctor of medicine or osteopathy licensed in Virginia; (ii) have a master's degree in psychology from an accredited college or university with at least one year of clinical experience with children and adolescents; (iii) have a social work bachelor's or master's degree from an accredited college or university

with at least one year of documented clinical experience with children or adolescents; (iv) be a registered nurse with at least one year of clinical experience with children and adolescents; (v) have at least a bachelor's degree in a human services field or in special education from an accredited college with at least one year of clinical experience with children and adolescents, or (vi) be a licensed mental health professional.

5. **VICKIE PHANELSON ADAMS** was QMHP-C.

6. MPowering Kids and **VICKIE PHANELSON ADAMS** employed **LATOYA LITCHEL PRESTON** as a QMHP-C from March 2011 to October 2014 to provide TDT to juvenile Medicaid recipients.

7. A QMHP-C must create written documentation, in this case a Weekly Progress Note, which is the written record describing the face-to-face mental health services provided to the recipient. Medicaid requires this documentation to support claims submitted for reimbursement, thus MPowering Kids was required to maintain a copy of the Weekly Progress Note to support billing Medicaid for the services provided.

8. **VICKIE PHANELSON ADAMS** was frequently out of the MPowering Kids facility when TDT was to be provided.

9. **VICKIE PHANELSON ADAMS** signed numerous false Weekly Progress Notes documenting mental health services that she did not provide to juvenile Medicaid recipients. She also signed falsified Weekly Progress Notes created by other non-qualified employees as though she provided the service.

10. **VICKIE PHANELSON ADAMS** instructed multiple employees to falsify Weekly Progress Notes for mental health services that were not provided. On several

occasions, the juvenile Medicaid recipients were not present onsite during the time services were documented and for which claims were submitted to Medicaid.

11. As an MPowering Kids QMHP-C, **LATOYA LITCHEL PRESTON** created numerous false Weekly Progress Notes documenting mental health services she did not provide to juvenile Medicaid recipients. She also signed falsified Weekly Progress Notes created by other non-qualified employees as though she had provided the service. **LATOYA LITCHEL PRESTON** signed some of these Weekly Progress Notes for times she was at work for another employer.

12. At the direction and assistance of **VICKIE PHANELSON ADAMS**, MPowering Kids submitted claims to Medicaid for reimbursement for mental health services that were not provided or were provided by non-qualified persons. These false claims to Medicaid resulted in \$473,217.66 in fraudulent Medicaid payments to MPowering Kids and **VICKIE PHANELSON ADAMS**.

13. On or about each of the dates below, for the listed juvenile Medicaid recipients, in the Western District of Virginia and elsewhere, the defendants, **VICKIE PHANELSON ADAMS** and **LATOYA LITCHEL PRESTON**, did knowingly and willfully execute, and attempt to execute, a scheme and artifice to defraud a health care benefit program, and to obtain, by means of materially false and fraudulent pretenses, representations, and promises, money and property owned by, or under the custody and control of, a health care benefit program affecting commerce, as defined in Title 18,

United States Code, Section 24(b), that is, Medicaid, in connection with the delivery of, and payment for, health care benefits, items, and services:

<u>COUNT</u>	<u>DATE</u>	<u>MEDICAID RECIPIENT</u>
ONE	January 15, 2014	NW
TWO	January 15, 2014	SJ
THREE	April 17, 2014	JE
FOUR	April 30, 2014	DC
FIVE	April 30, 2014	MJ
SIX	May 2, 2014	CE
SEVEN	July 8, 2014	SJ
EIGHT	July 8, 2014	TG
NINE	July 28, 2014	SJ
TEN	July 28, 2014	JM

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

COUNTS ELEVEN THROUGH SEVENTEEN
(Health Care Fraud, Golden Touch, 18 U.S.C. §§ 1347 and 2)

The Grand Jury charges that:

1. The Introduction to the Indictment is incorporated by reference into these Counts of the Indictment as if fully set forth herein.
2. **VICKIE PHANELSON ADAMS** owned Golden Touch Home Health, LLC (Golden Touch), from November 2009 to September 2017. Golden Touch is a Medicaid Service Facilitation Provider serving elderly and/or disabled Medicaid recipients enrolled in the Elderly or Disabled Consumer Directed Waiver Program (EDCD) administered by the Virginia Department of Medical Assistance Services (DMAS). **VICKIE PHANELSON ADAMS** is a qualified Medicaid Service Facilitator.
3. On November 12, 2009, **VICKIE PHANELSON ADAMS** signed a Medicaid Provider Agreement on behalf of Golden Touch, agreeing to abide by the rules and regulations of Medicaid.
4. Individuals who are approved for the Medicaid EDCD program are permitted to employ a Personal Care Attendant of their own choosing pursuant to a consumer directed model of care. In such cases, the Medicaid recipient, or someone on their behalf, becomes the employer of the Personal Care Attendant.
5. The Personal Care Attendant performs basic health-related services, which includes maintaining personal hygiene, nutritional support, and the environmental maintenance necessary for the recipient to remain in their own homes. The services may

also include helping the recipient with mobility and exercises, assisting with medications, and providing household services essential to health in the home.

6. A Service Facilitator is a Medicaid-enrolled provider who supports eligible individuals, and sometimes their families, in properly using consumer-directed services. Essentially, the Service Facilitator ensures that the elderly or disabled Medicaid recipient is receiving proper treatment from the Personal Care Attendant by regularly visiting the recipient's home for evaluation.

7. The Service Facilitator is required to train the recipient or their representative on how to be an effective employer. The Service Facilitator also determines the number of hours of care a Medicaid recipient should receive weekly and creates a plan of care detailing what services the recipient is to receive.

8. The Service Facilitator ensures the recipient is receiving the care and services described in the plan of care by having face-to-face home assessments every thirty, sixty, or ninety days.

9. During the home assessment, the Service Facilitator completes a home assessment form, a DMAS-99, which the Medicaid recipient reviews and signs. The Service Facilitator is required to keep and maintain DMAS-99 forms for every Medicaid recipient assessment to support claims submitted to Medicaid for reimbursement for home assessments.

10. At the direction and assistance of **VICKIE PHANELSON ADAMS**, Golden Touch submitted claims to Medicaid for reimbursement for home assessments every thirty days.

11. Between July 2013 and November 2014, **VICKIE PHANELSON ADAMS** signed multiple false DMAS-99 forms attesting that she performed home assessments that did not take place.

12. At least nine (9) Golden Touch Medicaid recipients and their family members never met **VICKIE PHANELSON ADAMS** and never had a home assessment performed by her.

13. Between July 2013 and November 2014, Golden Touch, at the direction and assistance of **VICKIE PHANELSON ADAMS**, fraudulently billed Medicaid and was fraudulently paid \$41,379.43.

14. On or about each of the dates below, for the listed Medicaid recipients, in the Western District of Virginia and elsewhere, the defendant, **VICKIE PHANELSON ADAMS**, did knowingly and willfully execute, and attempt to execute, a scheme and artifice to defraud a health care benefit program, and to obtain, by means of materially false and fraudulent pretenses, representations, and promises, money and property owned by, or under the custody and control of, a health care benefit program affecting commerce, as defined in Title 18, United States Code, Section 24(b), that is, Medicaid, in connection with the delivery of, and payment for, health care benefits, items, and

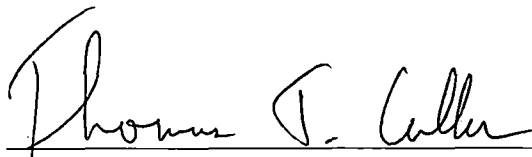
services, in that **VICKIE PHANELSON ADAMS** submitted claims for reimbursement to Medicaid on behalf of Golden Touch, for home assessments that she did not provide:

<u>COUNT</u>	<u>DATE</u>	<u>MEDICAID RECIPIENT</u>
ELEVEN	July 23, 2013	AS
TWELVE	July 23, 2013	CV
THIRTEEN	January 31, 2014	CV
FOURTEEN	March 31, 2014	CV
FIFTEEN	April 29, 2014	CV
SIXTEEN	May 21, 2014	CV
SEVENTEEN	June 12, 2014	TS

15. All in violation of Title 18, United States Code Section 1347 and 2.

A TRUE BILL this 26th day of June 2018.

s/Grand Jury Foreperson
FOREPERSON



THOMAS T. CULLEN
UNITED STATES ATTORNEY

by 