

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. _____

12-20315 CR-SEITZ

18 U.S.C. § 1349

18 U.S.C. § 1347

18 U.S.C. § 2

42 U.S.C. § 1320a-7b(b)(2)(A)

18 U.S.C. § 982

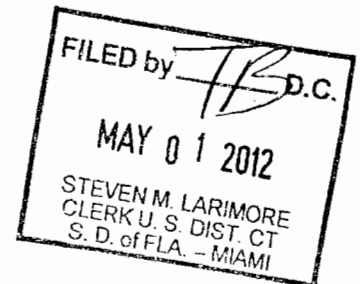
MAGISTRATE JUDGE
SIMONTON

UNITED STATES OF AMERICA

vs.

YAQUELIN COLLS,
JESUS FERNANDEZ,
and
PEDRO COLLS,

Defendants.

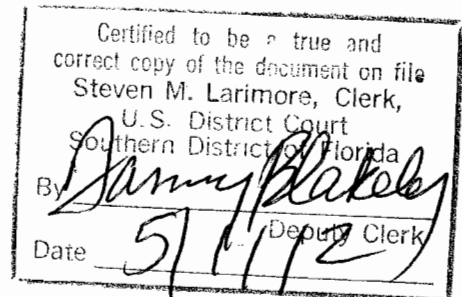


INDICTMENT

The Grand Jury charges that:

GENERAL ALLEGATIONS

At all times relevant to this Indictment:



The Medicare Program

1. The Medicare Program ("Medicare") was a federal program that provided free or below-cost health care benefits to certain individuals, primarily the elderly, blind, and disabled. Medicare was administered by the Centers for Medicare and Medicaid Services ("CMS"), a federal agency under the United States Department of Health and Human Services ("HHS"). Individuals who received benefits under Medicare were commonly referred to as Medicare "beneficiaries."
2. Medicare was a "health care benefit program," as defined by Title 18, United States Code, Section 24(b).

3. The Medicare program was divided into different "parts." "Part A" of the Medicare program covered health services provided by hospitals, skilled nursing facilities, hospices, and home health agencies. "Part B" of the Medicare program covered, among other things, medical services provided by physicians, medical clinics, and other qualified health care providers, as well as medications rendered "incident to" such services. The Medicare Advantage Program, formerly known as "Part C" or "Medicare+Choice," is described in further detail below.

4. Medicare Part B was administered in Florida by First Coast Service Options, a company that contracted with CMS to receive, adjudicate, process, and pay certain Part B claims.

5. Payments under the Medicare Program were often made directly to the physician, medical clinic, or other qualified provider of the medical goods or services, rather than to the beneficiary. This occurred when the provider accepted assignment of the right to payment from the beneficiary. In that case, the provider submitted the claim to Medicare for payment, either directly or through a billing company.

6. Physicians, medical clinics, and other health care providers that provided services to Medicare beneficiaries were able to apply for and obtain a "provider number." A health care provider who was issued a Medicare provider number was able to file bills, known as "claims," with Medicare to obtain reimbursement for services provided to beneficiaries. The claim form was required to contain certain important information, including: (a) the Medicare beneficiary's name and Health Insurance Claim Number ("HICN"); (b) a description of the health care benefit, item, or service that was provided or supplied to the beneficiary; (c) the billing codes for the benefit, item, or service; (d) the date upon which the benefit, item, or service was provided or supplied to the beneficiary; and (e) the name of the referring physician or other health care provider, as well as a unique identifying number, known either as the Unique Physician Identification Number ("UPIN")

or National Provider Identifier (“NPI”). The claim form could be submitted in hard copy or electronically.

7. When a claim was submitted to Medicare, the provider certified that the contents of the form were true, correct, complete, and that the form was prepared in compliance with the laws and regulations governing the Medicare program. The provider further certified that the services being billed were medically necessary and were in fact provided as billed.

8. Pursuant to federal statutes and regulations, Medicare only paid for health care benefits, items or other services that were medically necessary and ordered by a licensed doctor or other licensed, qualified health care provider.

The Medicare Advantage Program

9. The Medicare Advantage Program, formerly known as “Part C” or “Medicare+Choice,” provided Medicare beneficiaries with the option to receive their Medicare benefits through a wide variety of private managed care plans, including health maintenance organizations (“HMOs”), provider sponsored organizations (“PSOs”), preferred provider organizations (“PPOs”), and private fee-for-service plans (“PFFS”), rather than through the original Medicare program (Parts A and B).

10. Private health insurance companies offering Medicare Advantage plans were required to provide Medicare beneficiaries with the same services and supplies offered under Parts A and B of Medicare. To be eligible to enroll in a Medicare Advantage plan, a person must be entitled to benefits under Part A and Part B of the Medicare Program.

11. A number of companies including Blue Cross and Blue Shield of Florida (“BCBS”) and their related subsidiaries and affiliates contracted with CMS to provide managed care to Medicare Advantage beneficiaries through various plans.

12. BCBS was a "health care benefit program," as defined by Title 18, United States Code, Section 24(b).

13. United Health Care ("UHC") was a "health care benefit program," as defined by Title 18, United States Code, Section 24(b).

14. These entities, including BCBS and UHC, through their respective Medicare Advantage programs, often made payments directly to physicians, medical clinics, or other health care providers, rather than to the Medicare Advantage beneficiary that received the health care benefits, items, and services. This occurred when the provider accepted assignment of the right to payment from the beneficiary.

15. To obtain payment for treatment or services provided to a beneficiary enrolled in a Medicare Advantage plan, physicians, medical clinics, and other health care providers had to submit itemized claim forms to the beneficiary's Medicare Advantage plan. The claim forms were typically submitted electronically via the internet. The claim form required certain important information, including: (a) the Medicare Advantage beneficiary's name and HICN or other identification number; (b) a description of the health care benefit, item, or service that was provided or supplied to the beneficiary; (c) the billing codes for the benefit, item, or service; (d) the date upon which the benefit, item, or service was provided or supplied to the beneficiary; and (e) the name of the referring physician or other health care provider, as well as a unique identifying number, known either as the Unique Physician Identification Number ("UPIN") or National Provider Identifier ("NPI").

16. When a provider submitted a claim form to a Medicare Advantage program, the provider party certified that the contents of the form were true, correct, complete, and that the form was prepared in compliance with the laws and regulations governing the Medicare program. The submitting party also certified that the services being billed were medically necessary and were in

fact provided as billed.

17. The private health insurance companies offering Medicare Advantage plans were paid a fixed rate per beneficiary per month by the Medicare program, regardless of the actual number or type of services the beneficiary receives. These payments by Medicare to the insurance companies were known as “capitation” payments. Thus, every month, CMS paid the health insurance companies a pre-determined amount for each beneficiary who was enrolled in a Medicare Advantage plan, regardless of whether or not the beneficiary utilized the plan's services that month. CMS determined the per-patient capitation amount using actuarial tables, based on a variety of factors, including the beneficiary’s age, sex, severity of illness, and county of residence. CMS adjusted the capitation rates annually, taking into account each patient's previous illness diagnoses and treatments. Beneficiaries with more illnesses or more serious conditions would rate a higher capitation payment than healthier beneficiaries.

Ma Medical and Therapy Services, Inc. and Healthy Touch Rehab Center, Inc.

18. Ma Medical and Therapy Services, Inc. (“Ma Medical”) was a Florida corporation with a place of business in Miami-Dade County. Ma Medical was a medical clinic that purportedly provided Medicare Advantage beneficiaries with various medical items and services.

19. Healthy Touch Rehab Center, Inc. (“Healthy Touch”) was a Florida corporation with a place of business in Miami-Dade County. Healthy Touch was a medical clinic that purportedly provided Medicare Advantage beneficiaries with various medical items and services.

The Defendants

20. Defendant **YAQUELIN COLLS** was a resident of Miami-Dade County. **YAQUELIN COLLS** incorporated Ma Medical and served as Ma Medical’s president and registered agent.

21. Defendant **JESUS FERNANDEZ** was a resident of Miami-Dade County.

FERNANDEZ incorporated Healthy Touch and served as Healthy Touch's president and registered agent.

22. Defendant **PEDRO COLLS** was a resident of Miami-Dade County.

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

1. Paragraphs 1 through 22 of the General Allegations section of this Indictment are realleged and incorporated by reference as if fully set forth herein.

2. From on or about February 9, 2011, and continuing through on or about April 16, 2012, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendants,

YAQUELIN COLLS,
JESUS FERNANDEZ,
and
PEDRO COLLS,

did knowingly and willfully combine, conspire, confederate and agree with each other and others known and unknown to the Grand Jury, to violate Title 18, United States Code, Section 1347, that is, to execute a scheme and artifice to defraud a health care benefit program affecting commerce, as defined in Title 18, United States Code, Section 24(b), that is, Medicare, BCBS, and UHC, 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 program; in connection with the delivery of and payment for health care benefits, items, and services.

PURPOSE OF THE CONSPIRACY

3. It was the 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 a health care benefit program; (b) concealing the submission of false and fraudulent claims to a health care benefit program; (c) concealing the receipt of the fraud proceeds; and (d) diverting the fraud proceeds for their personal use and benefit, and the use and

benefit of others, and to further the fraud.

MANNER AND MEANS OF THE CONSPIRACY

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

4. On or about November 25, 2009, **YAQUELIN COLLS** leased the premises located at 5556 S.W. 8th Street, Miami, Florida 33134, which was listed as the primary business location for both Ma Medical and Healthy Touch.

5. On or about November 30, 2009, **YAQUELIN COLLS** filed documentation with the State of Florida to incorporate Ma Medical, listing herself as president and registered agent.

6. On or about February 9, 2011, **YAQUELIN COLLS** opened a bank account for Ma Medical with Regions Bank (account number ending 0969), listing herself as president.

7. On or about April 8, 2011, **YAQUELIN COLLS** applied for and obtained a BCBS provider number authorizing Ma Medical to submit reimbursement claims to BCBS for medical items and services that were provided to Medicare Advantage beneficiaries pursuant to physicians' orders and prescriptions.

8. On or about January 11, 2012, **JESUS FERNANDEZ** filed documentation with the State of Florida to incorporate Healthy Touch listing himself as president and registered agent.

9. **YAQUELIN COLLS, JESUS FERNANDEZ, and PEDRO COLLS**, and their co-conspirators recruited and paid, or and caused to be recruited and paid, Medicare Advantage beneficiaries to come to Ma Medical and Healthy Touch for the purpose of allegedly receiving medical benefits, items, and services for which Ma Medical and Healthy Touch could file reimbursement claims with BCBS and UHC.

10. On or about March 27, 2012, **PEDRO COLLS** and **JESUS FERNANDEZ** directed beneficiaries V.C. and K.P. to respond to inquiries regarding their treatment by falsely and

fraudulently stating that they received injections of sandostatin three times per week and no other medication.

11. On or about March 30, 2012, **PEDRO COLLS** and **JESUS FERNANDEZ** directed beneficiary V.C. to recruit additional beneficiaries who were insured by UHC to receive treatment at Healthy Touch in return for payment

12. **YAQUELIN COLLS, JESUS FERNANDEZ, and PEDRO COLLS**, and their co-conspirators submitted and caused Ma Medical to submit approximately \$972,068 to BCBS in Medicare Advantage claims for reimbursement, such claims falsely and fraudulently representing that medical items and services were prescribed by a doctor and provided to Medicare Advantage beneficiaries by Ma Medical.

13. As a result of such false and fraudulent claims, **YAQUELIN COLLS, JESUS FERNANDEZ, and PEDRO COLLS** caused BCBS to deposit approximately \$396,971 into Ma Medical's corporate bank accounts.

14. **YAQUELIN COLLS, JESUS FERNANDEZ, and PEDRO COLLS**, and their co-conspirators submitted and caused Healthy Touch to submit approximately \$55,642 to UHC in Medicare Advantage claims for reimbursement, such claims falsely and fraudulently representing that medical items and services were prescribed by a doctor and provided to Medicare Advantage beneficiaries by Healthy Touch.

15. **YAQUELIN COLLS, JESUS FERNANDEZ, and PEDRO COLLS**, and their co-conspirators used the proceeds of the health care fraud for their personal use and benefit, and the use and benefit of others, and to further the fraud.

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

COUNTS 2-~~9~~ 10 CWL
Health Care Fraud
(18 U.S.C. § 1347)

1. Paragraphs 1 through 22 of the General Allegations section of this Indictment are realleged and incorporated by reference as if fully set forth herein.

2. From on or about February 9, 2011, and continuing through on or about April 16, 2012, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendants,

YAQUELIN COLLS,
JESUS FERNANDEZ,
and
PEDRO COLLS,

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 in Title 18, United States Code, Section 24(b), that is, Medicare, BCBS, and UHC, 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 program.

Purpose of the Scheme and Artifice

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

The Scheme and Artifice

4. The allegations contained in paragraphs 4 through 15 of the Manner and Means section of Count 1 of this Indictment are realleged 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 specified as to each count below, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendants, in connection with the delivery of and payment for health care benefits, items, and services, did knowingly and willfully execute, and attempt to execute, the above-described scheme and artifice to defraud a health care benefit program affecting commerce, that is, Medicare, BCBS, and UHC, 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 program, in that the defendants submitted and caused the submission of false and fraudulent claims to BCBS and UHC seeking the identified dollar amounts, and representing that Ma Medical and Healthy Touch provided medical items and services to Medicare Advantage beneficiaries pursuant to physicians' orders and prescriptions:

Count	Company	Medicare Beneficiary	Approx. Date of Submission of Claim	BCBS/UHC Claim Number	Services Claimed; Approx. Amount Claimed
2	Ma Medical	W.M.	07/08/2011	Q100000252405221	Injection, Octreotide Intramuscular Injection, 1MG (J2353); \$6574
3	Ma Medical	W.M.	08/15/2011	Q100000257480759	Injection, Pyridoxine HCL, 100 MG; (J3415); \$1400
4	Ma Medical	W.T.	08/17/2011	Q100000257897668	Injection, Octreotide, Intramuscular Injection, 1MG; (J2353); \$6920

Count	Company	Medicare Beneficiary	Approx. Date of Submission of Claim	BCBS/UHC Claim Number	Services Claimed; Approx. Amount Claimed
5	Ma Medical	W.T.	08/17/2011	Q100000257897606	Injection, Pyridoxine HCL, 100 MG; (J3415); \$1400
6	Ma Medical	V.C.	09/12/2011	Q100000261430067	Injection, Octreotide, Intramuscular Injection, 1MG; (J2353); \$6920
7	Ma Medical	V.C.	09/12/2011	Q100000261430061	Injection, Pyridoxine HCL, 100 MG; (J3415); \$1400
8	Healthy Touch	V.C.	04/12/2012	1210356342969	Injection, Octreotide, Intramuscular Injection, 1MG; (J2353); \$6920
9	Healthy Touch	V.C.	04/12/2012	1210326344969	Injection, Octreotide, Intramuscular Injection, 1MG; (J2353); \$6920
10	Healthy Touch	V.C.	04/12/2012	1210326346969	Injection, Octreotide, Intramuscular Injection, 1MG; (J2353); \$6920

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

COUNT 11
Conspiracy to Pay Health Care Kickbacks
(18 U.S.C. § 371)

1. Paragraphs 1 through 22 of the General Allegations section of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

2. Beginning on or about February 9, 2011, and continuing through on or about April 16, 2012, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendants,

YAQUELIN COLLS,
JESUS FERNANDEZ,
and
PEDRO COLLS,

did willfully, that is with the intent to further the object of the conspiracy, and knowingly combine,

conspire, confederate and agree with each other and others known and unknown to the Grand Jury to commit an offense against the United States, that is, to violate Title 42, United States Code, Section 1320a-7b(b)(2)(A), by knowingly and willfully offering and paying any remuneration, including kickbacks and bribes, directly and indirectly, overtly and covertly, in cash and in kind, to a person to induce such person to refer an individual to a person for the furnishing and arranging for the furnishing of an item and service for which payment may be made in whole and in part by a Federal health care program, that is, Medicare.

Purpose of the Conspiracy

3. It was the purpose of the conspiracy for the defendants and their co-conspirators to unlawfully enrich themselves by: (1) paying kickbacks and bribes to ensure that Medicare Advantage beneficiaries would serve as patients at Ma Medical and Healthy Touch, and (2) by submitting Medicare Advantage claims to BCBS and UHC for medical items and services that Ma Medical and Healthy Touch purportedly provided to Medicare Advantage beneficiaries.

Manner and Means of the Conspiracy

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

4. **YAQUELIN COLLS, JESUS FERNANDEZ, and PEDRO COLLS** offered and paid kickbacks and bribes to individuals, including V.C., for recruiting Medicare Advantage beneficiaries to be placed at Healthy Touch and Ma Medical.

5. **YAQUELIN COLLS, JESUS FERNANDEZ and PEDRO COLLS** offered and paid and caused to be offered and paid, kickbacks and bribes to Medicare beneficiaries so that they would serve as patients at Ma Medical and Healthy Touch.

6. **YAQUELIN COLLS, JESUS FERNANDEZ, and PEDRO COLLS** caused Healthy Touch and Ma Medical to submit Medicare Advantage claims to BCBS and UHC for

medical items and services allegedly provided to Medicare Advantage beneficiaries by Healthy Touch and Ma Medical.

Overt Acts

In furtherance of the conspiracy, and to accomplish its object and purpose, at least one co-conspirator committed and caused to be committed, in the Southern District of Florida, at least one of the following overt acts, among others:

1. On or about March 30, 2012, **YAQUELIN COLLS** paid V.C. \$200 in cash as a kickback payment for V.C. and K.P. attending Healthy Touch.
2. On or about April 2, 2012, **YAQUELIN COLLS** paid V.C. \$200 in cash as a kickback payment for V.C. and K.P. attending Healthy Touch.
3. On or about April 4, 2012, **YAQUELIN COLLS** paid V.C. \$100 in cash as a kickback payment for attending Healthy Touch.
4. On or about March 30, 2012, **PEDRO COLLS** and **JESUS FERNANDEZ** directed beneficiary V.C. to recruit additional beneficiaries who were insured by UHC to receive treatment at Healthy Touch in return for payment.

All in violation of Title 18, United States Code, Section 371.

COUNTS 12-14

Payment of Kickbacks in Connection with a Federal Health Care Program (42 U.S.C. § 1320a-7b(b)(2)(A))

1. Paragraphs 1 through 22 of the General Allegations section of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.
2. On or about the dates enumerated below as to each count, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

YAQUELIN COLLS,

did knowingly and willfully offer and pay any remuneration, that is, kickbacks and bribes, in cash and in kind, directly and indirectly, overtly and covertly, to a person, that is, V.C., to induce such person to refer an individual to a person for the furnishing and arranging for the furnishing of any item and service for which payment may be made in whole and in part by a Federal health care program, that is, Medicare, BCBS, and UHC as set forth below:

Count	Approximate Date	Approximate Kickback Amount
12	03/30/2012	\$200
13	04/02/2012	\$200
14	04/04/2012	\$100

In violation of Title 42, United States Code, Section 1320a-7b(b)(2)(A) and Title 18, United States Code, Section 2.

FORFEITURE
(18 U.S.C. § 982)

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, **YAQUELIN COLLS**, **JESUS FERNANDEZ**, and **PEDRO COLLS**, have an interest.

2. Upon conviction of any violation of Title 18, United States Code, Sections 371, 1347 or 1349, or Title 42, United States Code, Section 1320a-7(b), as alleged in Counts 1 through 14 of this Indictment, the defendants shall forfeit to the United States all of their respective right, title, and interest in any property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of such violation(s), pursuant to Title 18, United States Code, Section 982(a)(7).

3. The property subject to forfeiture includes, but is not limited to, the following:

a. The sum of \$396,971 in United States currency, which amount is equal to the gross proceeds traceable to the commission of the violations alleged in this Indictment, which the United States will seek as a forfeiture money judgment as part of each defendant's sentence; and

b. All funds on deposit in the Regions Bank account ending in -6710, titled in the name of **YAQUELIN COLLS**.

4. If the property described above as being subject to forfeiture, as a result of any act or omission of the defendants,

(a) cannot be located upon the exercise of due diligence;

(b) has been transferred or sold to, or deposited with a third person;

(c) has been placed beyond the jurisdiction of the Court;

(d) has been substantially diminished in value; or

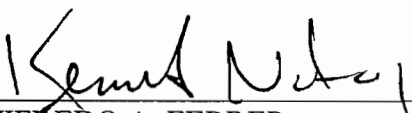
(e) has been commingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendants up to the value of the above forfeitable property and, in addition, to seek a court order requiring the defendants to return any such property to the jurisdiction of the court for seizure and forfeiture.


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

A TRUE BILL



WIFREDO A. FERRER
UNITED STATES ATTORNEY



CHRISTOPHER J. CLARK
ASSISTANT UNITED STATES ATTORNEY