21

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA

Plaintiff

v.

SC
D-3 ~~D-1~~ MILLICENT TRAYLOR, and
D-4 ~~D-2~~ CHRISTINA KIMBROUGH

Defendants.
_____/

Case No. 16-cr-20437

Hon. Robert H. Cleland

VIO: 18 U.S.C. § 1349
18 U.S.C. § 1347
18 U.S.C. § 2
18 U.S.C. § 371
18 U.S.C. § 982

FIRST SUPERSEDING INDICTMENT

THE GRAND JURY CHARGES:

General Allegations

At all times relevant to this Indictment:

The Medicare Program

1. The Medicare program was a federal health care program providing benefits to persons who were over the age of 65 or 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.

Individuals who received benefits under Medicare were 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 included coverage under different components, including Part A and Part B. Part A covered physical therapy, occupational therapy, and skilled nursing services if a facility was certified by CMS as meeting certain requirements. Part B of the Medicare Program covered the cost of physicians' services and other ancillary services not covered by Part A. The physical therapy, occupational therapy, physicians' services and other services at issue in this First Superseding Indictment were covered by Part A and Part B.

4. National Government Services was the CMS contractor for Medicare Part A in the state of Michigan. Wisconsin Physicians Service was the CMS-contracted carrier for Medicare Part B, in the state of Michigan. TrustSolutions, LLC was the program safeguard contractor for Medicare Part A and Part B in the State of Michigan until April 24, 2012, when it was replaced by Cahaba Safeguard Administrators LLC ("Cahaba"). On April 10, 2015, AdvanceMed replaced Cahaba as the Program Safeguard Contractor.

5. By becoming a participating provider in Medicare, enrolled providers agreed to abide by the policies and procedures, rules, and regulations governing

reimbursement. In order to receive Medicare funds, enrolled providers, together with their authorized agents, employees, and contractors, were required to abide by all the provisions of the Social Security Act, the regulations promulgated under the Act, and applicable policies, procedures, rules, and regulations issued by CMS and its authorized agents and contractors.

6. Upon certification, the medical provider, whether a clinic or an individual, was assigned a provider identification number for billing purposes (referred to as a PIN). When the medical provider rendered a service, the provider submitted a claim for reimbursement to the Medicare contractor/carrier that included the PIN assigned to that medical provider. When an individual medical provider was associated with a clinic, Medicare Part B required that the individual provider number associated with the clinic be placed on the claim submitted to the Medicare contractor.

7. Health care providers were given and/or provided with online access to Medicare manuals and services bulletins describing proper billing procedures and billing rules and regulations. Providers could only submit claims to Medicare for services they rendered and providers were required to maintain patient records to verify that the services were provided as described on the claim form.

8. In order to receive reimbursement for a covered service from Medicare, a provider was required to submit a claim, either electronically or using a form (*e.g.*,

a CMS-1500 form or UB-92) containing the required information appropriately identifying the provider, patient, and services rendered.

9. A home health agency was an entity that provided health services, including but not limited to skilled nursing, physical and occupational therapy, and speech pathology services to homebound patients.

10. Home health services covered under Medicare Part A were furnished by home health agencies, which received payment from Medicare for furnishing such services. In order for home health services to qualify for payment under Medicare, the following conditions had to be met:

a. the beneficiary was homebound;

b. the beneficiary needed intermittent skilled nursing care, or other qualifying services;

c. the beneficiary was under the care of a physician ("the Treating Physician") who specifically determined there was a need for home health services and established a plan of care ("POC") that he or she periodically reviewed;

d. the services were furnished while the beneficiary was under the care of the Treating Physician; and

e. the Treating Physician signed a certification (or recertification) specifying that all of the preceding conditions existed.

11. Under the Medicare statute, a beneficiary was homebound if the individual was confined to home because of a condition, due to an illness or injury, that restricted the ability of the individual to leave his or her home except with the assistance of another individual or the aid of a supportive device (such as crutches, a cane, a wheelchair, or a walker), or if the individual had a condition such that leaving his or her home was medically contraindicated.

12. Home health services were certified and billed for in 60-day increments known as "episodes." Each episode required its own certification. To certify a patient, a physician was required to sign a form entitled, "Home Health Certification and Plan of Care," which was sometimes referred to as a "Form 485."

13. Physician services covered under Medicare Part B included some services related to home health, including a physician's home health certification or recertification. Medicare Part B also covered "home visits" for evaluation and management services provided to a beneficiary by a physician or, in some circumstances, a nurse practitioner or a physician's assistant, in a private residence. In order for a home visit to qualify for payment under Medicare, the home visit, in lieu of an office or outpatient visit, had to be medically necessary and the medical necessity had to be documented. In addition, a physician could not bill Medicare for personally making a home visit unless the physician was actually present in the beneficiary's home during the visit.

14. Medicare Part A and Part B regulations required home health agencies and physicians providing services to beneficiaries to maintain complete and accurate medical records reflecting the medical assessment and diagnoses of beneficiaries, as well as records documenting actual treatment of the beneficiaries to whom services were provided and for whom claims for payment were submitted to Medicare. These records were required to be sufficient to permit Medicare to review the appropriateness of Medicare payments made under Medicare Part A and Medicare Part B.

15. Medicare authorized payment for home visits and at-home physician services only if those services were actually provided and were medically necessary. Medicare did not authorize payment for services and treatment that were not actually provided or for which that patient did not meet the criteria necessary to justify the claimed service or treatment.

Relevant Entities and Individuals

16. United Home Health Care, Inc. ("United") was a Michigan corporation doing business at 751 East Nine Mile Road, Ferndale, Michigan, 48220. United was a home health agency that purportedly provided in-home physical therapy, occupational therapy, and/or skilled nursing services to patients. United was a Medicare provider and submitted claims directly to Medicare.

17. Patient Choice Internal Medicine, P.C. ("Patient Choice") was a corporation doing business at 6339 Woodhall, Detroit, Michigan 48224, and 5555 Conner Street, Detroit, Michigan 48213. Patient Choice was a Medicare provider and submitted claims directly to Medicare.

18. Metro Mobile Physicians P.C. ("Metro Mobile") was a corporation doing business at 725 East Nine Mile Road, Ferndale, Michigan, 48220, and 5555 Conner Street, Detroit, Michigan 48123. Metro Mobile was a Medicare provider and submitted claims directly to Medicare.

19. ~~D-1~~ D-3 MILLICENT TRAYLOR, a resident of Oakland County, Michigan was an unlicensed physician and an employee of Metro Mobile, Patient Choice and United.

20. ~~D-2~~ D-4 CHRISTINA KIMBROUGH, M.D., a resident of Wayne County, Michigan was a licensed physician who was paid by Metro Mobile and Patient Choice for the use of her Medicare PIN.

21. Co-conspirator Jacklyn Price ("Price"), a resident of Macomb County, Michigan, was the owner, controller and manager of Metro Mobile and Patient Choice.

22. Co-conspirator Muhammad Qazi ("Qazi"), a resident of Oakland County, Michigan, was the owner, controller and manager of United.

Count 1
18 U.S.C. § 1349
Conspiracy to Commit Health Care Fraud

D-3 ~~D-1~~ MILLICENT TRAYLOR
D-4 ~~D-2~~ CHRISTINA KIMBROUGH

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

24. From in or around January of 2011, and continuing through in or around June of 2016, the exact dates being unknown to the Grand Jury, in Wayne County and Oakland County, in the Eastern District of Michigan, and elsewhere, the defendants, MILLICENT TRAYLOR and CHRISTINA KIMBROUGH, did knowingly and willfully, combine, conspire, confederate, and agree with each other, Price, Qazi, 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, 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

25. It was a purpose of the conspiracy for defendants MILLICENT TRAYLOR and CHRISTINA KIMBROUGH, 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 for services that were obtained through kickbacks and bribes, were medically unnecessary, and were not provided; (b) offering and paying, soliciting and receiving, kickbacks and bribes in exchange for referring Medicare beneficiaries to serve as patients at Metro Mobile, Patient Choice, and United; and (c) diverting proceeds of the fraud for the personal use and benefit of the defendants and their co-conspirators.

Manner and Means

26. 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:

27. Price would incorporate Metro Mobile and Patient Choice and Qazi would incorporate United.

28. CHRISTINA KIMBROUGH, Price, and Qazi would certify to Medicare that they would comply with all Medicare rules and regulations, including that they would not knowingly present or cause to be presented a false or fraudulent

claim for payment by Medicare and would refrain from violating the federal anti-kickback statute.

29. MILLICENT TRAYLOR, Price, Qazi, and others, would pay and cause the payment of kickbacks and bribes to patient marketers and Medicare beneficiaries in exchange for those beneficiaries serving as patients at Metro Mobile, Patient Choice, and United.

30. MILLICENT TRAYLOR would solicit and receive kickback payments from Qazi in exchange for referring Medicare beneficiaries to serve as patients at United.

31. Qazi would pay kickbacks and bribes to Price in the form of rent payments and checks, in exchange for referring Medicare beneficiaries to serve as patients at United.

32. CHRISTINA KIMBROUGH would provide her DEA registration number to MILLICENT TRAYLOR and Price so that medically unnecessary controlled substances, including oxycodone, could be prescribed to Medicare beneficiaries at Metro Mobile and Patient Choice.

33. CHRISTINA KIMBROUGH would provide a sample of her signature to MILLICENT TRAYLOR so that TRAYLOR could fraudulently sign KIMBROUGH's name to medical documentation.

34. MILLICENT TRAYLOR and Price would provide and cause to be provided prescriptions for medically unnecessary controlled substances, including oxycodone, to patient marketers and Medicare beneficiaries, in exchange for those beneficiaries serving as patients at Metro Mobile and Patient Choice.

35. MILLICENT TRAYLOR and Price would fraudulently sign the name and provider information of licensed physicians on medical documentation, including home health certifications, plans of care, recertifications, and other documents, for medical services that were unnecessary, not eligible for reimbursement, not provided by licensed physicians, and often never provided at all.

36. MILLICENT TRAYLOR, CHRISTINA KIMBROUGH, Price, Qazi, and others, would falsify, fabricate, alter, and cause the falsification, fabrication, and alteration of Metro Mobile, Patient Choice and United medical records, including home health certifications and plans of care, therapy notes, evaluations, recertifications, and discharges in order to support claims for home health care and other physician services that were obtained through kickbacks and bribes, were medically unnecessary, and were not provided.

37. MILLICENT TRAYLOR, CHRISTINA KIMBROUGH, Price, Qazi and others would submit and cause the submission of false and fraudulent claims to Medicare for home health care and other physician services purportedly provided by Metro Mobile, Patient Choice, and United in an amount exceeding $8.9 million.

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

Count 2
18 U.S.C. § 371
Conspiracy to Pay and Receive Healthcare Kickbacks

D-3 ~~D-1~~ MILLICENT TRAYLOR

38. Paragraphs 1 through 22 and 27 through 37 of this First Superseding Indictment are realleged and incorporated by reference as though fully set forth herein.

39. From in or around October of 2012, through in or around June of 2016, the exact dates being unknown to the Grand Jury, in Wayne County and Oakland County, in the Eastern District of Michigan, and elsewhere, the defendant, MILLICENT TRAYLOR, did knowingly and willfully combine, conspire, confederate and agree with Price, Qazi and others, known and unknown to the Grand Jury, to commit certain offenses against the United States, that is,

(a) to violate Title 42, United States Code, Section 1320a-7b(b)(2)(A) by knowingly and willfully offering and paying any remuneration (including any kickback, bribe, or rebate) directly and indirectly, overtly and covertly, in cash and in kind in return for referring 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 or in part by Medicare, a Federal health care program as defined in Title 18, United States Code, Section 24(b);

(b) to violate Title 42, United States Code, Section 1320a-7b(b)(1)(A) by knowingly and willfully soliciting and receiving any remuneration (including any kickback, bribe, or rebate) directly and indirectly, overtly and covertly, in cash and in kind in return for referring 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 or in part by Medicare, a Federal health care program as defined in Title 18, United States Code, Section 24(b); and

(c) to violate Title 42, United States Code, Section 1320a-7b(b)(1)(B) by knowingly and willfully soliciting and receiving any remuneration (including any kickback, bribe, or rebate) directly and indirectly, overtly and covertly, in cash and in kind in return for purchasing, leasing, ordering, and arranging for and recommending the purchasing, leasing and ordering of any service and item for which payment may be made in whole or in part by Medicare, a Federal health care program as defined in Title 18, United States Code, Section 24(b).

Purpose of the Conspiracy

40. It was a purpose of the conspiracy for MILLICENT TRAYLOR and her co-conspirators to unlawfully enrich themselves by offering, paying, soliciting and receiving kickbacks and bribes in exchange for: (1) referring Medicare beneficiaries to serve as patients at Metro Mobile, Patient Choice, and United; and

(2) fraudulently signing the name of licensed physicians on medical documents, including home health certifications.

Manner and Means

41. The manner and means by which the defendant and her co-conspirators sought to accomplish the purpose of the conspiracy included, among other things, paragraphs 30, 31, and 34 of the manner and means section of Count 1 of this First Superseding Indictment which are realleged and incorporated by reference as though fully set forth herein, and:

42. MILLICENT TRAYLOR, Price and Qazi would submit or cause the submission of claims to Medicare through Metro Mobile, Patient Choice and United for home health care and other physician services that were purportedly provided to the recruited beneficiaries.

Overt Acts

43. In furtherance of the conspiracy, and to accomplish its purposes and objects, at least one of the conspirators committed, or caused to be committed, in the Eastern District of Michigan, the following overt acts, among others:

44. On or about September 11, 2014, MILLICENT TRAYLOR received a kickback from Qazi in the form of a check drawn on JPMorgan Chase Bank account x9919, held in the name of United, for "consulting…" in the approximate amount of

$1,600, in exchange for referring Medicare beneficiaries to serve as patients at United.

45. On or about October 8, 2014, MILLICENT TRAYLOR received a kickback from Qazi in the form of a check drawn on JPMorgan Chase Bank account x9919, held in the name of United, in the approximate amount of $300 in exchange for referring Medicare beneficiaries to serve as patients at United.

46. On or about March 2, 2016, Qazi paid a kickback to Price in the form of a check drawn on JPMorgan Chase Bank account x9919, held in the name of United, for "consulting fee," in the approximate amount of $3,000 in exchange for referring Medicare beneficiaries to serve as patients at United and for paying MILLICENT TRAYLOR to complete fraudulent medical documents allowing United to bill Medicare for home health services.

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

Counts 3-7
18 U.S.C. §§ 1347 and 2
Health Care Fraud

D-3 ~~D-1~~ MILLICENT TRAYLOR
D-4 ~~D-2~~ CHRISTINA KIMBROUGH

47. Paragraphs 1 through 22 of this First Superseding Indictment are realleged and incorporated by reference as though fully set forth herein.

48. On or about the dates enumerated below, in Wayne County and Oakland County, in the Eastern District of Michigan, and elsewhere, the defendants,

MILLICENT TRAYLOR and CHRISTINA KIMBROUGH, 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, 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 Medicare, in connection with the delivery of and payment for health care benefits, items, and services.

Purpose of the Scheme and Artifice

49. It was a purpose of the scheme and artifice for defendants MILLICENT TRAYLOR and CHRISTINA KIMBROUGH, and their accomplices, to unlawfully enrich themselves by, among other things, (a) submitting and causing the submission of false and fraudulent claims to Medicare for services that were obtained through kickbacks and bribes, were medically unnecessary, and were not provided; (b) offering, paying, soliciting and receiving kickbacks and bribes in exchange for referring Medicare beneficiaries to serve as patients at Metro Mobile, Patient Choice and United; and (c) diverting proceeds of the fraud for the personal use and benefit of the defendants and their accomplices.

The Scheme and Artifice

50. Paragraphs 27 through 37 of Count 1 of this First Superseding Indictment are realleged and incorporated by reference as though fully set forth herein as a description of the scheme and artifice.

Acts in Execution of the Scheme and Artifice

51. On or about the dates specified as to each count below, in Wayne County and Oakland County, in the Eastern District of Michigan, and elsewhere, the defendants, acting in concert with, and aided and abetted by each other and others, 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, 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 healthcare benefit program:

Count	Defendants	Medicare Beneficiary	Approximate Date of Service	Description of Items Billed	Approximate Amount Billed to Medicare
3	~~D-1~~ D-3 MILLICENT TRAYLOR; ~~D-2~~ D-4 CHRISTINA KIMBROUGH	D.B.	9/26/2015	Physician supervision of home health services (Code: G0181)	$125.00
4	~~D-1~~ D-3 MILLICENT TRAYLOR; ~~D-2~~ D-4 CHRISTINA KIMBROUGH	D.B.	9/26/2015	Established patient office visit (Code: 99213)	$125.00
5	~~D-1~~ D-3 MILLICENT TRAYLOR; ~~D-2~~ D-4 CHRISTINA KIMBROUGH	J.C.	11/17/2015	Physician supervision of home health services (Code: G0181)	$125.00
6	~~D-1~~ D-3 MILLICENT TRAYLOR; ~~D-2~~ D-4 CHRISTINA KIMBROUGH	J.C.	11/17/2015	Face to face behavioral counseling for obesity (Code G0447)	$35.00
7	~~D-1~~ D-3 MILLICENT TRAYLOR; ~~D-2~~ D-4 CHRISTINA KIMBROUGH	M.C.	3/31/2016	Annual wellness visit (Code G0438)	$200.00

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

Forfeiture Allegations

(18 U.S.C. § 982(a)(7) and/or 18 U.S.C. § 981 with 28 U.S.C. § 2461)

52. The above allegations contained in this First Superseding Indictment are incorporated by reference as if set forth fully herein for the purpose of alleging forfeiture pursuant to the provisions of 18 U.S.C. § 982(a)(7) and/or 18 U.S.C. § 981 with 28 U.S.C. § 2461.

53. As a result of the violations of 18 U.S.C. §§ 371, 1347, 1349 and/or 42 U.S.C. § 1320a-7b, as set forth in this First Superseding Indictment, defendants MILLICENT TRAYLOR and CHRISTINA KIMBROUGH shall forfeit to the United States any property, real or personal, that constitutes or is derived from, gross proceeds traceable to the commission of such violations, pursuant to 18 U.S.C. § 982(a)(7) and/or 18 U.S.C. § 981 with 28 U.S.C. § 2461.

54. Substitute Assets: 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 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 that cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to 21 U.S.C. § 853(p) as incorporated by 18 U.S.C. § 982(b), to seek to forfeit any other property of the defendants up to the value of the forfeitable property described above.

55. Money Judgment: A sum of money equal to at least $8.9 million in United States currency, or such amount as is proved at trial in this matter, representing the total amount of gross proceeds obtained as a result of the defendants' violations, as alleged in this First Superseding Indictment.

THIS IS A TRUE BILL.

s/Grand Jury Foreperson
Grand Jury Foreperson

DANIEL L. LEMISCH
Acting United States Attorney

s/Wayne F. Pratt
WAYNE F.PRATT
Assistant United States Attorney
Chief, Health Care Fraud Unit
Eastern District of Michigan

s/Allan Medina
ALLAN MEDINA
Assistant Deputy Chief
Criminal Division, Fraud Section
U.S. Department of Justice

s/Stephen Cincotta
STEPHEN CINCOTTA
Trial Attorney
Criminal Division, Fraud Section
U.S. Department of Justice

Date: June 29, 2017

ORIGINAL

United States District Court Eastern District of Michigan	**Criminal Case Cover Sheet**	**Case Number** 16-cr-20437

NOTE: It is the responsibility of the Assistant U.S. Attorney signing this form to complete it accurately in all respects.

Companion Case Information	**Companion Case Number:**
This may be a companion case based upon LCrR 57.10 (b)(4)[1]:	**Judge Assigned:**
☐ Yes ☒ No	**AUSA's Initials:** SC

Case Title: USA v. Traylor, et al.

County where offense occurred : Wayne County, Oakland County

Check One: ☒Felony ☐Misdemeanor ☐Petty

____Indictment/____Information --- **no** prior complaint.
____Indictment/____Information --- based upon prior complaint [**Case number:**]
__✓__Indictment/____Information --- based upon LCrR 57.10 (d) ***[Complete Superseding section below]***

Superseding Case Information

Superseding to Case No: 16-cr-20437 **Judge:** Hon. Robert H. Cleland

☐Corrects errors; no additional charges or defendants.
☐Involves, for plea purposes, different charges or adds counts.
☒Embraces same subject matter but adds the additional defendants or charges below:

Defendant name	Charges	Prior Complaint (if applicable)
Millicent Traylor	18 U.S.C. § 1349	
Christina Kimbrough	18 U.S.C. § 371 18 U.S.C. §§ 1347	

Please take notice that the below listed Assistant United States Attorney is the attorney of record for the above captioned case.

June 29, 2017
Date

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[1] Companion cases are matters in which it appears that (1) substantially similar evidence will be offered at trial, or (2) the same or related parties are present, and the cases arise out of the same transaction or occurrence. Cases may be companion cases even though one of them may have already been terminated.