

JUSTICE NEWS

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Owner of Detroit-area Medical Clinic Sentenced to 151 Months in Prison for \$23 Million Medicare Fraud Scheme

WASHINGTON – The owner and the vice president of a Detroit-area physical therapy clinic were sentenced to 151 months and 108 months in prison, respectively, for their leading roles in a \$23 million Medicare fraud scheme, the Departments of Justice and Health and Human Services (HHS) announced.

Bernice Brown, 56, the owner of Wayne County Therapeutic Inc. (WCT), and Daniel Smorynski, 63, the vice president of WCT, were sentenced by U.S. District Court Judge Arthur Tarnow in the Eastern District of Michigan. In addition to their prison terms, Brown and Smorynski were sentenced to three years of supervised release and were ordered to pay jointly and severally \$6.5 million in restitution.

Brown and Smorynski were convicted by a federal jury earlier this year, after a six-day trial. Brown was convicted of one count of conspiracy to commit health care fraud and nine counts of health care fraud. Smorynski was convicted of one count of conspiracy to commit health care fraud and five counts of health care fraud. Smorynski was acquitted on four counts of health care fraud.

According to evidence presented at trial, WCT, which operated in Livonia, Mich., purported to specialize in physical and occupational therapy. Evidence at trial established that Brown purchased from certain third-party contractors fake physical and occupational therapy files that were created by non-enrolled, and in many cases, non-licensed contractor therapists. Rather than provide therapy, the contractor therapists paid Medicare beneficiaries cash kickbacks to induce the Medicare beneficiaries to provide their Medicare numbers and to sign false documentation to make it appear as if they received therapy. Most, if not all, of the therapy was completely fictitious. Brown and Smorynski billed the services reflected in the fictitious files to Medicare as if WCT therapists had provided the services. Brown instructed her staff to create false documents to add to the fictitious medical files to make it appear that WCT therapists, who were licensed in the state and enrolled with Medicare, had performed the services, when she knew they had not. Smorynski was in charge of billing at WCT and aided in the submission of claims for services he knew WCT did not provide. Between approximately October 2002 and September 2006, Brown and Smorynski submitted approximately \$23.2 million in claims to Medicare for physical and occupational therapy services that were never provided. Medicare paid approximately \$6.5 million of those claims.

Evidence at trial showed that Brown and Smorynski, in addition to submitting claims for non-existent physical and occupational therapy, caused WCT to submit fraudulent claims for psychotherapy services. In January 2006, when Congress enacted a cap on physical and occupational therapy services to control costs, Brown and Smorynski devised a scheme to avoid the cap by billing for psychotherapy services. Evidence at trial showed that Brown and Smorynski launched a lobbying effort to repeal the cap, which included WCT staff drafting letters and petitions to Congress purportedly on behalf of Medicare patients. Brown and Smorynski then instructed WCT staff to bill Medicare for their lobbying efforts as psychotherapy

evaluations and visits. In 2006, WCT billed \$493,200 to Medicare for psychotherapy services that were not necessary and not provided, and Medicare paid approximately \$121,921 of those claims.

Today's sentences were announced by Assistant Attorney General Lanny A. Breuer of the Criminal Division; U.S. Attorney for the Eastern District of Michigan Barbara L. McQuade; Special Agent in Charge Andrew G. Arena of the FBI's Detroit Field Office; and Special Agent in Charge Lamont Pugh III of the HHS Office of Inspector General's (HHS-OIG) Chicago Regional Office.

These cases were prosecuted by Trial Attorneys Benjamin Singer and Gejaa T. Gobena of the Criminal Division's Fraud Section. The cases were investigated by the FBI and HHS-OIG, and were brought as part of the Medicare Fraud Strike Force, supervised by the Criminal Division's Fraud Section and the U.S. Attorney's Office for the Eastern District of Michigan.

Since its inception in March 2007, Medicare Fraud Strike Force operations in seven districts have obtained indictments of more than 825 individuals and organizations that collectively have billed the Medicare program for more than \$2 billion. In addition, HHS's Centers for Medicare and Medicaid Services, working in conjunction with the HHS-OIG, are taking steps to increase accountability and decrease the presence of fraudulent providers.

To learn more about the Health Care Fraud Prevention and Enforcement Action Team (HEAT), go to: www.stopmedicarefraud.gov.

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Criminal Division