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CENTRAL DIST. OF CALIF.
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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
June 2011 Grand Jury

CR 11 00181

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
BYUNG HO PAK and)
MARY LIM,)
)
Defendants.)

SA CR _____
I N D I C T M E N T
[18 U.S.C. § 1347: Health Care
Fraud]

The Grand Jury charges:

COUNTS ONE THROUGH TEN
[18 U.S.C. § 1347]

A. INTRODUCTORY ALLEGATIONS

At all times relevant to this Indictment:

The Defendants

1. Defendant BYUNG HO PAK ("defendant PAK") was a Medicare provider, using provider number A40989.
2. Between on or about September 8, 2005, and on or

1 about December 2008, defendant PAK operated a medical clinic
2 under the name Byung Ho Pak, M.D., located at 12921 Fern Street,
3 Unit I, in Garden Grove, California (the "Fern Street Clinic").

4 3. Defendant MARY LIM ("defendant LIM") managed the Fern
5 Street Clinic for defendant PAK.

6 4. Defendant LIM was not a physician, physical therapist
7 ("PT"), or PT assistant licensed to practice in California.

8 5. Between on or about October 7, 2005, and on or about
9 October 24, 2008, defendant PAK billed Medicare approximately
10 \$2,085,892.00, of which Medicare paid approximately
11 \$1,411,778.26, for physical therapy defendant PAK purportedly
12 provided to the patients at the Fern Street Clinic.

13 The Medicare Program

14 6. Medicare was a federal health care benefit program,
15 affecting commerce, that provided benefits to individuals who
16 were over the age of 65 or disabled. Medicare was administered
17 by the Centers for Medicare and Medicaid Services ("CMS"), a
18 federal agency under the United States Department of Health and
19 Human Services ("HHS").

20 7. Individuals who qualified for Medicare benefits were
21 referred to as Medicare "beneficiaries." Each Medicare
22 beneficiary was given a Health Identification Card containing a
23 unique Identification number ("HICN").

24 8. Physicians and other health care providers who provided
25 medical services that were reimbursed by Medicare were referred
26 to as Medicare "providers."

27 9. Medicare had various parts relating to the nature of
28 the services rendered to beneficiaries. Medicare Part B covered

1 the cost of physicians' services and other ancillary services,
2 including physical therapy services.

3 10. To obtain reimbursement from Medicare, a physician
4 first had to apply for and obtain a provider number. By signing
5 the provider application, the physician agreed to (a) abide by
6 Medicare rules and regulations; and (b) not submit claims to
7 Medicare knowing they were false or fraudulent or with deliberate
8 ignorance or reckless disregard of their truth or falsity.

9 11. If Medicare approved a provider's application, Medicare
10 assigned the provider a Medicare provider number, which enabled
11 the physician to submit claims to Medicare for services rendered
12 to Medicare beneficiaries.

13 12. Between in or about September 2005 and on or about
14 September 1, 2008, the National Health Insurance Company ("NHIC")
15 processed and paid Medicare Part B claims in Southern California.
16 From on or about September 2, 2008, onward, Palmetto GBA
17 ("Palmetto") performed this function.

18 13. Medicare reimbursed providers only for services that
19 were medically necessary to the treatment of a beneficiary's
20 illness or injury, were prescribed by a beneficiary's physician,
21 and were provided in accordance with Medicare regulations and
22 guidelines that governed whether a particular item or service
23 would be reimbursed by Medicare.

24 14. Medicare required that physical therapy services be
25 performed by (a) a physician, (b) PT, or (c) a PT assistant
26 acting under the direct supervision of a physician or a PT.
27 "Direct supervision" meant that the doctor or PT was physically
28 present in the same office suite and immediately available to

1 provide assistance and direction throughout the time the PT
2 assistant was performing physical therapy services. Therapy
3 services provided by aides or physical therapy students were not
4 reimbursable by Medicare, regardless of the level of supervision.

5 15. Medicare did not cover acupuncture or reimburse
6 providers for acupuncture services. Nor did Medicare cover or
7 reimburse providers for moxibustion, which involves the burning
8 of moxa, or mugwort, on the skin in an effort to stimulate
9 circulation.

10 16. To bill Medicare for services provided to a
11 beneficiary, a physician was required to submit a claim to NHIC
12 or Palmetto. Medicare required claims to be truthful, complete,
13 and not misleading. In addition, when a claim was submitted, the
14 physician was required to certify that the services covered by
15 the claim were medically necessary.

16 17. Medicare required a claim for Medicare reimbursement of
17 services to set forth, among other things, the beneficiary's name
18 and HICN, the beneficiary's diagnosis, the Current Procedural
19 Terminology ("CPT") code for the service provided to the
20 beneficiary, the date the service was provided, and the name and
21 unique physician identification number ("UPIN") of the physician
22 who ordered the service.

23 18. Medicare Part B had a co-payment requirement for
24 physician and PT services. Medicare reimbursed providers 80% of
25 the allowed amount for such services, and the beneficiary was
26 obligated to pay the remaining 20%, either personally or through
27 their secondary insurance.

28

1 B. THE SCHEME TO DEFRAUD

2 19. Beginning in or around October 2005, and continuing
3 until in or around December 2008, in Orange County, within the
4 Central District of California, and elsewhere, defendants PAK and
5 LIM, together with others known and unknown to the Grand Jury,
6 knowingly, willfully, and with intent to defraud, executed a
7 scheme and artifice: (a) to defraud a health care benefit
8 program, namely Medicare, as to material matters in connection
9 with the delivery of and payment for health care benefits, items,
10 and services; and (b) to obtain money from Medicare by means of
11 material false and fraudulent pretenses and representations and
12 the concealment of material facts in connection with the delivery
13 of and payment for health care benefits, items, and services.

14 20. The fraudulent scheme operated, in substance, in the
15 following manner:

16 a. Medicare beneficiaries came to the Fern Street
17 Clinic between October 2005 and October 2008, seeking acupuncture
18 or massage services they had heard were provided at the clinic.

19 b. Defendant LIM and others at the clinic took the
20 beneficiaries' Medicare Health Identification Cards, HICNs, and
21 other personal information during the beneficiaries' initial
22 visit to the clinic.

23 c. While at the clinic, the beneficiaries received
24 (often exclusively) services not covered by Medicare, including
25 acupuncture, acupressure, massage, and/or moxibustion, from
26 defendant LIM and others working at defendant LIM's instruction,
27 who were neither physicians, PTs, or PT assistants.

28 d. Some beneficiaries saw defendant PAK only rarely,

1 while others never saw or received any services from him at all.

2 e. Defendants PAK and LIM worked together to
3 fraudulently bill Medicare for Medicare-covered services such as
4 office visits and physical therapy, including therapeutic
5 procedures, manual therapy techniques, neuromuscular reeducation,
6 and electrical stimulation, even though the beneficiaries never
7 or only rarely received those services at the Fern Street Clinic,
8 and instead received non-covered services such as acupuncture,
9 acupressure, massage, and moxibustion.

10 f. Defendants PAK and LIM also worked together to
11 create fake patient records for covered services, such as office
12 visits and physical therapy that the beneficiaries never or only
13 rarely received, in order to support their fraudulent billing
14 claims to Medicare and conceal their fraudulent scheme from
15 potential auditors and others.

16 g. Defendant PAK reviewed and initialed most of the
17 billing forms called superbills, while defendant LIM either faxed
18 or personally delivered the superbills to Hansol Medical
19 Management, Inc. ("Hansol"), the billing service that used these
20 superbills to bill Medicare on defendant PAK's behalf. These
21 superbills contained CPT codes for office visits, therapeutic
22 procedures, manual therapy techniques, neuromuscular reeducation,
23 and electrical stimulation, services which were never or rarely
24 provided.

25 h. Medicare paid defendants PAK and LIM for these
26 submitted claims by checks that were deposited by defendants PAK
27 and LIM into bank accounts controlled by PAK and LIM.

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1 C. EXECUTION OF THE SCHEME TO DEFRAUD

2 21. On or about the following dates, in Orange County,
 3 within the Central District of California, and elsewhere,
 4 defendants PAK and LIM, together with others known and unknown to
 5 the Grand Jury, for the purpose of executing the scheme to
 6 defraud described above, knowingly and willfully submitted and
 7 caused to be submitted to Medicare the following false and
 8 fraudulent claims:

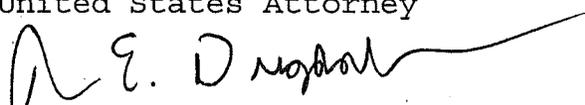
<u>Count</u>	<u>Claim Number</u>	<u>Approx. Date Submitted</u>	<u>Amount Paid</u>	<u>Beneficiary</u>	<u>CPT Code and Nature of Claim</u>
ONE	55180731 8447680	11/14/2007	\$47.73	J.I.	99213 (Office visit for evaluation of established patient)
TWO	55180731 8447690	11/14/2007	\$121.09	J.I.	97110 (Therapeutic procedure), 97140 (Manual therapy techniques), G0283 (Electrical stimulation), 97112 (Neuromuscular re-education)
THREE	55110807 3042850	3/14/2008	\$101.59	C.C.	97110 (Therapeutic procedure), 97140 (Manual therapy techniques), G0283 (Electrical stimulation)
FOUR	55110813 3106050	5/13/2008	\$103.44	E.C.	97110 (Therapeutic procedure), 97140 (Manual therapy techniques), G0283 (Electrical stimulation)
FIVE	55180824 8039980	9/5/2008	\$54.21	E.C.	99213 (Office visit for evaluation of established patient)

1	SIX	55180824 8039990	9/5/2008	\$103.44	E.C.	97110 (Therapeutic procedure), 97140 (Manual therapy techniques), G0283 (Electrical stimulation)
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4	SEVEN	55110815 4074650	6/3/2008	\$53.52	S.K.	99213 (Office visit for evaluation of established patient)
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6	EIGHT	55110815 4074660	6/3/2008	\$101.59	S.K.	97110 (Therapeutic procedure), 97140 (Manual therapy techniques), G0283 (Electrical stimulation)
7						
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9	NINE	55110828 4019710	10/11/2008	\$54.21	S.C.	99213 (Office visit for evaluation of established patient)
10						
11	TEN	55110828 4019720	10/11/2008	\$103.44	S.C.	97110 (Therapeutic procedure), 97140 (Manual therapy techniques), G0283 (Electrical stimulation)
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15 A TRUE BILL

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17 15/
18 Foreperson

19 ANDRÉ BIROTTE JR.
United States Attorney

20 
21 ROBERT E. DUGDALE
Assistant United States Attorney
22 Chief, Criminal Division

23 BEONG-SOO KIM
Assistant United States Attorney
24 Chief, Major Frauds Section

25 CONSUELO S. WOODHEAD
Assistant United States Attorney
26 Deputy Chief, Major Frauds Section

27 KRISTEN A. WILLIAMS
Assistant United States Attorney
28 Major Frauds Section