

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 11-20618-CR-LENARD/O'SULLIVAN
18 U.S.C. § 371
18 U.S.C. § 2
18 U.S.C. § 982

UNITED STATES OF AMERICA

vs.

RUFUS CARGILE,

Defendant.

INFORMATION

The United States Attorney charges that:

GENERAL ALLEGATIONS

At all times relevant to this Information,

1. The Medicare Program ("Medicare") is a federal health care program providing benefits to persons who were over the age of sixty-five or disabled. Medicare is 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 receive benefits under Medicare are referred to as Medicare "beneficiaries." Medicare is a Federal health care program, as defined by Title 42, United States Code, Section 1320a-7b(f)(1).

2. Part B of the Medicare program covers partial hospitalization programs ("PHPs") connected with the treatment of mental illness. The treatment program of PHPs closely resembles that of a highly structured, short-term hospital inpatient program, but it is a distinct and organized intensive treatment program that offers less than 24-hour daily care and is

designed, in part, to reduce medical costs by treating qualifying individuals outside the hospital setting.

3. Under the PHP benefit, Medicare covers the following services: (1) individual and group therapy with physicians or psychologists (or other authorized mental health professionals); (2) occupational therapy; (3) services of social workers, trained psychiatric nurses, and other staff trained to work with psychiatric patients; (4) drugs and biologicals furnished for therapeutic purposes that cannot be self-administered; (5) individualized activity therapies that are not primarily recreational or diversionary; (6) family counseling (for treatment of the patient's condition); (7) patient training and education; and (8) diagnostic services.

4. Medicare generally requires that the PHP be provided at a facility that is hospital-based or hospital-affiliated, but Medicare also allows a PHP to be provided in a Community Mental Health Center ("CMHC"), which is a provider type under Part A of Medicare.

5. Medicare requires that, to qualify for the PHP benefit, the services must be reasonable and necessary for the diagnosis and active treatment of the individual's condition. The program also must be reasonably expected to improve or maintain the condition and functional level of the patient and to prevent relapse or hospitalization. The program must be prescribed by a physician and furnished under the general supervision of a physician and under an established plan of treatment that meets Medicare requirements.

6. Typically, a patient who needs this intensive PHP treatment has a long history of mental illness that has been treated. Patients are ordinarily referred either (a) by a hospital after full inpatient hospitalization for severe mental illness or (b) by a doctor who is trying to prevent full inpatient hospitalization for a severely mentally ill patient the doctor has been treating.

7. Medicare guidelines specifically exclude meals and transportation from coverage

under the PHP benefit.

8. Medicare does not cover programs involving primarily social, recreational, or diversionary activities.

9. In order to receive payment from Medicare, a CMHC, medical clinic or physician is required to submit a health insurance claim form to Medicare, called a Form 1450. The claims may be submitted in hard copy or electronically. A CMHC, medical clinic, and physician may contract with a billing company to transmit claims to Medicare on their behalf.

10. Medicare Part B is administered in Florida by Mutual of Omaha, which, pursuant to contract with the United States Department of Health and Human Services, serves as a contracted carrier to receive, adjudicate and pay Medicare Part B claims submitted to it by Medicare beneficiaries, physicians, or CMHCs. Medicare Part B pays CMHCs and physicians directly for the cost of PHP services furnished to eligible Medicare beneficiaries, provided that the services meet Medicare requirements.

The Defendant and Biscayne Milieu Health Center, Inc.

11. Defendant **RUFUS CARGILE**, a resident of Broward County, was a former patient of Biscayne Milieu, who subsequently assisted in funneling ineligible patients into Biscayne Milieu's PHP in exchange for kickbacks.

12. Biscayne Milieu was a CMHC located in Miami-Dade County, purportedly operating a PHP.

CONSPIRACY TO RECEIVE AND PAY HEALTH CARE KICKBACKS
(18 U.S.C. § 371)

13. From in or around January 2010, and continuing through in or around June 2010, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

RUFUS CARGILE,

did willfully and knowingly combine, conspire, confederate and agree with others known and unknown to the United States Attorney, to commit certain offenses against the United States, that is,

- a. To violate Title 42, United States Code, Section 1320a-7b(b)(1), by knowingly and willfully soliciting and receiving remuneration, specifically, kickbacks and bribes, directly and indirectly, overtly and covertly, in return for referring individuals 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 a Federal health care program, that is, Medicare, and in return for the purchasing, leasing, ordering, and arranging for and recommending the purchasing, leasing, and ordering of any good, item, and service for which payment may be made in whole and in part by a Federal health care program, that is, Medicare; and
- b. To violate Title 42, United States Code, Section 1320a-7b(b)(2), by knowingly and willfully offering and paying remuneration, including, kickbacks and bribes, directly and indirectly, overtly and covertly, in return for referring individuals 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 a Federal health care program, that is, Medicare, and in return for the purchasing, leasing, ordering, and arranging for and recommending the purchasing, leasing, and ordering of any good, 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

14. It was a purpose of the conspiracy for the defendant and his co-conspirators to unlawfully enrich themselves by receiving and paying kickbacks and bribes in exchange for (a) securing the attendance of Medicare beneficiaries at Biscayne Milieu's PHP, and (b)

providing beneficiary information that was used to submit claims to Medicare.

MANNER AND MEANS OF THE CONSPIRACY

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

15. Biscayne Milieu recruited and caused the recruitment of John Jackson and Sabrina Pressley to provide Medicare beneficiaries to participate in Biscayne Milieu's PHP in exchange for kickback payments.

16. Biscayne Milieu paid John Jackson and Sabrina Pressley approximately twenty-five dollars (\$25.00) per patient for each day that the patient attended a group therapy session at Biscayne Milieu's PHP. John Jackson and Sabrina Pressley likewise paid cash kickbacks to some of the patients that they had recruited in exchange for their attendance at Biscayne Milieu's PHP.

17. **RUFUS CARGILE** assisted John Jackson and Sabrina Pressley by distributing the cash kickback payments to the patients that John Jackson and Sabrina Pressley had recruited to attend Biscayne Milieu's PHP.

18. John Jackson and Sabrina Pressley paid **RUFUS CARGILE** a portion of the kickback proceeds in exchange for **CARGILE's** agreement to distribute the cash kickback payments to the patients recruited by John Jackson and Sabrina Pressley to attend Biscayne Milieu's PHP.

19. From in or around January 2010, and continuing through in or around June 2010, Biscayne Milieu, John Jackson and Sabrina Pressley caused false and fraudulent claims to be submitted to Medicare for services purportedly provided at Biscayne Milieu's PHP in the approximate amount of \$4,790,600. As a result of the submission of these false and fraudulent

claims, Medicare paid approximately \$1,995,825 to Biscayne Milieu.

OVERT ACTS

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

1. In or around May 2010, **RUFUS CARGILE** delivered \$450.00 in cash to Patient 1 in exchange for Patient 1's attendance at Biscayne Milieu's PHP.
2. In or around May 2010, **RUFUS CARGILE** delivered \$500.00 in cash to Patient 2 in exchange for Patient 2's attendance at Biscayne Milieu's PHP.
3. In or around May 2010, **RUFUS CARGILE** delivered \$100.00 in cash to Patient 3 in exchange for Patient 3's attendance at Biscayne Milieu's PHP.
4. In or around May 2010, **RUFUS CARGILE** delivered \$200.00 in cash to Patient 4 in exchange for Patient 4's attendance at Biscayne Milieu's PHP.
5. In or around May 2010, **RUFUS CARGILE** delivered \$400.00 in cash to Patient 5 in exchange for Patient 5's attendance at Biscayne Milieu's PHP.
6. In or around May 2010, **RUFUS CARGILE** delivered \$360.00 in cash to Patient 6 in exchange for Patient 6's attendance at Biscayne Milieu's PHP.

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

CRIMINAL FORFEITURE (18 U.S.C. § 982)

1. The allegations contained in this Information 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 **RUFUS CARGILE** has an interest.

2. Upon conviction of this Information, the defendant, **RUFUS CARGILE**, shall

forfeit to the United States any property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the offense pursuant to Title 18, United States Code, Section 982(a)(7).

3. The property which is subject to forfeiture includes, but is not limited to approximately \$387,135, which represents the gross proceeds of the improper benefit received in exchange for the kickback payments made and delivered by **RUFUS CARGILE**.

4. If any of the property described above, 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 which cannot be divided without difficulty,

the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b)(1).

All pursuant to Title 18, United States Code, Section 982(a)(7) and the procedures outlined in Title 21, United States Code, Section 853.

R *W.A.F., Chief, Criminal Division*
WIFREDO A. FERRER
UNITED STATES ATTORNEY

[Signature]
ALICIA E. SHICK
ASSISTANT UNITED STATES ATTORNEY