

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
11-20527

Case No. _____

18 U.S.C. § 1349
18 U.S.C. § 1347
18 U.S.C. § 2
18 U.S.C. § 982(a)(7)

CR-MORENO
MAGISTRATE JUDGE
BROWN

FILED by _____ D.C.
AUG - 4 2011
STEVEN M. LARIMORE
CLERK U. S. DIST. CT
S. D. of FLA. - MIAMI

UNITED STATES OF AMERICA

vs.

CLARA LUZ VARONA,

Defendant.

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. The benefits available under Medicare are prescribed by statute and by federal regulations under the auspices of the United States Department of Health and Human Services (“HHS”), through its agency, the Centers for Medicare and Medicaid Services (“CMS”). 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. Part B of the Medicare Program was a medical insurance program that covered, among other things, certain physician and outpatient services, and other health care benefits, items, and services, including durable medical equipment (“DME”), that were medically necessary and ordered by licensed medical doctors or other qualified health care providers. DME is equipment that is designed for repeated use and for a medical purpose, such as prosthetic limbs, back braces, knee braces, wheelchairs, nebulizers, oxygen concentrators and related medications and supplies.

4. For Florida beneficiaries, Medicare Part B’s insurance concerning DME and related health care benefits, items, and services, was administered by Palmetto Government Benefits Administrators (“Palmetto GBA”) and later CIGNA Government Services (“CIGNA”), pursuant to a contract with HHS. Among Palmetto GBA and CIGNA’s responsibilities, each received, adjudicated, and paid the claims of authorized DME/pharmacy suppliers that were seeking reimbursement for the cost of DME and other health care benefits, items, or services supplied or provided to Medicare beneficiaries.

Medicare Billing Procedures

5. A DME/pharmacy company that sought to participate in Medicare Part B and bill Medicare for the cost of DME and related benefits, items, and services was required to apply for and receive a “supplier number.” The supplier number allowed a DME/pharmacy company to submit bills, known as “claims,” to Medicare to obtain reimbursement for the cost of DME and related health care benefits, items, and services that a DME/pharmacy company had supplied to beneficiaries.

6. To receive payment from Medicare, a DME/pharmacy company, using its supplier number, would submit a health insurance claim form, known as a CMS-1500. Medicare permitted

DME/pharmacy companies to submit a CMS-1500 electronically or by way of a paper claim form. The CMS-1500 required DME/pharmacy companies to provide certain important information, including: (a) the Medicare beneficiary's name and identification number; (b) the identification number of the doctor or other qualified health care provider who ordered the health care benefit, item, or service that was the subject of the claim; (c) the health care benefit, item, or service that was provided or supplied to the beneficiary; (d) the billing codes for the benefit, item, or service; and (e) the date upon which the benefit, item, or service was provided or supplied to the beneficiary.

7. Medicare, through Palmetto GBA or CIGNA, generally would pay a substantial portion of the cost of the DME or related health care benefits, items, and services that were medically necessary and ordered by licensed doctors or other licensed, qualified health care providers.

8. Payments under Medicare Part B were often made directly to the DME/pharmacy company rather than to the patient/beneficiary. For this to occur, the beneficiary would assign the right of payment to the DME/pharmacy company or other health care provider. Once such an assignment took place, the DME/pharmacy company would assume the responsibility for submitting claims to, and receiving payments from, Medicare.

9. Under Medicare rules and regulations, DME or other related health care benefits, items or other services, must be medically necessary and ordered by a licensed doctor or other licensed, qualified health care provider in order to be reimbursed by Medicare.

A & C Medical Supplies, Inc.

10. A & C Medical Supplies, Inc. (hereinafter "A&C") was a Florida corporation incorporated on January 27, 2005, that was located in Miami-Dade County, purportedly providing

DME and related items and services, including aerosol medications, to Medicare beneficiaries. A&C's place of business was located at 12237 SW 132 Court, Miami, Florida.

The Defendant

11. The defendant, **CLARA LUZ VARONA**, was a resident of Miami-Dade County.

COUNT 1

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

1. Paragraphs 1 through 11 of the General Allegations section of this Indictment are realleged and incorporated by reference as though fully set forth herein.

2. From on or about January 27, 2005, and continuing through on or about July 30, 2009, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

CLARA LUZ VARONA,

did knowingly and willfully combine, conspire, confederate and agree with 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 Medicare, a health care benefit program affecting commerce, as defined in Title 18, United States Code, Section 24(b), 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 CONSPIRACY

3. It was the purpose of the conspiracy for the defendant and her co-conspirators to unlawfully enrich themselves by, among other things: (a) submitting or causing the submission of false and fraudulent claims to Medicare; (b) concealing the submission of false and fraudulent claims

to Medicare and the receipt and transfer of fraud proceeds; and (c) diverting fraud proceeds for the personal use and benefit of themselves and others.

MANNER AND MEANS OF THE CONSPIRACY

The manner and means by which the defendant and her co-conspirators sought to accomplish the object and purpose of the conspiracy included, among other things, the following:

4. **CLARA LUZ VARONA** recruited a co-conspirator, Armando Ocegüera, to serve as a nominal owner of A&C in order to conceal **VARONA'S** interests in A&C.

5. **CLARA LUZ VARONA** and her co-conspirators submitted and caused A&C to submit approximately \$1,797,780 in Medicare claims for DME-related reimbursement, such claims falsely and fraudulently representing that DME items and services were prescribed by a doctor and provided to Medicare beneficiaries.

6. As a result of such false and fraudulent claims, **CLARA LUZ VARONA** caused Medicare to make payments to A&C in the approximate amount of \$1,130,286 to be deposited into A&C's corporate accounts.

7. For the purpose of concealing her involvement in the scheme, **CLARA LUZ VARONA** provided, or caused to be provided, checks issued by A&C to third parties, who would cash the checks and forward the proceeds to **VARONA** minus a check cashing fee.

8. **CLARA LUZ VARONA** and her co-conspirators used the proceeds of the health care fraud for their personal benefit and to further the fraud.

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

COUNTS 2-7
Health Care Fraud
(18 U.S.C. § 1347)

1. Paragraphs 1 through 11 of the General Allegations section of this Indictment are realleged and incorporated by reference as though fully set forth herein.

2. From on or about January 27, 2005, and continuing through on or about July 30, 2009, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

CLARA LUZ VARONA,

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 Medicare, a health care benefit program affecting commerce, as defined by Title 18, United States Code, Section 24(b), 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, that is, the defendant, through A&C, submitted and caused the submission of false and fraudulent claims to Medicare, seeking reimbursement for the cost of various DME items and services.

Purpose of the Scheme and Artifice

3. It was the purpose of the scheme and artifice for the defendant and her accomplices to unlawfully enrich themselves by, among other things: (a) submitting and causing the submission of false and fraudulent claims to Medicare; (b) concealing the submission of false and fraudulent claims to Medicare and the receipt and transfer of fraud proceeds; and (c) diverting fraud proceeds for the personal use and benefit of themselves and others.

The Scheme and Artifice

4. The allegations contained in paragraphs 4 through 8 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 set forth as to each count below, in Miami-Dade County, in the Southern District of Florida, and elsewhere, **CLARA LUZ VARONA**, 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 health care benefit program, in that, the defendant submitted and caused the submission of false and fraudulent Medicare claims, representing that A&C provided the identified DME and pharmaceutical items and services pursuant to physicians' orders or prescriptions:

Count	Medicare Beneficiary	Claim Number	Approximate Date of Claim	Product Code; Item Claimed; Approx. Amount Claimed
2	C.R.	108361747925000	12/26/2008	J7626; Budesonide, inhalation solution, FDA-approved final product, non-compounded; \$350
3	C.R.	109023707243000	01/23/2009	J7626; Budesonide, inhalation solution, FDA-approved final product, non-compounded; \$300

Count	Medicare Beneficiary	Claim Number	Approximate Date of Claim	Product Code; Item Claimed; Approx. Amount Claimed
4	M.A.	109125747469000	05/05/2009	J7626; Budesonide, inhalation solution, FDA-approved final product, non-compounded; \$350
5	D.A.	109138761025000	05/18/2009	J7626; Budesonide, inhalation solution, FDA-approved final product, non-compounded; \$350
6	M.A.	109153797361000	06/02/2009	J7626; Budesonide, inhalation solution, FDA approved final product non-compounded; \$350
7	D.A.	109196741030000	07/15/2009	J7626; Budesonide, inhalation solution, FDA-approved final product, non-compounded; \$350

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

FORFEITURE ALLEGATION
(18 U.S.C. § 982(a)(7))

1. The allegations of 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 defendant, **CLARA LUZ VARONA**, has an interest.

2. Upon conviction of any violation of Title 18, United States Code, Section 1349 or 1347, as alleged in Counts 1 through 7 of the Indictment, the defendant, **CLARA LUZ VARONA**, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 982(a)(7), all property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of such offense.

3. The property subject to forfeiture includes, but is not limited to, the sum of \$1,134,330 in United States currency which represents the gross proceeds of the fraud.

All pursuant to Title 18, United States Code, Sections 982(a)(7), and the procedures set forth

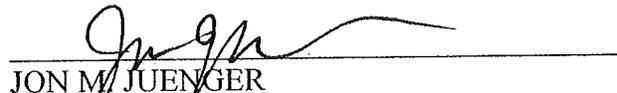
at Title 21, United States Code, Section 853, as made applicable through Title 18, United States Code, Section 982(b)(1).

A TRUE BILL

FOREPERSON



WIFREDO A. FERRER
UNITED STATES ATTORNEY



JON M. JUENGER
ASSISTANT UNITED STATES ATTORNEY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

UNITED STATES OF AMERICA

CASE NO. _____

vs.

CERTIFICATE OF TRIAL ATTORNEY*

CLARA LUZ VARONA,

Defendant.

Superseding Case Information:

Court Division: (Select One)

Miami Key West
 FTL WPB FTP

New Defendant(s) _____
Number of New Defendants _____
Total number of counts _____

Yes _____ No _____

I do hereby certify that:

- I have carefully considered the allegations of the indictment, the number of defendants, the number of probable witnesses and the legal complexities of the Indictment/Information attached hereto.
- I am aware that the information supplied on this statement will be relied upon by the Judges of this Court in setting their calendars and scheduling criminal trials under the mandate of the Speedy Trial Act, Title 28 U.S.C. Section 3161.

3. Interpreter: (Yes or No) Yes
List language and/or dialect Spanish

4. This case will take 4-5 days for the parties to try.

5. Please check appropriate category and type of offense listed below:
(Check only one) (Check only one)

I	0 to 5 days	<input checked="" type="checkbox"/>	Petty	_____
II	6 to 10 days	_____	Minor	_____
III	11 to 20 days	_____	Misdem.	_____
IV	21 to 60 days	_____	Felony	<input checked="" type="checkbox"/>
V	61 days and over	_____		

6. Has this case been previously filed in this District Court? (Yes or No) No

If yes: Judge: _____ Case No. _____

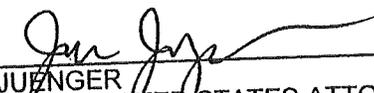
(Attach copy of dispositive order)
Has a complaint been filed in this matter? (Yes or No) No

If yes:
Magistrate Case No. _____
Related Miscellaneous numbers: _____
Defendant(s) in federal custody as of _____
Defendant(s) in state custody as of _____ District of _____
Rule 20 from the _____

Is this a potential death penalty case? (Yes or No) No

7. Does this case originate from a matter pending in the Northern Region of the U.S. Attorney's Office prior to October 14, 2003? Yes No

8. Does this case originate from a matter pending in the Central Region of the U.S. Attorney's Office prior to September 1, 2007? Yes No


JON JUENGER
ASSISTANT UNITED STATES ATTORNEY
Florida Bar No. 56108

*Penalty Sheet(s) attached