

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

12-20292 CR-COOKE

Case No. _____

18 U.S.C. § 371
42 U.S.C. § 1320a-7b(b)(1)
18 U.S.C. § 2
18 U.S.C. § 982

MAGISTRATE JUDGE
TURNOFF

UNITED STATES OF AMERICA

v.

GIUSEPPE PELLERITO,

Defendant.

_____ /

INDICTMENT

The Grand Jury charges that:

GENERAL ALLEGATIONS

At all times relevant to this Indictment,

The Medicare Program

1. The Medicare Program (“Medicare”) is a “Federal health care program,” as defined by Title 42, United States Code, Section 1320a-7b(f), 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.”

2. Part B of the Medicare program covers partial hospitalization programs (“PHPs”) connected with the treatment of mental illness. The treatment plan 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, furnished under the general supervision of a physician, and delivered 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 First Coast Service Options, 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.

11. An "Assisted Living Facility" or "ALF" means any facility licensed by the Florida Agency for Health Care Administration, whether operated for profit or not, which undertakes through its ownership or management to provide housing, meals, and one or more personal services

for a period exceeding 24 hours to one or more adults who are not relatives of the owner or administrator.

12. A Halfway House is a facility that supports the reintegration of persons who have been recently released from prison or jail, or assists individuals who are recovering from various drug and alcohol addictions.

Defendant, Relevant Entities, and Relevant Persons

13. Defendant **GIUSEPPE PELLERITO**, a resident of Broward County, was the president, registered agent and owner/operator of Florida Sober House, Inc. (“FSH”).

14. FSH, a Florida corporation, was a Halfway House with multiple locations in Broward County and a principal address at 2303 Hollywood Boulevard, # 8, Hollywood, Florida 33020.

15. American Therapeutic Corporation (“ATC”) was a Florida corporation originally established in 2002 and was headquartered in Miami, Florida. ATC operated several purported PHPs throughout Florida from Homestead to Orlando, including PHPs at the following addresses: 1801 N.E. 2nd Avenue, Miami, Florida 33132; 61 Grand Canal Drive, Suite #100, Miami, Florida 33144; 1001 West Commercial Blvd., Fort Lauderdale, Florida 33309; 4960 North Dixie Highway, Fort Lauderdale, Florida 33334; 27112 South Dixie Highway, Naranja, Florida 33032; 717 East Palmetto Park Road, Boca Raton, Florida 33432; and 4790 North Orange Blossom Trail, Orlando, Florida 32810.

16. Medlink Professional Management Group, Inc. (“Medlink”) was a Florida corporation established in 2003 and was headquartered at 484 Brickell Avenue, Suite 1220, Miami, Florida 33132 and later at 1809 N.E. 2nd Avenue, Miami, Florida 33132. Medlink purportedly served as a management company for ATC.

17. Lawrence S. Duran (“Duran”), a resident of Miami-Dade County, was the manager and owner of ATC and Medlink.

18. Marianella Valera (“Valera”), a resident of Miami-Dade County, was the owner, CEO, president, secretary, and treasurer of ATC.

19. Judith Negrón (“Negrón”), a resident of Miami-Dade County, was the vice president and part owner of Medlink.

20. Margarita Acevedo, a/k/a Margarita De La Cruz (“Acevedo”), a resident of Miami-Dade County, was the Marketing Director of ATC. Acevedo supervised ATC’s “marketers” who would pay and cause the payment of kickbacks to patient recruiters, ALF and Halfway House owners and operators—including **GIUSEPPE PELLERITO**—in exchange for Medicare beneficiary “referrals” to ATC.

21. Joseph Valdes, a/k/a Joseph Valdez (“Valdes”), a resident of Broward County, was a marketer for ATC who would pay and cause the payment of kickbacks to patient recruiters, ALF and Halfway House owners and operators – including **GIUSEPPE PELLERITO** – in exchange for Medicare beneficiary “referrals” to ATC.

COUNT 1
Conspiracy to Receive Health Care Kickbacks
(18 U.S.C. § 371)

1. Paragraphs 1 through 21 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 February 21, 2007, through on or about October 20, 2010, in Miami-Dade and Broward Counties, in the Southern District of Florida, and elsewhere, the defendant,

GIUSEPPE PELLERITO,

did willfully, that is, with the intent to further the object of the conspiracy, and knowingly combine, conspire, confederate and agree with others, known and unknown to the Grand Jury, including Duran, Valera, Negron, Acevedo, and Valdes, to commit certain offenses against the United States, that is:

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 to a person or persons for the furnishing and arranging for the furnishing of any item and service for which payment may be made in whole or in part under a Federal health care program, that is, Medicare.

Purpose of the Conspiracy

3. It was a purpose of the conspiracy for the defendant and his co-conspirators to unlawfully enrich themselves by paying and receiving kickbacks and bribes in exchange for (a) securing the attendance of Medicare beneficiaries at ATC and (b) providing Medicare beneficiary information to ATC 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 object and purpose of the conspiracy included, among others, the following:

4. **GIUSEPPE PELLERITO** accepted kickbacks in return for recruiting and facilitating the recruitment of Medicare beneficiaries from FSH to be placed at ATC.

5. **GIUSEPPE PELLERITO** caused ATC to submit claims to Medicare for PHP services allegedly rendered to Medicare beneficiaries.

6. **GIUSEPPE PELLERITO** caused Medicare to pay ATC based upon the claims for PHP services allegedly rendered to Medicare beneficiaries.

Overt Acts

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

1. On or about March 11, 2009, **GIUSEPPE PELLERITO** negotiated and caused to be negotiated check No. 7177 in the approximate amount of \$990 written from the Medlink Wachovia Bank account ending 0305 and payable to FSH.

2. On or about May 11, 2009, **GIUSEPPE PELLERITO** negotiated and caused to be negotiated check No. 7615 in the approximate amount of \$1,050 written from the Medlink Wachovia Bank account ending 0305 and payable to FSH.

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

COUNTS 2-3

**Receipt of Kickbacks in Connection with a Federal Health Care Benefit Program
(42 U.S.C. § 1320a-7b(b)(1))**

1. Paragraphs 1 through 21 of the General Allegations section of this Indictment are ~~realleged and incorporated by reference as though fully set forth herein.~~

2. On or about the dates enumerated below, in Miami-Dade and Broward Counties, in the Southern District of Florida, and elsewhere, the defendant,

GIUSEPPE PELLERITO,

did knowingly and willfully solicit and receive remuneration, that is, kickbacks and bribes, directly and indirectly, overtly and covertly, 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 and in part under a Federal health care program, that is, Medicare.

Count	On or About Date	Approximate Amount of Kickback
2	March 11, 2009	\$990.00
3	May 11, 2009	\$1,050.00

In violation of Title 42, United States Code, Section 1320a-7b(b)(1), and Title 18, United States Code, Section 2.

CRIMINAL FORFEITURE
(18 U.S.C. § 982)

1. The allegations contained in Count 1 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 **GIUSEPPE PELLERITO** has an interest.

2. Upon conviction of the offense charged in Count 1 of this Indictment, the defendant 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 subject to forfeiture includes, but is not limited to, the gross proceeds of the health care kickback conspiracy.

4. If any of the property, as a result of any act or omission of the defendant:

- 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,

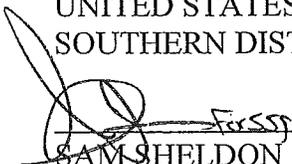
the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b)(1).

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

A TRUE BILL



WIFREDO A. FERRER
UNITED STATES ATTORNEY
SOUTHERN DISTRICT OF FLORIDA



SAM SHELDON
DEPUTY CHIEF
CRIMINAL DIVISION, FRAUD SECTION
U.S. DEPARTMENT OF JUSTICE



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