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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FILED
OCT - 2 2012
CLERK, U.S. DISTRICT COURT
By _____

UNITED STATES OF AMERICA

v.

PAMELA ADENUGA (01)
KEHINDE ADENUGA (02)
Defendants.

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FILED UNDER SEAL

No. **12CR-313-P**

INDICTMENT

The Grand Jury charges:

Introduction

At all times material and relevant to this Indictment:

The Medicare Program

1. The Medicare Program (Medicare) was a federal health care program providing benefits to individuals who were over the age of 65 or disabled. Medicare was administered by the Centers for Medicare and Medicaid Services (CMS), a federal agency under the United States Department of Health and Human Services. Medicare was a "health care benefit program" as defined by 18 U.S.C. § 24(b).
2. Medicare was subdivided into multiple Parts. Medicare Part B covered physician services and outpatient care, including an individual's access to durable medical equipment (DME), such as adult diapers and related accessories.

3. Individuals who qualified for Medicare benefits were commonly referred to as Medicare “beneficiaries.” Each beneficiary was given a Medicare identification number.

4. DME companies, physicians, and other entities that rendered services to Medicare beneficiaries were referred to as Medicare “providers.” To participate in Medicare, providers were required to submit an application in which the providers agreed to comply with all Medicare-related laws and regulations. If Medicare approved a provider’s application, Medicare assigned the provider a Medicare “provider number.” A health care provider with a Medicare provider number could file claims with Medicare to obtain reimbursement for services rendered to beneficiaries.

5. Medicare paid DME companies and other health care providers for services rendered to beneficiaries. Medicare would generally pay for DME only if they were prescribed by the beneficiary’s physician and were medically necessary to the treatment of the beneficiary’s illness or injury.

6. To receive payment from Medicare, providers submitted or caused the submission of claims to Medicare, either directly or through a billing company.

7. CMS contracted with Durable Medical Equipment Regional Carriers (DMERCs) to provide Medicare benefits and process claims for reimbursement. The DMERC that processed and paid Medicare DME claims in Texas was CIGNA Government Services (CIGNA).

8. To bill Medicare for services rendered, a provider submitted a claim form (Form 1500) to CIGNA. When a Form 1500 was submitted, usually in electronic form, the provider certified that: (1) the contents of the form were true, correct and complete; (2) the form was prepared in compliance with the laws and regulations governing Medicare; and (3) the contents of the claim were medically necessary.

9. A Medicare claim for DME reimbursement was required to set forth, among other things, the beneficiary's name and unique Medicare identification number, the equipment provided to the beneficiary, the date the equipment was provided, the cost of the equipment and the name and unique physician identification number of the physician who prescribed or ordered the equipment.

The Medicaid Program

10. The Texas Medicaid program (Medicaid) is a state program, jointly funded by the State of Texas and the federal government. Medicaid is administered by the Texas Health and Human Services Commission. Medicaid provides medical and related services to families with dependent children and aged, blind, or disabled individuals whose income and other financial and economic resources are insufficient to allow them to meet the cost of necessary medical services. Individuals eligible under the Medicaid program are referred to as Medicaid "clients." Medicaid is a "health care benefit program" as defined by 18 U.S.C. § 24(b).

11. Among the types of reimbursable medical assistance available to Medicaid clients is durable medical equipment. For Medicaid clients eligible to receive benefits under both Medicare and Medicaid, claims are submitted to Medicare, which pays a percentage of an allowable claim. Then the claim is automatically electronically forwarded by Medicare to Medicaid and then Medicaid pays the coinsurance or deductible without further review of the claim. This type of claim is referred to as a “crossover” claim.

12. For DME only covered by Medicaid, providers were required to obtain a prescription from a physician, who had to sign a Medicaid form stating that the particular DME was medically necessary. This form was called a Title XIX.

The Defendants

13. The defendant, **Pamela Adenuga**, from on or about November 2007, through the present, was the director and “officer of finance” for His Grace Medical Supply & More (His Grace). **Pamela Adenuga** was also the owner of His Grace Lab Company, which operated at the same address as His Grace.

14. The defendant, **Kehinde Adenuga**, **Pamela Adenuga**’s husband, from on or about November 2007, through the present, was the owner and managing director of His Grace. **Kehinde Adenuga** was also a partner at His Grace Lab Company.

15. On or about November 2007, **Pamela Adenuga** and **Kehinde Adenuga** submitted a Medicare Enrollment Application for His Grace.

16. In May 2008, **Pamela Adenuga** and **Kehinde Adenuga** submitted a Medicaid Provider Enrollment Form seeking a Medicaid Texas Provider Identifier for a DME company.

Count One
Conspiracy to Commit Health Care Fraud
(Violation of 18 U.S.C. § 1349 (18 U.S.C. § 1347))

17. The Grand Jury adopts, realleges, and incorporates by reference all the allegations set forth in the Introduction of this Indictment.

The Conspiracy

18. Beginning on or about November 2007, the exact date being unknown to the Grand Jury, and continuing through the present, in the Dallas Division of the Northern District of Texas, and elsewhere, the defendants, **Pamela Adenuga** and **Kehinde Adenuga**, did knowingly, intentionally, and willfully combine, conspire, confederate, and agree with each other and with other persons known and unknown to the Grand Jury, to commit certain offenses against the United States, that is, to knowingly and willfully execute and attempt to execute, a scheme and artifice: (a) to defraud Medicare and Medicaid; and (b) to obtain money and property owned by and under the custody and control of Medicare and Medicaid by means of materially false and fraudulent pretenses, representations, and promises, in connection with payments for health care services, namely DME, in violation of 18 U.S.C. § 1347.

The Purpose of the Conspiracy

19. It was part of the conspiracy that **Pamela Adenuga** and **Kehinde Adenuga** and others, known and unknown to the Grand Jury, would and did unlawfully enrich themselves by: (a) submitting false and fraudulent claims to Medicare and Medicaid for DME; and (b) concealing from Medicare and Medicaid the nature and existence of the conspiracy.

The Manner and Means of the Conspiracy

20. The manner and means by which **Pamela Adenuga** and **Kehinde Adenuga** and their coconspirators sought to accomplish the purpose of the conspiracy included, among others, the following, all of which occurred in the Dallas Division of the Northern District of Texas, and elsewhere:

21. From November 2007, through the present, the defendants, **Pamela Adenuga** and **Kehinde Adenuga**, engaged in a scheme to defraud Medicare and Medicaid by submitting, or causing the submission of, claims for reimbursement for DME by falsely representing that DME had been delivered to beneficiaries and that a physician had signed a Title XIX prescribing the DME.

22. **Pamela Adenuga** and **Kehinde Adenuga** purportedly supplied DME to beneficiaries who were homebound.

23. His Grace corporate documents related to the purported delivery of DME listed the possible point of contact for His Grace as either **Pamela Adenuga** or **Kehinde Adenuga**.

24. **Pamela Adenuga** and **Kehinde Adenuga** submitted false claims to Medicare and Medicaid representing that the beneficiaries' conditions had been evaluated by a physician and that the physician had signed a Title XIX prescribing that particular DME item.

25. The beneficiaries did not receive the DME and there was no Title XIX corresponding to the DME **Pamela Adenuga** and **Kehinde Adenuga** billed Medicare and Medicaid.

26. **Pamela Adenuga** and **Kehinde Adenuga** did not have authorization from the beneficiaries to use the beneficiaries' personal information, including their Medicare and Medicaid numbers, to file claims with Medicare and Medicaid.

All in violation of 18 U.S.C. § 1349.

Counts Two through Eight
Health Care Fraud
(Violations of 18 U.S.C. §§ 1347 and 2)

27. The Grand Jury adopts, realleges, and incorporates by reference all the allegations previously set forth in this Indictment.

28. From on or about November 2007, through the present, the exact dates being unknown to the Grand Jury, in the Dallas Division of the Northern District of Texas, and elsewhere, the defendants, **Pamela Adenuga** and **Kehinde Adenuga**, and others unknown to the Grand Jury, each aided and abetted by each other and, 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 health care benefit programs affecting commerce, Medicare and Medicaid, 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 and Medicaid, in connection with the delivery of and payment for health care benefits, items, and services.

Purpose of the Scheme and Artifice

29. It was the purpose of the scheme and artifice for the defendants and their coconspirators to unlawfully enrich themselves by (a) submitting false and fraudulent claims to Medicare and Medicaid for DME; and (b) concealing from Medicare and Medicaid the nature and existence of the scheme and artifice.

Acts in Execution of the Scheme and Artifice

30. On or about the dates specified as to each Count below in the Dallas Division of the Northern District of Texas, and elsewhere, the defendants, **Pamela Adenuga** and **Kehinde Adenuga**, 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 health care benefit programs affecting commerce, Medicare and Medicaid, 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 programs, the claims for reimbursement the defendants knew were false and fraudulent, each such claim constituting a separate Count of this Indictment. Each of the following claims were materially false and fraudulent because the DME was never delivered or prescribed to the beneficiary.

Count	Claim No.	Date of Service	DME Not Provided	Beneficiary
2	200020030201119646586807 (Medicaid)	4/29/11	Adult diaper pull-on size XL, disposable underpads	R.B.
3	200020030201119646586807 (Medicaid)	6/29/11	Adult diaper pull-on size XL, disposable underpads	R.B.
4	100020011201124961502158 (Medicaid)	6/30/10	Adult diaper pull-on size XL, disposable underpads	N.B.

5	100020011201124961499104 (Medicaid)	8/23/10	Adult diaper pull-on size XL, disposable underpads	N.B.
6	200020051201216041775579 (Medicaid)	3/29/12	Adult diaper pull-on size L, disposable underpads	B.B.
7	200020030201216041821039 (Medicaid)	5/18/12	Adult diaper pull-on size L, disposable underpads	B.B.
8	09146759479000 (Medicare)	5/13/09	Power wheelchair	T.B.

In violation of 18 U.S.C. §§ 1347 and 2.

Notice of Criminal Forfeiture
(18 U.S.C. § 982(a)(7))

Upon conviction for any of the offenses charged in Counts Two through Eight of this Indictment, the defendants, **Pamela Adenuga** and **Kehinde Adenuga**, shall, pursuant to 18 U.S.C. § 982(a)(7), forfeit to the United States all property, real or personal, constituting or derived, directly or indirectly, from gross proceeds traceable to the commission of the respective offense, including, but not limited to, the following:

- a. The gross proceeds traceable to the commission of the offense, in the form of a money judgment.

Pursuant to 21 U.S.C. § 853(p), as incorporated by 18 U.S.C. § 982(b)(1), if any of the above-referenced property subject to forfeiture, as a result of any act or omission of any of the defendants, cannot be located upon the exercise of due diligence; has been transferred or sold to, or deposited with, a third person; has been placed beyond the jurisdiction of the court; has been substantially diminished in value; or has been commingled with other property which cannot be subdivided without difficulty, it is the intent of the United States of America to seek forfeiture of any other property of that defendant up to the value of the previously-described property subject to forfeiture.

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