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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

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NORTHERN DIST. OF TX  
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UNITED STATES OF AMERICA

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v.

No. 3-11-CR-308-N

**UNDER SEAL**

OVSANNA AGOPIAN (1)

a.k.a. "Joanna Ovsanna Agopian"

a.k.a. "Joanna Smbatyan"

**(Supersedes indictment filed  
October 19, 2011)**

TOLULOPE LABEODAN (2)

VAGHARSHAK SMBATYAN (3)

GODWIN UMOTONG (4)

LESLIE OMAGBEMI (5)

MUNDA MASSAQUOI (6)

COMFORT GATES (7)

SEALED

SUPERSEDING 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 program that provided health care benefits to certain individuals, including those age 65 or older, blind, or disabled. Medicare was a "health care benefit program" as defined by 18 U.S.C. § 24(b). Medicare was administered by the Centers for Medicare and Medicaid Services, an agency of the U.S. Department of Health and Human Services.
2. Medicare Part B paid for outpatient physician services. Office visits were reimbursed by Medicare at different rates, depending on whether the patient was new and

the severity of the presenting problems. Medicare also paid for diagnostic tests, which included allergy tests, trans-cranial dopplers, H-reflex tests, peripheral vascular laboratory tests, nerve conduction studies, and others.

3. Reimbursement for these diagnostic tests was split into two components, technical and professional. Medicare reimbursed a provider for the technical component for the performance of the test and the professional component for the analysis of the results.

4. Each claim for a diagnostic test included a code that informed Medicare where the test was performed. For example, if the test were performed at a beneficiary's home, a "12" was noted in the claim. If the test was performed at an office, an "11" would be noted in the claim.

5. In order to receive payment from Medicare, a provider was required to submit a claim to the claims administrator based on the beneficiary's state of residence. In the State of Texas, Medicare contracted with TrailBlazer Health Enterprises, L.L.C. to administer and process the claims. TrailBlazer was located in the Dallas Division of the Northern District of Texas.

6. Every claim was required to state, among other things, the beneficiary's name and health insurance claim number, the procedure code corresponding to the items provided to the Medicare beneficiary, the date the items were provided, the charge for the items, and the name and unique physician identification number or National Provider Identity Number of the referring physician or other health care provider who had ordered or prescribed the items. The claim could be submitted in paper form or electronically.

## The Defendants

7. Defendant **Osvanna Agopian (Agopian)** was the operator of Eules Healthcare Corporation (EHC), located at 222 West Bedford Eules Road, Hurst, Texas 76053, which is in the Northern District of Texas.

8. **Agopian** was also the operator of Medic Healthcare Incorporated (Medic), located at 6201 Bonhomme Road, Suite 304N, Houston, Texas 77036.

9. Person A, who is known to the Grand Jury, was listed as the owner in filings with the Texas Secretary of State. EHC was incorporated in Texas on August 28, 2009. Person A was also listed as the owner in EHC's Medicare provider enrollment form. EHC was enrolled in Medicare and received provider number TXB100288 on or about February 2010.

10. Medic was incorporated in Texas on June 26, 2009. On or about October 20, 2009, Medic received Medicare provider number TX2009244092.

11. EHC operated from on or about March 2010, to on or about May 2011, and Medic operated from October 2009, to on or about May 2011.

12. Defendants **Tolulope Labeodan (Labeodan)**, **Leslie Omagbemi (Omagbemi)** and **Godwin Umotong (Umotong)** were employees of EHC. **Umotong** and **Labeodan** also worked at Medic. At both clinics, **Agopian** supervised **Labeodan**, **Omagbemi**, and **Umotong**, who purportedly examined beneficiaries and administered diagnostic tests at beneficiaries' homes.

13. Defendants **Munda Massaquoi (Massaquoi)** and **Comfort Gates (Gates)** were employees of Medic. They were also supervised by **Agopian** and purportedly examined beneficiaries and administered diagnostic tests at beneficiaries' homes.

14. Defendant **Labeodan** worked for EHC and Medic from on or about February 2011, to on or about April 2011.

15. Defendant **Omagbemi** worked for EHC from on or about August 2010, to on or about February 2011.

16. Defendant **Massaquoi** worked for Medic from on or about August 2010, to on or about May 2011.

17. Defendant **Umotong** worked for EHC and Medic from on or about August 2010, to on or about March 2011.

18. Defendant **Gates** worked for Medic from on or about January 2010, to on or about January 2011.

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

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

The Conspiracy

20. Defendants **Agopian, Labeodan, Omagbemi, Massaquoi, Umotong, and Gates**, in the Dallas Division of the Northern District of Texas, and elsewhere, 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 (b) to obtain money and property owned by and under the custody and control of Medicare by means of materially false and fraudulent pretenses, representations, and promises, in connection with payments for health care services, namely office visits and diagnostic tests that were never performed, in violation of 18 U.S.C § 1349.

The Purpose of the Conspiracy

21. It was the purpose of the conspiracy for the defendants and others to unlawfully enrich themselves by: (a) submitting false and fraudulent claims to Medicare; (b) concealing the submission of false and fraudulent claims to Medicare; and (c) diverting proceeds of the fraud for the personal use and benefit of the defendants and their coconspirators.

## The Manner and Means of the Conspiracy

22. The manner and means by which the defendants and their coconspirators sought to accomplish the purpose and object of the conspiracy included, among others, the following:

23. **Agopian** recruited doctors to work for EHC and Medic by representing that they would be certifying and re-certifying patients for home health care.

24. **Agopian** or other employees of EHC and Medic contacted or were contacted by home health care agencies in Dallas, Texas, and Houston, Texas, regarding certifications or re-certifications for home health. In order to receive reimbursement for home health care services, agencies must have a doctor certify that such services are medically necessary.

25. The home health care agencies gave **Agopian** beneficiaries' names, Medicare numbers, address, and other personal information for the certifications and re-certifications.

26. Without the beneficiaries' permission, **Agopian** recorded the Medicare beneficiaries' information given to her by the home health care agencies and directed **Labeodan, Omagbemi, Massaquoi, Umotong, Gates**, and others to go the Medicare beneficiaries' homes.

27. **Labeodan, Omagbemi, Massaquoi, Umotong, Gates**, and others interacted with each beneficiary, sometimes taking vital signs or inquiring about prescriptions. They did not administer a medically necessary examination or a diagnostic

test as later represented to Medicare in claims submitted by Agopian through EHC and Medic.

28. **Labeodan, Omagbemi, Massaquoi, Umotong, and Gates** were not medical professionals and were not supervised by a medical professional. The doctors recruited by **Agopian** never met or directed **Labeodan, Omagbemi, Massaquoi, Umotong, and Gates** to visit beneficiaries' homes.

29. **Agopian** submitted, or caused to be submitted, fraudulent claims to Medicare for diagnostic tests, falsely representing that (1) the tests were performed and (2) the tests were performed at either EHC or Medic.

30. Neither the EHC or Medics had the equipment to perform the diagnostic tests, the doctors recruited by **Agopian** never witnessed or performed any diagnostic tests, and **Labeodan, Omagbemi, Massaquoi, Umotong, and Gates** only met beneficiaries in their homes.

31. No beneficiary received the diagnostic tests for which **Agopian** billed.

32. Medicare reimbursement checks for EHC were deposited into EHC'S Wells Fargo account number XXXXXX0384. Medicare reimbursement checks for Medic were deposited into JPMorgan Chase account number XXXXXX9285.

33. EHC billed Medicare \$797,685.00 and was paid \$363,177.77. Medic billed Medicare \$2,038,703.00 and was paid \$1,050,438.76.

All in violation of 18 U.S.C. § 1349.

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

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

35. Beginning on or about October 2009, and continuing thereafter until on or about May 2011, in the Dallas Division of the Northern District of Texas, and elsewhere, defendants **Agopian, Labeodan, Omagbemi, Massaquoi, Umotong, and Gates**, as set forth below, aided and abetted by each other and by others known and unknown to the Grand Jury, did knowingly and willfully execute, and attempt to execute a scheme and artifice to defraud and to obtain, by means of materially false and fraudulent pretenses, representations, and promises, money and property owned by, and under the control of Medicare, a health care benefit program as defined in 18 U.S.C. § 24(b), in connection with the delivery of and payment for health care benefits, items, and services, namely office visits and diagnostic tests. Specifically, on or about the listed dates below, the defendants submitted or caused to be submitted through Medic and EHC false and fraudulent claims to Medicare for reimbursement for office visits and diagnostic tests, each such transaction set forth below constituting a separate count of this Indictment, as follows:

Count	Defendant	Claim No.	Beneficiary	Date of Service	Description of Services Not Performed	Amount Billed	Clinic
2	Agopian, Omagbemi, Umotong	452810225838670	J.H.	8/10/10	Office visit, Extracranial Studies, Intracranial Study, Allergy test	\$1022.00	EHC
3	Agopian, Umotong, Omagbemi	453910361612310	A.M.	12/15/10	Office Visit, Nerve Conduction studies, H-reflex test	\$1290.00	EHC
4	Agopian, Umotong, Gates, Massaquoi	452810341093610	A.F.	12/02/10	Office visit, Nerve conduction studies, H-Reflex Study, Allergy Test	\$1832.00	Medic
5	Agopian, Umotong, Gates, Massaquoi	452810231461620	O.K.	7/29/10	Office Visit	\$120.00	Medic
6	Agopian, Umotong, Gates, Massaquoi	452810231339530	O.K.	7/29/10	Transcranial Doppler, Scan of Extracranial Arteries, Physiological Study	\$580.00	Medic
7	Agopian, Gates, Massaquoi, Umotong, Labeodan	452811070913070	P.M.	3/9/11	Office visit, Physiological study, Allergy Test	\$1282.00	Medic

36. The object of the scheme and artifice to defraud was for the defendants, through EHC and Medic, to unlawfully enrich themselves by submitting and causing the submission and payment of fraudulent claims which: (a) falsely represented that office visits and diagnostic tests were performed; and (b) falsely represented the visits and tests were performed at EHC's and Medic's clinics.

37. In furtherance of the scheme and artifice to defraud, defendants submitted or caused to be submitted through EHC and Medic, fraudulent claims to Medicare for reimbursement totaling at least \$797,685.00 for EHC and \$2,038,703.00 for Medic, and resulting in payments from Medicare of at least \$363,177.77 for EHC and \$1,050,438.76 for Medic.

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

Count 8  
False Statement to a Government Agency  
(Violation of 18 U.S.C. § 1001)

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

39. In addition to its claims-processing responsibility, TrailBlazer, L.L.C. was required to process Medicare provider enrollment forms. Once the provider enrollment form was reviewed and approved, TrailBlazer, L.L.C. notified the provider in writing of the approval and issued a unique Medicare provider number. Medicare required the provider to use its provider number on all claims it submitted for payment.

40. On or about October 20, 2009, in the Dallas Division of the Northern District of Texas, and elsewhere, defendant **Vagarshak Smbatyan** in a matter within the jurisdiction of the United States Department of Health and Human Services, did knowingly and willfully make a materially false, fictitious, and fraudulent statement in the Medicare Federal Health Care Provider Enrollment Application for Medic, to wit, that **Smbatyan** was the individual who owns Medic when, in fact, the defendant knew that :  
(a) **Agopian**, **Smbatyan**'s wife, was barred from the Medicare program because of two prior health care fraud convictions; and (b) **Agopian** was the true owner and operator of Medic. **Smbatyan**'s statement was material in that had he truthfully stated **Agopian** was the owner Medic, Medicare would have rejected Medic's provider application and refused to issue Medic a provider number to submit claims to Medicare.

In violation of 18 U.S.C. § 1001.

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

41. Upon conviction for any of the offenses alleged in Counts One through Ten of this indictment and pursuant to 18 U.S.C. § 982(a)(7), defendants **Agopian, Labeodan, Smbatyan, Omagbemi, Massaquoi, Umotong, and Gates** shall forfeit to the United States any property, real or personal, constituting or derived from, directly or indirectly, the gross proceeds traceable to the commission of the respective offense. This property includes, but is not limited to, a personal money judgment in the amount of U.S. currency constituting the gross proceeds traceable to the offense.

42. Pursuant to 21 U.S.C. § 853(p), as incorporated by 18 U.S.C. § 982(b), if any of the above-described property subject to forfeiture, as a result of any act or omission of one or more of the previously-mentioned 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 the previously-mentioned defendants up to the value of the above-described property subject to forfeiture.

TRUE BILL

SARAH R. SALDAÑA  
UNITED STATES ATTORNEY



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