

FILED BY  
ELECTRONIC  
**Sep 18, 2012**  
STEVEN M. LARIMORE  
CLERK U.S. DIST. CT.  
S.D. OF FLA. - MIAMI

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
**12-20675-CR-MORENO/OTAZO-REYES**  
CASE NO.

18 U.S.C. § 1347  
18 U.S.C. § 2  
42 U.S.C. § 1320a-7b(b)(2)(B)  
18 U.S.C. § 982

UNITED STATES OF AMERICA

v.

ALINA ALVAREZ,

**Defendant.**

\_\_\_\_\_ /

**INDICTMENT**

The Grand Jury charges that:

**GENERAL ALLEGATIONS**

At all times material to this Indictment:

**The Medicare Program**

1. The Medicare Program (“Medicare”) was a federally funded program that provided free or below-cost health care benefits to certain individuals, primarily the elderly, blind, and disabled. The benefits available under Medicare were governed by federal statutes and regulations. The United States Department of Health and Human Services, through its agency, the Centers for Medicare and Medicaid Services (“CMS”), oversaw and administered Medicare. Individuals who received benefits under Medicare were commonly referred to as Medicare “beneficiaries.”

2. Medicare programs covering different types of benefits were separated into different program “parts.” Part D of Medicare subsidized the costs of prescription drugs for Medicare

beneficiaries in the United States. It was enacted as part of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 and went into effect on January 1, 2006.

3. In order to receive Part D benefits, a beneficiary enrolled in a Medicare drug plan. Medicare drug plans were operated by private companies approved by Medicare. Those companies were often referred to as Medicare drug plan “sponsors.” A beneficiary in a Medicare drug plan could fill a prescription at a pharmacy and use his or her plan to pay for some or all of the prescription.

4. A pharmacy could participate in Part D by entering a retail network agreement with one or more Pharmacy Benefit Managers (“PBMs”). Each PBM acted on behalf of one or more Medicare drug plans. When a Part D beneficiary presented a prescription to a pharmacy, the pharmacy submitted a claim to the PBM that represented the beneficiary’s Medicare drug plan. The PBM determined whether the pharmacy was entitled to payment for each claim and periodically paid the pharmacy for outstanding claims. The Medicare drug plan sponsor reimbursed the PBM for its payments to the pharmacy.

5. A pharmacy could also submit claims to a Medicare drug plan sponsor to whose network the pharmacy did not belong. Submission of such out-of-network claims was not common and often resulted in smaller payments to the pharmacy by the drug plan sponsor.

6. Medicare, through CMS, compensated the Medicare drug plan sponsors. Medicare paid the sponsors a monthly fee for each Medicare beneficiary of the sponsors’ plans. Such payments were called capitation fees. The capitation fee was adjusted periodically based on various factors, including the beneficiary’s medical conditions. In addition, in some cases where a sponsor’s expenses for a beneficiary’s prescription drugs exceeded that beneficiary’s capitation fee, Medicare reimbursed the sponsor for a portion of those additional expenses.

7. Medicare and the Medicare drug plan sponsors were “health care benefit program[s],” as defined by Title 18, United States Code, Section 24(b).

**Medicare Drug Plan Sponsors**

8. United Healthcare Insurance Company (“United”), Advantage Star Plan by Accendo (“Accendo”), and Envision Insurance Company (“Envision”) were Medicare drug plan sponsors.

**Sterling Pharmacy Inc.**

9. Sterling Pharmacy Inc. (“Sterling Pharmacy”) was a Florida corporation, incorporated on or about September 1, 2009, that did business in Miami-Dade County purportedly providing prescription drugs to Medicare beneficiaries.

**The Defendant**

10. On or about June 24, 2010, **ALINA ALVAREZ** became a Vice President of Sterling Pharmacy.

11. On or about May 2, 2011, **ALINA ALVAREZ** was added an Authorized Signer on a Wachovia bank account for Sterling Pharmacy.

**COUNTS 1-5**  
**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 April 26, 2011, through on or about February 24, 2012, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

**ALINA ALVAREZ,**

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, as defined by Title 18, United States Code, Section 24(b), that is, Medicare and Medicare drug plan sponsors, 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.

**Purpose of the Scheme and Artifice**

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

**The Scheme and Artifice**

4. From on or about April 26, 2011, through on or about September 13, 2011, **ALINA ALVAREZ** met with a doctor to discuss the submission of false and fraudulent claims to Medicare and Medicare drug plan sponsors, and paid the same doctor approximately \$1,800 for prescriptions that could be used for the submission of false and fraudulent claims to Medicare and Medicare drug plan sponsors.

5. **ALINA ALVAREZ** caused Sterling Pharmacy to submit claims to Medicare and Medicare drug plan sponsors that falsely and fraudulently represented that prescription drugs and other health care benefits, items, and services were medically necessary and had been properly prescribed by a doctor.

6. As a result of the submission of these false and fraudulent claims, Medicare and Medicare drug plan sponsors made payments to Sterling Pharmacy of at least \$271,563.

7. **ALINA ALVAREZ** transferred and disbursed, and caused the transfer and disbursement of, monies from the corporate bank account of Sterling Pharmacy for the benefit of herself and others.

**Acts in Execution or Attempted Execution of the Scheme and Artifice**

8. On or about the dates set forth as to each count below, in Miami-Dade County, in the Southern District of Florida, and elsewhere, **ALINA ALVAREZ**, 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, as defined by Title 18, United States Code, Section 24(b), that is, Medicare and Medicare drug plan sponsors, 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, in that the defendant submitted and caused the submission of false and fraudulent claims seeking the identified dollar amounts, and representing that Sterling Pharmacy

provided pharmaceutical items and services to Medicare beneficiaries pursuant to physicians' orders and prescriptions:

Count	Approx. Date of Submission of Claim	Medicare Beneficiary	Medicare Claim Number	Medicare Drug Plan Sponsor	Item Claimed; Approx. Amount Claimed
1	07/20/2011	F.J.R.	112013239584058998	United	Seroquel XR 400 mg tablets, 30-day supply; \$899
2	08/12/2011	M.V.	30000870244071	Accendo	Abilify 15 mg tablets, 30-day supply; \$513
3	08/29/2011	F.T.	112413815651039999	United	Geodon 80 mg caplets, 30-day supply; \$572
4	10/18/2011	M.T.	6347643110187B	Envision	Abilify 30 mg tablets, 30-day supply; \$1,475
5	11/21/2011	M.P.	113253894258041999	United	Abilify 30 mg tablets, 30-day supply; \$733

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

**COUNTS 6-7**

**Payment of Kickbacks in Connection with a Federal Health Care Program  
(42 U.S.C. § 1320a-7b(b)(2)(B))**

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

2. On or about the dates enumerated below as to each count, in Miami-Dade County, in the Southern District of Florida, the defendant,

**ALINA ALVAREZ,**

did knowingly and willfully offer and pay any remuneration, that is, kickbacks and bribes, directly and indirectly, overtly and covertly, in cash and in kind to a person to induce such person to purchase, lease, order, and arrange for and recommend purchasing, leasing, and ordering any good, service, and item for which payment may be made in whole and in part under a federal health care program, that is, Medicare and Medicare drug plan sponsors, as set forth below:

Count	Approximate Date	Approximate Kickback Amount
6	05/19/2011	\$600
7	09/13/2011	\$1,200

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

**FORFEITURE**  
**(18 U.S.C. § 982)**

1. The allegations contained in 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, **ALINA ALVAREZ**, has an interest.

2. Upon conviction of any violation of Title 18, United States Code, Section 1347, as alleged in Counts 1 through 5 of the Indictment, or Title 42, United States Code, Section 1320a-7(b), as alleged in Counts 6 through 7 of the Indictment, the defendant shall forfeit all of her right, title, and interest to the United States of any property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of such violation, pursuant to Title 18, United States Code, Section 982(a)(7).

All pursuant to Title 18, United States Code, Section 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

  
\_\_\_\_\_  
JOHN P. GONSOU LIN  
ASSISTANT UNITED STATES ATTORNEY

UNITED STATES OF AMERICA

CASE NO. \_\_\_\_\_

v.

**CERTIFICATE OF TRIAL ATTORNEY\***

ALINA ALVAREZ,

Defendant.

**Superseding Case Information:**

**Court Division:** (Select One)

New Defendant(s) Yes \_\_\_\_\_ No \_\_\_\_\_  
Number of New Defendants \_\_\_\_\_  
Total number of counts \_\_\_\_\_

Miami \_\_\_\_\_ Key West \_\_\_\_\_  
 FTL \_\_\_\_\_  WPB \_\_\_\_\_  FTP \_\_\_\_\_

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 3-5 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	<u>X</u>	Petty	_____
II 6 to 10 days	_____	Minor	_____
III 11 to 20 days	_____	Misdem.	_____
IV 21 to 60 days	_____	Felony	<u>X</u>
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) \_\_\_\_\_

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

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 X 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 X No

  
\_\_\_\_\_  
JOHN R. GONSOULIN  
ASSISTANT UNITED STATES ATTORNEY  
Court ID No. A5501289

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

PENALTY SHEET

Defendant's Name: ALINA ALVAREZ

Case No: \_\_\_\_\_

Counts #: 1-5

Health Care Fraud

Title 18, United States Code, Section 1347

\* Max. Penalty: Ten (10) Years' Imprisonment As To Each Count

Counts #: 6-7

Payment of Kickbacks in Connection with a Federal Health Care Program

Title 42, United States Code, Section 1320a-7b(b)(2)(B)

\*Max. Penalty: Five (5) Years' Imprisonment As To Each Count

**\*Refers only to possible term of incarceration, does not include possible fines, restitution, special assessments, parole terms, or forfeitures that may be applicable.**