

FILED by J.R.S.
OCT 02 2012
STEVEN M. LARIMORE
CLERK U. S. DIST. CT
S. D. of FLA. - MIAMI

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

12-20753

CASE NO. _____

18 U.S.C. § 1347
18 U.S.C. § 2
18 U.S.C. § 982

CR-DIMITROULIAS

MAGISTRATE JUDGE
FRONZ

UNITED STATES OF AMERICA

v.

ANGEL CALDERIN,

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 Sponsor

8. United Healthcare Insurance Company (“United”) was a Medicare drug plan sponsor.

Pharmacy Solution Corp.

9. Pharmacy Solution Corp. (“Pharmacy Solution”) was a Florida corporation, incorporated on or about May 21, 2010, that did business in Miami-Dade County purportedly providing prescription drugs to Medicare beneficiaries.

The Defendant

10. On or about May 21, 2010, defendant **ANGEL CALDERIN** incorporated Pharmacy Solution and designated himself as President and Registered Agent.

11. On or about June 30, 2010, **ANGEL CALDERIN** opened a bank account for Pharmacy Solution at SunTrust Bank.

12. On or about January 26, 2012, **ANGEL CALDERIN** opened a bank account for Pharmacy Solution at Bank of America, N.A.

COUNTS 1-6
Health Care Fraud
(18 U.S.C. § 1347)

1. Paragraphs 1 through 12 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 May 21, 2010, through on or about July 23, 2012, in Miami-Dade

County, in the Southern District of Florida, and elsewhere, the defendant,

ANGEL CALDERIN,

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 himself and others 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 himself and others.

The Scheme and Artifice

4. **ANGEL CALDERIN** caused Pharmacy Solution 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, had been properly prescribed by a doctor, and were actually provided to Medicare beneficiaries.

5. As a result of the submission of these false and fraudulent claims, Medicare and Medicare drug plan sponsors made payments to Pharmacy Solution.

6. **ANGEL CALDERIN** transferred and disbursed, and caused the transfer and

disbursement of, monies from the corporate bank accounts of Pharmacy Solution for the benefit of himself and others.

Acts in Execution or Attempted Execution of the Scheme and Artifice

7. On or about the dates set forth as to each count below, in Miami-Dade County, in the Southern District of Florida, and elsewhere, **ANGEL CALDERIN**, 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 Pharmacy Solution provided pharmaceutical items and services to Medicare beneficiaries that were medically necessary and had been properly prescribed by a doctor:

Count	Approx. Date of Submission of Claim	Medicare Beneficiary	Medicare Claim Number	Medicare Drug Plan Sponsor	Item Claimed; Approx. Amount Claimed
1	12/09/2011	N.S.	113432505048049999	United	Lidoderm Dis 5% patch, 30-day supply; \$420
2	12/12/2011	M.Q.	113463843332013999	United	Seroquel 300 mg tablets, 30-day supply; \$846
3	12/13/2011	R.J.G.	113473773340012999	United	Abilify 15 mg tablets, 30-day supply; \$519

Count	Approx. Date of Submission of Claim	Medicare Beneficiary	Medicare Claim Number	Medicare Drug Plan Sponsor	Item Claimed; Approx. Amount Claimed
4	01/06/2012	N.S.	120061731103017999	United	Lidoderm Dis 5% patch, 30-day supply; \$441
5	01/12/2012	M.Q.	120123584833036998	United	Seroquel 300 mg tablets, 30-day supply; \$973
6	01/20/2012	T.V.	120514071508069999	United	Geoden 80 mg caplets, 30-day supply; \$624

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

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, **ANGEL CALDERIN**, has an interest.

2. Upon conviction of any violation of Title 18, United States Code, Section 1347, as alleged in Counts 1 through 6 of the Indictment, the defendant shall forfeit all of his 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. GONSOULIN
ASSISTANT UNITED STATES ATTORNEY