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CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

June 2011 Grand Jury

CR12-0712

UNITED STATES OF AMERICA, Plaintiff, v. WON SUK LEE and EDDIE CHOI, Defendants.	CR _____ I N D I C T M E N T [18 U.S.C. § 1347: Health Care Fraud; 18 U.S.C. § 2: Aiding and Abetting and Causing an Act to be Done]

The Grand Jury charges:

COUNTS ONE THROUGH SIX

[18 U.S.C. § 1347]

A. INTRODUCTORY ALLEGATIONS

At all times relevant to this Indictment:

The Defendants

1. Defendant WON SUK LEE ("defendant LEE"), an acupuncturist, was not a physician, physical therapist ("PT"), or PT assistant licensed to practice in California.

2. Defendant LEE owned and operated Won Suk Lee Acupuncture & Herb, Inc. ("Huntington Park Acupuncture Clinic"),

a business located at 2677 Zoe Avenue, Suites 107 and 120, in Huntington Park, California.

3. Beginning on or about a date no later than December 15, 2010, defendant LEE also owned and operated Variety Choice, Inc. ("Variety Choice"), a business located at 2677 Zoe Avenue, Suite 120, in Huntington Park, California.

4. Defendant EDDIE CHOI ("defendant CHOI") was a PT licensed to practice in California and an enrolled Medicare provider.

5. Beginning on or about January 1, 2006, and continuing until at least on or about July 26, 2012, defendant CHOI was the Chief Executive Officer for California Neuro-Rehabilitation Institute, Inc. ("CNR"), a physical therapy clinic located at 520 S. Virgil Avenue, Suite 401, in Los Angeles, California.

6. CNR was enrolled as a Medicare provider as a physical therapy group.

7. Between in or about May 2008 and continuing until at least in or about March 2011, Medicare paid CNR on claims CNR submitted for physical therapy services allegedly provided through CNR by electronic funds transferred into CNR's Bank of America bank account (account number ending 2294) (the "CNR Bank Account"). Defendant CHOI was a signatory on the CNR Bank Account.

The Medicare Program

8. Medicare was a federal health care benefit program, affecting commerce, that provided 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 ("HHS").

9. Individuals who qualified for Medicare benefits were referred to as Medicare "beneficiaries." Each Medicare beneficiary was given a Health Identification Card containing a unique Identification number ("HICN").

10. Health care providers, including PTs and physical therapy group practices, who provided medical services that were reimbursed by Medicare were referred to as Medicare "providers."

11. Medicare had various parts relating to the nature of the services rendered to beneficiaries. Medicare Part B covered the cost of physical therapy services.

12. To obtain reimbursement from Medicare, a PT or physical therapy group first had to apply for and obtain a provider number. By signing the provider application, the PT or physical therapy group agreed to (a) abide by Medicare rules and regulations; and (b) not submit claims to Medicare knowing they were false or fraudulent or with deliberate ignorance or reckless disregard of their truth or falsity.

13. If Medicare approved a provider's application, Medicare assigned the provider a Medicare provider number, which enabled the provider to submit claims to Medicare for services rendered to Medicare beneficiaries.

14. Palmetto GBA ("Palmetto") processed and paid Medicare Part B claims in Southern California.

15. Medicare reimbursed providers only for services that were medically necessary to the treatment of a beneficiary's illness or injury, were prescribed by a beneficiary's physician,

and were provided in accordance with Medicare regulations and guidelines that governed whether a particular item or service would be reimbursed by Medicare.

16. Medicare required that physical therapy services be performed by (a) a physician, (b) a PT, or (c) a PT assistant acting under the direct supervision of a physician or a PT. "Direct supervision" meant that the doctor or PT was physically present in the same office suite and immediately available to provide assistance and direction throughout the time the PT assistant was performing physical therapy services. Therapy services provided by aides or physical therapy students were not reimbursable by Medicare, regardless of the level of supervision.

17. Medicare did not cover acupuncture or reimburse providers for acupuncture services. Medicare did not cover massages unless they were therapeutic massages provided by a licensed therapist as a part of a beneficiary's plan of care.

18. To bill Medicare for services provided to a beneficiary, a PT or physical therapy group was required to submit a claim to Palmetto. Medicare required claims to be truthful, complete, and not misleading. In addition, when a claim was submitted, the PT or physical therapy group was required to certify that the services covered by the claim were medically necessary.

19. Medicare required a claim for Medicare reimbursement of physical therapy services to set forth, among other things, the beneficiary's name and HICN, the Current Procedural Terminology ("CPT") code for the service provided to the beneficiary, the date the service was provided, the location where the service was

provided, and the name and national provider identifier ("NPI") of the PT who performed the service.

B. THE SCHEME TO DEFRAUD

20. Beginning in or about August 2009, and continuing until on or about November 22, 2011, in Los Angeles County, within the Central District of California, and elsewhere, defendants LEE and CHOI, together with others known and unknown to the Grand Jury, knowingly, willfully, and with intent to defraud, executed a scheme and artifice: (a) to defraud a health care benefit program, namely Medicare, as to material matters in connection with the delivery of and payment for health care benefits, items, and services; and (b) to obtain money from Medicare by means of material false and fraudulent pretenses and representations and the concealment of material facts in connection with the delivery of and payment for health care benefits, items, and services.

21. The fraudulent scheme operated, in substance, in the following manner:

a. Between in or about August 2009, and continuing through in or about February 2011, Medicare beneficiaries received services at the Huntington Park Acupuncture Clinic that were not covered by Medicare, including acupuncture and massage, from defendant LEE and others working at defendant LEE's instruction who were not physicians, PTs, or PT assistants.

b. Defendant LEE provided and willfully caused to be provided copies of the beneficiaries' Medicare Health Identification Cards, HICNs, and other personal and medical information to employees at CNR, knowing and intending that CNR's owner, defendant CHOI, together with others known and unknown to

the Grand Jury, would use and cause that information to be used to submit false claims to Medicare for Medicare-covered services such as physical therapy.

c. Using the information defendant LEE provided, defendant CHOI submitted and willfully caused to be submitted, and aided and abetted in the submission of, false claims to Medicare on CNR's behalf for physical therapy services purportedly provided to the beneficiaries by defendant CHOI or other PTs at CNR, even though defendant CHOI knew that the beneficiaries had not received any services at CNR or from himself or any other PT working at CNR. Between on or about August 4, 2009, and continuing through on or about August 10, 2011, CNR submitted approximately $2,138,760 in claims to Medicare for the beneficiaries whose information defendant LEE provided.

d. Defendant CHOI created and willfully caused to be created, and aided and abetted in the creation of, patient files for the beneficiaries that included false documentation for covered services allegedly provided to beneficiaries at CNR in order to support CNR's fraudulent claims for these services to Medicare. As a part of this false documentation, defendant CHOI signed physical therapy evaluations, notes, and discharge forms for beneficiaries to whom he provided no services and for whom he was unaware whether any services had been provided.

e. Between on or about August 14, 2009, and continuing through on or about November 22, 2011, Medicare paid CNR approximately $1,284,387 for these fraudulent claims by electronic funds transfers made into the CNR Bank Account, for

which defendant CHOI had signatory authority.

f. From the Medicare claim reimbursements, defendant CHOI, together with others known and unknown to the Grand Jury, wrote checks from the CNR Bank Account to defendant LEE through the Huntington Park Acupuncture Clinic and Variety Choice. The checks were for amounts representing approximately 60% of the Medicare reimbursement amount CNR received and were deposited into the Huntington Park Acupuncture Clinic's Bank of America bank account (account number ending 4661) and the JPMorgan Chase bank account for Variety Choice (account number ending 3643).

C. EXECUTION OF THE SCHEME TO DEFRAUD

22. On or about the following dates, in Los Angeles County, within the Central District of California, and elsewhere, defendants LEE and CHOI, together with others known and unknown to the Grand Jury, for the purpose of executing the scheme to defraud described above, knowingly and willfully submitted and caused to be submitted, and aided and abetted in the submission of, the following false and fraudulent claims to Medicare:

Count	Claim Number	Approx. Date Submitted	Amount Paid	Beneficiary	CPT Code and Nature of Claim
ONE	55110933 8397660	12/4/2009	$157.56	A.D.	97001 (Physical therapy evaluation), 97110 (Therapeutic procedure), 97140 (Manual therapy techniques)

Count	Claim Number	Approx. Date Submitted	Amount Paid	Beneficiary	CPT Code and Nature of Claim
TWO	551109350459570	12/16/2009	$95.97	A.D.	97110 (Therapeutic procedure), 97140 (Manual therapy techniques)
THREE	551110137239790	5/17/2010 and 8/10/2011	$227.46	M.G.	97110 (Therapeutic procedure), 97112 (Neuromuscular reeducation), 97140 (Manual therapy techniques)
FOUR	551110137239750	5/17/2010	$98.37	M.G.	97110 (Therapeutic procedure), 97140 (Manual therapy techniques)
FIVE	551810291537390	10/16/2010	$164.35	M.F.	97001 (Physical therapy evaluation), 97110 (Therapeutic procedure), 97140 (Manual therapy techniques)

Count	Claim Number	Approx. Date Submitted	Amount Paid	Beneficiary	CPT Code and Nature of Claim
SIX	55111031 5586690	11/11/10	$103.31	M.F.	97110 (Therapeutic procedure), 97112 (Neuromuscular reeducation), 97140 (Manual therapy techniques)

A TRUE BILL

/S/

Foreperson

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