

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. **12-20754** CR-SCOLA

18 U.S.C. § 1347

18 U.S.C. § 2

18 U.S.C. § 982

~~RECEIVED~~
~~FILED~~

UNITED STATES OF AMERICA,

vs.

ORLANDO J. TORRES,

Defendant.

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

INDICTMENT

The Grand Jury charges that:

GENERAL ALLEGATIONS

At all times relevant 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 ("HHS"), 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 was a "health care benefit program," as defined by Title 18, United States Code, Section 24(b).

3. Part A of the Medicare Program was a medical insurance program that covered, among other things, certain physician and outpatient services, that were medically necessary and ordered by licensed medical doctors or other qualified health care providers. Part A of the Medicare program also covered certain outpatient services, including physical therapy, rehabilitation and occupational therapy ("PT/OT") services, which are typically administered at Comprehensive Outpatient Rehabilitation Facilities ("CORFs") or Outpatient Physical Therapy Providers ("OPTs). Medicare Part A covered such services as long as they were ordered by a medical doctor or other qualified health care provider, and deemed medically necessary.

Medicare Billing and Payment Procedures

4. A CORF or OPT that sought to participate in Medicare Part A and bill Medicare for the cost of PT/OT services was required to apply for and receive a "supplier number" for Part A of the Medicare Program.

5. For Florida Medicare beneficiaries, Medicare Part A PT/OT benefits were administered by First Coast Service Options ("First Coast"), pursuant to a contract with HHS to receive, process and pay claims. First Coast received, adjudicated and paid the claims of authorized PT/OT providers that were seeking reimbursement for the cost of PT/OT services and supplied or provided to Medicare beneficiaries.

6. To receive payment from Medicare, a CORF or OPT, using its Part A supplier number, would submit a health insurance claim form, known as a CMS-1450. Medicare permitted CORF and OPT companies to submit CMS-1450's electronically or by way of a paper claim form. Each claim form required certain important information, including: (a) the Medicare beneficiary's name and identification number; (b) the identification number of the doctor or other qualified health care provider who ordered the health care benefit, item, or service that was the

subject of the claim; (c) the health care benefit, item, or service that was provided or supplied to the beneficiary; (d) the billing codes for the benefit, item, or service; and (e) the date upon which the benefit, item, or service was provided or supplied to the beneficiary.

7. Medicare, through First Coast, would generally pay a substantial portion of the cost of the related health care benefits, items, and services that were medically necessary and ordered by licensed doctors or other qualified health care providers.

8. Payments under Medicare Part A were often made directly to the CORF or OPT company rather than to the patient/beneficiary. For this to occur, the beneficiary would assign the right of payment to the CORF or OPT company or other health care providers. Once such an assignment took place, the CORF or OPT company would assume the responsibility for submitting claims to, and receiving payments from, Medicare.

M.B.M. Medical Services, Inc.

9. M.B.M. Medical Services, Inc. (hereinafter, "MBM Medical") was a Florida corporation, incorporated on or about January 21, 2003, that purportedly did business in Miami-Dade County providing PT/OT services to Medicare beneficiaries. MBM Medical's place of business was located at 11200 W. Flagler Street, Suite 201, Miami, Florida, 33174.

10. On or about July 22, 2004, MBM Medical applied for and subsequently obtained Medicare provider number 684897, authorizing the company to submit reimbursement claims to Medicare for health care related items, benefits, and services.

The Defendant

11. Defendant **ORLANDO J. TORRES** controlled and operated MBM Medical beginning on or about August 8, 2008, and continuing through the dissolution of the corporation on or about September 25, 2009.

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 August 8, 2008, and continuing through or about September 25, 2009, in Miami-Dade County, in the Southern District of Florida, and else where, the defendant,

ORLANDO J. TORRES,

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 Medicare, a health care benefit program affecting commerce, as defined by Title 18, United States Code, Section 24(b), 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, that is, the defendant, through MBM Medical, submitted false and fraudulent claims to Medicare, seeking reimbursement for the cost of various PT/OT services.

Purpose of the Scheme and Artifice

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

The Manner and Means of the Scheme and Artifice

The manner and means by which the defendant sought to accomplish the purpose of the scheme and artifice included, among others, the following:

4. On or about August 8, 2008, **ORLANDO J. TORRES** was listed as the sole owner, director, and registered agent of MBM Medical.

5. On or about August 13, 2008, **ORLANDO J. TORRES** was added as an authorized signor on MBM Medical's corporate bank account at Bank of America, bearing account number xxxxxxxx2962.

6. On or about August 13, 2008, **ORLANDO J. TORRES** opened a corporate bank account for MBM Medical at Washington Mutual Bank, bearing account number xxxxxx7389, and had sole signatory authority over the account.

7. On or about September 26, 2008, **ORLANDO J. TORRES** obtained sole signatory authority over MBM Medical's corporate bank account at Bank of America, bearing account number xxxxxxxx2962.

8. On or about September 26, 2008, **ORLANDO J. TORRES** obtained sole signatory authority over MBM Medical's corporate bank account at Bank of America, bearing account number xxxxxxxx2988.

9. From on or about August 8, 2008, and continuing through on or about July 17, 2009, **ORLANDO J. TORRES** caused MBM Medical to submit approximately \$4,933,757 in Medicare claims for PT/OT related reimbursement, such claims falsely and fraudulently representing that PT/OT items and services were prescribed by a doctor and provided to Medicare beneficiaries.

10. As a result of the submission of these claims, **ORLANDO J. TORRES** caused Medicare to make payments to MBM Medical in the approximate amount of \$3,301,416. The payments were deposited into MBM Medical's corporate bank accounts at Bank of America and Washington Mutual Bank.

11. From on or about October 9, 2008, and continuing through on or about August 11, 2009, **ORLANDO J. TORRES** transferred and disbursed, and caused the transfer and disbursement of, monies from MBM Medical's corporate bank account to himself and others.

Acts in Execution or Attempted Execution of the Scheme and Artifice

12. On or about the dates specified as to each count below, in Miami-Dade County, in the Southern District of Florida, and elsewhere, **ORLANDO J. TORRES**, 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 a health care benefit program affecting commerce, that is, Medicare, 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 program, in that the defendant submitted and caused the submission of false and fraudulent Medicare claims seeking the below listed approximate dollar amounts, and represented that, on or about the below listed dates of service, MBM Medical provided the identified products and services to the below listed beneficiaries pursuant to physicians' orders or prescriptions:

| Count | Beneficiary | Approximate Date of Claim | Medicare Claim Number | Procedure Claimed; Procedure Code; Approximate Amount Billed |
|-------|-------------|---------------------------|-----------------------|--|
| 1 | M.W. | 10/09/08 | 20828303352205 | Manual Therapy Techniques, one or more areas, each 15 minutes; 97140; \$28 |

| Count | Beneficiary | Approximate Date of Claim | Medicare Claim Number | Procedure Claimed; Procedure Code; Approximate Amount Billed |
|-------|-------------|---------------------------|-----------------------|---|
| 2 | D.M. | 10/13/08 | 20828701314705 | Therapeutic Procedures/Exercises, one or more areas, each 15 minutes; 97110; \$31 |
| 3 | R.D. | 11/10/08 | 20831501632405 | Therapeutic Activities, direct patient contact, 15 minutes; 97530; \$32 |
| 4 | M.C. | 11/12/08 | 20831701052705 | Therapeutic Procedures/Exercises, one or more areas, each 15 minutes; 97110; \$32 |
| 5 | A.T. | 11/20/08 | 20832500869705 | Therapeutic Activities, direct patient contact, 15 minutes; 97530; \$32 |

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

**FORFEITURE
(18 U.S.C. § 982)**

1. The allegations contained in Counts 1 through 5 of 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 has an interest pursuant to the provisions of Title 18, United States Code, Sections 982(a)(1) and 982(a)(7).

2. Pursuant to Title 18, United States Code, Section 982(a)(7), upon conviction of any federal health care offense charged in Counts 1 through 5 of this Indictment, the defendant shall forfeit to the United States any property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of such offense, including a money judgment in the amount of \$3,301,416.

All pursuant to Title 18, United States Code, Sections 982(a)(7) and 982(b) and the
procedures of Title 21, United States Code, Section 853.

A TRUE BILL

FOREPERSON

Wifredo R. Ferrer

WIFREDO R. FERRER
UNITED STATES ATTORNEY

Christopher J. Clark

CHRISTOPHER J. CLARK
ASSISTANT UNITED STATES ATTORNEY