

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

2013 APR 23 PM 1:43

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

UNITED STATES OF AMERICA

v.

CASE NO. 8:13-CR-203-T-35EAS

DIXAN BARCELO-CASTRO  
JUAN GONZALEZ-CASTRO  
JOSE FRESCO  
ALFREDO BARCELO-RODRIGUEZ

18 U.S.C. § 1349  
18 U.S.C. §§ 1347 and 2  
18 U.S.C. § 982(a)(7)  
18 U.S.C. § 982(b)(1)  
28 U.S.C. § 2461(c)

INDICTMENT

**SEALED**

The Grand Jury charges:

COUNT ONE  
(Conspiracy to Commit Healthcare Fraud)

A. Introduction

At times material to this Indictment:

**The Defendants**

1. DIXAN BARCELO-CASTRO was a resident of Miami, Florida but established, operated and controlled four supposed healthcare clinics in Tampa, Florida, to include Palmetto General Health Care Inc., United Healthcare Center Inc., New Imaging Center Inc., and Lord Physical Rehabilitation Center, Inc.
2. JUAN GONZALEZ-CASTRO was a resident of Miami, Florida, but participated in the establishment and operation of four supposed healthcare clinics in Tampa, Florida, to include Palmetto General Health Care Inc., United

Healthcare Center Inc., New Imaging Center Inc., and Lord Physical Rehabilitation Center, Inc. At various points during the scheme to defraud, JUAN GONZALEZ-CASTRO was listed at the President and Registered Agent of United Healthcare Center, Inc. and Vice President and Secretary of New Imaging Center, Inc.

3. JOSE FRESCO participated in the establishment and operation of four supposed healthcare clinics in Tampa, Florida, to include Palmetto General Health Care Inc., United Healthcare Center Inc., New Imaging Center Inc., and Lord Physical Rehabilitation Center, Inc. At various points during the scheme to defraud, JOSE FRESCO was listed as the President of New Imaging Center, Inc.

4. ALFREDO BARCELO-RODRIGUEZ participated in the establishment and operation of four supposed healthcare clinics in Tampa, Florida, to include Palmetto General Health Care Inc., United Healthcare Center Inc., New Imaging Center Inc., and Lord Physical Rehabilitation Center, Inc. At various points during the scheme to defraud, ALFREDO BARCELO-RODRIGUEZ was listed as the President of Palmetto General Health Care Inc. and the President of Lord Physical Rehabilitation Center, Inc.

#### **The Clinics**

5. Palmetto General Health Care Inc. ("Palmetto") was a Florida Corporation located at 2137 W. Martin Luther King Jr. Blvd., Tampa, FL

33607. Palmetto billed Medicare Part C HMO's primarily for vein ablation services that were never performed.

6. United Healthcare Center Inc. ("United") was a Florida Corporation located at 2137 W. Martin Luther King Jr. Blvd., Tampa, FL 33607. United billed Medicare Part C HMO's primarily for vein ablation services that were never performed.

7. New Imaging Center Inc. ("New Imaging") was a Florida Corporation located at 2137 W. Martin Luther King Jr. Blvd., Tampa, FL 33607. New Imaging billed Medicare Part C HMO's primarily for vein ablation services that were never performed.

8. Lord Physical Rehabilitation Center, Inc. ("Lord Rehab") was a Florida Corporation located at 2137 W. Martin Luther King Jr. Blvd., Tampa, FL 33607. Lord Rehab billed Medicare Part C HMO's primarily for vein ablation services that were never performed.

9. Palmetto, United, New Imaging, and Lord Rehab all supposedly operated at the same physical address, at the same time, and billed Medicare Part C HMO's for the same procedures for the same patients.

### **The Medicare Program**

10. The Medicare Program ("Medicare") was a federal program that provided free or below-cost health care benefits to certain individuals, primarily the elderly, blind, and 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"). Individuals who received benefits under Medicare were commonly referred to as Medicare "beneficiaries."

11. Medicare was a "health care benefit program," as defined by Title 18, United States Code, Section 24(b).

12. The Medicare program was divided into different "parts." "Part A" covered health services provided by hospitals, skilled nursing facilities, hospices, and home health agencies. "Part B" of the Medicare program covered, among other things, medical services provided by physicians, medical clinics, and other qualified health care providers, as well as medications rendered "incident to" such services. The Medicare Advantage Program, formerly known as "Part C" or "Medicare+Choice," is described in further detail below.

#### **Medicare Advantage Program or "Part C"**

13. The Medicare Advantage Program, formerly known as "Part C" or "Medicare+Choice," provided Medicare beneficiaries with the option to receive their Medicare benefits through a wide variety of private managed care plans, including health maintenance organizations ("HMOs"), provider sponsored organizations ("PSOs"), preferred provider organizations ("PPOs"), and private fee-for-service plans ("PFFS"), rather than through the original Medicare program (Parts A and B).

14. Private health insurance companies offering Medicare Advantage or Part C plans were required to provide Medicare beneficiaries with the same services and supplies offered under Parts A and B of Medicare. To be eligible to enroll in a Medicare Advantage or Part C plan, a person must be entitled to benefits under Part A and Part B of the Medicare Program.

15. A number of companies including Humana, Universal Healthcare, Universal American, and Aetna and their related subsidiaries and affiliates contracted with CMS to provide managed care to Medicare Advantage or Part C beneficiaries through various plans.

16. Humana, Universal Healthcare, Universal American, and Aetna were "health care benefit programs," as defined by Title 18, United States Code, Section 24(b).

17. These entities, through their respective Medicare Advantage programs, often made payments directly to physicians, medical clinics, or other health care providers, rather than to the Medicare Advantage or Part C beneficiary that received the health care benefits, items, and services. This occurred when the provider accepted assignment of the right to payment from the beneficiary.

18. To obtain payment for treatment or services provided to a beneficiary enrolled in a Medicare Advantage or Part C plan, physicians, medical clinics, and other health care providers had to submit itemized claim forms to the

beneficiary's Medicare Advantage plan. The claim forms could be submitted electronically via the internet or in paper form via mail or fax. The claim form required certain important information, including: (a) the Medicare Advantage beneficiary's name and identification number; (b) a description of the health care benefit, item, or service that was provided or supplied to the beneficiary; (c) the billing codes for the benefit, item, or service; (d) the date upon which the benefit, item, or service was provided or supplied to the beneficiary; (e) the name of the referring physician or other health care provider, as well as a unique identifying number, known as either the Unique Physician Identification Number ("UPIN") or National Provider Identifier ("NPI"), and (f) the entity or clinic providing the services.

19. When a provider submitted a claim form to a Medicare Advantage program, the provider certified that the contents of the form were true, correct, complete, and that the form was prepared in compliance with the laws and regulations governing the Medicare program. The submitting party also certified that the services being billed were medically necessary and were in fact provided as billed.

20. The private health insurance companies offering Medicare Advantage or Part C plans were paid a fixed rate per beneficiary per month by the Medicare program, regardless of the actual number or type of services the beneficiary receives. These payments by Medicare to the insurance companies were known

as "capitation" payments. Thus, every month, CMS paid the health insurance companies a pre-determined amount for each beneficiary who was enrolled in a Medicare Advantage plan, regardless of whether or not the beneficiary utilized the plan's services that month. CMS determined the per-patient capitation amount using actuarial tables, based on a variety of factors, including the beneficiary's age, sex, severity of illness, and county of residence. CMS adjusted the capitation rates annually, taking into account each patient's previous illness diagnoses and treatments. Beneficiaries with more illnesses or more serious conditions would rate a higher capitation payment than healthier beneficiaries.

#### **Endovenous Ablation Therapy**

21. Endovenous Ablation Therapy was a minor surgical procedure used to treat problems with blood circulation, such as in the main, large veins of the legs. Varicose veins are abnormally enlarged vessels that usually result from reflux of blood caused by incompetent valves in the venous system. Endovenous ablation therapy utilized a catheter that was threaded into a large vein, such as the greater saphenous vein. A probe was inserted through the catheter to deliver heat either from a laser or a radio frequency source to collapse the vein. This procedure required use of an ultrasound to guide the catheter and the administration of a local anesthetic, and was intended to treat medical, not cosmetic, conditions. Medicare would cover this procedure when deemed medically necessary to treat symptomatic varicosities such as in the lesser or

greater saphenous vein and when performed by a licensed physician. Medicare did not cover purely cosmetic procedures, such as the treatment of non-symptomatic varicose or spider veins.

**B. The Conspiracy**

22. From at least in or around 2006, and continuing through and including at least in or around February 2010, in the Middle District of Florida and elsewhere,

DIXAN BARCELO-CASTRO,  
JUAN GONZALEZ-CASTRO,  
JOSE FRESCO,  
and  
ALFREDO BARCELO-RODRIGUEZ,

the defendants herein, did knowingly and willfully combine, conspire, confederate, and agree with each others and others known and unknown to the Grand Jury to commit healthcare fraud, that is, to knowingly, willfully, and with intent to defraud, execute, and attempt to execute, a scheme and artifice to defraud a health care benefit program affecting commerce, that is Medicare Advantage or Part C plans, and to obtain, by means of false and fraudulent pretenses, representations, and promises related to material facts, any of the money and property owned by, and under the custody and control of, a health care benefit program affecting commerce, that is, Medicare Advantage or Part C plans, in connection with the delivery of and payment for health care benefits, items, and services, in violation of Title 18, United States Code, Section 1347.

**C. The Manner and Means of the Conspiracy**

23. The manner and means by which the conspirators sought to accomplish the objects of the conspiracy included, among others:

(a) It was part of the conspiracy that the conspirators would and did make themselves officers and directors of the four clinics and establish bank accounts in the names of those four entities;

(b) It was further part of the conspiracy that the conspirators would and did hire staff and lease space to create the appearance of legitimate operating clinics that performed medical services, even though all four clinics supposedly operated simultaneously at the same physical location;

(c) It was further part of the conspiracy that the conspirators would and did recruit and enroll beneficiaries in Medicare Advantage or Part C plans, most commonly through Humana, Universal Healthcare, Universal American and/or Aetna;

(d) It was further part of the conspiracy that the conspirators would and did direct the medical staff of the clinics that, to the extent they performed any medical services, to perform minor, cosmetic procedures that were not reimbursable by Medicare or basic physical examinations for which they did not bill;

(e) It was further part of the conspiracy that the conspirators would and did bill and cause to be billed the Medicare Advantage or Part C plans for endovenous vein ablation procedures that were never performed;

(f) It was further part of the conspiracy that conspirators would and did choose to fraudulently bill the Medicare Advantage or Part C plans for endovenous vein ablation using Current Procedural Terminology or CPT codes 36475 (endovenous ablation therapy) and 36476 (second and subsequent veins treated) because of their relatively high rates of Medicare reimbursement;

(g) It was further part of the conspiracy that the conspirators would and did routinely migrate the same groups of beneficiaries from one Medicare Advantage or Part C plan to another and rebill for the same endovenous vein procedure for the same beneficiary, frequently within a period of only weeks or months after the alleged prior vein ablation therapy was performed on the same patient;

(h) It was further part of the conspiracy that the conspirators would and did bill and cause to be billed Medicare Advantage or Part C plans predominantly via the submission of paper claims, which could be submitted anonymously on behalf of a medical provider, unlike electronic submissions, which required the billing entity to be identified;

(i) It was further part of the conspiracy that the conspirators would and did cause the Medicare Advantage or Part C plans to pay the fraudulent

claims predominantly through paper checks that were issued to the clinics and deposited into bank accounts under the control of the coconspirators;

(j) It was further part of the conspiracy that the conspirators would and did share in the proceeds of the fraud;

(k) It was a further part of the conspiracy that conspirators would and did misrepresent, conceal, hide, and cause to be misrepresented, concealed, and hidden, acts done in furtherance of the conspiracy and the purpose of those acts.

All in violation of Title 18, United States Code, Section 1349.

**Counts Two through Twelve**  
(Health Care Fraud - 18 U.S.C. §§ 1347 and 2)

**A. Introduction**

24. Paragraphs 1 through 21 of Part A of Count One of this Indictment, Introduction, are realleged and incorporated by reference as if fully set forth herein.

**B. The Scheme and Artifice**

25. From least in or around 2006, and continuing through and including at least in or around February 2010, in the Middle District of Florida and elsewhere,

DIXAN BARCELO-CASTRO,  
JUAN GONZALEZ-CASTRO,  
JOSE FRESCO,  
and  
ALFREDO BARCELO-RODRIGUEZ

the defendants herein, did knowingly and willfully execute and attempt to execute

a scheme and artifice to defraud a health care benefit program, that is Medicare Advantage or Part C plans, and to obtain, by means of materially false and fraudulent pretenses, representations, and promises, money and property owned by, and under the control of, a health care benefit program, that is Medicare Advantage or Part C plans, in connection with the delivery of and payment for health care benefits, items, and services.

**C. Manner and Means of the Scheme**

26. The substance of the scheme and artifice is set forth in paragraph 23 of Part C of Count One of this Indictment, Manner and Means of the Conspiracy, the allegations of which are realleged and incorporated by reference as if fully set forth herein.

**D. Execution of the Scheme and Artifice**

27. On or about the claim submission dates specified below in Counts Two through Eleven, in the Middle District of Florida and elsewhere,

DIXAN BARCELO-CASTRO,  
JUAN GONZALEZ-CASTRO,  
JOSE FRESCO,  
and  
ALFREDO BARCELO-RODRIGUEZ ,

the defendants herein, did knowingly and willfully execute and attempt to execute the aforementioned scheme and artifice, by submitting and causing to be submitted false and fraudulent claims for payment by Humana, a Medicare Advantage or Part C plan, as further detailed below:

Date	Patient	Clinic	Procedure Billed	Date of Supposed Service	Date Claim Received	Amount Claimed
Two	W.M.	New Imaging	CPT36475 endovenous ablation therapy	2/19/2009	3/5/2009	\$1900
Three	M.R.	United	CPT 36475 endovenous ablation therapy	3/3/2009	4/14/2009	\$1900
Four	M.M.	United	CPT 36475 endovenous ablation therapy	3/5/2009	4/14/2009	\$1900
Five	M.R.2	United	CPT 36475 endovenous ablation therapy	3/20/2009	4/14/2009	\$1900
Six	G.A.	New Imaging	CPT 36475 endovenous ablation therapy	3/26/2009	4/21/2009	\$1900
Seven	M.R.2	New Imaging	CPT 36475 endovenous ablation therapy	3/27/2009	4/21/2009	\$1900
Eight	G.A.	United	CPT 36475 endovenous ablation therapy	3/27/2009	4/21/2009	\$1900
Nine	B.R.	Palmetto	CPT 36475 endovenous ablation therapy	4/6/2009	5/26/2009	\$1900
Ten	O.A.	Lord Rehab	CPT 36475 endovenous ablation therapy	4/11/2009	5/4/2009	\$1900
Eleven	J.V.	United	CPT 36476 second and subsequent veins treated	5/5/2009	6/5/2009	\$400
Twelve	O.M.	Lord Rehab	CPT 36475 endovenous ablation therapy	5/29/09	6/9/2009	\$1900

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

## FORFEITURE

1. The allegations contained in Counts One through Twelve of this Indictment are hereby realleged and incorporated by reference for the purpose of alleging forfeitures pursuant to Title 18, United States Code, Section 982(a)(7).

2. Upon conviction of the offenses charged in Counts One through Twelve of this Indictment, in violation of Title 18, United States Code, Sections 1349 and 1347, the defendants,

DIXAN BARCELO-CASTRO,  
JUAN GONZALEZ-CASTRO,  
JOSE FRESCO,  
and  
ALFREDO BARCELO-RODRIGUEZ ,

shall forfeit to the United States of America, pursuant to Title 18, United States Code, Section 982(a)(7), any property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the offenses. The property to be forfeited includes, but is not limited to, a forfeiture money judgment of at least approximately \$2,507,004.21, which represents the proceeds identified to date that the defendants received as a result of the conspiracy and scheme to defraud charged in Counts One through Twelve.

3. If any of the property described above, as a result of any act or omission of the defendants:

- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to, or deposited with, a third party;
- (c) has been placed beyond the jurisdiction of the court;
- (d) has been substantially diminished in value; or
- (e) has been commingled with other property which cannot be divided without difficulty,

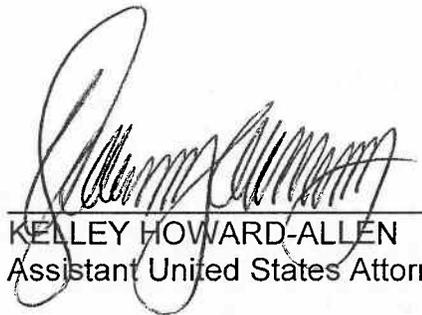
the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b)(1) and Title 28, United States Code, Section 2461(c).

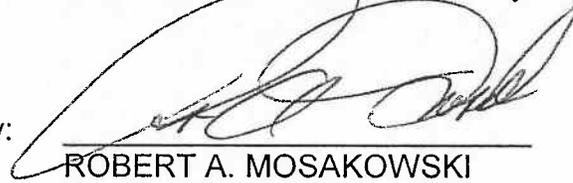
A TRUE BILL,

  
Foreperson

ROBERT E. O'NEILL  
United States Attorney

By:   
AMANDA L. RIEDEL  
Assistant United States Attorney

By:   
KELLEY HOWARD-ALLEN  
Assistant United States Attorney

By:   
ROBERT A. MOSAKOWSKI  
Assistant United States Attorney  
Chief, Economic Crimes Section

No. \_\_\_\_\_

**UNITED STATES DISTRICT COURT**

Middle District of Florida  
Tampa Division

THE UNITED STATES OF AMERICA

vs.

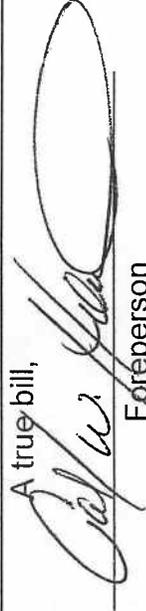
DIXAN BARCELO-CASTRO  
JUAN GONZALEZ-CASTRO  
JOSE FRESCO  
ALFREDO BARCELO-RODRIGUEZ

**INDICTMENT**

Violations:

Title 18, United States Code, Section 1349 - Count 1  
Title 18, United States Code, Section 1347 - Counts 2 to 12

A true bill,

  
Foreperson

2013 APR 23 PM 1:42

MIDDLE DISTRICT OF FLORIDA  
TAMPA, FLORIDA

Filed in open court this 23rd day

of April, 2013.

\_\_\_\_\_  
Clerk

Bail \$ \_\_\_\_\_