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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FILED
MAY 9 2013

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UNITED STATES OF AMERICA

Plaintiff

Case No. 12-20603

v.

Hon. Arthur J. Tarnow

D-1 SONJAI POONPANIJ, MD,
D-2 ATTAULLAH ARAIN,
D-3 NADIA ARAIN,
D-4 JUDITH RAGASA,
D-5 REGINALD SMITH,

VIO: 18 U.S.C. § 1349
18 U.S.C. § 1347
18 U.S.C. § 2
18 U.S.C. § 371
18 U.S.C. § 982

Defendants.

FIRST SUPERSEDING INDICTMENT

THE GRAND JURY CHARGES:

General Allegations

At all times relevant to this Indictment:

The Medicare Program

1. The Medicare program was a federal health care program providing benefits to persons 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. Individuals who received benefits under Medicare were referred to as Medicare "beneficiaries."

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

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3. The Medicare program included coverage under two primary components, hospital insurance (“Part A”) and medical insurance (“Part B”). Part A covered physical therapy, occupational therapy, and skilled nursing services if a facility was certified by CMS as meeting certain requirements. Part B of the Medicare Program covered the cost of physicians’ services and other ancillary services not covered by Part A. The physical therapy, occupational therapy, and other services at issue in this Indictment were covered by Part A and Part B.

4. National Government Services was the CMS intermediary for Medicare Part A in the state of Michigan. Wisconsin Physicians Service was the CMS contracted carrier for Medicare Part B, which included home visits, in the state of Michigan. TrustSolutions LLC was the Program Safeguard Contractor for Medicare Part A and Part B in the state of Michigan until April 24, 2012, when it was replaced by Cahaba Safeguard Administrators LLC.

5. By becoming a participating provider in Medicare, enrolled providers agreed to abide by the policies and procedures, rules, and regulations governing reimbursement. In order to receive Medicare funds, enrolled providers, together with their authorized agents, employees, and contractors, were required to abide by all the provisions of the Social Security Act, the regulations promulgated under the Act, and applicable policies, procedures, rules, and regulations issued by CMS and its authorized agents and contractors.

6. Upon certification, the medical provider, whether a clinic or an individual, was assigned a provider identification number for billing purposes (referred to as a PIN). When the medical provider rendered a service, the provider submitted a claim for reimbursement to the Medicare contractor/carrier that included the PIN assigned to that medical provider. When an individual medical provider was associated with a clinic, Medicare Part B required that the

individual provider number associated with the clinic be placed on the claim submitted to the Medicare contractor.

7. Health care providers were given and provided with online access to Medicare manuals and services bulletins describing proper billing procedures and billing rules and regulations. Providers could only submit claims to Medicare for services they rendered and providers were required to maintain patient records to verify that the services were provided as described on the claim form.

8. In order to receive reimbursement for a covered service from Medicare, a provider was required to submit a claim, either electronically or using a form (*e.g.*, a CMS-1500 form or UB-92) containing the required information appropriately identifying the provider, patient, and services rendered.

9. A home health agency was an entity that provided health services, including but not limited to skilled nursing, physical and occupational therapy, and speech pathology services to homebound patients.

The Home Health Agency

10. Angle's Touch Home Health Care LLC ("Angle's Touch HHC") was a Michigan corporation doing business at 12701 Telegraph Road, Suite 203, Taylor, Michigan 48180. Angle's Touch HHC was a home health agency that purportedly provided in-home physical therapy, occupational therapy, speech pathology, and/or skilled nursing services to patients. Angle's Touch HHC was a Medicare provider and submitted claims directly to Medicare.

The Physician Business

11. Home Visiting Physicians was a Michigan corporation doing business as Home Physician Services, P.C. ("Home Physician Services") at 17520 West 12 Mile Road, #109,

Southfield, Michigan 48076. Home Physician Services was a Medicare provider and submitted claims directly to Medicare.

The Defendants

12. DR. SONJAI POONPANIJ, a resident of Oakland County, Michigan, was a physician licensed in the state of Michigan who was the Director of Home Physician Services and who referred patients to Angle's Touch HHC.

13. ATTAULLAH ARAIN, a resident of Wayne County, Michigan, was the beneficial owner, controller, and manager of Angle's Touch HHC.

14. NADIA ARAIN, a resident of Wayne County, Michigan, was the owner, controller, and manager of Angle's Touch HHC.

15. JUDITH RAGASA, a resident of Windsor, in the Province of Ontario, Canada, was a registered nurse employed at Angle's Touch HHC and assisted in the operations of Angle's Touch HHC.

16. REGINALD SMITH, a resident of Genesee County, Michigan, was a licensed professional nurse who recruited patients for Angle's Touch HHC.

Count 1
(18 U.S.C. § 1349—Health Care Fraud Conspiracy)

D-1 DR. SONJAI POONPANIJ

D-2 ATTAULLAH ARAIN

D-3 NADIA ARAIN

D-4 JUDITH RAGASA

D-5 REGINALD SMITH

17. Paragraphs 1 through 16 of the General Allegations section of this Indictment are realleged and incorporated by reference as though fully set forth herein.

18. From in or around July 2010, continuing through the present, the exact dates being unknown to the Grand Jury, in Wayne County, in the Eastern District of Michigan, and

elsewhere, the defendants, DR. SONJAI POONPANIJ, ATTAULLAH ARAIN, NADIA ARAIN, JUDITH RAGASA, and REGINALD SMITH did willfully and knowingly combine, conspire, confederate, and agree with each other and others, known and unknown to the Grand Jury, to violate Title 18, United States Code, Section 1347, that is, to execute a scheme and artifice to defraud a health care benefit program affecting commerce, as defined in Title 18, United States Code, Section 24(b), 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 connection with the delivery of and payment for health care benefits, items, and services.

Purpose of the Conspiracy

19. It was a purpose of the conspiracy for defendants DR. SONJAI POONPANIJ, ATTAULLAH ARAIN, NADIA ARAIN, JUDITH RAGASA, REGINALD SMITH and others to unlawfully enrich themselves by, among other things, (a) submitting false and fraudulent claims to Medicare; (b) offering and paying kickbacks and bribes in the forms of cash payments and prescription narcotics to Medicare beneficiaries for the purpose of such beneficiaries arranging for the use of their Medicare beneficiary numbers by the conspirators as the bases of claims filed for physical therapy and other services; (c) concealing the submission of false and fraudulent claims to Medicare, the receipt and transfer of the proceeds from the fraud, and the payment of kickbacks; and (d) diverting proceeds of the fraud for the personal use and benefit of the defendants and their co-conspirators.

Manner and Means

20. The manner and means by which the defendants and their co-conspirators sought to accomplish the purpose of the conspiracy included, among others, the following:

21. NADIA ARAIN, with the assistance of a coconspirator—her husband, ATTAULLAH ARAIN—would incorporate Angle’s Touch HHC, and maintain a Medicare provider number for Angle’s Touch to submit Medicare claims for the cost of physical therapy and other services that were medically unnecessary and were not provided.

22. DR. SONJAI POONPANIJ and other physicians would refer patients for physical therapy and other services purportedly provided by Angle’s Touch HHC, which were billed to Medicare and which were never provided and were medically unnecessary.

23. ATTAULLAH ARAIN would purchase a building in which DR. SONJAI POONPANIJ would see patients and refer them to Angle’s Touch HHC for home health care services.

24. ATTAULLAH ARAIN, NADIA ARAIN, and JUDITH RAGASA and other co-conspirators would assist in managing the day-to-day operations of Angle’s Touch HHC, and would assist DR. SONJAI POONPANIJ in referring patients to Angle’s Touch HHC for physical therapy and other services that were never provided and were medically unnecessary.

25. JUDITH RAGASA would offer and provide kickbacks, bribes, and other inducements to beneficiary recruiters, who would themselves offer and provide kickbacks, bribes, and other inducements to Medicare beneficiaries who were purported patients of Angle’s Touch HHC.

26. JUDITH RAGASA and others would offer and pay kickbacks and bribes in the form of cash and prescription narcotics to Medicare beneficiaries in exchange for their beneficiary information and signatures on paperwork, making it appear that they had received home health services, when in fact, they had not.

27. REGINALD SMITH and other co-conspirators would receive kickbacks and bribes from ATTAULLAH ARAIN, NADIA ARAIN, and other co-conspirators for each patient they recruited through this kickback scheme, patients REGINALD SMITH knew were not homebound and who did not need home health services.

28. DR. SONJAI POONPANIJ, ATTAULLAH ARAIN, NADIA ARAIN, JUDITH RAGASA, REGINALD SMITH, and other co-conspirators would fabricate and falsify medical documents reflecting or supporting purported physical therapy and other services billed to Medicare that were medically unnecessary and were not provided. Those documents included home health certifications and plans of care, therapy notes, evaluations, recertifications, discharges, and other records for therapy that would be billed to Medicare by Angle's Touch HHC, making it appear that physical therapy and other services had been provided, when in fact, they had not.

29. Angle's Touch HHC would submit claims to Medicare seeking reimbursement for the cost of physical therapy and other services purportedly provided to Medicare beneficiaries by defendant JUDITH RAGASA and others that were not, in fact, rendered.

30. DR. SONJAI POONPANIJ, ATTAULLAH ARAIN, NADIA ARAIN, JUDITH RAGASA, and REGINALD SMITH would cause Angle's Touch HHC to submit claims to and receive from Medicare over \$1.6 million for the cost of physical therapy and other services.

31. DR. SONJAI POONPANIJ, ATTAULLAH ARAIN, NADIA ARAIN, JUDITH RAGASA, and REGINALD SMITH would transfer and disburse, and cause the transfer and disbursement of, monies from the various corporate accounts of Angle's Touch HHC to themselves and others.

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

Counts 2-5
(18 U.S.C. §§ 1347 and 2—Health Care Fraud)

D-1 DR. SONJAI POONPANIJ

D-2 ATTAULLAH ARAIN

D-3 NADIA ARAIN

32. Paragraphs 1 through 31 of this Indictment are realleged and incorporated by reference as though fully set forth herein.

33. On or about the dates enumerated below, at Wayne County and Genesee County, in the Eastern District of Michigan, and elsewhere, DR. SONJAI POONPANIJ, ATTAULLAH ARAIN, and NADIA ARAIN, 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 a health care benefit program affecting commerce, as defined in Title 18, United States Code, Section 24(b), 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 Medicare, in connection with the delivery of and payment for health care benefits, items, and services.

Purpose of the Scheme and Artifice

34. It was the purpose of the scheme and artifice for the defendants and their coconspirators to unlawfully enrich themselves through the submission of false and fraudulent Medicare claims for home health services that were medically unnecessary and not performed.

The Scheme and Artifice

35. Paragraphs 20 through 31 of Count 1 of this Indictment are realleged and incorporated by reference as though fully set forth herein as a description of the scheme and artifice.

Acts in Execution of the Scheme and Artifice

36. On or about the dates specified as to each count below, in Wayne County and Genesee County, in the Eastern District of Michigan, and elsewhere, the defendants, 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 healthcare benefit program:

Count	Defendant	Medicare Beneficiary	Company Billing	Approximate Date of Service	Description of Items Billed	Amount Paid by Medicare
2	D-1 POONPANIJ D-2 A. ARAIN D-3 N. ARAIN	S.M.	Angle's Touch HHC	3/13/2012	Physical Therapy, Occupational Therapy, and Skilled Nursing	\$4,011.74
3	D-1 POONPANIJ D-2 A. ARAIN D-3 N. ARAIN	AL.W.	Angle's Touch HHC	7/6/2011	Physical Therapy, Occupational Therapy, and Skilled Nursing	\$8,016.18
4	D-1 POONPANIJ D-2 A. ARAIN D-3 N. ARAIN	AN.W.	Angle's Touch HHC	7/6/2011	Physical Therapy, Occupational Therapy, and Skilled Nursing	\$8,016.18
5	D-1 POONPANIJ D-2 A. ARAIN D-3 N. ARAIN	L.W.	Angle's Touch HHC	10/18/2011	Physical Therapy, Occupational Therapy, and Skilled Nursing	\$3,089.07

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

Counts 6-9
(18 U.S.C. §§ 1347 and 2—Health Care Fraud)

D-1 DR. SONJAI POONPANIJ

37. Paragraphs 1 through 34 of this Indictment are realleged and incorporated by reference as though fully set forth herein.

38. On or about the dates enumerated below, at Wayne County and Genesee County, in the Eastern District of Michigan, and elsewhere, DR. SONJAI POONPANIJ, 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 a health care benefit program affecting commerce, as defined in Title 18, United States Code, Section 24(b), 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 Medicare, in connection with the delivery of and payment for health care benefits, items, and services.

Purpose of the Scheme and Artifice

39. It was the purpose of the scheme and artifice for the defendants and their coconspirators to unlawfully enrich themselves through the submission of false and fraudulent Medicare claims for home health services that were medically unnecessary and not performed.

The Scheme and Artifice

40. Paragraphs 20 through 31 of Count 1 of this Indictment are realleged and incorporated by reference as though fully set forth herein as a description of the scheme and artifice.

Acts in Execution of the Scheme and Artifice

41. On or about the dates specified as to each count below, in Wayne County and Genesee County, in the Eastern District of Michigan, and elsewhere, the defendant, aided by others, 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:

Count	Defendant	Medicare Beneficiary	Approximate Date of Service	Description of Items Billed	Amount Billed to Medicare
6	D-1 POONPANIJ	AL.W.	7/20/2011	G0181 - PHYS SUPV PT RECV MCR-COVR HOM HLTH	\$175.00
7	D-1 POONPANIJ	AN.W.	7/20/2011	G0181 - PHYS SUPV PT RECV MCR-COVR HOM HLTH	\$175.00
8	D-1 POONPANIJ	S.M.	5/19/2011	G0181 - PHYS SUPV PT RECV MCR-COVR HOM HLTH	\$140.00
9	D-1 POONPANIJ	M.W.	3/27/12	99350 - HOME VISIT ESTABLISHED PT UNSTABLE / SIGNIFICANT NEW PROBLEM	\$175.00

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

Count 10
(18 U.S.C. § 371—Conspiracy)

D-2 ATTAULLAH ARAIN
D-3 NADIA ARAIN
D-5 REGINALD SMITH

42. Paragraphs 1 through 41 of this Indictment are realleged and incorporated by reference as though fully set forth herein.

43. From in or around May 2011 and continuing through February 2012, the exact dates being unknown to the Grand Jury, at Wayne County, in the Eastern District of Michigan, and elsewhere, the defendants, ATTAULLAH ARAIN, NADIA ARAIN, REGINALD SMITH, and others did willfully, and knowingly combine, conspire, confederate and agree with others, known and unknown to the Grand Jury, to commit certain offenses against the United States, that is,

(a) to violate Title 42, United States Code, Section 1320a-7b(b)(2)(A) by knowingly and willfully offering or paying any remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly or covertly, in cash or in kind in return for referring an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part by Medicare, a Federal health care program as defined in Title 18, United States Code, Section 24(b); and

(b) to violate Title 42, United States Code, Section 1320a-7b(b)(1)(A) by knowingly and willfully soliciting or receiving any remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly or covertly, in cash or in kind in return for referring an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part by Medicare, a Federal health care program as defined in Title 18, United States Code, Section 24(b).

Purpose of the Conspiracy

44. It was a purpose of the conspiracy for defendants ATTAULLAH ARAIN, NADIA ARAIN, REGINALD SMITH, and others to unlawfully enrich themselves by offering, paying, soliciting, and receiving kickbacks and bribes in exchange for the use of Medicare beneficiaries' Medicare numbers.

Manner and Means

45. The manner and means by which the defendants sought to accomplish the purpose of the conspiracy included, among other things:

46. ATTAULLAH ARAIN and NADIA ARAIN would own and control a home health agency in Wayne County, Michigan—Angle's Touch HHC—for the purpose of billing Medicare for purportedly providing in home physical therapy, occupational therapy, speech pathology, and skilled nursing services to patients.

47. REGINALD SMITH would control and operate People Helping People of Detroit ("People Helping People") in Genesee County, Michigan.

48. ATTAULLAH ARAIN and NADIA ARAIN would enter into a kickback arrangement with REGINALD SMITH where REGINALD SMITH would recruit patients to Angle's Touch HHC for home health care for which they did not qualify.

49. ATTAULLAH ARAIN, NADIA ARAIN, and REGINALD SMITH would use a coconspirator to refer patients to Angle's Touch HHC for home health care that was never rendered and not medically necessary.

50. ATTAULLAH ARAIN and NADIA ARAIN would pay REGINALD SMITH per Medicare beneficiary recruited to Angle's Touch HHC. These payments were made by checks drawn on Angle's Touch HHC's bank account and paid to People Helping People. These checks

were in exchange for the recruitment of Medicare beneficiaries to be billed by Angle's Touch for home health physical therapy, occupational therapy, or nursing services.

51. ATTAULLAH ARAIN and NADIA ARAIN would then bill Medicare through Angle's Touch HHC for home health care services that were purportedly provided to beneficiaries recruited by REGINALD SMITH, even though the services were never actually rendered and were not medically necessary.

52. ATTAULLAH ARAIN and NADIA ARAIN would pay REGINALD SMITH \$9,000.00 for Medicare beneficiary recruitment. In exchange for these payments, ATTAULLAH ARAIN and NADIA ARAIN would receive Medicare beneficiaries recruited by REGINALD SMITH to Angle's Touch HHC over a period of several months.

Overt Acts

53. In furtherance of the conspiracy, and to accomplish its purposes and objects, at least one of the conspirators committed, or caused to be committed, in the Eastern District of Michigan, the following overt acts, among others:

54. On or about May 4, 2011, ATTAULLAH ARAIN paid REGINALD SMITH \$1,500.00 by check drawn from the Angle's Touch HHC bank account in exchange for patient recruiting.

55. On or about May 31, 2011, NADIA ARAIN paid REGINALD SMITH \$500.00 by check drawn from the Angle's Touch HHC bank account in exchange for patient recruiting.

56. On or about August 15, 2011, NADIA ARAIN paid REGINALD SMITH \$2,500.00 by check drawn from the Angle's Touch HHC bank account in exchange for patient recruiting.

All in violation of Title 18, United States Code, Section 371.

Forfeiture Allegations

(18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461;
18 U.S.C. § 982(a)(7)—Criminal Forfeiture)

57. The above allegations contained in this Indictment are incorporated by reference as if set forth fully herein for the purpose of alleging forfeiture pursuant to the provisions of Title 18, United States Code, Sections 981 and 982, and Title 28, United States Code, Section 2461.

58. As a result of the violation of Title 18, United States Code, Section 1349, as set forth in this Indictment, defendants DR. SONJAI POONPANIJ, ATTAULLAH ARAIN, NADIA ARAIN, JUDITH RAGASA, and REGINALD SMITH shall forfeit to the United States any property, real or personal, constituting, or derived from, any proceeds obtained, directly or indirectly, as a result of such violation, pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461.

59. As a result of the violations of Title 18, United States Code, Sections 1347 and 2, as set forth in this Indictment, defendants DR. SONJAI POONPANIJ, ATTAULLAH ARAIN, and NADIA ARAIN shall forfeit to the United States any property, real or personal, that constitutes or is derived from, gross proceeds traceable to the commission of such violations, pursuant to 18 U.S.C. § 982(a)(7).

60. Substitute Assets: If the property described above as being subject to forfeiture, 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 that cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to 21 U.S.C. § 853(p) as incorporated by 18 U.S.C. § 982(b) and/or 28 U.S.C. § 2461, to seek to forfeit any other property of the defendants up to the value of the forfeitable property described above.

61. Money Judgment: A sum of money equal to at least \$1.6 million in United States currency, or such amount as is proved at trial in this matter, representing the total amount of proceeds obtained as a result of the violations of 18 U.S.C. §§ 1349 and 1347, and representing the total amount involved in the violations as alleged in this Indictment.

THIS IS A TRUE BILL.

s/GRAND JURY FOREPERSON

Grand Jury Foreperson

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United States Attorney

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