

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

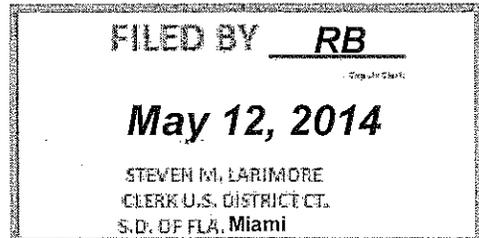
Case No. 14-cr-20329-COOKE/TORRES
18 U.S.C. § 371
18 U.S.C. § 982(a)(7)

UNITED STATES OF AMERICA

vs.

LAZARO MARTINEZ,

Defendant.



INFORMATION

The United States Attorney charges that:

GENERAL ALLEGATIONS

At all times relevant to this Information:

The Medicare Program

1. The Medicare Program ("Medicare") was a federal health care program providing benefits to persons who were 65 or older, or disabled. Medicare was administered by the United States Department of Health and Human Services ("HHS") through its agency, the Centers for Medicare & Medicaid Services ("CMS"). Individuals who received benefits under Medicare were 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 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. Through a plan’s PBM, a pharmacy could join the plan’s network. 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 drug plan’s sponsor reimbursed the PBM for its payments to the pharmacy.

5. A pharmacy could also submit claims to a Medicare drug plan 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 Medicare drug plan sponsors were “health care benefit program[s],” as defined by Title 18, United States Code, Section 24(b).

8. In Florida, Medicare Part D is administered by Palmetto Government Benefits Administrators, LLC, which pursuant to a contract with the United States Department of Health and Human Services, serves as a contract carrier to receive, adjudicate and pay Medicare Part D claims.

The Defendant, Related Companies, and Individuals

9. Pharmovisa, Inc., a Florida corporation, was a retail pharmacy and durable medical equipment provider located throughout Miami-Dade County, including at the following addresses: 5855 S.W. 137th Avenue, Miami, Florida 33183, and 2416 West 60th Street, Miami, Florida 33016.

10. PharmovisaMD, Inc., a Florida corporation, was located in Miami-Dade County, with a principal place of business at 7035 S.W. 87th Avenue, Miami, FL 33173.

11. Defendant **LAZARO MARTINEZ**, a resident of Miami-Dade County, served as a patient recruiter for Pharmovisa, Inc. and PharmovisaMD, Inc. (collectively, the “Morales Pharmacies”) who would pay and cause the payment of kickbacks to guarantee a stream of beneficiary information to be used to submit claims to Medicare and Medicaid.

12. Jose Carlos Morales was the President of Pharmovisa, Inc. and the registered agent and director of PharmovisaMD, Inc.

COUNT 1
Conspiracy To Receive Health Care Kickbacks
(18 U.S.C. § 371)

From in or around April 2011, through on or about September 6, 2012, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

LAZARO MARTINEZ,

did knowingly and willfully combine, conspire, confederate and agree with others, known and unknown to the United States Attorney to commit certain offenses against the United States, that is, to violate Title 42, United States Code, Section 1320a-7b(b)(1)(A), by knowingly and willfully soliciting and receiving remuneration, including any kickbacks and bribes, directly and indirectly, overtly and covertly, in cash and in kind, in return for referring an individual to a person for the furnishing and arranging for the furnishing of any item or service for which payment may be made in whole or in part under a Federal health care program, that is, Medicare.

PURPOSE OF THE CONSPIRACY

13. It was a purpose of the conspiracy for **LAZARO MARTINEZ** and his co-conspirators to unlawfully enrich themselves by: 1) soliciting and receiving kickbacks in return for referring Medicare beneficiaries to the Morales Pharmacies; and 2) submitting and causing the submission of claims to Medicare and Medicare drug plan sponsors for medical items and services that the Morales Pharmacies purported to provide to Medicare beneficiaries.

MANNER AND MEANS OF THE CONSPIRACY

The manner and means by which **LAZARO MARTINEZ** and his co-conspirators sought to accomplish the object and purpose of the conspiracy, included, among others, the following:

14. **LAZARO MARTINEZ** accepted kickbacks in return for procuring physician prescriptions for the Morales Pharmacies.

15. **LAZARO MARTINEZ** accepted kickbacks in return for referring Medicare beneficiaries to the Morales Pharmacies.

16. **LAZARO MARTINEZ** and his co-conspirators caused the Morales Pharmacies to submit claims for various medical items and services provided to the recruited beneficiaries.

17. **LAZARO MARTINEZ** and his co-conspirators caused Medicare to pay the Morales Pharmacies based upon the various medical items provided to the recruited beneficiaries.

OVERT ACTS

In furtherance of the conspiracy, and to accomplish its object and purpose, at least one of the co-conspirators committed and caused to be committed in the Southern District of Florida at least one of the following overt acts, among others:

1. In or around April 2011, **LAZARO MARTINEZ** received a cash kickback payment in the approximate amount of \$2,000 from Jose Carlos Morales.
2. In or around January 2012, **LAZARO MARTINEZ** received a cash kickback payment of approximately \$520 from Jose Carlos Morales.

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

CRIMINAL FORFEITURE (18 U.S.C. § 982)

1. The allegations contained in this Information are re-alleged and incorporated by reference as though fully set forth herein for the purposes of alleging forfeiture to the United States of America of certain property in which the defendant **LAZARO MARTINEZ** has an interest.
2. Upon conviction of the offense charged in this Information, the defendant shall forfeit to the United States all property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the offense, pursuant to Title 18, United States Code, Section 982(a)(7).
3. The property subject to forfeiture includes, but is not limited to, approximately \$170,000 in United States currency, which sum represents the approximate amount of the gross

proceeds of the charged offense.

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

- 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).

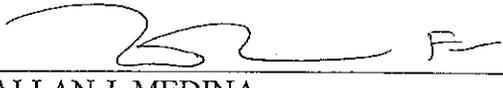
All pursuant to Title 18, United States Code, Section 982(a)(7), and the procedures of Title 21, United States Code, Section 853, which is made applicable by Title 18, United States Code, Section 982(b)(1).



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