

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 14-cr-20327-UNGARO/OTAZO-REYES

18 U.S.C. § 1349

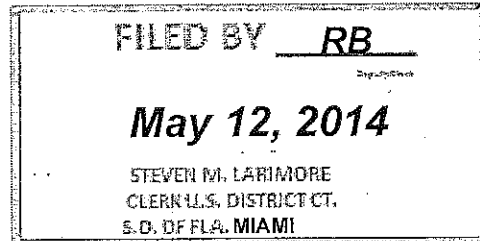
18 U.S.C. § 982

UNITED STATES OF AMERICA

vs.

FRANCISCO PABON,

Defendant.



INFORMATION

The United States Attorney charges that:

General Allegations

At all times relevant to this Information,

1. The Medicare Program ("Medicare") was a federal health care program providing benefits to persons who were at least the age of sixty-five 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. The Florida Medicaid Program ("Florida Medicaid") provided benefits to certain low-income individuals and families in Florida. Florida Medicaid was administered by CMS and the Agency for Health Care Administration ("AHCA").

3. Medicare and Florida Medicaid were each a "health care benefit program," as defined by Title 18, United States Code, Section 24(b), and a "Federal health care program," as defined by Title 42, United States Code, Section 1320a-7b(f).

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2. The Florida Medicaid Program (“Florida Medicaid”) provided benefits to certain low-income individuals and families in Florida. Florida Medicaid was administered by CMS and the Agency for Health Care Administration (“AHCA”).

3. Medicare and Florida Medicaid were each a “health care benefit program,” as defined by Title 18, United States Code, Section 24(b), and a “Federal health care program,” as defined by Title 42, United States Code, Section 1320a-7b(f).

4. Part B of Medicare covered partial hospitalization programs (“PHPs”) connected with the treatment of mental illness. The treatment program of PHPs closely resembled that of a highly structured, short-term hospital inpatient program, but it was a distinct and organized intensive treatment program that offered less than 24-hour daily care and was designed, in part, to reduce medical costs by treating qualifying individuals outside the hospital setting.

5. Under the PHP benefit, Medicare covered the following services: (1) individual and group therapy with physicians or psychologists (or other authorized mental health professionals); (2) occupational therapy; (3) services of social workers, trained psychiatric nurses, and other staff trained to work with psychiatric patients; (4) drugs and biologicals furnished for therapeutic purposes that cannot be self-administered; (5) individualized activity therapies that are not primarily recreational or diversionary; (6) family counseling (for treatment of the patient’s condition); (7) patient training and education; and (8) diagnostic services.

6. Medicare generally required that the PHP be provided at a facility that is hospital-based or hospital-affiliated, but Medicare also allowed a PHP to be provided in a Community Mental Health Center (“CMHC”), which is a provider type under Part A of Medicare.

7. Medicare required that, to qualify for the PHP benefit, the services must have been reasonable and necessary for the diagnosis and active treatment of the individual’s condition. The program also must have been reasonably expected to improve or maintain the condition and functional level of the patient and to prevent relapse or hospitalization. The program must have been prescribed by a physician and furnished under the general supervision of a physician and under an established plan of treatment that meets Medicare requirements.

8. Typically, a patient who needed this intensive PHP treatment had a long history of mental illness that had been treated. Patients were ordinarily referred either (a) by a hospital

after full inpatient hospitalization for severe mental illness or (b) by a doctor who was trying to prevent full inpatient hospitalization for a severely mentally ill patient the doctor had been treating.

9. Medicare guidelines specifically excluded meals and transportation from coverage under the PHP benefit.

10. Medicare did not cover programs involving primarily social, recreational, or diversionary activities. Psychosocial programs that provided only a structured environment, socialization, or vocational rehabilitation were not covered by Medicare.

11. In order to receive payment from Medicare, a CMHC, medical clinic, or physician was required to submit a health insurance claim form to Medicare, called a Form 1450. The claims may have been submitted in hard copy or electronically. A CMHC, medical clinic, and physician may have contracted with a billing company to transmit claims to Medicare on their behalf.

12. Medicare Part B was administered in Florida by First Coast Service Options, which, pursuant to contract with the United States Department of Health and Human Services, served as a contracted carrier to receive, adjudicate and pay Medicare Part B claims submitted to it by Medicare beneficiaries, physicians, or CMHCs. Medicare Part B paid CMHCs and physicians directly for the cost of PHP services furnished to eligible Medicare beneficiaries, provided that the services met Medicare requirements.

13. Florida Medicaid covered community mental health services, including PHP treatment.

Defendants and Relevant Entities

14. Health Care Solutions Network (“HCSN”) was an entity that operated purported CMHCs in Florida and North Carolina.

15. In Florida, Health Care Solutions Network, Inc. (“HCSN-FL”) was a Florida corporation that operated purported CMHCs in Miami, Florida at the following addresses: 19355 South Dixie Highway, Miami, Florida 33157 (“HCSN-FL East”), 10406 S.W. 186th Terrace, Miami, Florida 33157 (“HCSN-FL West”), and 13155 S.W. 134th Street, Miami, Florida 33186.

16. Armando Gonzalez, a/k/a Manny Gonzalez, a resident of Miami-Dade County and Henderson County in North Carolina, was the Director and President of HCSN-FL.

17. Defendant, **FRANCISCO PABON**, a resident of Miami-Dade County, was a mental health technician and social worker for a hospital located in Miami, Florida.

**Conspiracy to Commit Health Care Fraud
(18 U.S.C. § 1349)**

From on or about January 1, 2006, through on or about December 31, 2008, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

FRANCISCO PABON,

did knowingly and willfully combine, conspire, confederate, and agree with others known and unknown to the United States Attorney, 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 Medicaid, 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

18. It was a purpose and object of the conspiracy for the defendant and his co-conspirators to unlawfully enrich themselves by, among other things (a) offering and receiving kickbacks and bribes to ensure the attendance of ineligible Medicare beneficiaries at HCSN-FL's CMHC; (b) submitting and causing the submission of false and fraudulent claims to Medicare and Medicaid through HCSN for services that were medically unnecessary, that were not eligible for Medicare and Medicaid reimbursement, and that were never provided; and (c) diverting the proceeds of the fraud for the personal use and benefit of the defendant and his co-conspirators in the form of compensation and other remuneration.

MANNER AND MEANS

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

19. Armando Gonzalez paid and caused the payment of kickbacks and bribes to **FRANCISCO PABON**, and others, in exchange for the referral of Medicare and Medicaid beneficiaries, who did not qualify for PHP treatment, to HCSN-FL for purported PHP services.

20. **FRANCISCO PABON** referred and caused the referral of Medicare and Medicaid beneficiaries, who did not qualify for PHP treatment, to HCSN-FL for purported PHP treatment based solely on their eligibility to receive benefits under Medicare and Medicaid.

21. **FRANCISCO PABON** caused false and fraudulent claims to be submitted to Medicare and Medicaid for services purportedly provided at HCSN-FL.

22. As a result of these false and fraudulent claims, Medicare made payments to HCSN-FL.

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

CRIMINAL FORFEITURE
(18 U.S.C. § 982)

1. The allegations contained in this Information 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 **FRANCISCO PABON** has an interest.

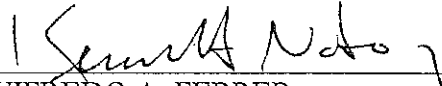
2. Pursuant to Title 18, United States Code, Section 982(a)(7), upon conviction for the offense charged in this Information, **FRANCISCO PABON** shall forfeit to the United States any property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the offense

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).

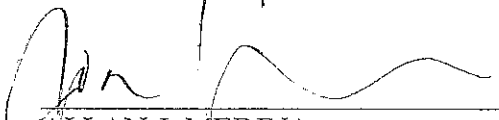
All pursuant to Title 18, United States Code, Section 982(a)(7) and the procedures outlined in Title 21, United States Code, Section 853.



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