

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

UNITED STATES OF AMERICA * CRIMINAL NO: 13-~~014~~¹⁰¹
VERSUS * SECTION: "R" (3)
ALVIN DARBY, M.D. *

* * *

FACTUAL BASIS

The defendant, **ALVIN DARBY, M.D.** (defendant or **DARBY**), has agreed to plead guilty as charged to the Superseding Indictment now pending against him, charging him with violating Title 18, United States Code, Section 1349 (Conspiracy to Commit Health Care Fraud). Both the Government and the defendant, **ALVIN DARBY, M.D.**, do hereby stipulate and agree that the following facts set forth a sufficient factual basis for the crime to which the defendant is pleading guilty. The Government and **DARBY** further stipulate that the Government would have proven, through the introduction of competent testimony and admissible evidence, the following facts beyond a reasonable doubt, to support the allegations in the Superseding Indictment now pending against the defendant:

Background

Agents with the Federal Bureau of Investigation (FBI), the United States Department of Health and Human Services, Office of Inspector General (HHS-OIG), and/or the Louisiana Department of Justice Medicare Fraud Control Unit (LAMFCU) would testify, and records from the Louisiana Secretary of State would be admitted to establish, that **DARBY** was a resident of Mississippi and resided at 541 South Magnolia Street, Laurel, Mississippi 39440.

Documents in the custody of the FBI, HHS-OIG and LAMFCU would be admitted to show that Interlink Health Care Services, Inc. (Interlink) and Memorial Home Health Care, Inc. (Memorial) were Louisiana companies owned and operated by Mark Morad (Morad). These documents would show that Morad obtained a Medicare provider number for Interlink and Memorial so to allow these companies to

submit claims to Medicare and receive payments on those claims electronically.

Bank records from Capitol One Bank (Capitol One) will be admitted to show that Morad established at Capitol One an account for Interlink numbered xxxxxx2401 (Interlink Account), of which he had signature authority. Bank records from the Interlink Account would be admitted to show that Medicare made payments into Interlink's bank account as a result of claims Interlink submitted to Medicare. Bank records from Capitol One will be admitted to show that Morad established at Capitol One an account for Memorial numbered xxxxxx2309 (Memorial Account), of which he had signature authority. Bank records from the Memorial Account would be admitted to show that Medicare made payments into Memorial's bank account as a result of claims Memorial submitted to Medicare.

Records from the Louisiana Secretary of State would be admitted to show that Medical Specialists of New Orleans (MSNO) was a Louisiana company owned and operated by Paige Okpalobi (Okpalobi). Bank records from J.P. Morgan Chase & Co. (JP Morgan) will be admitted to show that Okpalobi established at JP Morgan a bank account for MSNO numbered xxxxxx7381 (MSNO Account), of which she had signature authority.

Home Health Care Services

A witness with specialized knowledge of, and experience in, home health care in the Medicare system would testify regarding (1) Medicare's standards for reimbursement of home health care services, (2) the circumstances and conditions under which a Medicare beneficiary would be certified as homebound, and (3) the manner in which home health services would be rendered to a Medicare beneficiary. This witness would testify that Medicare would not reimburse a provider for home health care rendered to a Medicare beneficiary unless a licensed physician has certified that this beneficiary is "homebound" -- *i.e.*, confined to the home and unable to leave the home without a considerable and taxing effort.

Medicare billing data of and documents from Interlink and Memorial would be admitted to show that Interlink and Memorial submitted to Medicare claims that these companies rendered home

health care services to clients located in the Eastern District of Louisiana and elsewhere. These documents and data would establish that the clients who enrolled to receive home health services at Interlink and Memorial were beneficiaries of various health care benefit programs, as defined in Title 18, United States Code, Section 24, including Medicare. These documents and data would show that **DARBY** certified that certain clients of Interlink and Memorial were homebound, and that Interlink and Memorial relied upon **DARBY**'s certifications to submit claims to Medicare for home health care purportedly rendered to these clients.

Testimony from Medicare beneficiaries and Special Agents of the FBI, HHS-OIG, and LAMFCU, documents in the custody of the FBI, HHS-OIG and LAMFCU, and the Medicare billing data of Interlink, Memorial and MSNO would be admitted to show that MSNO employed physicians, including **DARBY**, so that these physicians would certify Interlink and Memorial clients as homebound.

Conspiracy to Defraud Medicare

Testimony from Special Agents of the FBI, HHS-OIG and LAMFCU, Medicare beneficiaries, and documents in the possession of the FBI, HHS-OIG, would be admitted to establish that from in or around July 2009 until in or around May 2013, **DARBY** agreed and conspired with others to certify Medicare beneficiaries as homebound so that Interlink and Memorial could bill Medicare for home health services purportedly rendered to these beneficiaries. This evidence would show that **DARBY** knew that few of these beneficiaries, if any, were in fact homebound, and knew that they did not qualify for home health services that would be reimbursed by Medicare. This evidence would further establish that **DARBY** knew that Interlink and Memorial would rely upon his certifications to submit claims to Medicare for home health care services purportedly provided to these beneficiaries.

Testimony from witnesses, documents in the possession of the FBI, HHS-OIG and LAMFCU, and Medicare billing data from Interlink and Memorial, would be admitted to establish that from in or around July 2009 until in or around May 2013, **DARBY** conspired with others to submit, or cause to be

submitted, claims to Medicare for home health services that **DARBY** knew were not medically necessary and/or were not provided by Interlink or Memorial, resulting in Medicare's payment of approximately \$8,475,445.53 to Interlink and Memorial. This evidence would show that **DARBY** signed home health certification documents for Medicare beneficiaries knowing that Medicare would rely upon these false certifications to make payments to Interlink and Memorial for home health services purportedly rendered by these companies. Documents in the possession of the FBI, HHS-OIG and LAMFCU, including bank records from Interlink and Memorial, would be admitted to show that Medicare made these payments into the Interlink Account and the Memorial Account.

Bank records from the MSNO Account, witness testimony, and documents in the possession of the FBI, HHS-OIG and LAMFCU, would be admitted to show that MSNO paid **DARBY** approximately \$150 for each Medicare beneficiary he certified as homebound. This evidence would be admitted to show that from 2009 through 2012, MSNO paid **DARBY** approximately \$284,206.

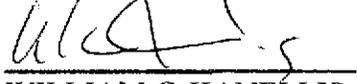
The facts described above emerge from an investigation conducted by the FBI, HHS-OIG, and LAMFCU, and would be proven at trial by credible testimony from Special Agents from the FBI, HHS-OIG, and/or LAMFCU, Medicare beneficiaries and their physicians, employees of Interlink, MSNO, Medicare billing records from Interlink, Memorial and MSNO, business records from Interlink, Memorial and MSNO, and documents and tangible exhibits in the custody of the FBI, HHS-OIG, and LAMFCU.


ALVIN DARBY, M.D.

9/10/2014
DATE


CLARENCE ROBY, JR.
Attorney for Alvin Darby, M.D.

9/10/2014
DATE


WILLIAM G. KANELLIS
Trial Attorney
Fraud Section, Criminal Division
United States Department of Justice

9/24/2014
DATE