IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	**:**	**CRIMINAL NO. 14-522**
v.	**:**	**DATE FILED: September 24, 2014**
AILEEN GONG	**:**	**VIOLATIONS: 18 U.S.C. § 1347 (health care fraud – 6 counts) 18 U.S.C. § 1343 (wire fraud - 6 counts) 18 U.S.C. § 1028A (aggravated identity theft – 2 counts) Notice of forfeiture**

INDICTMENT

COUNTS ONE THROUGH SIX

(Health Care Fraud)

THE GRAND JURY CHARGES THAT:

At all times material to this indictment:

INTRODUCTION

Defendant

1. Defendant AILEEN GONG was a doctor of podiatric medicine licensed by the Commonwealth of Pennsylvania, who operated her medical practice from an office at 926 Arch Street, Philadelphia, PA, and who applied to Medicare to become an approved Medicare provider in 1999. From in or around January 2009 through in or around December 2013, defendant GONG submitted more than $480,000 in claims to the Medicare Program for podiatric services and procedures that defendant GONG did not provide to the Medicare beneficiaries, either because she did not see or treat the Medicare beneficiaries at all on the dates claimed, or because when she did see the Medicare beneficiaries on the dates claimed, she did not perform the procedures for which

she billed the Medicare Program. As a result of this fraudulent conduct, defendant GONG obtained at least $300,000 in payments from Medicare.

The Medicare Program

2. The Medicare Program ("Medicare") was a federal health care program providing benefits to persons who were over the age of 65 or disabled. Medicare was a "health care benefit program" as defined by Title 18, United States Code, Section 24(b).

3. Medicare was administered by the Centers for Medicare and Medicaid Services ("CMS"), an agency of the United States Department of Health and Human Services ("HHS"). Individuals who received benefits under Medicare were often referred to as "Medicare beneficiaries."

4. Medicare Part B authorized payment for certain podiatric services that were medically necessary and were provided by a licensed doctor of podiatric medicine.

5. Payments under the Medicare Program were often made directly to a provider of the services, rather than to the beneficiary. This occurred when the provider accepted assignment of the right to payment from the beneficiary. In that case, the provider submitted the claim to Medicare for payment, either directly or through a billing company.

6. Various entities were under contract to provide services to CMS. Medicare Part B was administered in Pennsylvania by Novitas Solutions, Inc. ("Novitas"), which, pursuant to a 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 suppliers of health care items and services.

7. Physicians and other health care providers who provided services to Medicare beneficiaries were able to apply for and obtain a "provider number." In the application, the

physician acknowledged that to be allowed to participate in the Medicare Program, the physician was required to comply with all Medicare-related laws and regulations, including the requirements that the physician maintain complete and accurate patient treatment records and submit only truthful claims for medically necessary services and procedures. A physician who was issued a Medicare provider number was able to file claims with Medicare to obtain reimbursement for services provided to Medicare beneficiaries.

8. After obtaining a Medicare provider number and a National Provider Identifier ("NPI") number, the physician then submitted or caused the claims to be submitted to a Medicare carrier that processed those claims for CMS. For example, in Pennsylvania, claims for most Part B services were submitted to Novitas.

9. In order to bill Medicare for services rendered, physicians and other health care providers submitted a claims form, Form 1500, to Novitas. When Form 1500 was submitted, usually in electronic form, the physician 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.

10. Because of the large number of claims received by Medicare carriers, carriers generally relied upon and paid claims based on the information on the Form 1500s and the providers' certifications.

11. However, Medicare required that the provider document in the beneficiary's medical record the services that were provided and that the services were reasonable and necessary. If requested, the provider was required to produce the documents reflecting the beneficiaries' conditions, diagnoses, and treatments.

12. A Medicare claim was required to set forth, among other things, the beneficiary's name and Medicare Beneficiary Number, the services provided for the beneficiary, the date the services were provided, the cost of the services, and the name and rendering NPI number of the health care provider who rendered the services. The Medicare Beneficiary Number was the patient's unique identification code on the patient's Medicare card and was comprised of the patient's nine-digit social security number plus a one or two-position suffix identifier.

Billing Codes and Procedures

13. In submitting Medicare claims, a physician identified the services provided by using standard Current Procedural Terminology ("CPT") codes. CPT codes provided a uniform language that accurately described medical, surgical and diagnostic services billed to government and private health insurance programs. The American Medical Association annually published and made available to all providers entitled to submit claims to Medicare a CPT Manual, which set forth the criteria to be considered in selecting the proper codes to represent the services rendered.

14. When submitting claims for reimbursement for services provided, physicians were required to use correct CPT codes to identify each procedure and service. Medicare required providers to accurately list the CPT code that most completely identified the procedures or services provided.

15. CPT codes that podiatrists commonly used in submitting claims to Medicare included injections (CPT Code 20550); leg strappings (CPT Code 29540); nail avulsions (the separation and removal of an entire nail plate or portion of a nail plate; a procedure generally requiring injected local anesthesia) (CPT Code 11730 and 11732); nail excisions (the separation and removal of an entire nail plate or portion of a plate, followed by removal of the associated nail

matrix; performed under local anesthesia) (CPT Code 11750) and application of unna boots (CPT Code 29580) (a type of compression dressing used to promote return of blood from the peripheral veins back into the central circulation).

THE HEALTH CARE FRAUD SCHEME

Manner and Means

It was part of the scheme to defraud that:

16. Defendant AILEEN GONG fraudulently represented on claims to Medicare that she had provided podiatric services to, and performed podiatric procedures upon, Medicare beneficiaries, when she had not done so. Defendant GONG submitted claims for patient visits which never occurred. She submitted fraudulent claims for both the office visit and for procedures allegedly performed during these patient visits that never took place.

17. Defendant AILEEN GONG fraudulently represented on claims to Medicare that she had performed procedures and provided services, including injections, strappings, nail avulsions, nail excisions and application of unna boots, on Medicare beneficiaries who did come to her office as patients but for whom she did not provide the services claimed and did not perform the procedures claimed.

18. Defendant AILEEN GONG caused the submission of claims to Medicare which were fraudulent in that they stated falsely that she had seen Medicare beneficiaries when she had not seen them at all, and stated falsely that she had performed procedures on Medicare beneficiaries whom defendant GONG had seen in her office but to whom she did not provide the claimed services and upon whom she did not perform the claimed procedures.

19. From in or about January 2009 through in or about December 2013, defendant AILEEN GONG caused the submission of fraudulent claims to Medicare totaling in in excess of $480,000. As a result of this fraudulent conduct, defendant GONG obtained at least $300,000 in payments from Medicare.

20. Between in or about January 2009 through in or about December 2013, defendant AILEEN GONG submitted more than $1.4 million in claims to Medicare for podiatric treatments that defendant GONG claimed to have provided to Medicare beneficiaries. Medicare paid defendant GONG a total of more than $900,000 based on these claims.

Claims for Patients Allegedly Seen While Abroad

21. From on or about December 15, 2012 to on or about December 31, 2012, defendant AILEEN GONG was outside of the United States, travelling to and visiting Paris, France. Defendant GONG submitted claims to Medicare falsely stating that she had seen and treated at least 20 beneficiaries during the time that she was outside of the United States. Defendant GONG falsely stated that she had given injections to at least 18 of the 20 beneficiaries that she had not seen at all. The Medicare beneficiaries for whom defendant GONG submitted false claims to Medicare for patient visits while she was outside of the United States included "C.Z.," who was allegedly treated on or about December 19, 2012, and "L.Z." "B.J.," "S.W.," and "Q.Z.," who were allegedly treated on or about December 21, 2012.

Claim for Patient Seen but not Treated with Injections

22. On or about March 15, 2013, at the direction of law enforcement, a cooperating witness visited the office of defendant AILEEN GONG using the patient name "E.L." E.L.'s visit to defendant GONG was recorded. E.L. complained of pain in his toe and dry skin. Defendant GONG did not give E.L. an injection, but later submitted a claim to Medicare for $70.00, falsely

stating that she had given E.L. an injection, for which she was reimbursed approximately $49.14 by Medicare.

Additional Fraudulent Claims for Treatment not Provided

23. Defendant AILEEN GONG regularly submitted claims to Medicare for visits that were not made by Medicare beneficiaries who had visited defendant GONG on one or more other occasions ("ghost visits"), and regularly billed for procedures that she did not perform on beneficiaries on dates when the beneficiaries did visit defendant GONG's office. Beneficiaries for whom GONG submitted fraudulent claims to Medicare included the following:

a. "G.B." went to defendant GONG once in 2006 and did not get an injection, leg strapping, a nail avulsion, or a nail excision. From 2009 to 2013, defendant GONG submitted claims to Medicare for approximately 67 visits by G.B that did not occur. In connection with those 67 alleged visits, defendant GONG submitted claims to Medicare for approximately 15 injections, 31 leg strappings, 4 nail excisions, and 12 nail avulsions. Defendant GONG did not keep treatment records regarding G.B.

b. "K.L." was a patient who went to defendant GONG for pain and obtained pain pills, but did not receive injections, leg strappings, or nail avulsions. From 2007 to 2012, defendant GONG submitted claims to Medicare for approximately 49 visits by K.L. In connection with those 49 alleged visits, defendant GONG submitted claims to Medicare for approximately 25 injections, 26 leg strappings, and 9 nail avulsions. Defendant GONG did not keep treatment records regarding K.L..

c. "G.X." was a patient of defendant GONG for approximately five to six years. Defendant GONG gave G.X. pills but no injections. From 2009 to 2013, defendant GONG submitted claims to Medicare for approximately 135 visits by G.X. In connection with

those 135 alleged visits, defendant GONG submitted claims to Medicare for approximately 37 injections, 74 leg strappings, 8 nail excisions, and 24 nail avulsions. Defendant GONG did not keep treatment records regarding G.X.

d. "M.C." was a patient of defendant GONG for pain in her leg and foot after a car accident, and received one injection for pain in her knee. From September 2011 to December 2013, defendant GONG submitted claims to Medicare for approximately 53 visits by M.C. In connection with those 53 alleged visits, defendant GONG submitted claims to Medicare for approximately 24 injections, 20 leg strappings, 3 nail excisions, and 8 nail avulsions. Defendant GONG did not keep treatment records regarding M.C..

e. "J.J." was a patient of defendant GONG for several years but stopped seeing defendant GONG before June 2012, and never received an injection from defendant GONG. Defendant GONG billed Medicare for five visits by J.J. after June 2012. From 2007 to 2013, in connection with 76 alleged visits by J.J., defendant GONG submitted claims to Medicare for approximately 24 injections and 32 leg strappings. Defendant GONG did not keep treatment records regarding J.J.

24. From in or about January 2009 through on or about February 10, 2014, in the Eastern District of Pennsylvania, defendant

AILEEN GONG

in connection with the delivery of and payment for health care benefits, items and services, did knowingly and willfully execute a scheme and artifice to defraud Medicare, a health care benefit program affecting commerce, as defined in Title 18, United States Code, Section 24(b), and to obtain, by means of false and fraudulent pretenses, representations, and promises, money and property owned by and under the custody and control of Medicare, that is: the defendant caused the

submission of claims to Medicare, through Novitas Solutions, Inc., that falsely and fraudulently sought reimbursement for health care services and procedures and that falsely and fraudulently failed to disclose the fact that no health care services and procedures were actually provided to the Medicare beneficiaries listed below, on or about the dates below, in the approximate amounts listed below (each claim constituting a separate count of this indictment):

Count	Alleged Date of "Service"	Fraudulent Claim	Approximate Date Claim Submitted
1	12/21/12	Claim by defendant GONG to Medicare for beneficiary L.Z. billing approximately $210 for an office visit and injection	1/31/13
2	12/19/12	Claim by defendant GONG to Medicare for beneficiary C.Z. billing approximately $210 for an office visit and injection	1/31/13
3	12/21/12	Claim by defendant GONG to Medicare for beneficiary B.J. billing approximately $210 for an office visit and injection	1/31/13
4	12/21/12	Claim by defendant GONG to Medicare for beneficiary S.W. billing approximately $210 for an office visit and injection	1/31/13
5	12/21/12	Claim by defendant GONG to Medicare for beneficiary Q.Z. billing approximately $140 for an office visit and injection	2/18/13
6	3/15/13	Claim by defendant GONG to Medicare for beneficiary E.L. billing approximately $172 for an office visit and injection	4/26/13

All in violation of Title 18, United States Code, Section 1347.

COUNTS SEVEN THROUGH TWELVE

(Wire Fraud)

THE GRAND JURY FURTHER CHARGES THAT:

Introduction

1. The allegations of paragraphs 1 through 23 of Counts One through Six are realleged here.

The Scheme to Defraud

2. From in or about January 2009 to in or about February 10, 2014, in the Eastern District of Pennsylvania, defendant

AILEEN GONG

devised and intended to devise a scheme to defraud Medicare, and to obtain money and property by means of false and fraudulent pretenses, representations, and promises.

3. It was the object of the scheme described in paragraph 2 for defendant GONG to submit and cause to be submitted to Medicare, fraudulent claims for services that were not provided and procedures that were not performed

Manner and Means

4. It was part of the scheme to defraud that defendant AILEEN GONG engaged in the manner and means described in paragraphs 13 to 23 of Counts One through Six of this indictment.

5. It was further part of the scheme that defendant AILEEN GONG, for the purpose of executing the scheme described above, and attempting to do so, and aiding and abetting its execution, knowingly caused to be wired across state lines, automated deposits for payments from Medicare to defendant GONG's bank account with an account number ending in the digits 7432, at HSBC Bank, knowing that these deposits included payments for fraudulent claims submitted by

defendant GONG for services that were not provided and procedures that were not performed, that were purportedly provided by defendant GONG when defendant GONG knew that the services had not been provided, and the procedures had not been performed, and further knew that she was not due payment for the fraudulent claims submitted for those services and procedures.

6. On or about each of the dates below, in the Eastern District of Pennsylvania and elsewhere, defendant

AILEEN GONG,

for the purpose of executing the scheme described above, and attempting to do so, caused to be transmitted by means of wire communication in interstate commerce the signals and sounds described below, each transmission constituting a separate count of this indictment:

Count	Approximate Date of Deposit	Amount Paid on Fraudulent Claim	Automated Deposit Number	Medicare Beneficiary/ Patient	Routing location for Deposit	Approximate Date Claim Submitted
7	2/27/13	$128.41	887275197	L.Z.	Vernon Hills, Illinois	1/31/13
8	2/27/13	$128.41	887275197	C.Z.	Vernon Hills, Illinois	1/31/13
9	3/1/13	$128.41	887285259	B.J.	Vernon Hills, Illinois	1/31/13
10	2/27/13	$128.41	887275197	S.W.	Vernon Hills, Illinois	1/31/13
11	3/4/13	$104.27	887290328	Q.Z.	Vernon Hills, Illinois	2/18/13

Count	Approximate Date of Deposit	Amount Paid on Fraudulent Claim	Automated Deposit Number	Medicare Beneficiary/ Patient	Routing location for Deposit	Approximate Date Claim Submitted
12	5/10/13	$ 49.14	887552343	E.L.	Vernon Hills, Illinois	4/26/13

All in violation of Title 18, United States Code, Section 1343.

COUNTS THIRTEEN AND FOURTEEN

(Aggravated Identity Theft)

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 1 through 23 of Counts One through Six are incorporated here.

2. On or about the dates listed below, in the Eastern District of Pennsylvania and elsewhere, defendant

AILEEN GONG

during and in relation to a health care fraud offense in violation of Title 18, United States Code, Section 1347, as alleged in Counts One through Six, did knowingly use, without lawful authority, a means of identification of another person, that is, the unique Medicare Beneficiary Number of the patients identified below:

Count	Beneficiary	Approximate Date of Fraudulent Claim to Medicare
13	B.J.	January 31, 2013
14	S.W.	January 31, 2013

All in violation of Title 18, United States Code, Section 1028A(a)(1), (c)(5).

NOTICE OF FORFEITURE

THE GRAND JURY FURTHER CHARGES THAT:

1. As a result of the violations of Title 18, United States Code, Sections 1347 and 1343, as charged in this indictment, the defendant,

AILEEN GONG

shall forfeit to the United States any and all property, real or personal, that constituted or is derived directly or indirectly from gross proceeds traceable to the commission of such offenses.

2. The property to be forfeited includes, but is not limited to, a forfeiture money judgment in the amount of the proceeds of the violations alleged in Counts 1 through 12 of this Indictment.

3. If any of the property subject to forfeiture, 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,

it is the intent of the United States of America, pursuant to Title 18, United States Code, 982(b), and Title 28, United States Code, Section 2461(c), both incorporating Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendant up to the value of the property subject to forfeiture.

All pursuant to Title 18, United States Code, Sections 981(a)(1)(C) and 982(a)(7).

A TRUE BILL:

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FOREPERSON

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ZANE DAVID MEMEGER
United States Attorney