

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

2014 MAR 13 PM 3:57

FILED  
MAR 13 2014  
CLERK OF COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA, FLORIDA

UNITED STATES OF AMERICA

v.

GLADYS FUERTES and  
MARIO FUERTES

CASE NO. 8:14-CR-92 T 24 MAR  
18 U.S.C. § 1349  
18 U.S.C. § 1347  
18 U.S.C. § 1028A  
18 U.S.C. § 1518  
18 U.S.C. § 982(a)(7) - Forfeiture  
18 U.S.C. § 982(b)(1) - Forfeiture

**INDICTMENT**

The Grand Jury charges:

**SEALED**

**COUNT ONE**  
**(Conspiracy to Commit Healthcare Fraud)**

**A. Introduction**

At times material to this Indictment:

1. Gables Medical and Therapy Center (hereinafter "Gables") was operated by Defendants GLADYS FUERTES and MARIO FUERTES starting on or about July 6, 2011, with its principal of place of business at 836 Ponce De Leon, Suite 204, Coral Gables, Florida, 33134.

2. NGF Medical Center, Inc. (hereinafter "NGF") was operated by Defendants GLADYS FUERTES and MARIO FUERTES starting on or about January 24, 2013, with its principal place of business at 836 Ponce De Leon, Suite 204, Coral Gables, Florida, 33134, the same location as Gables.

**SEALED**

3. Universal Health Care Group, Inc. (hereinafter "Universal") was headquartered at 100 Central Avenue, St. Petersburg, Florida, in the Middle District of Florida. Universal, its subsidiaries, and its affiliates contracted with Center for Medicare and Medicaid Services (CMS) to provide Medicare Part C and Medicare Part D benefits to eligible Medicare beneficiaries via Medicare Advantage Plans. Universal offered a number of Medicare Advantage Plans to eligible Medicare beneficiaries including Health Maintenance Organization (HMO) plans, Preferred Provider Organization (PPO) plans, and Private Fee for Service (PFFS) plans. All of the claims and other patient-related activity submitted and caused to be submitted by the principals of Gables and NGF were processed by and related to Universal in the Middle District of Florida.

4. Medicare was a federal insurance program that provided coverage for people 65 and older, people under 65 with certain disabilities, and people of all ages with end-stage renal disease. Medicare was a health benefit program as defined by Title 18, United States Code, Section 24(b). Individuals who received benefits under Medicare were commonly referred to as Medicare beneficiaries.

5. The Medicare program was divided into different parts that provided benefits for different areas of medical care. Part A of Medicare covered health services provided by hospitals, skilled nursing facilities, hospices, and home health agencies. Part B of the Medicare program covered, among other things, certain physician services, outpatient services, and other services, including durable medical equipment that is medically necessary and ordered by a licensed

physician or other qualified health care professionals. Part C of Medicare, commonly referred to as Medicare Advantage plans, provided beneficiaries with all the services provided under Parts A and B (except Hospice care), in addition to mandatory supplemental benefits and optional supplemental benefits. Medicare Part D provided prescription drug coverage to beneficiaries who opted for this coverage. Medicare beneficiaries could elect to utilize Medicare Part C and Medicare Part D benefits by enrolling in a managed care plan administered by private health insurance companies or health maintenance organizations, like Universal, that were contracted by CMS to provide managed type care or fee for services care to beneficiaries through approved plans.

**B. The Conspiracy**

6. From at least in or around July 2011, and continuing through and including the date of this Indictment, in the Middle District of Florida and elsewhere,

GLADYS FUERTES  
and  
MARIO FUERTES,

the defendants herein, did knowingly and willfully combine, conspire, confederate and agree with Brian Kelly, Cathleen Ortega, and others both 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 healthcare benefit program affecting commerce as defined in Title 18, United States Code, Section 24(b), specifically 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, specifically Medicare, in connection with the delivery of and payment for health care benefits, items, and services.

**C. Manner and Means**

7. The manner and means by which the defendants and their co-conspirators sought to accomplish the purpose of the conspiracy included, among other things:

a. It was part of the conspiracy that Gladys Fuertes and Mario Fuertes would, and did, establish and operate Gables, and later NGF, for the purpose of committing healthcare fraud;

b. It was further part of the conspiracy that Gladys Fuertes and Mario Fuertes would, and did, employ unlicensed medical professionals and misuse the Medicare billing numbers for other medical professionals in order to claim that they rendered medical treatment to Gables patients / Medicare beneficiaries;

c. It was further part of the conspiracy that Gladys Fuertes and Mario Fuertes would, and did, pay Brian Kelly and others, including Cathleen Ortega, to recruit patients / Medicare beneficiaries for Gables, and to drive patients to the clinic for basic and sham medical services;

d. It was further part of the conspiracy that Gladys Fuertes and Mario Fuertes would, and did, urge Gables patients / Medicare beneficiaries to enroll in Universal's Medicare Part C and Part D plans because they believed

Universal paid a relatively high percentage of its claims;

e. It was further part of the conspiracy that Gladys Fuertes and Mario Fuertes would, and did, fraudulently bill Universal and cause Universal's Medicare Part C plan to be billed for Gables patients' / Medicare beneficiaries' treatments, including expensive HIV-related treatments;

f. It was further part of the conspiracy that Gladys Fuertes and Mario Fuertes would, and did, bill Universal and cause Universal to be billed for services that required a physician's presence when no licensed physician was present or rendered the service;

g. It was further part of the conspiracy that Gladys Fuertes and Mario Fuertes, with Brian Kelly's assistance, would, and did, pay Medicare beneficiaries / Gables patients for their Medicare identification numbers to allow Gables to bill Universal for services that were never rendered;

h. It was further part of the conspiracy that Gladys Fuertes and Mario Fuertes would, and did, misappropriate and fraudulently use the Medicare identification numbers of licensed health care providers without their knowledge and consent to submit and caused to be submitted fraudulent claims to Universal;

i. It was further part of the conspiracy that Gladys Fuertes and Mario Fuertes would, and did, pay kickbacks to Gables patients / Medicare beneficiaries;

j. It was further part of the conspiracy that Gladys Fuertes and Mario Fuertes would, and did, facilitate the provision of fraudulent prescriptions for

controlled substances, including Oxycodone, to Gables patients / Medicare beneficiaries. In some cases, the physician signatures on the prescriptions were forged;

k. It was further part of the conspiracy that the conspirators would, and did, cause Universal's Part D plan to be billed when Gables patients / beneficiaries filled their fraudulent prescriptions;

l. It was further part of the conspiracy that Brian Kelly would, and did, purchase Oxycodone pills from Gables patients / Medicare beneficiaries for cash and distribute Oxycodone to others in exchange for cash, with Gladys Fuentes' and Mario Fuentes' knowledge and consent;

m. It was further part of the conspiracy that Gladys Fuentes and Mario Fuentes would, and did, instruct Gables patients / Medicare beneficiaries to lie to law enforcement and otherwise obstruct a federal investigation into health care fraud at Gables; and,

n. It was further a part of the conspiracy that the conspirators and others would, and did, perform acts and make statements to hide and conceal and cause to be hidden and concealed the purpose of the conspiracy and the acts committed in furtherance thereof.

In violation of Title 18, United States Code, Section 1349.

**COUNTS TWO THROUGH ELEVEN**  
**(Healthcare Fraud)**

**A. Introduction**

8. The Grand Jury hereby re-alleges Paragraphs 1 through 7 of Count

One of this Indictment and incorporates by reference those paragraphs as though fully set forth herein.

**B. The Scheme and Artifice**

9. Beginning on an unknown date, but at least as early as in or around July 2011, and continuing through and including the date of this Indictment, in the Middle District of Florida and elsewhere,

GLADYS FUERTES  
and  
MARIO FUERTES,

the defendants herein, in connection with the delivery of and payment for healthcare benefits, items, and services, did knowingly and willfully execute and attempt to execute a scheme and artifice to defraud Universal's Medicare Part C plan, a healthcare benefit program affecting commerce, as defined in Title 18, United States Code, Section 24(b), 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.

**C. Manner and Means of the Scheme and Artifice**

10. The substance of the manner and means of the scheme and artifice to defraud is described in Paragraphs 7(a) through (n) of Count One of this Indictment, which are re-alleged and incorporated by reference as though fully set forth herein.

**D. Execution of the Scheme and Artifice**

11. On or about the dates set forth below, in the Middle District of Florida

and elsewhere, for the purpose of executing, attempting to execute, and aiding and abetting the execution of the aforesaid scheme and artifice to defraud Universal's Medicare Part C program, a healthcare benefit program affecting commerce, as defined in Title 18, United States Code, Section 24(b), 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, the defendants herein did submit and cause to be submitted the following false and fraudulent claims for reimbursement to Universal from Gables and later NGF for services not rendered:

<b>COUNT</b>	<b>BENEFICIARY</b>	<b>LISTED PROVIDER / CPT CODE</b>	<b>DATE OF PURPORTED SERVICE</b>	<b>DATE OF CLAIM</b>	<b>AMOUNT CLAIMED</b>	<b>AMOUNT PAID</b>
<b>TWO</b>	C.O.	A.O. / 96365	1/13/2012	1/27/2012	\$175.00	\$77.86
<b>THREE</b>	C.O.	A.O. / 97110	1/17/2012	1/27/2012	\$140.00	\$60.98
<b>FOUR</b>	C.O.	A.O. / 99213	2/1/2012	2/8/2012	\$150.00	\$36.68
<b>FIVE</b>	M.A.	A.O. / 97035	2/6/2012	2/20/2012	\$100.00	\$24.24
<b>SIX</b>	M.A.	A.O. / 64490	2/6/2012	2/14/2012	\$350.00	\$292.61
<b>SEVEN</b>	C.O.	A.O. / 97530	4/6/2012	4/16/2012	\$150.00	\$66.74
<b>EIGHT</b>	M.A.	F.P. / 97530	5/29/2012	6/5/2012	\$150.00	\$66.47

COUNT	BENEFICIARY	LISTED PROVIDER / CPT CODE	DATE OF PURPORTED SERVICE	DATE OF CLAIM	AMOUNT CLAIMED	AMOUNT PAID
NINE	M.A.	F.P. / 64490	5/31/2012	6/5/2012	\$350.00	\$317.73
TEN	M.A.	F.P. / 97110	7/25/2012	7/27/2012	\$150.00	\$57.80
ELEVEN	C.O.	F.P. / 97110	7/25/2012	7/27/2012	\$150.00	\$57.80

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

**COUNTS TWELVE THROUGH FIFTEEN**  
**(Aggravated Identity Theft)**

12. On or about the dates listed below, in the Middle District of Florida and elsewhere,

GLADYS FUERTES  
and  
MARIO FUERTES,

the defendants herein, did knowingly transfer, possess and use, without lawful authority, a means of identification of another person, and aided and abetted one another and others in the transfer, possession and use, without lawful authority, of a means of identification of another person, specifically the Medicare billing number of a licensed physician used to submit Medicare Part C claims to Universal for the beneficiaries and in the amounts listed below, during and in relation to the felony offenses of conspiracy to commit healthcare fraud and healthcare fraud, in violation of 18 U.S.C. §§ 1349 and 1347:

<b>COUNT</b>	<b>BENEFICIARY</b>	<b>LISTED PROVIDER / CPT CODE</b>	<b>DATE OF PURPORTED SERVICE</b>	<b>DATE OF CLAIM</b>	<b>AMOUNT CLAIMED</b>	<b>AMOUNT PAID</b>
<b>TWELVE</b>	C.O.	A.O./96365	1/13/2012	1/27/2012	\$175.00	\$77.86
<b>THIRTEEN</b>	C.O.	A.O./99213	2/1/2012	2/8/2012	\$150.00	\$36.68
<b>FOURTEEN</b>	M.A.	A.O./97035	2/6/2012	2/20/2012	\$100.00	\$24.24
<b>FIFTEEN</b>	M.A.	A.O./64490	2/6/2012	2/14/2012	\$350.00	\$292.61

All in violation of Title 18, United States Code, Sections 1028A and 2.

**COUNT SIXTEEN**  
**(Obstructing a Healthcare Crime Investigation)**

On or about May 29, 2013, in the Middle District of Florida and elsewhere,

GLADYS FUERTES  
and  
MARIO FUERTES,

the defendants herein, willfully prevented, obstructed, misled, and delayed the communication of information and records, and attempted to obstruct, mislead and delay the communication of information and records related to the investigation of Gables' submission of false claims to Medicare Part C plans, a violation of a federal healthcare offense, to Special Agent Shannon Muldrow of the Federal Bureau of Investigation, a criminal investigator duly authorized by the United States Department of Justice to conduct and engage in investigations for violations of healthcare offenses specifically by providing and causing to be provided false, fraudulent and altered records.

In violation of Title 18, United States Code, Sections 1518 and 2.

**COUNT SEVENTEEN**  
**(Obstructing a Healthcare Crime Investigation)**

On or about June 13, 2013, in the Middle District of Florida and elsewhere,

GLADYS FUERTES  
and  
MARIO FUERTES,

the defendants herein, willfully prevented, obstructed, misled, and delayed the communication of information and records, and attempted to obstruct, mislead and delay the communication of information and records related to the investigation of Gables' submission of false claims to Medicare Part C plans, a violation of a federal healthcare offense, to Special Agent Shannon Muldrow of the Federal Bureau of Investigation and Special Agent Ian Ives of the Office of Inspector General, U.S. Department of Health and Human Services, both criminal investigators duly authorized by the United States Department of Justice and the United States Department of Health and Human Services, respectively, to conduct and engage in investigations for violations of healthcare offenses.

In violation of Title 18, United States Code, Sections 1518 and 2.

**FORFEITURE**

1. The allegations contained in Count One through Eleven and Counts Sixteen and Seventeen of this Indictment are hereby realleged and incorporated by reference for the purpose of alleging forfeiture pursuant to the provisions of Title 18, United States Code, Section 982(a)(7).

2. Upon their conviction for any or all of the violations alleged in Counts One through Eleven and Counts Sixteen and Seventeen of this Indictment, the

defendants,

**GLADYS FUERTES  
and  
MARIO FUERTES,**

shall forfeit to the United States of America, pursuant to Title 18, United States Code, Section 982(a)(7), all of their interest in any property, real or personal, constituting or derived, directly or indirectly, from gross proceeds traceable to the commission of the said violations.

3. The specific property to be forfeited includes, but is not limited to, a money judgment of at least \$266,423.20.

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

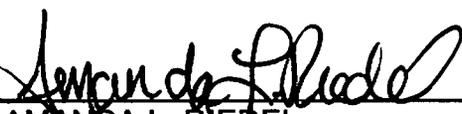
- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with a third party;
- c. has been placed beyond the jurisdiction of the court;
- d. has been substantially diminished in value; or,
- e. has been commingled with other property which cannot be divided without difficulty,

the United States of America shall be entitled to forfeiture of substitute property under the provisions of Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b).

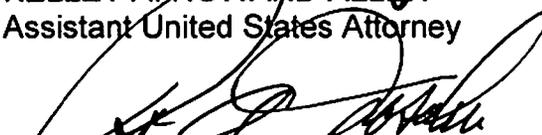
A TRUE BILL,

  
Foreperson

A. LEE BENTLEY, III  
United States Attorney

By:   
AMANDA L. RIEDEL  
Assistant United States Attorney

By:   
KELLEY A. HOWARD-ALLEN  
Assistant United States Attorney

By:   
ROBERT A. MOSAKOWSKI  
Assistant United States Attorney  
Chief, Economic Crimes Section

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**UNITED STATES DISTRICT COURT**  
Middle District of Florida  
Tampa Division

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THE UNITED STATES OF AMERICA

vs.

GLADYS FUERTES  
MARIO FUERTES

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**INDICTMENT**

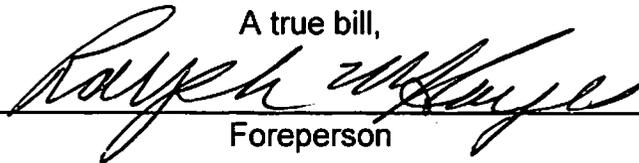
Violations:

Title 18, United States Code, Sections 1349, 1347, 1028A and 1518

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A true bill,

  
Foreperson

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Filed in open court this 13<sup>th</sup> day  
of March, 2014.

\_\_\_\_\_  
Clerk

Bail \$ \_\_\_\_\_

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