

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : Criminal No. 12-
: :
: :
v. : :
: :
: :
SHASHI AGARWAL : 42 U.S.C. § 1320a-7b(b) (1) (A)
: 18 U.S.C. § 2

I N F O R M A T I O N

The defendant having waived in open court prosecution by indictment, the United States Attorney for the District of New Jersey charges:

1. At various times relevant to this Information:

The Defendant and Orange Community MRI, LLC

a. The defendant, SHASHI AGARWAL ("defendant AGARWAL"), was a licensed and board-certified cardiologist in New Jersey. Defendant AGARWAL owned and operated his own medical facility, Agarwal Health Center, in East Orange, New Jersey.

b. Orange Community MRI, LLC ("OCM"), was located in Orange, New Jersey and provided diagnostic testing services to patients, including magnetic resonance imaging ("MRIs") and computed axial tomographies ("CT Scans") (collectively, the "Diagnostic Tests").

Medicare and Medicaid

c. The Medicare Program ("Medicare") was a federal program that provided free or below-cost health care

benefits to certain individuals, primarily the elderly, blind, and disabled. Medicare was a "Federal health care program" as defined in Title 42, United States Code, Section 1320a-7b(f). Individuals who received benefits under Medicare were commonly referred to as "beneficiaries."

d. The Medicare Part B program was a federally funded supplemental insurance program that provided Medicare insurance benefits for individuals aged sixty-five or older, and for certain individuals who were disabled. The Medicare Part B program paid for various medical services for beneficiaries, including the Diagnostic Tests.

e. The Medicaid Program ("Medicaid") was a jointly funded, federal-state health insurance program that provided certain health benefits to the disabled, as well as to individuals and families with low incomes and resources. The federal government provided matching funds to Medicaid and ensured that states complied with minimum standards in the administration of the program.

f. Medicaid was a "Federal health care program" as defined in Title 42, United States Code, Section 1320a-7b(f). Individuals who received benefits under Medicaid were commonly referred to as "recipients."

g. In New Jersey, Medicaid was administered by the New Jersey Department of Human Services. Under New Jersey

law, Medicaid paid for certain medical services for recipients, including the Diagnostic Tests.

2. At all times relevant to this Information, OCM was a Medicare- and Medicaid-approved provider of, among other things, the Diagnostic Tests.

The Kickback Scheme

3. From in or about 2009, until in or about December, 2011, in the District of New Jersey and elsewhere, the defendant, SHASHI AGARWAL, did knowingly and willfully solicit and receive remuneration, directly and indirectly, overtly and covertly, in cash and in kind, that is, cash kickbacks, from OCM in return for referring patients to OCM for the furnishing and arranging for the furnishing of items and services for which payment may be made in whole or in part under a Federal health care program, namely, Medicare and Medicaid.

Object and Means of the Kickback Scheme

4. The object of the kickback scheme was for defendant AGARWAL to receive cash payments from OCM in exchange for referring Medicare, Medicaid, and privately-insured patients to OCM for the Diagnostic Tests.

5. To execute the kickback scheme, defendant AGARWAL and OCM representatives negotiated the value of kickbacks that would be paid for each Diagnostic Test referred, and OCM

representatives paid defendant AGARWAL cash periodically for the Diagnostic Tests referred by his practice.

6. To effect the object of the scheme, the following acts, among others, were undertaken:

a. In or about 2009, defendant AGARWAL negotiated a kickback arrangement with OCM whereby OCM would pay defendant AGARWAL approximately \$100 in exchange for each of his MRI referrals to OCM, and defendant AGARWAL agreed to refer as many as 20 MRIs to OCM each month.

b. On or about October 11, 2011, at El Salvadoreño restaurant in Elizabeth, New Jersey, defendant AGARWAL met with a purported representative of OCM and received an envelope containing approximately \$2,600 cash in exchange primarily for previous referrals of Medicare and Medicaid patients for the Diagnostic Tests.

c. On or about November 10, 2011, at defendant AGARWAL's office in East Orange, defendant AGARWAL met with a purported representative of OCM and received an envelope containing approximately \$2,500 cash in exchange primarily for previous referrals of Medicare and Medicaid patients for the Diagnostic Tests.

All in violation of Title 42, United States Code, Section 1320a-7b(b) (1) (A), and Title 18, United States Code, Section 2.

FORFEITURE ALLEGATION

1. The allegations contained in this Information are hereby realleged and incorporated by reference for the purpose of noticing forfeiture pursuant to Title 18, United States Code, Section 982(a)(7).

2. Upon conviction of the offense in violation of Title 42, United States Code, Section 1320a-7b(b)(1)(A), the defendant, SHASHI AGARWAL, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 982(a)(7), all right, title, and interest in any property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the offense of conviction, including but not limited to a sum of money equal to at least \$101,750 in United States currency.

3. 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 shall be

entitled, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(a)(7), to forfeiture of any other property of the defendant, SHASHI AGARWAL, up to the value of the property described in the preceding paragraph.



PAUL J. FISHMAN
United States Attorney

Criminal No. 2012-

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DISTRICT OF NEW JERSEY

THE UNITED STATES OF AMERICA

vs.

SHASHI AGARWAL

I N F O R M A T I O N

42 U.S.C. § 1320a-7b(b) (1) (A)
18 U.S.C. § 2

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