

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : Criminal No. 13-
 :
 v. :
 : 42 U.S.C. § 1320a-7b(b)(1) and
 EDDIE ROSA : 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:

The Defendant and Orange Community MRI, LLC

1. At all times relevant to this Information:

a. Defendant EDDIE ROSA was a physician licensed to practice in New Jersey who practiced medicine at an office located at 796 Mount Prospect Avenue, Newark, New Jersey.

b. Orange Community MRI, LLC ("Orange MRI") was located at 345 Henry Street, Suite 102, Orange, New Jersey. Orange MRI provided services to patients that included magnetic resonance imaging ("MRIs"), ultrasound imaging ("Ultrasounds"), echocardiograms ("Echos"), computed axial tomographies ("CAT Scans" or "CT Scans"), and dual-emission X-ray absorptiometries ("DEXA Scans") (collectively, the "Diagnostic Tests").

2. At various times relevant to this Information, there was a Cooperating Witness (the "CW") who held himself out to be an individual acting on behalf of Orange MRI.

3. Starting from in or about late September 2011 to

in or about December 2011, the CW held himself out to be an individual acting on behalf of Orange MRI, although he was doing so at the direction and under the supervision of law enforcement agents with the U.S. Department of Health and Human Services, Office of Inspector General.

4. The Medicare Program ("Medicare") is a federal program that provides free or below-cost health care benefits to certain individuals, primarily the elderly, blind, and disabled. Medicare is a "Federal health care program" as defined in Title 42, United States Code, Section 1320a-7b(f). Individuals who receive benefits under Medicare are commonly referred to as "beneficiaries."

5. The Medicare Part B program is a federally funded supplemental insurance program that provides supplementary Medicare insurance benefits for individuals aged sixty-five or older, and certain individuals who are disabled. The Medicare Part B program pays for various medical services for beneficiaries, including the Diagnostic Tests.

6. The Medicaid Program ("Medicaid") is a jointly funded, federal-state health insurance program that provides certain health benefits to the disabled, as well as individuals and families with low incomes and resources. The federal involvement in Medicaid is largely limited to providing matching funds and ensuring that states comply with minimum standards in

the administration of the program. Medicaid is a "Federal health care program" as defined in Title 42, United States Code, Section 1320a-7b(f). Individuals who receive benefits under Medicaid are commonly referred to as "recipients."

7. The federal Medicaid statute sets forth the minimum requirements for state Medicaid programs to qualify for federal funding, which is called federal financial participation. 42 U.S.C. §§ 1396 et seq. In New Jersey, the New Jersey Medical Assistance Program is administered by the New Jersey Department of Human Services. Under New Jersey law, Medicaid pays for certain medical services for recipients, including the Diagnostic Tests.

8. At all times relevant to this Information, Orange MRI was an approved Medicare and Medicaid provider of, among other things, the Diagnostic Tests.

The Kickback Scheme

9. Starting at least in or about 2007, individuals acting on behalf of Orange MRI made cash payments to certain New Jersey health care practitioners, including ROSA, in exchange for referring patients to Orange MRI for Diagnostic Tests.

10. After the end of each calendar month, individuals acting on behalf of Orange MRI, including the CW, printed Orange MRI patient reports that included, among other information, dates of service, patient names, the referring health care

practitioners, the kinds of medical insurance to be billed, and the Diagnostic Tests performed (the "Kickback Reports"). The Kickback Reports were organized by Diagnostic Test, and therefore there was a separate Kickback Report for MRIs, Ultrasounds, Echos, CAT Scans, and DEXA scans. The Kickback Reports were then used to tally the number of Orange MRI-patient Diagnostic Tests referred by each health care practitioner and the type of insurance used. The results of these tallies were used to determine the amount of the kickback payment Orange MRI paid to each respective health care provider.

11. Pursuant to ROSA's and Orange MRI's agreement, Orange MRI paid ROSA for each Medicare or Medicaid beneficiary's MRI or CAT Scan referred to Orange MRI. Pursuant to the same agreement, Orange MRI also paid ROSA for certain privately insured patients' MRI or CAT Scans referred to Orange MRI. In the event a patient referred to Orange MRI paid for an MRI or CAT Scan directly and not through Medicare, Medicaid, or an insurance plan (i.e., the patient "self-paid" for the Diagnostic Test), then ROSA did not receive any payment from Orange MRI.

12. According to the MRI Kickback Report, during September 2011, ROSA referred a total of 8 MRIs to Orange MRI; all 8 of those tests were for Medicare or Medicaid beneficiaries. According to the CAT Scan Kickback Report, during September 2011,

ROSA referred a total of 6 CAT Scans to Orange MRI; all 6 of those tests were for Medicare or Medicaid beneficiaries.

13. On or about October 13, 2011, ROSA met with the CW at ROSA's office located at 796 Mount Prospect Avenue, Newark, New Jersey. During this meeting, ROSA accepted from the CW an envelope containing approximately \$870 in cash. The \$870 included payment for the MRIs and CAT Scans ROSA referred to Orange MRI during September 2011.

14. During this October 13, 2011 meeting, ROSA responded "Ok. That's, that's not bad, right? We could do better" when the CW told him, in sum and substance, the number of MRIs and CAT Scans ROSA had referred to Orange MRI during the month of September 2011. After CW mentioned, in sum and substance, that ROSA had previously referred more tests, ROSA responded, "Yeah. I mean, it's increasing, though . . . [a] lot of MRIs for us . . . [y]eah. So they should be going this month."

15. According to the MRI Kickback Report, during October 2011, ROSA referred a total of 9 MRIs to Orange MRI; 8 of those tests were for Medicare or Medicaid beneficiaries. According to the CAT Scan Kickback Report, during October 2011, ROSA referred a total of 3 CAT Scans to Orange MRI; none of those tests were for Medicare or Medicaid beneficiaries.

16. On or about November 10, 2011, ROSA met with the CW at ROSA's office located at 796 Mount Prospect Avenue, Newark, New Jersey. During this meeting, ROSA accepted from the CW an envelope containing approximately \$1070 in cash. The \$1070 in cash included payment for the 8 MRIs ROSA referred to Orange MRI and performed on Medicare or Medicaid beneficiaries during October 2011.

17. From at least in or about 2007 through at least in or about December 2011, in the District of New Jersey, and elsewhere, defendant

EDDIE ROSA

did knowingly and willfully solicit and receive remuneration, directly and indirectly, overtly and covertly, in cash, that is, kickbacks, from Orange Community MRI, LLC, in return for referring patients to Orange Community MRI, LLC, 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.

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), the defendant, EDDIE ROSA, 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 offenses of conviction, including but not limited to a sum of money equal to at least \$29,565 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, EDDIE ROSA, up to the value of the property described in the preceding paragraph.



PAUL J. FISHMAN
United States Attorney

CASE NUMBER: 2011R01378

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District of New Jersey**

UNITED STATES OF AMERICA

v.

EDDIE ROSA

INFORMATION

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

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