

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA**

<b>UNITED STATES OF AMERICA</b>	*	<b>CRIMINAL NO. 15-61</b>
<b>VERSUS</b>	*	<b>SECTION: "E"</b>
<b>ZELLISHA DEJEAN</b>	*	

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**FACTUAL BASIS**

If this matter were to proceed to trial, the Government would prove the following facts through competent evidence:

1. Records obtained from Abide Home Care Services, Inc. (Abide) in the execution of a search warrant would establish that Abide was a home health provider in New Orleans, Louisiana.
2. Federal Bureau of Investigation (FBI) Special Agent Krista Bradford and Health and Human Services, Office of Inspector General (HHS-OIG) Special Agent Artie Delaneuville would testify that the FBI and HHS-OIG opened a joint investigation of Abide in about February 2013. Wendy Naquin, Senior Analyst with AdvanceMed, the Zone Program Integrity Contractor (ZPIC) for Medicare, would testify that Abide was issued a national provider identifier (NPI) it used to submit claims for payments to Medicare for the home health services provided eligible patients. Ms. Naquin would testify that from about 2009 until about May 2015, AdvanceMed received, processed, and paid Medicare claims for home health services from Abide.
3. Ms. Naquin would testify that bills submitted by Medicare providers utilized the physician's Current Procedural Terminology, commonly known as the CPT Code Book, and the

Healthcare Common Procedure Coding System, commonly known as HCPCS, both of which contained listings of descriptive terms and identifying code numbers for the standardized reporting of approximately 7,500 medical services and procedures performed by physicians. The CPT and HCPCS books provided uniform language that accurately described medical and diagnostic services to facilitate nationwide communications among health care providers, workers, patients and others and for tracking and processing medical claims. Such coding was necessary for Medicare to ensure that insurance claims were processed in an orderly and consistent manner.

4. Medicare recipient KiSt would testify that he/she has been a Medicare recipient since 2007 because of a degenerative disc disease. KiSt would testify that the only physician who has ever treated him/her in the New Orleans metropolitan area was a rheumatologist and that he/she has never been seen by or heard of Dr. Barnes.

5. KiSt would testify that he/she began services with Abide after he/she had rotator cuff surgery; that Rhonda Maberry arrived at his/her home unannounced for a home visit; KiSt did not know who referred him/her to Abide. KiSt would testify that although he/she did not want or need home health services, the services provided by Abide were initially helpful but he/she had to begin missing skilled nursing appointments because it was inconvenient for him/her to be home for the visits. KiSt would testify that during the time he/she was billed for home health by Abide, he/she routinely drove to appointments and to run errands, that he/she was a full time caregiver to his/her daughter, and that he/she was not homebound. KiSt would testify that he/she eventually called Abide to be discharged.

6. The Government would introduce into evidence the Verbal Order/Progress Report initiated by **DEJEAN** on July 23, 2011, and signed by co-defendant Dr. Shelton Barnes on July

29, 2011, to begin home health for abnormal blood pressures and “CBG,” and OASIS documentation **DEJEAN** completed and signed for KiSt on about July 23, 2011, as it relates to Count 20 of the First Superseding Indictment (FSI). The Government would also introduce the plan of care/485 that was created as a result of the OASIS **DEJEAN** prepared, along with other documentation purporting to support the recertification of KiSt for the home health episode for recertification period 07/23/11 through 09/20/11. The Government would also introduce the only patient documentation relating to KiSt found at the medical offices of co-defendant Barnes purporting to relate to his and his non-physician practitioner’s (NPP) treatment of KiSt. This documentation would illustrate that the only evidence of observations that could have supported a conclusion for the need for home health services made by Barnes or the NPP was in July 2011 at a home visit made by the NPP. At that time, the NPP documented a blood pressure of 120/70 - a completely normal reading for KiSt - on a piece of paper purporting to be the first page of a home health plan of care that had already been signed by Dr. Barnes and **DEJEAN**. Furthermore, neither Barnes nor his NPP completed a face to face evaluation in the Medicare required time frame, and subsequently falsified a face to face form indicating that KiSt had been seen prior to his/her admission to home health.

7. Further examination of the documentation of the home health episode in Count 20 of the FSI would illustrate that **DEJEAN** noted an exacerbation of the primary diagnosis of hypertension NOS, ICD-9 401.9, even though no medical evidence existed from which **DEJEAN** could conclude such an event. A medication profile prepared by **DEJEAN** demonstrated that KiSt was routinely taking a medication for high blood pressure and no documentation supported the fact that the medication did not adequately manage KiSt’s hypertension or that KiSt was non-compliant in taking that medication. **DEJEAN** also noted

exacerbations of ICD-9 diagnoses 250.60 (DMII neuro nt st. uncntrl), 357.2 (neuropathy in diabetes) and 369.20 (low vision, 2 eyes NOS). Testimony from Medicare expert LeeAnn Dodson would establish that these diagnoses were classified as “Case-Mix” diagnoses and resulted in a higher reimbursement to Abide. The OASIS completed by **DEJEAN** included her conclusion that KiSt needed home health so that she could be instructed on her disease process when KiSt required no teaching on her controlled blood pressure. The OASIS and resulting plan of care also supported KiSt as homebound when observation by **DEJEAN** and simple discussion with KiSt could not have supported a finding of homebound status.

8. When the initial episode of home health **DEJEAN** falsely documented was up, **DEJEAN** falsely documented a Verbal Order/Progress Report to continue the medically unnecessary home health services based again upon abnormal blood pressure and changes in medication no documentation or independent medical observation or judgment could have supported.

9. Agent Bradford would testify that federal agents executed a search warrant on Dr. Barnes’ physician’s office on March 25, 2014, seeking the patient files of approximately 650 Medicare beneficiaries AdvanceMed records indicated Dr. Barnes referred to Abide. Agent Bradford would testify that there were patient files for only about 154 of the 650 patients who were referred to Abide. Documents later obtained from Barnes’ NPP included approximately 161 files for patients who were referred to Abide by Dr. Barnes. Agent Bradford would testify that the patient charts provided by the NPP were incomplete and often included only front pages of past home health plans of care with handwritten notes.

10. Agent Bradford would testify that Dr. Barnes did not have a patient file for KiSt and that NPP Maberry’s patient file for KiSt consisted of pages of two incomplete 485’s, for

episodes 03/19/12 through 05/17/12 and 07/23/11 through 09/02/11, and a blank sheet of paper with handwritten notes dated June 27, 2012. Maberry would testify that patient KiSt was not homebound.

11. Wendy Naquin would testify that for the home health episode 07/23/11-09/20/11, based upon a falsified OASIS and plan of care **DEJEAN** prepared and signed for KiSt, Abide billed Medicare \$1,000 and was paid \$1,690.12.

KENNETH ALLEN POLITE, JR.  
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Assistant United States Attorney

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ZELLISHA DEJEAN

Defendant

Date: \_\_\_\_\_

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KIMYA M. HOLMES

Counsel for Defendant

Date: \_\_\_\_\_