

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

UNITED STATES OF AMERICA

*

CRIMINAL NO. 19-52

v.

*

SECTION:

JOHN ANTHONY MARSH

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FACTUAL BASIS

Should this matter have gone to trial, the government would have proved through the introduction of competent testimony and admissible tangible exhibits, including documentary evidence, the following to support the allegations charged by the government in Count 1 of the Information now pending against the defendant, **JOHN ANTHONY MARSH**, charging him with a violation of Title 18, United States Code, Sections 1028(a)(7), (b)(2)(B), (c)(3)(A) and 2 namely, identity theft.

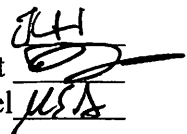
1. The Medicare program (“Medicare”) was a federal health care benefit providing benefits to persons who were over the age of sixty-five or disabled. Medicare was administered by the United States Department of Health and Human Services (“HHS”) through its agency, the Centers for Medicare and Medicaid Services (“CMS”). Individuals who qualified for Medicare benefits were commonly referred to as “beneficiaries,” and each beneficiary received a Medicare identification number.

2. Medicare covered, among a variety of other items and services, ophthalmological examinations and evaluations (“ophthalmological services”).

DOJ Trial Attorney

Defendant

Defense Counsel



3. Medical service providers, including clinics and physicians (“service providers”), that met certain criteria could enroll with Medicare, which allowed them to submit claims to Medicare seeking reimbursement for the cost of services provided to beneficiaries and members. As part of the enrollment process, service providers submitted provider enrollment applications to Medicare, wherein service providers were required to certify that any services for which they would seek reimbursement from Medicare were medically necessary and performed by the medical provider identified in the claim. Provider enrollment certifications further stated that any false claims, statements, or documents, or concealment of a material fact, could be prosecuted under applicable federal and state laws.

4. A National Provider Identifier (“NPI”) was a unique ten-digit number issued to service providers, including physicians and clinics, by CMS so that service providers could specifically identify themselves throughout the health care industry, and among the various health care benefit programs.

5. In order to receive payment from Medicare, service providers were required to submit health insurance claim forms either in hard copy or electronically. Medicare claims were required to set forth, among other things, the beneficiary’s or member’s name, the Medicare identification number, the services performed, the date the service was performed, the charge for the services, and the names and the NPI of the physician or other health care provider who ordered or provided the services. Moreover, when claim forms were submitted, service providers certified that: (1) the contents of the forms were true, correct, and complete; (2) the forms were prepared in compliance with the laws and regulations governing Medicare; and (3) the services purportedly provided as set forth in the claims were medically necessary.

6. Medicare reimbursed service providers directly for the cost of services, including ophthalmological services, furnished to eligible beneficiaries and members provided that those treatments were ordered by a licensed physician who certified that the treatments were medically necessary. Conversely, Medicare would not reimburse service providers for the cost of services that were not actually provided, that were not medically necessary, or were not provided by the service provider listed in the claim

7. Defendant **JOHN ANTHONY MARSH** was an optician residing in Fulton County, Georgia, who formed, owned, and operated Magazine Medical Group & Associates, LLC, (“Magazine Medical”), which was a Louisiana company formed on June 17, 2016, and located at 4747 Earhart Boulevard, Suite J, in New Orleans, Louisiana. Magazine Medical provided ophthalmological services for beneficiaries between June 2016 and September 2016.

8. Business 1 was a medical clinic that provided ophthalmological services, which, prior to June 2016, was located at 4747 Earhart Boulevard, Suite J, in New Orleans, Louisiana. A.J. was a physician licensed to practice medicine in Louisiana who previously worked at Business 1.

9. **MARSH** established Magazine Medical on the premises at 4747 Earhart Boulevard, Suite J, in New Orleans, Louisiana, with a name substantially similar to Business 1, which had previously operated at that location as a medical clinic.

10. Between June and September 2016, **MARSH** used Business 1’s name when submitting claims to Medicare and other health care benefit programs to make it appear as if those purported services rendered had been performed at Business 1.

11. Additionally, between June 2016 and September 2016, **MARSH** used the NPI

assigned to A.J. to submit claims to Medicare and other health care benefit providers attesting that A.J. had conducted face-to-face ophthalmological examinations and evaluations and provided other services to, Medicare beneficiaries at Magazine Medical when A.J. never worked for Magazine Medical and never treated any beneficiaries at Magazine Medical.

12. As reimbursement for the fraudulent claims that **MARSH** caused to be submitted, Medicare and other health care benefit programs issued checks issued to Business 1 and A.J. at 4747 Earhart Boulevard, Suite J, in New Orleans, Louisiana. **MARSH** received and deposited these checks into his own bank account.

13. On or about July 12, 2016, in the Eastern District of Louisiana, **JOHN ANTHONY MARSH**, caused to be submitted to Medicare claim number 531116194280540 for ophthalmological services for Beneficiary J.A. using A.J.'s NPI when, in fact, no such ophthalmological services were performed on that date by A.J. for Beneficiary J.A. at Magazine Medical.

14. In total, between June 2016 and September 2016, **MARSH** fraudulently caused billings to Medicare and other health care benefit programs totaling approximately \$77,198.00 for medical services that were not provided by A.J., and fraudulently obtained from Medicare and other health care benefit programs approximately \$20,669.67 for claims submitted using A.J.'s NPI for medical services that were not provided by A.J.

15. In sum, the Government's evidence would prove the defendant, **JOHN ANTHONY MARSH**, committed identity theft by submitting claims using A.J.'s NPI attesting that A.J. performed medical services at Magazine Medical when A.J. never provided any medical services at Magazine Medical.

Limited Nature of Factual Basis


This proffer of evidence is not intended to constitute a complete statement of all facts known by **MARSH**, and/or the government. Rather, it is a minimum statement of facts intended to prove the necessary factual predicate for his guilty plea. The limited purpose of this proffer is to demonstrate that there exists a sufficient legal basis for the pleas of guilty to the charged offense by **MARSH**.

The above facts come from an investigation conducted by, and would be proven at trial by credible testimony from, *inter alia*, Special Agents and forensic examiners from the Federal Bureau of Investigation and the United States Department of Health and Human Services – Office of the Inspector General, and admissible tangible exhibits in the custody of the FBI and HHS.

READ AND APPROVED:



JOHN ANTHONY MARSH
Defendant



MANNY ARORA
Counsel for Defendant



JARED L. HASTEN
Trial Attorney