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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA

v.

Case: 2:18-cr-20237
Judge: Goldsmith, Mark A.
MJ: Majzoub, Mona K.
Filed: 04-10-2018 At 12:33 PM
INDI USA V. SEALED MATTER (DA)

D-1 SAMIR BERRI, R.Ph. ,
D-2 ANTHONY COLE, R.Ph.,
D-3 SHAMIMUR RAHMAN, R.Ph.
D-4 GHASSAN HAMKA, R.Ph.
D-5 FOUZI RAMOUNI, and
D-6 ASM AKTER AHMED, M.D.,

VIO.: 18 U.S.C. § 1349
18 U.S.C. § 1347
18 U.S.C. § 2
21 U.S.C. §§841(a)(1)
and 846
18 U.S.C. § 981
18 U.S.C. § 982

Defendants.

INDICTMENT

THE GRAND JURY CHARGES:

General Allegations

At all times relevant to this Indictment:

The Medicare and Medicaid Programs

1. The Medicare program was a federal health care program providing benefits to persons who were over the age of 65 or disabled. Medicare was administered by the Centers for Medicare and Medicaid Services ("CMS"), a federal agency under the United States Department of Health and Human Services.

Individuals who received benefits under Medicare were referred to as Medicare “beneficiaries.”

2. Medicare programs covering different types of benefits were separated into different program “parts.” Medicare Part D subsidized the cost of prescription drugs for Medicare beneficiaries in the United States.

3. In order to receive Part D benefits, a beneficiary enrolled in a Medicare drug plan. Medicare drug plans were operated by private companies approved by Medicare. Those companies were often referred to as drug plan “sponsors.” A beneficiary in a Medicare drug plan could fill a prescription at a pharmacy and use his or her plan to pay for some or all of the prescription.

4. A pharmacy could participate in Part D by entering a retail network agreement directly with a plan or with one or more Pharmacy Benefit Managers (“PBMs”). A PBM acted on behalf of one or more Medicare drug plans. Through a plan’s PBM, a pharmacy could join the plan’s network. When a Part D beneficiary presented a prescription to a pharmacy, the pharmacy submitted a claim either directly to the plan or to a PBM that represented the beneficiary’s Medicare drug plan. The plan or PBM determined whether the pharmacy was entitled to payment for each claim and periodically paid the pharmacy for outstanding claims. The drug plan’s sponsor reimbursed the PBM for its payments to the pharmacy.

5. Medicare, through CMS, compensated the Medicare drug plan sponsors. Medicare paid the sponsors a monthly fee for each Medicare beneficiary of the sponsors' plans. Such payments were called capitation fees. The capitation fee was adjusted periodically based on various factors, including the beneficiary's medical conditions. In addition, in some cases where a sponsor's expenses for a beneficiary's prescription drugs exceeded that beneficiary's capitation fee, Medicare reimbursed the sponsor for a portion of those additional expenses.

6. The Michigan Medicaid program ("Medicaid") was a federal and state funded health care program providing benefits to individuals and families who met specified financial and other eligibility requirements, and certain other individuals who lacked adequate resources to pay for medical care. CMS was responsible for overseeing the Medicaid program in participating states, including Michigan. Individuals who received benefits under the Medicaid program were similarly referred to as "beneficiaries."

7. Medicaid covered the costs of medical services and products ranging from routine preventive medical care for children to institutional care for the elderly and disabled. Among the specific medical services and products provided by Medicaid were reimbursements to pharmacies for the provision of prescription drugs. Generally, Medicaid covered these costs if, among other requirements, they were medically necessary and ordered by a physician.

8. Medicare, Medicare drug plan sponsors, and Medicaid are “health care benefit program[s],” as defined by Title 18, United States Code, Section 24(b).

Private Health Insurance Programs

9. Blue Cross and Blue Shield of Michigan (“BCBS”) was a nonprofit, privately operated insurance company authorized and licensed to do business in the State of Michigan.

10. BCBS had agreements with participating providers to furnish medical services to patients insured by BCBS. The agreements allowed the participating providers to bill BCBS directly, and to be paid directly, for services provided to insured patients. BCBS also paid pharmacies for the cost of prescription drugs that were prescribed to its subscribers and filled by the pharmacies.

11. BCBS distributed payments to participating providers electronically, by depositing money into the providers’ bank account of record, or by mailing a check to the provider’s address of record.

12. BCBS was a “health care benefit program,” as defined by Title 18, United States Code, Section 24(b).

The Defendants and Relevant Entities

13. Conant Plaza Pharmacy, LLC. (“Conant”) was a pharmacy and Michigan corporation located at 3611 Carpenter Street, Suite 3, Detroit, Michigan 48212. It was incorporated in October 2003 by SAMIR BERRI.

14. Buckley's Pharmacy of Hazel Park, LLC. d/b/a Buckley's Pharmacy #102 (Buckley's #102) was a pharmacy and Michigan corporation located at 20721 Dequindre Road, Suite B, Hazel Park, Michigan 48030. It was incorporated in April 2012 by SAMIR BERRI, ANTHONY COLE and SHAMIMUR RAHMAN.

15. Buckley's Pharmacy of Detroit, LLC. d/b/a Buckley's Pharmacy #103 (Buckley's #103) was a pharmacy and Michigan corporation located at 14313 Greenfield Road, Detroit, Michigan 48227. It was incorporated in July 2012 by SAMIR BERRI and ANTHONY COLE.

16. Buckley's Eastside Pharmacy, LLC. d/b/a Buckley's Pharmacy #104 (Buckley's #104) was a pharmacy and Michigan corporation located at 15014 E. Eight Mile Road, Detroit, Michigan 48205. It was incorporated in November 2013 by SAMIR BERRI, ANTHONY COLE and GHASSAN HAMK.

17. Buckley Brands, LLC., (Brands) was a pharmacy and Michigan corporation located at 18021 Conant Street, Detroit, Michigan 48234. It was incorporated in May 2009 by SAMIR BERRI and ANTHONY COLE. It ceased doing business on or about January 27, 2016.

18. Defendant SAMIR BERRI, a resident of Oakland County, was a licensed pharmacist in Michigan and the sole owner and pharmacist-in-charge of Conant. Defendant SAMIR BERRI was also co-owner of Buckley's #102, Buckley's #103, Buckley's #104, and Brands.

19. Defendant ANTHONY COLE, a resident of Wayne County, was a licensed pharmacist in Michigan and the co-owner of Buckley's #102, Buckley's #103, Buckley's #104, and Brands. Defendant ANTHONY COLE was the pharmacist-in-charge of Buckley's #103 and Brands.

20. Defendant SHAMIMUR RAHMAN, a resident of Macomb County, was a licensed pharmacist in Michigan and the co-owner and pharmacist-in-charge of Buckley's #102.

21. Defendant GHASSAN HAMKA, a resident of Wayne County, was a licensed pharmacist in Michigan and co-owner and pharmacist-in-charge of Buckley's #104.

22. Defendant FOUZI RAMOUNI, a resident of Oakland County, filled his and others' controlled substance prescriptions at Conant.

23. Defendant ASM AKTER AHMED, a Canadian citizen, maintained a medical doctor license and a Drug Enforcement Agency (DEA) registration number in order to practice medicine and prescribe medications in the state of Michigan. He practiced medicine from a medical clinic located in the same plaza as Conant Plaza Pharmacy on Carpenter Street in Detroit.

COUNT 1
Conspiracy to Commit Health Care Fraud and Wire Fraud
(18 U.S.C. § 1349)

D-1 SAMIR BERRI, R.Ph.
D-2 ANTHONY COLE, R.Ph
D-3 SHAMIMUR RAHMAN, R.Ph
D-4 GHASSAN HAMKA, R.Ph.
D-5 FOUZI RAMOUNI
D-6 ASM AKTER AHMED, M.D.

24. Paragraphs 1 through 23 of the General Allegations section of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

25. From at least in or around January 2011, and continuing through at least August 2017, the exact dates being unknown to the Grand Jury, in Wayne County, in the Eastern District of Michigan, and elsewhere, SAMIR BERRI, ANTHONY COLE, SHAMIMUR RAHMAN, GHASSAN HAMKA, FOUZI RAMOUNI, and ASM AKTER AHMED and others, did willfully and knowingly combine, conspire, confederate and agree, to commit certain offenses against the United States, that is:

- (a) to violate Title 18, United States Code, Section 1347, that is, to execute a scheme and artifice to defraud a health care benefit program affecting commerce, as defined in Title 18, United States Code, Section 24(b), that is, Medicare, Medicaid, and BCBS, 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 health care benefit program, in connection with the delivery of and payment for health care benefits, items, and services; and

- (b) to violate Title 18, United States Code, Section 1343, that is, to knowingly and with the intent to defraud, devise and intend to devise a scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, knowing that the pretenses, representations, and promises were false and fraudulent when made, and did knowingly transmit and cause to be transmitted, by means of wire communication in interstate commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice.

Purpose of the Conspiracy

26. It was a purpose of the conspiracy for SAMIR BERRI, ANTHONY COLE, SHAMIMUR RAHMAN, GHASSAN HAMKA, FOUZI RAMOUNI, ASM AKTER AHMED and others, to unlawfully enrich themselves by, among other things: (a) submitting, and causing the submission of, false and fraudulent claims to Medicare, Medicaid, and BCBS through Conant, Buckley's #102, Buckley's #103, Buckley's #104, and Brands; (b) concealing, and causing the concealment of, the submission of false and fraudulent claims to Medicare, Medicaid, and BCBS, and

the receipt and transfer of the proceeds of the fraud; and (c) diverting fraud proceeds for the personal use and benefit of defendants and their co-conspirators.

Manner and Means of the Conspiracy

The manner and means by which the defendants and others sought to accomplish the purpose of the conspiracy included, among others, the following:

27. SAMIR BERRI, ANTHONY COLE, SHAMIMUR RAHMAN, and GHASSAN HAMKA maintained national provider identifiers for pharmacies they owned or co-owned in order to submit claims to Medicare, Medicaid, and BCBS.

28. SAMIR BERRI, ANTHONY COLE, SHAMIMUR RAHMAN, and GHASSAN HAMKA caused false reimbursement claims to be submitted to Medicare, Medicaid and BCBS for medications that were not dispensed. Some of the false claims were for narcotics and medications allegedly dispensed to deceased persons.

29. FOUZI RAMOUNI recruited and paid several Medicare and Medicaid beneficiaries in order to obtain medically unnecessary controlled substance prescriptions from doctors, including ASM AKTER AHMED.

30. FOUZI RAMOUNI knew that certain doctors, including ASM AKTER AHMED, would write unnecessary controlled substance prescriptions for cash. FOUZI RAMOUNI would take his recruited Medicare and Medicaid beneficiaries to these doctors in order to obtain unnecessary controlled substance prescriptions.

31. As an inducement to convince pharmacists to fill questionable controlled substance prescriptions, ASM AKTER AHMED and other doctors would write unnecessary prescriptions for certain high-priced medications, such as Lidocaine, Lantus and various inhalers, understanding that pharmacies could generate substantial profits by billing Medicare, Medicaid or private insurance for these high-priced medications, without actually dispensing them.

32. After FOUZI RAMOUNI's recruited beneficiaries obtained prescriptions, he would take them to pharmacies, including Conant Pharmacy, where he knew pharmacists, including SAMIR BERRI, who would fill the controlled substance prescriptions. Once the controlled substance prescriptions were filled, FOUZI RAMOUNI, in turn, paid the beneficiaries' for their controlled substance medications and some of the drugs were diverted for sale on the street. In addition to filling the questionable controlled substance prescriptions for FOUZI RAMOUNI and others, SAMIR BERRI caused Medicare and Medicaid to be fraudulently billed by Conant for the unnecessary high reimbursement medications that were not dispensed to beneficiaries.

33. SAMIR BERRI, ANTHONY COLE, SHAMIMUR RAHMAN, GHASSAN HAMKA, FOUZI RAMOUNI, and ASM AKTER AHMED and others, caused the transfer and disbursement of illicit proceeds derived from the fraudulent billing scheme to themselves and others.

34. SAMIR BERRI, ANTHONY COLE, SHAMIMUR RAHMAN, GHASSAN HAMKA, FOUZI RAMOUNI, and ASM AKTER AHMED, and their co-conspirators, caused the submission of false and fraudulent claims, via interstate wire, to Medicare, Medicaid, and BCBS for high reimbursement prescription drugs on behalf of Conant, Buckley's #102, Buckley's #103, Buckley's #104, and Brands.

35. Qlarant, under the Medicare Drug Integrity Contract (MEDIC), conducted an invoice review for Conant, Buckley's #102, Buckley's #103, Buckley's #104, and Brands. MEDIC compared each pharmacy's purchases of certain medications to its Medicare and Medicaid claims data for those same medications during the timeframe of this conspiracy. The reviews concluded that none of the pharmacies had an inventory sufficient to support its claim submissions to Medicare and Medicaid. Based upon the shortage detected, MEDIC concluded that Medicare and Medicaid overpaid the pharmacies more than \$5,000,000.

36. Medicare, Medicaid and BCBS paid Conant, Buckley's #102, Buckley's #103, Buckley's #104, and Brands approximately 5.8 million dollars because of the false and fraudulent claims during the course of this conspiracy.

37. SAMIR BERRI, ANTHONY COLE, SHAMIMUR RAHMAN and GHASSAN HAMKA withdrew funds generated by the false and fraudulent claims by writing checks to themselves from their pharmacy accounts.

All in violation of Title 18, United States Code, Section 1349.

COUNTS 2-19
Health Care Fraud
(18 U.S.C. §§ 1347 and 2)

D-1 SAMIR BERRI, R.Ph.

D-5 FOUZI RAMOUNI

D-6 ASM AKTER AHMED, M.D.

38. Paragraphs 1 through 23 of the General Allegations section of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

39. From at least in or around January 2011, and continuing through at least August 2017, the exact dates being unknown to the Grand Jury, in Wayne County, in the Eastern District of Michigan, and elsewhere, SAMIR BERRI, FOUZI RAMOUNI, and ASMAKTER AHMED, and others, in connection with the delivery of and payment for health care benefits, items, and services, did knowingly and willfully execute, and attempt to execute, a scheme and artifice to defraud a federal health care benefit program affecting commerce, as defined in Title 18, United States Code, Section 24(b), that is, Medicare and Medicaid, 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 and Medicaid, in connection with the delivery of and payment for health care benefits, items, and services.

Purpose of Scheme or Artifice

40. It was a purpose of the scheme or artifice for SAMIR BERRI, FOUZI RAMOUNI, and ASM AKTER AHMED, to unlawfully enrich themselves through the creation of medically unnecessary prescriptions that were used to submit false and fraudulent claims to Medicare and Medicaid for prescription medications that were not provided.

The Scheme and Artifice

41. Paragraphs 27 through 37 of Count One of this Indictment are re-alleged and incorporated by reference as though fully set forth herein as a description of the scheme and artifice.

Acts in Execution of the Scheme and Artifice

42. On or about the dates set forth below, in Wayne County, in the Eastern District of Michigan, SAMIR BERRI, FOUZI RAMOUNI, and ASM AKTER AHMED, in connection with the delivery and payment for health care benefits, items, and services, did knowingly and willfully execute, or attempt to execute, the above described scheme and artifice to defraud a health care benefit program affecting commerce, as defined by Title 18, United States Code, Section 24(b), that is Medicare and Medicaid, 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 health care benefit programs, in that the defendants

submitted and caused the submission of false and fraudulent claims and represented that Conant provided prescription medications to Medicare and Medicaid beneficiaries:

Count	Defendant	Program	Beneficiary	Date of Purported Distribution	Date of Beneficiary Death	Description of Prescription Medication
2	D-1 SAMIR BERRI	Medicare	V.M.	6/23/2014	N/A	Lidocaine
3	D-1 SAMIR BERRI	Medicare	V.M.	7/29/2014	N/A	Lidocaine
4	D-1 SAMIR BERRI	Medicare	V.M.	8/21/2014	N/A	Lidocaine
5	D-1 SAMIR BERRI	Medicare	V.M.	8/28/2014	N/A	Oxymorphone HCL-ER
6	D-1 SAMIR BERRI	Medicare	R.P.	5/10/2016	N/A	QVAR
7	D-1 SAMIR BERRI	Medicare	R.P.	5/11/2016	N/A	Lantus
8	D-1 SAMIR BERRI	Medicare	R.P.	4/12/2016	N/A	Ventolin HFA
9	D-1 SAMIR BERRI	Medicare	G.W.	5/26/2016	5/23/2016	Oxycodone HCL
10	D-1 SAMIR BERRI	Medicare	G.W.	05/31/2016	5/23/2016	Ketoconazole
11	D-1 SAMIR BERRI	Medicare	G.W.	06/24/2016	5/23/2016	Oxycodone HCL
12	D-1 SAMIR BERRI	Medicare	G.W.	07/21/2016	5/23/2016	Oxycodone HCL
13	D-1 SAMIR BERRI	Medicare	G.W.	08/18/2016	5/23/2016	Oxycodone HCL
14	D-1 SAMIR BERRI	Medicare	G.W.	9/15/2016	5/23/2016	Oxycodone HCL
15	D-1 SAMIR BERRI	Medicare	L.H.	07/22/2013	7/2/2013	Proair HFA
16	D-1 SAMIR BERRI	Medicare	C.C.	03/05/2015	2/16/2015	Ventolin HFA
17	D-1 SAMIR BERRI	Medicare	J.A.	04/29/2016	4/13/2016	Suboxone
18	D-1 SAMIR BERRI D-5 FOUZI RAMOUNI D-6 ASM AKTER AHMED	Medicaid	D.G.	10/10/2016	N/A	Lidocaine 3% Cream
19	D-1 SAMIR BERRI D-5 FOUZI RAMOUNI D-6 ASM AKTER AHMED	Medicaid	R.R.	10/6/2016	N/A	Lidocaine 3% Cream;

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

COUNTS 20-29
Health Care Fraud
(18 U.S.C. §§ 1347 and 2)

D-3 SHAMIMUR RAHMAN, R.Ph.

43. Paragraphs 1 through 23 of the General Allegations section of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

44. From at least in or around January 2011, and continuing through at least August 2017, the exact dates being unknown to the Grand Jury, in Oakland County, in the Eastern District of Michigan, and elsewhere, SHAMIMUR RAHMAN, and others, in connection with the delivery of and payment for health care benefits, items, and services, did knowingly and willfully execute, and attempt to execute, a scheme and artifice to defraud a federal health care benefit program affecting commerce, as defined in Title 18, United States Code, Section 24(b), that is, Medicare and Medicaid, 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 and Medicaid, in connection with the delivery of and payment for health care benefits, items, and services.

Purpose of Scheme or Artifice

45. It was a purpose of the scheme or artifice for SHAMIMUR RAHMAN to unlawfully enrich himself and others through the submission of false and

fraudulent claims to Medicare and Medicaid for prescription medications that were not provided.

The Scheme and Artifice

46. Paragraphs 27 through 37 of Count One of this Indictment are re-alleged and incorporated by reference as though fully set forth herein as a description of the scheme and artifice.

Acts in Execution of the Scheme and Artifice

47. On or about the dates set forth below, in Oakland County, in the Eastern District of Michigan, SHAMIMUR RAHMAN, in connection with the delivery and payment for health care benefits, items, and services, did knowingly and willfully execute, or attempt to execute, the above described scheme and artifice to defraud a health care benefit program affecting commerce, as defined by Title 18, United States Code, Section 24(b), that is Medicare and Medicaid, 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 health care benefit programs, in that the defendants submitted and caused the submission of false and fraudulent claims and represented that Buckley's #102 provided prescription medications to Medicare and Medicaid beneficiaries:

Count	Defendant	Program	Beneficiary	Date of Purported Distribution	Date of Death	Description of Prescription Medication
20	D-3 SHAMIMUR RAHMAN	Medicaid	R.S.	5/16/2016	N/A	Lidocaine 5% Ointment
21	D-3 SHAMIMUR RAHMAN	Medicaid	M.W.	4/29/2016	N/A	Lidocaine 5% Patch
22	D-3 SHAMIMUR RAHMAN	Medicaid	M.W.	8/19/2016	N/A	Ventolin HFA 90 MCG Inhaler
23	D-3 SHAMIMUR RAHMAN	Medicaid	M.W.	8/23/2016	N/A	Lidocaine 5% Patch
24	D-3 SHAMIMUR RAHMAN	Medicaid	M.W.	7/27/2016	N/A	Lidocaine 5% Patch
25	D-3 SHAMIMUR RAHMAN	Medicaid	M.W.	3/10/2016	N/A	Symbicort 160-4.5 MCG Inhaler
26	D-3 SHAMIMUR RAHMAN	Medicare	C.D.	08/26/2015	8/7/2015	Lidocaine
27	D-3 SHAMIMUR RAHMAN	Medicare	K.F.	12/21/2016	12/15/2016	Ventolin HFA
28	D-3 SHAMIMUR RAHMAN	Medicare	K.F.	12/24/2016	12/15/2016	Xarelto
29	D-3 SHAMIMUR RAHMAN	Medicare	K.F.	12/29/2016	12/15/2016	Symbicort

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

COUNTS 30-39
Health Care Fraud
(18 U.S.C. §§ 1347 and 2)

D-2 ANTHONY COLE, R.Ph.

48. Paragraphs 1 through 23 of the General Allegations section of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

49. From at least in or around January 2011, and continuing through at least August 2017, the exact dates being unknown to the Grand Jury, in Wayne County, in the Eastern District of Michigan, and elsewhere, ANTHONY COLE, and others,

in connection with the delivery of and payment for health care benefits, items, and services, did knowingly and willfully execute, and attempt to execute, a scheme and artifice to defraud a federal health care benefit program affecting commerce, as defined in Title 18, United States Code, Section 24(b), that is, Medicare and Medicaid, 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 and Medicaid, in connection with the delivery of and payment for health care benefits, items, and services.

Purpose of Scheme or Artifice

50. It was a purpose of the scheme or artifice for ANTHONY COLE to unlawfully enrich himself and others through the submission of false and fraudulent claims to Medicare and Medicaid for prescription medications that were not provided.

The Scheme and Artifice

51. Paragraphs 27 through 37 of Count One of this Indictment are re-alleged and incorporated by reference as though fully set forth herein as a description of the scheme and artifice.

Acts in Execution of the Scheme and Artifice

52. On or about the dates set forth below, in Wayne County, in the Eastern District of Michigan, ANTHONY COLE, in connection with the delivery and

payment for health care benefits, items, and services, did knowingly and willfully execute, or attempt to execute, the above described scheme and artifice to defraud a health care benefit program affecting commerce, as defined by Title 18, United States Code, Section 24(b), that is Medicare and Medicaid, 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 health care benefit programs, in that the defendants submitted and caused the submission of false and fraudulent claims and represented that Buckley's #103 provided prescription medications to Medicare and Medicaid beneficiaries:

Count	Defendant	Program	Beneficiary	Date of Purported Distribution	Date of Death	Description of Prescription Medication
30	D-2 ANTHONY COLE	Medicare	D.W.	1/2/2017	N/A	Lidocaine
31	D-2 ANTHONY COLE	Medicare	D.W.	11/22/2016	N/A	Lidocaine
32	D-2 ANTHONY COLE	Medicare	D.W.	9/19/2016	N/A	Lidocaine
33	D-2 ANTHONY COLE	Medicare	D.W.	7/23/2016	N/A	Lidocaine
34	D-2 ANTHONY COLE	Medicare	D.W.	6/14/2016	N/A	Lidocaine
35	D-2 ANTHONY COLE	Medicare	B.S.	10/19/2016	10/17/2016	Renvela
36	D-2 ANTHONY COLE	Medicare	D.C.	03/10/2016	2/27/2016	Rivastigmine Transdermal
37	D-2 ANTHONY COLE	Medicare	A.S.	10/03/2016	9/30/2016	Sensipar
38	D-2 ANTHONY COLE	Medicare	G.H.	12/09/2015	12/02/2015	Spiriva Handihaler
39	D-2 ANTHONY COLE	Medicare	K.H.	01/13/2016	12/19/2015	Latuda

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

COUNTS 40-48
Health Care Fraud
(18 U.S.C. §§ 1347 and 2)

D-4 GHASSAN HAMKA, R.Ph.

53. Paragraphs 1 through 23 of the General Allegations section of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

54. From at least in or around January 2011, and continuing through at least August 2017, the exact dates being unknown to the Grand Jury, in Wayne County, in the Eastern District of Michigan, and elsewhere, GHASSAN HAMKA, and others, in connection with the delivery of and payment for health care benefits, items, and services, did knowingly and willfully execute, and attempt to execute, a scheme and artifice to defraud a federal health care benefit program affecting commerce, as defined in Title 18, United States Code, Section 24(b), that is, Medicare and Medicaid, 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 and Medicaid, in connection with the delivery of and payment for health care benefits, items, and services.

Purpose of Scheme or Artifice

55. It was a purpose of the scheme or artifice for GHASSAN HAMKA to unlawfully enrich himself and others through the submission of false and fraudulent

claims to Medicare and Medicaid for prescription medications that were not provided.

The Scheme and Artifice

56. Paragraphs 27 through 37 of Count One of this Indictment are re-alleged and incorporated by reference as though fully set forth herein as a description of the scheme and artifice.

Acts in Execution of the Scheme and Artifice

57. On or about the dates set forth below, in Wayne County, in the Eastern District of Michigan, GHASSAN HAMKA, in connection with the delivery and payment for health care benefits, items, and services, did knowingly and willfully execute, or attempt to execute, the above described scheme and artifice to defraud a health care benefit program affecting commerce, as defined by Title 18, United States Code, Section 24(b), that is Medicare and Medicaid, 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 health care benefit programs, in that the defendants submitted and caused the submission of false and fraudulent claims and represented that Buckley's #104 provided prescription medications to Medicare and Medicaid beneficiaries:

Count	Defendant	Program	Beneficiary	Date of Purported Distribution	Date of Death	Description of Prescription Medication
40	D-4 GHASSAN HAMKA	Medicaid	V.H.	6/19/2017	N/A	Lantus 100 Unit/mL Vial
41	D-4 GHASSAN HAMKA	Medicaid	V.H.	5/22/2017	N/A	Lantus 100 Unit/mL Vial
42	D-4 GHASSAN HAMKA	Medicaid	V.H.	4/24/2017	N/A	Lantus 100 Unit/mL Vial
43	D-4 GHASSAN HAMKA	Medicaid	V.H.	3/27/2017	N/A	Lantus 100 Unit/mL Vial
44	D-4 GHASSAN HAMKA	Medicaid	V.H.	3/1/2017	N/A	Lantus 100 Unit/mL Vial
45	D-4 GHASSAN HAMKA	Medicaid	L.W.	5/30/2017	N/A	Lidocaine 3% Cream
46	D-4 GHASSAN HAMKA	Medicaid	L.W.	5/1/2017	N/A	Lidocaine 3% Cream
47	D-4 GHASSAN HAMKA	Medicaid	L.W.	4/3/2017	N/A	Lidocaine 3% Cream
48	D-4 GHASSAN HAMKA	Medicare	L.P.	11/27/2015	11/23/2015	Advair Diskus

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

COUNTS 49-58
Health Care Fraud
(18 U.S.C. §§ 1347 and 2)

D-2 ANTHONY COLE, R.Ph.

58. Paragraphs 1 through 23 of the General Allegations section of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

59. From at least in or around January 2011, and continuing through at least August 2017, the exact dates being unknown to the Grand Jury, in Wayne County, in the Eastern District of Michigan, and elsewhere, ANTHONY COLE, and others, in connection with the delivery of and payment for health care benefits, items, and services, did knowingly and willfully execute, and attempt to execute, a scheme and artifice to defraud a federal health care benefit program affecting commerce, as defined in Title 18, United States Code, Section 24(b), that is, Medicare and

Medicaid, 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 and Medicaid, in connection with the delivery of and payment for health care benefits, items, and services.

Purpose of Scheme or Artifice

60. It was a purpose of the scheme or artifice for ANTHONY COLE to unlawfully enrich himself and others through the submission of false and fraudulent claims to Medicare and Medicaid for prescription medications that were not provided.

The Scheme and Artifice

61. Paragraphs 27 through 37 of Count One of this Indictment are re-alleged and incorporated by reference as though fully set forth herein as a description of the scheme and artifice.

Acts in Execution of the Scheme and Artifice

62. On or about the dates set forth below, in Wayne County, in the Eastern District of Michigan, ANTHONY COLE, in connection with the delivery and payment for health care benefits, items, and services, did knowingly and willfully execute, or attempt to execute, the above described scheme and artifice to defraud a health care benefit program affecting commerce, as defined by Title 18, United States Code, Section 24(b), that is Medicare and Medicaid, 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 health care benefit programs, in that the defendants submitted and caused the submission of false and fraudulent claims and represented that Brands provided prescription medications to Medicare and Medicaid beneficiaries:

Count	Defendant	Program	Beneficiary	Date of Purported Distribution	Date of Death	Description of Prescription Medication
49	D-2 ANTHONY COLE	Medicare	D.W.	11/30/2015	N/A	Lidocaine
50	D-2 ANTHONY COLE	Medicare	D.W.	10/29/2015	N/A	Lidocaine
51	D-2 ANTHONY COLE	Medicare	D.W.	10/1/2015	N/A	Lidocaine
52	D-2 ANTHONY COLE	Medicare	D.W.	9/1/2015	N/A	Lidocaine
53	D-2 ANTHONY COLE	Medicare	D.W.	8/12/2015	N/A	Lidocaine
54	D-2 ANTHONY COLE	Medicare	D.W.	7/13/2015	N/A	Lidocaine
55	D-2 ANTHONY COLE	Medicare	D.W.	6/12/2015	N/A	Lidocaine
56	D-2 ANTHONY COLE	Medicare	L.J.	12/15/2014	11/21/2014	Proair HFA
57	D-2 ANTHONY COLE	Medicare	L.J.	12/3/2014	11/21/2014	Spiriva Handihaler
58	D-2 ANTHONY COLE	Medicare	R.H.	11/18/2013	11/3/2013	Metoprolol Tartrate

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

COUNT 59

(21 U.S.C. § § 841(a)(1), 846 – Conspiracy to Distribute and Possess with Intent to Distribute Controlled Substances)

D-1 SAMIR BERRI, R.Ph.

D-5 FOUZI RAMOUNI, R.Ph.

D-6 ASM AKTER AHMED, M.D.

63. Paragraphs 1 through 23 of the General Allegations section of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

64. On or about January 2016, and continuing until on or about May 2017, in Wayne County, in the Eastern District of Michigan, and elsewhere, defendants SAMIR BERRI, FOUZI RAMOUNI, and ASM AKTER AHMED did knowingly, intentionally and unlawfully combine, conspire, confederate and agree with each other, as well other persons, to commit offenses against the United States, that is, to knowingly, intentionally and unlawfully distribute controlled substances in violation of 21 U.S.C. § 841(a)(1), which controlled substances included but were not limited to: oxycodone-acetaminophen, a Schedule II controlled substance; carisoprodol, a schedule IV controlled substance; alprazolam, a Schedule IV controlled substance; and codeine/promethazine cough syrup, a Schedule V controlled substance. These prescription drug controlled substances were distributed outside the course of usual medical practice and for no legitimate medical purpose, all in violation of Title 21, United States Code, Sections 846, 841(a)(1).

Purpose of the Conspiracy

65. It was the purpose of the conspiracy for defendants SAMIR BERRI, FOUZI RAMOUNI, ASM AKTER AHMED, and others, to unlawfully enrich themselves by illegally distributing controlled substances and submitting false and fraudulent claims to insurance companies for profit.

Manner and Means of the Conspiracy

66. The manner and means by which defendants SAMIR BERRI, FOUZI RAMOUNI, and ASM AKTER AHMED sought to accomplish the purpose of the conspiracy included the following, among others:

67. Defendant FOUZI RAMOUNI obtained medically unnecessary controlled substance prescriptions written by ASM AKTER AHMED and other doctors for himself and others. Defendant FOUZI RAMOUNI paid Defendant ASM AKTER AHMED cash to write medically unnecessary controlled substance prescriptions for “patients” he brought to Defendant ASM AKTER AHMED’s medical office. Defendant ASM AKTER AHMED provided Defendant FOUZI RAMOUNI with these “patients” controlled substance prescriptions on multiple occasions with little or no in-person examination and, in some cases, without even talking to or seeing the “patients.”

68. Defendant FOUZI RAMOUNI paid the “patients” money in exchange for the controlled substance prescriptions ASM AKTER AHMED and other doctors wrote in the patients’ names. Defendant FOUZI RAMOUNI brought the medically unnecessary and illegally obtained controlled substance prescriptions to Conant – sometimes with the patient, sometimes without -- where Defendant SAMIR BERRI routinely filled the highly questionable prescriptions without scrutiny or question.

69. Defendant SAMIR BERRI did not require the presence of the individuals named on the controlled substance prescriptions when he turned over controlled substance medication to Defendant FOUZI RAMOUNI. Defendant SAMIR BERRI, in turn, charged cash and billed federally funded health care programs and private insurance for the diverted controlled substances. Defendant FOUZI RAMOUNI's relationship with Defendant ASM AKTER AHMED, Defendant SAMIR BERRI, and others, allowed Defendant FOUZI RAMOUNI regular, unfettered access to large quantities of diverted controlled substances that could then be sold at inflated prices on the street. In total, the controlled substances diverted during the course of this conspiracy had a conservative street value of more than \$1,000,000

COUNTS 60-73

**(21 U.S.C. §841(a)(1) - Unlawful Distribution of Controlled Substances
18 U.S.C. § 2 Aiding and Abetting)**

D-1 SAMIR BERRI, R.Ph.

D-5 FOUZI RAMOUNI

D-6 ASM AKTER AHMED, M.D.

70. On or about each of the dates set forth below, in the Eastern District of Michigan, Southern Division, defendant ASM AKTER AHMED, aided and abetted knowingly and intentionally by defendants FOUZI RAMOUNI and SAMIR BERRI, did knowingly, intentionally, and unlawfully distribute the identified prescription drug controlled substances by writing prescriptions outside the scope

of usual professional practice, for no legitimate medical purpose, and transferring the prescriptions so they could be filled, in the names of individuals as follows:

Count	Defendant	On or About Date	Patient	Date of Death	Controlled Substance	Dosage Unit
60	D-1 SAMIR BERRI D-5 FOUZI RAMOUNI D-6 ASM AKTER AHMED	4/18/2017	S.G.	N/A	Carisoprodol 350 MG Tablet	60
61	D-1 SAMIR BERRI D-5 FOUZI RAMOUNI D-6 ASM AKTER AHMED	4/18/2017	S.G.	N/A	Promethazine Codeine Syrup	240 mL
62	D-1 SAMIR BERRI D-5 FOUZI RAMOUNI D-6 ASM AKTER AHMED	07/18/2016	D.G.	N/A	Carisoprodol 350 MG Tablet	60
63	D-1 SAMIR BERRI D-5 FOUZI RAMOUNI D-6 ASM AKTER AHMED	7/18/2016	D.G.	N/A	Promethazine Codeine Syrup	240 mL
64	D-1 SAMIR BERRI D-5 FOUZI RAMOUNI D-6 ASM AKTER AHMED	10/6/2016	R.R.	N/A	Carisoprodol 350 MG Tablet	60
65	D-1 SAMIR BERRI D-5 FOUZI RAMOUNI D-6 ASM AKTER AHMED	10/6/2016	R.R.	N/A	Promethazine Codeine Syrup	240 mL
66	D-1 SAMIR BERRI D-5 FOUZI RAMOUNI D-6 ASM AKTER AHMED	5/18/2017	F.S.	N/A	Carisoprodol 350 MG Tablet	60
67	D-1 SAMIR BERRI D-5 FOUZI RAMOUNI D-6 ASM AKTER AHMED	5/18/2017	F.S.	N/A	Promethazine Codeine Syrup	240 mL
68	D-1 SAMIR BERRI D-5 FOUZI RAMOUNI	6/8/2017	J.O.	N/A	Oxycodone-Acetaminophen 10-325	90
69	D-1 SAMIR BERRI D-5 FOUZI RAMOUNI	5/11/2017	J.O.	N/A	Oxycodone-Acetaminophen 10-325	90
70	D-1 SAMIR BERRI D-5 FOUZI RAMOUNI	4/13/2017	J.O.	N/A	Oxycodone-Acetaminophen 10-325	90
71	D-1 SAMIR BERRI D-5 FOUZI RAMOUNI	3/14/2017	J.O.	N/A	Oxycodone-Acetaminophen 10-325	90
72	D-1 SAMIR BERRI D-5 FOUZI RAMOUNI	1/26/2017	C.B.	N/A	Oxycodone-Acetaminophen 10-325	90
73	D-1 SAMIR BERRI D-6 ASM AKTER AHMED	5/16/2017	J.A.	4/13/2016	Promethazine Codeine Syrup	240 mL

All in violation of Title 21 United States Code, Sections 846, 841(a)(1).

CRIMINAL FORFEITURE

71. The above allegations contained in this Indictment are incorporated by reference as if set forth fully herein for the purpose of alleging criminal forfeiture to the United States of America of certain property in which one or more of the defendants, SAMIR BERRI, ANTHONY COLE, SHAMIMUR RAHMAN, GHASSAN HAMKA, and FOUZI RAMOUNI, and ASM AKTER AHMED have an interest.

72. Upon conviction of the health care fraud violations alleged in this Indictment, SAMIR BERRI, ANTHONY COLE, SHAMIMUR RAHMAN, GHASSAN HAMKA, FOUZI RAMOUNI, and ASM AKTER AHMED shall forfeit to the United States any property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of such violations, pursuant to 18 U.S.C. § 982(a)(7) and 18 U.S.C. § 981(a)(1)(C), as incorporated by 28 U.S.C. § 2461.

73. Upon the conviction of the controlled substances violations alleged in this indictment, SAMIR BERRI, FOUZI RAMOUNI, and ASM AKTER AHMED shall forfeit to the United States any property constituting, or derived from, any proceeds the person obtained, directly or indirectly, as a result of the violation, and

any of the person's property used, or intended to be used in any manner or part, to commit, or to facilitate the commission of such a violation.

74. *Substitute Assets*: If the property described above as being subject to forfeiture, 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 that cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to 21 U.S.C. § 853(p) as incorporated by 18 U.S.C. § 982(b) and/or 28 U.S.C. § 2461, to seek to forfeit any other property of defendant, up to the value of the forfeitable property described above.

75. *Money Judgment*: The government shall also seek a forfeiture money judgment from the defendants for a sum of money representing the total amount of proceeds obtained as a result of defendant's violations of 18 U.S.C. § 1349, as alleged in this Indictment.

THIS IS A TRUE BILL.

s/GRAND JURY FOREPERSON

MATTHEW SCHNEIDER
United States Attorney

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Unit Chief, Wayne F. Pratt
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Dated: April 10, 2018

United States District Court
Eastern District of Michigan

Criminal Case Cov

Case: 2:18-cr-20237
Judge: Goldsmith, Mark A.
MJ: Majzoub, Mona K.
Filed: 04-10-2018 At 12:33 PM
INDI USA V. SEALED MATTER (DA)

NOTE: It is the responsibility of the Assistant U.S. Attorney signing this form to complete it accurately in all respects.

Companion Case Information	Companion Case Number:
This may be a companion case based upon LCrR 57.10 (b)(4) ¹ :	Judge Assigned:
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	AUSA's Initials: <u>JE</u>

Case Title: USA v. SAMIR BERRI, et al.

County where offense occurred : WAYNE

Check One: ☒ Felony ☐ Misdemeanor ☐ Petty

☒ Indictment/___ Information --- no prior complaint.
☐ Indictment/___ Information --- based upon prior complaint [Case number: _____]
☐ Indictment/___ Information --- based upon LCrR 57.10 (d) [Complete Superseding section below].

Superseding Case Information

Superseding to Case No: _____ Judge: _____

- ☐ Corrects errors; no additional charges or defendants.
☐ Involves, for plea purposes, different charges or adds counts.
☐ Embraces same subject matter but adds the additional defendants or charges below:

<u>Defendant name</u>	<u>Charges</u>	<u>Prior Complaint (if applicable)</u>
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Please take notice that the below listed Assistant United States Attorney is the attorney of record for the above captioned case.

April 10, 2018

Date


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¹ Companion cases are matters in which it appears that (1) substantially similar evidence will be offered at trial, or (2) the same or related parties are present, and the cases arise out of the same transaction or occurrence. Cases may be companion cases even though one of them may have already been terminated.