GJS/2024R00197

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA	:	Hon.
	:	
v.	:	Crim. No. 25-
	:	
CHARLES P. KASBEE, JR.	:	18 U.S.C. § 1349
	:	18 U.S.C. § 371

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:

COUNT ONE
(Conspiracy to Commit Health Care Fraud)

1. Unless otherwise indicated, at all times relevant to this Information:

Relevant Individuals and Entities

a. The defendant, Charles P. Kasbee ("KASBEE"), owned and operated an entity (the "KASBEE Company"), which was located in Ohio. KASBEE and others used the KASBEE Company to carry out health care fraud and kickback schemes.

b. Jordan Bunnell ("Bunnell"), a co-conspirator not charged in this Information, resided in Utah.

c. Andrew McCubbins ("McCubbins"), a co-conspirator not charged in this Information, resided in Utah.

d. "Laboratory-1" was a clinical laboratory located in Florida that Bunnell and McCubbins owned and operated. Laboratory-1 was enrolled in Medicare such that it could submit legitimate claims for reimbursement.

e. Bunnell and McCubbins owned, operated, and had a financial interest in Laboratory-1, a marketing call center, and a telemedicine company (collectively, the "Testing Companies") that conducted or arranged for a variety of medical tests. Those tests included cancer genetic tests ("CGX Tests") for Medicare beneficiaries.

The Medicare Program

f. Medicare was a federally funded program established to provide medical insurance benefits for individuals aged 65 and older and certain disabled individuals who qualified under the Social Security Act. Individuals who received benefits under Medicare were referred to as "Medicare beneficiaries."

g. Medicare was administered by the Centers for Medicare and Medicaid Services ("CMS"), a federal agency within the United States Department of Health and Human Services.

h. Medicare was a "health care benefit program," as defined by 18 U.S.C. § 24(b), and a "Federal health care program," as defined by 42 U.S.C. § 1320a-7b(f), that affected commerce.

i. Medicare was divided into four parts, which helped cover specific items and services: Part A (hospital insurance), Part B (medical insurance), Part C (Medicare Advantage), and Part D (prescription drug coverage).

Genetic Tests

j. Genetic tests were laboratory tests designed to identify specific inherited mutations in a patient's genes. CGX Tests were genetic tests related to a patient's hereditary predisposition for certain types of cancer.

k. To conduct a genetic test, a laboratory would obtain a DNA sample from the patient. The samples typically were obtained from the patient's saliva by using a buccal (*i.e.*, cheek) swab to collect sufficient cells to provide a genetic profile. The DNA sample was then submitted to the laboratory for analysis.

l. Medicare excluded from coverage tests that were not "reasonable and necessary . . . [f]or the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member." 42 C.F.R. § 411.15(k)(1). To be considered "reasonable and necessary," Medicare rules required that genetic testing "be ordered by the physician who is treating the beneficiary, that is, the physician who furnishes a consultation or treats a beneficiary for a specific medical problem and who uses the results in the management of the beneficiary's specific medical problem. Tests not ordered by the physician who is treating the beneficiary are not reasonable and necessary." 42 C.F.R. § 410.32(a).

Medicare Provider Enrollment

m. To bill Medicare for CGX Tests, laboratories were required to complete and submit a Medicare enrollment application in which they had to, among other things, certify that they agreed to: (i) provide complete and accurate information on enrollment applications, with any changes to the information on the

form reported within 30 days; (ii) disclose persons and organizations with ownership interests or managing control; (iii) abide by applicable Medicare laws, regulations, and program instructions, such as the Federal Anti-Kickback Statute (42 U.S.C. § 1320a-7b(b)); (iv) acknowledge that the payment of a claim by Medicare was conditioned upon the claim and the underlying transaction complying with such laws, regulations, and program instructions; and (v) refrain from knowingly presenting or causing to be presented a false or fraudulent claim for payment by Medicare and submitting claims with deliberate ignorance or reckless disregard of their truth or falsity.

The Conspiracy

2. From in or around February 2019 through in or around September 2019, in the District of New Jersey and elsewhere, the defendant,

CHARLES P. KASBEE, JR.,

did knowingly and intentionally conspire and agree with others to knowingly and willfully execute, and attempt to execute, a scheme and artifice to defraud a health care benefit program and to obtain, by means of false and fraudulent pretenses, representations, and promises, any of the money owned by, and under the custody and control of, a health care benefit program, as defined by 18 U.S.C. § 24(b), in connection with the delivery of or payment for health care benefits, items, and services, contrary to Title 18, United States Code, Section 1347.

Goal of the Conspiracy

3. The goal of the conspiracy was for KASBEE and his co-conspirators to profit by obtaining information about Medicare beneficiaries and using that information to bill Medicare, and collect payment, for medically unnecessary CGX Tests.

Manner and Means of the Conspiracy

4. It was part of the conspiracy that:

a. KASBEE and others, through marketing call centers, used deceptive telemarketing to obtain Medicare beneficiaries' personally identifiable information ("PII"). KASBEE targeted Medicare beneficiaries residing in New Jersey and elsewhere.

b. Through the KASBEE Company, KASBEE agreed to accept illegal kickbacks and bribes from Bunnell and the Testing Companies for providing the Testing Companies with the Medicare beneficiaries' PII.

c. Bunnell agreed with KASBEE and others to use a telemedicine company to obtain doctors' orders for CGX Tests for the Medicare beneficiaries for whom KASBEE provided PII, regardless of medical necessity. The telemedicine company, in turn, paid physicians to generate doctor's orders. The physicians did not treat the beneficiaries for any symptoms or conditions, but instead approved orders for CGX Tests without ever having established a doctor-patient relationship with the beneficiaries for whom CGX tests were ordered. As a result, the CGX Test orders were

medically unnecessary for those beneficiaries and ineligible for Medicare reimbursement.

d. Nevertheless, KASBEE, Bunnell, and others agreed that the Testing Companies would seek reimbursement from Medicare for the CGX Tests they submitted. KASBEE, Bunnell, and others further agreed that KASBEE would receive a kickback of approximately $1,200 for each CGX Test he provided that ultimately triggered reimbursement from Medicare.

e. KASBEE and his co-conspirators concealed and disguised the CGX Test kickback scheme. First, KASBEE, Bunnell, and others caused the KASBEE Company and the Testing Companies to enter into contracts and agreements with one another that falsely labeled kickback and bribe payments as "expenses." Second, they created false invoices to disguise the true reasons for the kickback and bribe payments.

f. KASBEE and his co-conspirators submitted and caused the submission of false and fraudulent claims to Medicare for CGX Tests that were medically unnecessary and the result of illegal kickbacks and bribes. The CGX Tests were thus ineligible for Medicare reimbursement and not provided as represented to Medicare. At times, Medicare reimbursements exceeded approximately $10,000 per CGX Test. Based on the claims submitted to Medicare for the beneficiaries for whom KASBEE and the KASBEE Company provided PII, Medicare paid KASBEE and his co-conspirators approximately $4.8 million.

In violation of Title 18, United States Code, Section 1349.

COUNT TWO
(Conspiracy to Violate the Anti-Kickback Statute)

5. The allegations in paragraphs 1 and 3-4 of this Information are realleged here.

6. From in or around February 2019 through in or around September 2019, in the District of New Jersey, and elsewhere, the defendant,

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did knowingly and intentionally conspire and agree with others to commit an offense against the United States, that is, to knowingly and willfully solicit and receive remuneration, directly and indirectly, overtly and covertly, in cash and in kind, that is, kickbacks and bribes, in return for referring an individual to a person for the furnishing and arranging for the furnishing of any item or service, namely CGX Tests, for which payment may be made in whole or in part under a Federal health care program, as defined in Title 18, United States Code, Section 24(b), namely, Medicare, contrary to Title 42, United States Code, Section 1320a-7b(b)(1)(A).

Goal of the Conspiracy

7. The goal of the conspiracy was for KASBEE and his co-conspirators: (a) to obtain, through kickbacks and bribes, PII for Medicare beneficiaries and then (b) to use PII to bill Medicare, and collect payment, for medically unnecessary CGX Tests.

Manner and Means of the Conspiracy

8. The allegations in paragraph 4 of this Information are re-alleged here as a description of the manner and means of the conspiracy.

Overt Acts

9. In furtherance of the conspiracy and in order to effect its unlawful object, KASBEE and others committed or caused the commission of the following overt acts in the District of New Jersey and elsewhere:

a. On or about April 5, 2019, in exchange for receiving PII relating to approximately 75 Medicare beneficiaries from the KASBEE Company, the Testing Companies wired a kickback of approximately $90,000 to a bank account that KASBEE controlled.

b. On or about April 19, 2019, in exchange for receiving PII relating to approximately 82 Medicare beneficiaries from the KASBEE Company, the Testing Companies wired a kickback of approximately $98,400 to a bank account that KASBEE controlled.

In violation of Title 18, United States Code, Section 371.

FORFEITURE ALLEGATION

Upon conviction of one or both of the Federal health care offenses alleged in Counts One and Two of this Information, KASBEE shall forfeit to the United States, pursuant to Title 18, United States Code, Section 982(a)(7), all property, real or personal, the defendant obtained that constitutes or is derived, directly and indirectly, from gross proceeds traceable to the commission the offense, which, in the aggregate, was approximately $781,200.

Substitute Assets Provision

If any of the above-described forfeitable property, 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 subdivided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b), to seek forfeiture of any other property of the defendant up to the value of the forfeitable property described above.

Alina Habba

ALINA HABBA
United States Attorney