

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA	:	Hon.
	:	
v.	:	Criminal No. 21-
	:	
CARMINE A. MATTIA, JR.	:	18 U.S.C. §§ 1347, 1349 & § 2

INDICTMENT

The Grand Jury in and for the District of New Jersey, sitting at Newark, charges:

COUNT ONE
(Conspiracy to Commit Health Care Fraud)

1. Unless otherwise indicated, at all times relevant to this Indictment:
 - a. Defendant CARMINE A. MATTIA, JR. was a resident of Belleville, New Jersey and employed by a telecommunications company (the “Company”). Defendant CARMINE A. MATTIA, JR. was also a union representative for employees at the Company.
 - b. Individual-1 was a resident of New Jersey who had drug prescription benefits through the Company.
 - c. Robert Agresti, a co-conspirator not charged in this Indictment, was a resident of New Jersey and a physician with a medical practice in New Jersey.

The Company's Employee Health Benefits Program

d. The Company offered its employees health care coverage, including medical and prescription drug coverage (the "Company's health care plan"). Covered employees were referred to as beneficiaries.

e. A Pharmacy Benefits Management company ("PBM-1") provided pharmacy benefit management services for beneficiaries pursuant to a contract with the Company. PBM-1 adjudicated claims for reimbursement from pharmacies and paid pharmacies for valid claims submitted on behalf of beneficiaries. PBM-1 then billed the Company based on the amount paid to the pharmacies, and the Company reimbursed PBM-1.

f. The Company's health care plan and PBM-1 were "health care benefit programs" that affected commerce as defined in 18 U.S.C. § 24(b).

Compounding

g. In general, "compounding" was a practice in which a licensed pharmacist, or a licensed physician, combined, mixed, or altered ingredients of a drug to create a medication tailored to the needs of an individual patient. Pharmacies engaged in the practice of compounding were referred to as "compounding pharmacies."

h. Compounded drugs were not approved by the Food and Drug Administration ("FDA"), that is, the FDA did not verify the safety, potency, effectiveness, or manufacturing quality of compounded drugs.

i. Generally, compounded drugs were prescribed by a physician when an FDA-approved drug did not meet the health needs of a particular

patient. For example, if a patient was allergic to a specific ingredient in an FDA-approved medication, such as a dye or preservative, a compounded drug could be prepared excluding the substance that triggered the allergic reaction. Compounded drugs could also be prescribed when a patient could not consume a medication by traditional means, such as an elderly patient or child who could not swallow an FDA-approved pill and needed the drug in a liquid form that was not otherwise available.

The Conspiracy

2. From at least as early as in or around April 2016 through in or around July 2016, in the District of New Jersey and elsewhere, the defendant,

CARMINE A. MATTIA, JR.,

did knowingly and intentionally conspire and agree with others to knowingly and willfully execute a scheme and artifice to defraud a health care benefit program, as defined by Title 18, United States Code, Section 24(b), and to obtain, by means of false and fraudulent pretenses, representations, and promises, money and property owned by, and under the custody and control of, a health care benefit program 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. It was a goal of the conspiracy for defendant CARMINE A. MATTIA, JR. and others to fraudulently obtain money by causing the submission of Individual-1's false and fraudulent insurance claims for compounded prescription medications to the Company's health care plan, and by receiving a

portion of the money that the Company paid for those compounded prescription medications.

Manner and Means of the Conspiracy

4. It was a part of the conspiracy that:

a. At different times during the relevant time period and in addition to his full-time employment as an employee at the Company, defendant CARMINE A. MATTIA, JR. was a “sales representative” selling various compounded medications, such as, but not limited to, pain creams, scar creams, wound creams, and metabolic supplements/vitamins (“vitamins”), for a marketing company located in or around New York and compounding pharmacies (the “Mattia Compounding Pharmacies”).

b. The Mattia Compounding Pharmacies obtained payment from the Company’s health care plan, through PBM-1, for the compounded medications ordered by individuals that defendant CARMINE A. MATTIA, JR. recruited.

c. The Mattia Compounding Pharmacies paid defendant CARMINE A. MATTIA, JR. a percentage of the adjudication or reimbursement amount for each prescription for compounded medication that defendant CARMINE A. MATTIA, JR. caused to be billed to a paying health plan.

d. In order to increase his profits as a sales representative for the Mattia Compounding Entities, defendant CARMINE A. MATTIA, JR. caused Individual-1 to receive medically unnecessary compounded medications. The Company’s health care plan was then billed for Individual-1’s medically

unnecessary compounded medications, and defendant CARMINE A. MATTIA, JR. received a percentage of the amount that the Company's health care plan paid for the medically unnecessary medications.

e. Defendant CARMINE A. MATTIA, JR., with the sole purpose of receiving money from the Mattia Compounding Pharmacies, persuaded Individual-1 to obtain compounded prescription medication from the Mattia Compounding Pharmacies.

f. Defendant CARMINE A. MATTIA, JR. secured and caused to be secured the signature of Robert Agresti on prescription forms for Individual-1, (a) without Robert Agresti and Individual-1 having a doctor/patient relationship, (b) without Robert Agresti determining that Individual-1 had a medical necessity for the compounded medications selected, and (c) without Robert Agresti conducting an examination of Individual-1.

g. Defendant CARMINE A. MATTIA, JR., while in New Jersey, gave Individual-1 cash and check payments to induce Individual-1 to obtain medically unnecessary compounded medications that were filled by the Mattia Compounding Pharmacies, including, but not limited to, prescriptions that were filled on or about April 4, 2016, April 29, 2016, June 28, 2016 and July 25, 2016.

h. As a result of defendant CARMINE A. MATTIA, JR.'s participation in the scheme to bill the Company's health care plan for medically unnecessary compounded medications for Individual-1, defendant CARMINE A.

MATTIA, JR. caused a loss to the Company's health care plan of at least approximately \$100,000.00.

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

COUNTS 2-4
(Health Care Fraud)

1. Paragraphs 1 and 3 - 4 of Count 1 of this Indictment are hereby realleged and incorporated as if set forth in full herein.

2. On or about the dates set forth below in the District of New Jersey and elsewhere, the defendant,

CARMINE A. MATTIA, JR.,

did knowingly and willfully execute and attempt to execute a scheme and artifice to defraud a health care benefit program, as defined by Title 18, United States Code, Section 24(b), and to obtain, by means of false and fraudulent pretenses, representations, and promises, money and property owned by, and under the custody and control of, a health care benefit program in connection with the delivery of or payment for health care benefits, items and services:

Count	Pharmacy Prescription Number	Date Prescription Filled
2	000000133702	July 25, 2016
3	000000133703	July 25, 2016
4	000000133704	July 25, 2016

In violation of Title 18, United States Code, Section 1347 and Section 2.

FORFEITURE ALLEGATION

1. The allegations contained in this Indictment are hereby re-alleged and incorporated by reference for the purpose of alleging forfeiture, pursuant to 18 U.S.C. § 982(a)(7).

2. Upon conviction of the federal health care offenses (as defined in 18 U.S.C. § 24) alleged in this Indictment, defendant CARMINE A. MATTIA, JR. shall forfeit to the United States, pursuant to 18 U.S.C. § 982(a)(7), all property, real or personal, that constitutes or is derived, directly and indirectly, from gross proceeds traceable to the commission of the offenses (as defined in 18 U.S.C. § 24) alleged in this Indictment.

Substitute Assets Provision


3. 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 person;
- (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;

the United States shall be entitled to forfeiture of substitute property, pursuant to 21 U.S.C. § 853(p), as incorporated by 18 U.S.C. § 982(b).

A TRUE BILL




RACHAEL A. HONIG
Acting United States Attorney

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UNITED STATES OF AMERICA

v.

CARMINE MATTIA

INDICTMENT FOR

18 U.S.C. §§ 1347, 1349, Section 2



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