

Approved: Alexandra N. Rothman
ALEXANDRA N. ROTHMAN
Assistant United States Attorney

Before: THE HONORABLE DEBRA FREEMAN
Chief United States Magistrate Judge
Southern District of New York

17 MAG 8813

UNITED STATES OF AMERICA

- v. -

MEHMET DIKENGIL,
ANNA JONES, and
LUIS OMAR VARGAS,

Defendants.

SEALED COMPLAINT

Violations of
18 U.S.C. §§ 1347,
1349, and 2

COUNTY OF OFFENSE:
NEW YORK

SOUTHERN DISTRICT OF NEW YORK, ss.:

STEVEN KAY, being duly sworn, deposes and says that he is a Special Agent with the Department of Health and Human Services, Office of Inspector General ("HHS-OIG"), and charges as follows:

COUNT ONE

(Conspiracy to Commit Health Care Fraud)

1. From at least in or about January 2017, up to and including at least in or about November 2017, in the Southern District of New York and elsewhere, MEHMET DIKENGIL, ANNA JONES, and LUIS OMAR VARGAS, the defendants, and others known and unknown, willfully and knowingly, did combine, conspire, confederate, and agree together and with each other to commit an offense against the United States, to wit, to violate Title 18, United States Code, Section 1347.

2. It was a part and object of the conspiracy that MEHMET DIKENGIL, ANNA JONES, and LUIS OMAR VARGAS, the defendants, and others known and unknown, would and did 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, money and property owned by, and under the custody and control of, a health care benefit program, namely Medicaid, in connection with the delivery of and payment

for health care benefits, items, and services, in violation of Title 18, United States Code, Section 1347.

(Title 18, United States Code, Section 1349.)

COUNT TWO
(Health Care Fraud)

3. From at least in or about January 2017, up to and including at least in or about November 2017, in the Southern District of New York and elsewhere, MEHMET DIKENGIL, ANNA JONES, and LUIS OMAR VARGAS, the defendants, knowingly and willfully did 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, money and property owned by, and under the custody and control of, a health care benefit program, namely Medicaid, in connection with the delivery of and payment for health care benefits, items, and services, to wit, DIKENGIL, JONES, and VARGAS, in order to fraudulently obtain payments from Medicaid to which they were not entitled, submitted and caused to be submitted to Medicaid numerous claims that falsely represented that certain dental services had been provided to patients.

(Title 18, United States Code, Sections 1347 and 2.)

The bases for my knowledge and for the foregoing charges are, in part, as follows:

4. I am a Special Agent for HHS-OIG, and I have been personally involved in the investigation of this matter. I base this affidavit on that personal experience, as well as on my conversations with other law enforcement agents, and my examination of various reports and records. Because this affidavit is being submitted for the limited purpose of demonstrating probable cause, it does not include all the facts that I have learned during the course of my investigation. Where the contents of documents and the actions, statements, and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

Overview: The Dental Fraud Scheme

5. Since in or about April 2017, other law enforcement agents and I have been investigating health care fraud involving a dental clinic, Dental Express Broadway, P.C., which is operated in the vicinity of West 161st Street, Manhattan, New York (the "Dental Clinic"). As explained in more detail below, MEHMET DIKENGIL, ANNA JONES, and LUIS OMAR VARGAS, the defendants, each work at the Dental Clinic and are engaged in a fraud involving the submission of false dental claims to Medicaid (the "Dental Fraud Scheme"). As part of the Dental Fraud Scheme, patients who are Medicaid recipients are recruited to the Dental Clinic where they are paid \$25 to undergo minimal dental procedures. The Dental Clinic then bills Medicaid for the dental services provided to the patients, as well as for additional dental services that are not provided to the patients. If the patients refuse to undergo the dental procedures offered by the Dental Clinic, they do not receive the \$25 cash payment. In total, through the Dental Fraud Scheme, the Dental Clinic submitted fraudulent Medicaid claims totaling more than \$400,000.

Background of the Medicaid Program

6. Based upon my training and experience, and my participation in this investigation, I have learned the following, among other things, regarding the Medicaid program:

a. Medicaid is a federal health care program that provides benefits to individuals and families who meet financial and other eligibility requirements. Medicaid is administered by the Centers for Medicare and Medicaid Services ("CMS"), a federal agency under the United States Department of Health and Human Services ("HHS"). Individuals who receive benefits under Medicaid are referred to as "beneficiaries."

b. In New York, the Medicaid program is funded both by the federal government and the State of New York. The federal government provides 50 percent of the funding necessary to pay Medicaid claims, and the State of New York provides the remaining 50 percent. In order to receive federal funding, New York's Medicaid program must be administered in compliance with rules and regulations established by the CMS.

c. Medicaid is considered a "health care benefit program," as defined by Title 18, United States Code, Section 24(b).

d. Under the Medicaid regulations, a medical provider is permitted to submit claims for services actually rendered and is required to maintain patient records verifying the provision of services. Individuals who are not licensed medical providers are not permitted to submit claims to Medicaid.

e. To receive reimbursement for a covered service from Medicaid, a medical provider is required to submit a claim, either electronically or in writing. The claim has to include information identifying the medical provider, the rendering physician, the patient, and the services rendered. By submitting the claim, the provider is certifying, among other things, that the services were rendered to the patient and were medically necessary.

f. A medical provider certified to participate in Medicaid is assigned a Medicaid Management Information System Identification Number ("MMIS ID") for billing purposes. A medical provider rendering a service is required to use an assigned MMIS ID when submitting a claim for reimbursement to Medicaid.

The Investigation of the Fraud at the Dental Clinic

7. Based on my involvement in this investigation, as well as my review of records maintained by the Human Resources Administration ("HRA"), I have learned the following, among other things:

a. MEHMET DIKENGIL, the defendant, is a licensed dentist in New York and New Jersey, and is the owner of the Dental Clinic.

b. ANNA JONES, the defendant, works at the Dental Clinic as the officer manager.

c. LUIS OMAR VARGAS, the defendant, performs dental services at the Dental Clinic. VARGAS is not licensed to practice as a dentist. As a result, Medicaid cannot be billed for any dental services rendered by VARGAS.

8. On or about August 9, 2017, an individual who was assisting HHS-OIG with this investigation ("CS-1"),¹ at HHS-OIG

¹ In January 2016, CS-1 was arrested on federal charges and agreed to cooperate with the Government in the hope of receiving certain benefits including leniency at sentencing. In May 2017, CS-1 pled

direction, went to the Dental Clinic (the "August 9 Visit"). Based on my participation in this investigation and my conversations with CS-1, I have learned that the following, in substance and in part, occurred during and after the August 9 Visit:²

a. CS-1 entered the Dental Clinic and observed an individual previously identified as ANNA JONES, the defendant, working at the front desk.

b. CS-1 was seen by a dentist, who was previously identified as MEHMET DIKENGIL, the defendant. DIKENGIL told CS-1, in sum and substance, that he wanted to perform x-rays on CS-1, but CS-1 refused the x-rays. DIKENGIL then briefly examined CS-1's mouth but did not perform any other procedures on CS-1, including x-rays.

c. Following the dental examination, CS-1 observed DIKENGIL give a sum of U.S. currency to JONES. JONES then gave \$25 to CS-1. According to CS-1, DIKENGIL told CS-1, in sum and substance, to bring more patients to the Dental Clinic.

d. Based on my review of Medicaid records for CS-1, I have learned that the Dental Clinic billed Medicaid for dental services not rendered to CS-1 during the August 9 Visit, including x-rays.

9. On or about September 8, 2017, another individual who was assisting HHS-OIG with this investigation ("CS-2"),³ went to the Dental Clinic (the "September 8 Visit"). The September 8 Visit was recorded. Based on my participation in this

guilty pursuant to a plea agreement charging him with conspiring to distribute narcotics, in violation of Title 21, United States Code, Section 846. CS-1 first went to the Dental Clinic while his federal case was pending but not at the direction of law enforcement. CS-1 subsequently returned to the Dental Clinic at law enforcement direction after his federal case was resolved. CS-1's information has proven reliable and credible and has been corroborated by other evidence developed in the investigation.

² CS-1 was equipped with a recording device. However, upon review of the attempted recording, I learned that the recording device was accidentally turned off prior to CS-1 exiting the vehicle with law enforcement agents.

³ CS-2 has not been convicted of any state or federal offenses. CS-2 is being paid by law enforcement for CS-2's assistance.

investigation, and review of recordings from the September 8 Visit, I have learned that the following, in substance and in part, occurred during and after the September 8 Visit:

a. CS-2 entered the Dental Clinic and observed ANNA JONES, the defendant, working at the front desk.

b. LUIS OMAR VARGAS, the defendant, examined CS-2's mouth, even though he is not a licensed dentist, but did not perform any x-rays or other procedures on CS-2.

c. Following the dental examination, MEHMET DIKENGIL, the defendant, gave an envelope of U.S. currency to JONES. JONES then gave \$25 to CS-2.

d. Based on my review of Medicaid records for CS-2, I have learned that the Dental Clinic billed Medicaid for dental services not rendered to CS-2 during the September 8 Visit, including x-rays. I have further learned that DIKENGIL is listed as the service provider for the September 8 Visit, even though the dental services were rendered by VARGAS.

10. On or about September 22, 2017, another individual who was assisting HHS-OIG with this investigation ("CS-3"),⁴ went to the Dental Clinic (the "September 22 Visit"). The September 22 Visit was recorded. Based on my participation in this investigation, and review of recordings from the September 22 Visit, I have learned that the following, in substance and in part, occurred during the September 22 Visit:

a. CS-3 entered the Dental Clinic and observed ANNA JONES, the defendant, working at the front desk.

b. JONES told CS-3, in sum and substance, that CS-3 needed to have x-rays taken of CS-3's mouth. CS-3 refused and told JONES, in sum and substance, that CS-3 wanted to speak with the dentist. JONES informed CS-3 that the dentist was running late. JONES also informed CS-3 that "the dentist was not the boss" and the "boss does not come here."

c. Based on my participation in this investigation, I believe that JONES, in discussing the "dentist," was referring to LUIS OMAR VARGAS, the defendant, even though VARGAS is not a licensed dentist. I further believe

⁴ CS-3 has not been convicted of any state or federal offenses. CS-3 is being paid by law enforcement for CS-3's assistance.

that JONES, in discussing the "boss," was referring to MEHMET DIKENGIL, the defendant.

d. CS-3 then spoke with VARGAS and JONES. VARGAS, CS-3, and JONES discussed the following, in sum and substance:

CS-3: I came because my friend Keith and my girl [] told me that I could just come, take you, you could just look at my mouth whatever.

VARGAS: No, listen, we need, okay, I know you want the money, right?

CS-3: Right.

VARGAS: But we need to do something.

CS-3: So just give me a quick check up, alright...

VARGAS: Okay, let me check something. I try to help you, don't worry. You have some fillings in the mouth?

CS-3: Yeah, I got a lot.

JONES: He gonna take his x-ray?

VARGAS: Okay, but we need to take x-ray and that's . . . We take a quick check and that's it.

JONES: And get his fillings?

CS-3: Why don't you just give me the check and send me on my way . . .

VARGAS: Listen, we need to take the x-ray because we need to keep something [inaudible]. Okay . . .

JONES: Omar, if he got fillings, you want to do his fillings, tell him, please.

CS-3: I showed him the fillings, it's fine.

VARGAS: I need to take the x-ray and that's it.

JONES: Or let him go cause I got nine patients.

e. After the conversation ended, CS-3 left the Dental Clinic without undergoing any dental procedures.

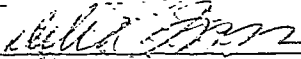
f. Based on my training and experience, and participation in this investigation, I believe that VARGAS was telling CS-3 that, for CS-3 to receive any money from the Dental Clinic, CS-3 was required to have x-rays taken because the Dental Clinic needed to list some dental procedure on CS-3's chart. I further believe that the Dental Clinic needed to list some procedure on CS-3's chart in order to bill for additional dental services that would not be provided to CS-3.

WHEREFORE the deponent respectfully requests that a warrant be issued for the arrest of MEHMET DIKENGIL, ANNA JONES, and LUIS OMAR VARGAS, the defendants, and that they be imprisoned or bailed, as the case may be.



STEVEN KAY
Special Agent
HHS-OIG

Sworn to before me this
28th day of November, 2017



THE HONORABLE DEBRA FREEMAN
CHIEF UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF NEW YORK