

BACKGROUND

The Medicare Program

2. At all times relevant to this Indictment:

a. Medicare has been a federal health care program providing benefits to persons who are over the age of 65 or who are disabled. Medicare 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").

b. Individuals who receive Medicare benefits are referred to as "Medicare beneficiaries."

c. Medicare is a "Federal health care program," as defined in Title 42, United States Code, Section 1320a-7b(f), and a "health care benefit program," as defined by Title 18, United States Code, Section 24(b).

d. Medicare is divided into four parts which helped cover different types of services. One of those four parts was Medicare Part B ("Part B"), which provided medical insurance.

e. Among other things, Part B specifically covers medically necessary physician office services and outpatient care, including the ordering of durable medical equipment ("DME"), including prosthetics, orthotics, and supplies, such as off-the-shelf ("OTS") ankle braces, knee braces, back braces,

elbow braces, wrist braces, and hand braces (collectively "braces").

f. DME supply companies, physicians, and other healthcare providers that provide DME and other products and services to Medicare beneficiaries are referred to as Medicare "providers."

g. Generally, Part B covers the costs of DME only if, among other requirements, such items and services are reasonable, documented, and medically necessary, as defined by applicable Medicare regulations, and actually provided as represented to Medicare. Specific types of DME are also subject to additional, specific requirements. Medicare will not reimburse claims for services that it knows are procured through kickbacks and bribes. Such claims are deemed false and fraudulent because they violate Medicare laws, regulations, and program instructions, as well as violating federal criminal law. For example, where a DME order is procured through the payment of a kickback in violation of the Anti-Kickback Statute -- set forth at Title 42 United States Code, Section 1320a-7b -- a claim to Medicare for reimbursement for that order is fraudulent and will not be reimbursed by Medicare. By implementing these restrictions, Medicare aims to preserve its resources, which are largely funded by United States taxpayers, for those elderly and

other qualifying beneficiaries who have a genuine need for medical services.

Relevant Persons and Entities

3. At all times relevant to this Indictment, ZACHARY S. SEID, the defendant, owned and controlled Seid Services Inc. ("Seid Services") and Capital Growth Solutions LLC ("Capital Growth Solutions").

4. At all times relevant to this Indictment, ANTHONY CRACCHIOLO, the defendant, owned and controlled Dataco LLC ("Dataco").

5. From in or about May and June 2020, as set forth in the remainder of this paragraph, ZACHARY S. SEID and ANTHONY CRACCHIOLO, the defendants, controlled at least five DME supply companies enrolled in Medicare (collectively, the "Five DME Suppliers"), as follows:

a. From in or about May 2020, SEID and CRACCHIOLO controlled 1 Medical Supplies Corp.

b. From in or about June 2020, through at least in or about September 2020, SEID and CRACCHIOLO controlled Ameri Med Supplies Corp.

c. From in or about May 2020, SEID and CRACCHIOLO controlled One Medical Health Supplies Corp.

d. From in or about June 2020, SEID and CRACCHIOLO controlled Sun Med Equip Corp.

e. From in or about June 2020, SEID and CRACCHIOLO controlled Sunrise Med Service Group Corp.

OVERVIEW OF THE HEALTH CARE FRAUD SCHEME AND CONSPIRACY

6. From at least in or about July 2019 through at least in or about October 2020, ZACHARY S. SEID and ANTHONY CRACCHIOLO, the defendants, together with others known and unknown, participated in a scheme and conspiracy to defraud Medicare. In furtherance of that scheme, SEID and CRACCHIOLO illegally purchased fraudulent DME prescriptions (also known as "written orders"), and used them in two fraudulent ways: (a) illegally selling many of those prescriptions to other DME suppliers so that those DME suppliers could use those prescriptions as the basis for fraudulent claims to Medicare; and (b) directly using the prescriptions themselves through the Five DME Suppliers as the basis for fraudulent claims to Medicare. Many of these fraudulent prescriptions were created through the use of names and personal identifying information of Medicare beneficiaries and the professional identifying information of doctors and other health-care providers enrolled in the Medicare program, without the authorization or prior knowledge of those providers, without regard to medical necessity, and without a medical examination.

7. Through this fraud scheme, SEID and CRACCHIOLO caused more than \$11 million in fraudulent DME claims to be submitted

to Medicare, and caused Medicare to pay out more than \$5.5 million for such fraudulent claims.

Means and Methods of the Conspiracy

8. From at least in or about July 2019 through at least in or about October 2020, ZACHARY S. SEID and ANTHONY CRACCHIOLO, the defendants, unlawfully purchased DME prescriptions, including by paying more than \$565,000 to "Seller-1," and to companies controlled by Seller-1.

9. At least a substantial portion of the DME prescriptions that ZACHARY S. SEID and ANTHONY CRACCHIOLO, the defendants, unlawfully purchased from Seller-1 contained signatures or purported approvals of physicians and other health care providers whose names and professional identifying information was used without their true authorization and prior knowledge.

10. From at least July 2019 through at least in or about October 2020, ZACHARY S. SEID and ANTHONY CRACCHIOLO, the defendants, unlawfully sold DME prescriptions to individuals, and to DME Suppliers controlled by those individuals, who were enrolled in Medicare as DME suppliers. SEID and CRACCHIOLO received at least \$425,000 in return for those DME prescriptions, which the DME suppliers in turn used to submit fraudulent claims to Medicare.

11. From in or about May 2020 through in or about October 2020, ZACHARY S. SEID and ANTHONY CRACCHIOLO, the defendants, used the Five DME Suppliers to directly submit fraudulent DME claims to Medicare seeking more than \$11 million. Such claims were based on fraudulent DME prescriptions, including prescriptions purchased from Seller-1 bearing the signatures or purported approvals of physicians and other health care providers without the providers' true authorization or prior knowledge; and prescriptions bearing the names and individually identifiable health information of Medicare beneficiaries.

STATUTORY ALLEGATIONS

12. From at least in or about July 2019 through at least in or about October 2020, in the Southern District of New York and elsewhere, ZACHARY S. SEID and ANTHONY CRACCHIOLO, the defendants, together with others known and unknown, knowingly and willfully combined, conspired, confederated, and agreed together and with each other to commit wire fraud, and health care fraud, in violation of Title 18, United States Code, Sections 1343, and 1347.

13. It was a part and an object of the conspiracy that ZACHARY S. SEID and ANTHONY CRACCHIOLO, the defendants, together with others known and unknown, knowingly and willfully, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, would and did

transmit and cause to be transmitted by means of wire, radio, and television communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice, to wit, SEID and CRACCHIOLO engaged in a scheme to buy and sell fraudulently obtained DME prescriptions, and to use those prescriptions to cause Medicare to pay for fraudulent claims filed by and on behalf of DME suppliers, including the Five DME Suppliers, and sent and received interstate wires to and from the Southern District of New York and elsewhere, in furtherance of that scheme, in violation of Title 18, United States Code, Section 1343.

14. It was a further part and an object of the conspiracy that ZACHARY S. SEID and ANTHONY CRACCHIOLO, the defendants, together with others known and unknown, knowingly and willfully, would and 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, as that term is defined in Title 18, United States Code, Section 24(b), in connection with the delivery of and payment for health care benefits, items, and services, to wit, SEID and CRACCHIOLO engaged in a scheme to buy and sell fraudulently obtained DME prescriptions, and to use those prescriptions to cause Medicare to pay for fraudulent claims filed

by and on behalf of DME suppliers, including the Defendant's Five DME Suppliers, in violation of Title 18, United States Code, Section 1347.

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

COUNT TWO

(Health Care Fraud)

The Grand Jury further charges:

15. The allegations set forth in paragraphs 1 through 11 are incorporated by reference as if set forth fully herein.

16. From at least in or about July 2019 through at least in or about October 2020, in the Southern District of New York and elsewhere, ZACHARY S. SEID and ANTHONY CRACCHIOLO, the defendants, knowingly and willfully executed, and attempted to execute, a scheme and artifice to defraud a health care benefit program, as that term is defined in 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 and payment for health care benefits, items, and services, to wit, SEID and CRACCHIOLO bought and sold fraudulently obtained DME prescriptions, and used those prescriptions to cause Medicare to pay for fraudulent claims filed by and on behalf of DME suppliers, including the Five DME Suppliers.

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

COUNT THREE

(Wire Fraud)

The Grand Jury further charges:

17. The allegations set forth in paragraphs 1 through 11 are incorporated by reference as if set forth fully herein.

18. From at least in or about July 2019 through at least in or about October 2020, in the Southern District of New York and elsewhere, ZACHARY S. SEID and ANTHONY CRACCHIOLO, the defendants, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, knowingly and willfully transmitted and caused to be transmitted by means of wire, radio, and television communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice, to wit, SEID and CRACCHIOLO bought and sold fraudulently obtained DME prescriptions, and used those prescriptions to cause Medicare to pay for fraudulent claims filed by and on behalf of DME suppliers, including the Five DME Suppliers, and sent and received interstate wires to and from the Southern District of New York and elsewhere, in furtherance of that scheme.

(Title 18, United States Code, Sections 1343 and 2.)

COUNT FOUR

(Violation of the Anti-Kickback Statute - Soliciting and
Receiving Kickbacks)

The Grand Jury further charges:

19. The allegations set forth in paragraphs 1 through 11 are incorporated by reference as if set forth fully herein.

20. From at least in or about July 2019 through at least in or about October 2020, in the Southern District of New York and elsewhere, ZACHARY S. SEID and ANTHONY CRACCHIOLO, the defendants, knowingly and willfully solicited and received remuneration (including kickbacks, bribes, and rebates), directly and indirectly, overtly and covertly, in cash and in kind, from one and more persons, in return for purchasing, leasing, ordering, and arranging for and recommending the purchasing, leasing, and ordering of a good, facility, service, and item for which payment may be made in whole and in part under a Federal health care program, to wit, SEID and CRACCHIOLO sold fraudulent DME prescriptions, including prescriptions prepared without the authorization or prior knowledge of physicians and health care providers whose names appeared on those prescriptions, to DME suppliers for their use in causing Medicare to pay for fraudulent DME claims filed by and on behalf of those DME suppliers.

(Title 42, United States Code, Section 1320a-7b(b)(1)(B) and
Title 18, United States Code, Section 2.)

FORFEITURE ALLEGATIONS

21. As a result of committing the offenses charged in Counts One, Two, and Four of this Indictment, ZACHARY S. SEID and ANTHONY CRACCHIOLO, the defendants, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 982(a)(7), any and all property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the offenses charged in Counts One, Two, and Four of this Indictment, including but not limited to a sum of United States currency representing the amount of proceeds obtained as a result of the offenses.

22. As a result of committing the offense charged in Count Three of this Indictment, ZACHARY S. SEID and ANTHONY CRACCHIOLO, the defendants, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), any and all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of said offense, including but not limited to a sum of money in United States currency representing the amount of proceeds traceable to the commission of said offense.

Substitute Asset Provision

23. If any of the above-described forfeitable property, as a result of any act or omission of the defendants:

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;

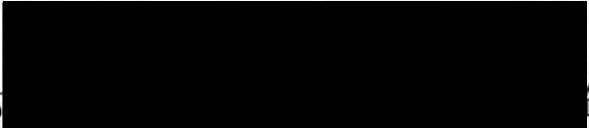
d. has been substantially diminished in value; or

e. has been commingled with other property which cannot be subdivided without difficulty,

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

(Title 18, United States Code, Sections 981 and 982;
Title 21, United States Code, Section 853(p); and
Title 28, United States Code, Section 2461(c).)

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Damian Williams / DRL
DAMIAN WILLIAMS
United States Attorney

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

- v. -

ZACHARY S. SEID and ANTHONY CRACCHIOLO,
Defendants.

INDICTMENT

22 Cr.

(18 U.S.C. §§ 1343, 1347, 1349, and 2;
42 U.S.C. § 1320a-7b(b) (1) (B).)

DAMIAN WILLIAMS

United States Attorney.

