

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

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UNITED STATES OF AMERICA,

Case:2:18-cr-20441
Judge: Battani, Marianne O.
MJ: Whalen, R. Steven
Filed: 06-21-2018 At 04:42 PM
SEALED MATTER (dat)

v.

D-1 SOLOMON AWUSAH, MD
D-2 SHAHZAD AHMAD
D-3 ASHRAF ALI

VIO: 18 U.S.C. § 371
42 U.S.C. § 1320a-
7b
18 U.S.C. § 2
18 U.S.C. § 1957

Defendants.

INDICTMENT

THE GRAND JURY CHARGES:

General Allegations

At all times relevant to this Indictment:

The Medicare Program

1. The Medicare program was a federal health care program providing benefits to persons who were 65 years of age or older, 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 was a “health care benefit program,” as defined by Title 18, United States Code, Section 24(b).

3. Medicare had four parts: hospital insurance (Part A), medical insurance (Part B), Medicare Advantage (Part C), and prescription drug benefits (Part D).

4. Part A of the Medicare program covered inpatient hospital services, home health and hospice care, and skilled nursing and rehabilitation.

5. Part B of the Medicare program covered the cost of physicians’ services, medical equipment and supplies, and diagnostic laboratory services. Specifically, Part B covered medically necessary physician office services.

6. National Government Services (“NGS”) administered the Medicare Part A program for claims arising in the State of Michigan. Wisconsin Physicians Service (“WPS”) administered the Medicare Part B program for claims arising in the State of Michigan. CMS contracted with NGS to receive, adjudicate, process, and pay Part A claims. CMS contracted with WPS to receive, adjudicate, process, and pay certain Part B claims, including medical services related to physician office services.

7. Trust Solutions, LLC was the program safeguard contractor for Medicare Part A and Part B in the state of Michigan until approximately April 2012.

In or around April 2012, Cahaba Safeguard Administrators LLC (“Cahaba”) became the Zone Program Integrity Contractor (“ZPIC”) for Medicare Part A and Part B in the State of Michigan. AdvanceMed replaced Cahaba as the ZPIC in May 2015.

8. Payments under the Medicare program were often made directly to a provider of the goods or services, rather than to a Medicare beneficiary. This payment occurred when the provider submitted the claim to Medicare for payment, either directly or through a billing company.

9. Upon certification, the medical provider, whether a clinic, physician, or other health care provider that provided services to Medicare beneficiaries, was able to apply for a Medicare Provider Identification Number (“PIN”) for billing purposes. In its enrollment application, a provider was required to disclose to Medicare any person or company who held an ownership interest of 5% or more or who had managing control of the provider. A health care provider who was assigned a Medicare PIN and provided services to beneficiaries was able to submit claims for reimbursement to the Medicare contractor/carrier that included the PIN assigned to that medical provider.

10. A Medicare claim was required to set forth, among other things, the beneficiary’s name, the date the services were provided, the cost of the services, and the name and identification number of the physician or other health care provider who had ordered or provided the services. When an individual medical provider was

associated with a clinic and medically necessary services were provided at that clinic's location, Medicare Part B required that the individual provider numbers associated with the clinic be placed on the claim submitted to the Medicare contractor.

11. By becoming a participating provider in Medicare, enrolled providers agreed to abide by the policies and procedures, rules, and regulations governing reimbursement. To receive Medicare funds, enrolled providers, together with their authorized agents, employees, and contractors, were required to abide by all provisions of the Social Security Act, the regulations promulgated under the Act, and applicable policies, procedures, rules, and regulations issued by CMS and its authorized agents and contractors. Health care providers were given and provided with online access to Medicare manuals and services bulletins describing proper billing procedures and billing rules and regulations.

12. Medicare required providers to certify that they understood that payment of a claim by Medicare is conditioned upon the claim and the underlying transaction complying with these laws, regulations, and program instructions, including the federal Anti-Kickback Statute. Medicare would not pay claims procured through kickbacks and bribes.

13. Health care providers could only submit claims to Medicare for reasonable and medically necessary services that they rendered. Medicare

regulations required health care providers enrolled with Medicare to maintain complete and accurate patient medical records reflecting the medical assessment and diagnoses of their patients, as well as records documenting actual treatment of the patients to whom services were provided and for whom claims for payment were submitted. Medicare required complete and accurate patient medical records so that Medicare could verify that the services were provided as described on the claim form. These records were required to be sufficient to permit Medicare, through its contractors, to review the appropriateness of Medicare payments made to the health care provider.

14. Medicare coverage for home health care services required that the following qualifying conditions, among others, be met: (a) the Medicare beneficiary was confined to the home; (b) the beneficiary needed skilled nursing services, physical therapy, or occupational therapy; (c) the beneficiary was under the care of a qualified physician who established a written Plan of Care for the beneficiary, signed by the physician and by a Registered Nurse (“RN”), or by a qualified physical therapist if only therapy services were required from the home health agency; (d) skilled nursing services or physical therapy services were provided by, or under the supervision of, a licensed RN or physical therapist in accordance with the Plan of Care; and (e) the services provided were medically necessary.

15. To receive reimbursement for a covered service from Medicare, a provider was required to submit a claim, either electronically or using a form (*e.g.*, a CMS-1500 form or UB-92), containing the required information appropriately identifying the provider, patient, and services rendered, among other things.

Relevant Entities

16. Affinity Health Care LLC (“Affinity”) was a Michigan corporation doing business at 31600 Telegraph Rd., Suite 280, Bingham Farms, Michigan. Affinity was enrolled as a participating provider with Medicare and submitted claims to Medicare.

17. Maecenas Health Systems, P.C. (“Maecenas”) was a Michigan corporation doing business at 17320 West Twelve Mile Road, Southfield, Michigan. Maecenas was enrolled as a participating provider with Medicare and submitted claims to Medicare.

18. Proficient Home Health Services, LLC (“Proficient”) was a Michigan corporation doing business at 24500 Ford Rd., St. 20, Dearborn Heights, Michigan. Proficient was enrolled as a participating provider with Medicare and submitted claims to Medicare.

The Defendants and Relevant Individuals

19. Defendant SOLOMON AWUSAH, M.D., a resident of Wayne County, Michigan, was a physician licensed in the state of Michigan, enrolled as a provider with Medicare, and controlled, owned, and operated Maecenas.

20. Defendant SHAHZAD AHMAD, a resident of Oakland County, Michigan, controlled, owned, and operated Affinity.

21. Defendant ASHRAF ALI, a resident of Wayne County, Michigan, controlled, owned, and operated Proficient.

22. Patient Recruiter 1, a resident of Washtenaw County, Michigan, was a patient recruiter for Affinity and Proficient.

COUNT 1

(18 U.S.C. § 371—Conspiracy to Defraud the United States and Pay and Receive Health Care Kickbacks)

D-1 SOLOMON AWUSAH

D-2 SHAHZAH AHMAD

23. Paragraphs 1 through 22 of the General Allegations section of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

24. From in or around February 2013, and continuing through in or around the present, the exact dates being unknown to the Grand Jury, in Oakland, Wayne, and Washtenaw Counties, in the Eastern District of Michigan, and elsewhere, SOLOMON AWUSAH and SHAHZAD AHMAD did willfully, that is, with the

intent to further the objects of the conspiracy, and knowingly combine, conspire, confederate and agree with Patient Recruiter 1, each other, and others known and unknown to the Grand Jury:

a. to defraud the United States by impairing, impeding, obstructing, and defeating through deceitful and dishonest means, the lawful government functions of the United States Department of Health and Human Services in its administration and oversight of the Medicare program, in violation of Title 18, United States Code, Section 371, and to commit certain offenses against the United States, that is:

b. to violate Title 42, United States Code, Section 1320a-7b(b)(2)(A)-(B), by knowingly and willfully offering and paying remuneration, including kickbacks and bribes, directly and indirectly, overtly and covertly, in cash and in kind to any person to induce such person: (i) to refer an individual to a person for the furnishing and arranging for the furnishing of any item and service for which payment may be made in whole and in part under a Federal health care program, that is, Medicare; and

c. to violate Title 42, United States Code, Section 1320a-7b(b)(1)(A), by knowingly and willfully soliciting and receiving remuneration, including kickbacks and bribes, directly and indirectly, overtly and covertly, in cash and in kind, in return for referring an individual to a person for the furnishing and

arranging for the furnishing of an item and service for which payment may be made in whole and in part under a federal health care program, that is, Medicare.

Purpose of the Conspiracy

25. It was a purpose of the conspiracy for SOLOMON AWUSAH, SHAHZAD AHMAD, Patient Recruiter 1, and their co-conspirators to unlawfully enrich themselves by, among other things: (a) offering, paying, soliciting, and receiving kickbacks and bribes in exchange for referring Medicare beneficiaries to serve as patients at Affinity and Maecenas; and (b) submitting and causing the submission of claims to Medicare for medical services purportedly provided to these recruited beneficiaries.

Manner and Means

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

26. SOLOMON AWUSAH falsely certified to Medicare that he would comply with all Medicare rules and regulations, and federal laws, including that he would not knowingly present or cause to be presented a false and fraudulent claim for payment by Medicare and that he would refrain from violating the Anti-Kickback statute.

27. SHAHZAD AHMAD falsely certified to Medicare that Affinity would comply with all Medicare rules and regulations, and federal laws, including that he would not knowingly present or cause to be presented a false and fraudulent claim for payment by Medicare and that he would refrain from violating the Anti-Kickback statute.

28. SHAHZAD AHMAD and others paid and caused the payment of illegal kickbacks and bribes to SOLOMON AWUSAH, Patient Recruiter 1, and others in exchange for referring Medicare beneficiaries and providing Medicare beneficiary information that was used to support false and fraudulent claims by Affinity to Medicare.

29. SOLOMON AWUSAH, Patient Recruiter 1, and others solicited and received illegal kickbacks and bribes from SHAHZAD AHMAD and others in exchange for referring Medicare beneficiaries and providing Medicare beneficiary information that was used to support false and fraudulent claims by Affinity.

30. SOLOMON AWUSAH, SHAZAD AHMAD, and others falsified, fabricated, altered, and caused the falsification, fabrication, and alteration of medical records relating to Medicare beneficiaries purportedly receiving services from Maecenas and Affinity in order to support claims for home health services that were obtained through illegal kickbacks and bribes, medically unnecessary; not eligible for Medicare reimbursement; and/or not provided as represented.

31. SOLOMON AWUSAH, SHAHZAD AHMAD, Patient Recruiter 1 and others submitted and caused the submission of false and fraudulent claims to Medicare in an approximate amount of \$11 million for services that were obtained through illegal kickbacks and bribes, and were medically unnecessary, not provided as represented as represented, and/or not otherwise eligible for Medicare reimbursement.

Overt Acts

In furtherance of the conspiracy, and to accomplish its objects and purpose, at least one of the co-conspirators committed and caused to be committed in Oakland, Washtenaw, and Wayne Counties, in the Eastern District of Michigan, and elsewhere, at least one of the following overt acts, among others:

32. On or about July 14, 2014, SOLOMON AWUSAH certified Medicare beneficiary B.H. to receive home health services from Affinity.

33. On or about November 17, 2014, SHAHZAD AHMAD paid or caused the payment of \$3,840.79 to Patient Recruiter 1 in the form of check number 20491, drawn on Chase Bank account x2847, held in the name of Affinity, and made payable to Patient Recruiter 1, in exchange for referring Medicare beneficiaries and providing Medicare beneficiary information.

All in violation of Title 18, United States Code, Section 371.

COUNT 2**(42 U.S.C. § 1320a-7b(b)(2)(A)—Payment of Kickbacks and Bribes in Connection with a Federal Health Care Program)
D-2 SHAHZAD AHMAD**

34. Paragraphs 1 through 22 and 26 through 31 of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

35. On or about the dates set forth below, in Oakland and Washtenaw Counties, in the Eastern District of Michigan and elsewhere, SHAHZAD AHMAD, did knowingly and willfully offer and pay remuneration, that is, kickbacks and bribes, directly and indirectly, overtly and covertly, in cash and in kind, including by check, to any person to induce such person to refer an individual to a person for the furnishing and arranging for the furnishing of any item and service for which payment may be made in whole and in part under a Federal health care program, that is, Medicare, as set forth below:

Count Defendants	Approximate Date of Payment	Description	Approximate Amount
2 AHMAD	November 17, 2014	Check No. 20491 from Affinity	\$3,840.79

All in violation of Title 42, United States Code, Section 1320a-7b(b)(2)(A) and Title 18, United States Code, Section 2.

COUNT 3

(18 U.S.C. § 371—Conspiracy to Defraud the United States and Pay and Receive Health Care Kickbacks)

D-1 SOLOMON AWUSAH

D-3 ASHRAF ALI

36. Paragraphs 1 through 22 of the General Allegations section of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

37. From in or around April 2012, and continuing through in or around the present, the exact dates being unknown to the Grand Jury, in Oakland, Washtenaw, and Wayne Counties, in the Eastern District of Michigan, and elsewhere, SOLOMON AWUSAH and ASHRAF ALI did willfully, that is, with the intent to further the objects of the conspiracy, and knowingly combine, conspire, confederate and agree with Patient Recruiter 1, each other, and others known and unknown to the Grand Jury:

a. to defraud the United States by impairing, impeding, obstructing, and defeating through deceitful and dishonest means, the lawful government functions of the United States Department of Health and Human Services in its administration and oversight of the Medicare program, in violation of Title 18, United States Code, Section 371, and to commit certain offenses against the United States, that is:

b. to violate Title 42, United States Code, Section 1320a-7b(b)(2)(A), by knowingly and willfully offering and paying remuneration, including kickbacks and

bribes, directly and indirectly, overtly and covertly, in cash and in kind to any person to induce such person to refer an individual to a person for the furnishing and arranging for the furnishing of any item and service for which payment may be made in whole and in part under a Federal health care program, that is, Medicare; and

c. to violate Title 42, United States Code, Section 1320a-7b(b)(1)(A), by knowingly and willfully soliciting and receiving remuneration, including kickbacks and bribes, directly and indirectly, overtly and covertly, in cash and in kind, in return for referring an individual to a person for the furnishing and arranging for the furnishing of an item and service for which payment may be made in whole and in part under a federal health care program, that is, Medicare.

Purpose of the Conspiracy

38. It was a purpose of the conspiracy for SOLOMON AWUSAH, ASHRAF ALI, Patient Recruiter 1, and their co-conspirators, to unlawfully enrich themselves by, among other things: (a) offering, paying, soliciting, and receiving kickbacks and bribes in exchange for referring Medicare beneficiaries to serve as patients at Proficient and Maecenas; and (b) submitting and causing the submission of claims to Medicare for medical services purportedly provided to these recruited beneficiaries.

Manner and Means

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

39. SOLOMON AWUSAH would own and control Maecenas and submit or cause the submission of claims to Medicare for services purportedly provided to Medicare beneficiaries.

40. ASHRAF ALI would own and control Proficient and submit or cause the submission of claims to Medicare for purportedly providing home health services, including physical therapy, occupational therapy, speech pathology, and/or skilled nursing services.

41. ASHRAF ALI would offer and pay kickbacks and bribes in the form of cash or checks to SOLOMON AWUSAH, Patient Recruiter 1, and others, in exchange for referring Medicare beneficiaries and providing Medicare beneficiary information, which ASHRAF ALI would use and cause to be used to support claims to Medicare on behalf of Proficient.

42. SOLOMON AWUSAH would solicit and receive kickbacks and bribes in the form of cash or checks from ASHRAF ALI, Patient Recruiter 1, and others, in exchange for referring Medicare beneficiaries and providing Medicare beneficiary information to Proficient.

43. ASHRAF ALI, SOLOMON AWUSAH, and others submitted and caused to be submitted at least \$1.7 million in claims to Medicare through Proficient for home health services that were obtained through illegal kickbacks and bribes.

Overt Acts

In furtherance of the conspiracy, and to accomplish its objects and purpose, at least one of the co-conspirators committed and caused to be committed in Oakland, Washtenaw, and Wayne Counties, in the Eastern District of Michigan, and elsewhere, at least one of the following overt acts, among others:

44. On or about April 17, 2018, ASHRAF ALI would pay or cause the payment of kickbacks and bribes to Patient Recruiter 1, in the form of check number drawn on Citizens Bank account x3974, held in the name of Proficient, and made payable to Patient Recruiter 1 in the amount of \$1,000.

45. On or about December 6, 2017, ASHRAF ALI would pay or cause the payment of kickbacks and bribes to SOLOMON AWUSAH in the form of \$1,200 in cash, in exchange for referring Medicare beneficiaries and providing Medicare beneficiary information.

46. On or about April 6, 2018, ASHRAF ALI would pay or cause the payment of kickbacks and bribes to SOLOMON AWUSAH in the form of \$200 in cash, in exchange for referring Medicare beneficiaries and providing Medicare beneficiary information.

All in violation of Title 18, United States Code, Section 371.

COUNTS 4-5

**(42 U.S.C. § 1320a-7b(b)(1)(A)—Receipt of Kickbacks and Bribes in
Connection with a Federal Health Care Program)**

D-1 SOLOMON AWUSAH

47. Paragraphs 1 through 22 and 39 through 43 of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

48. On or about the dates set forth below, in Oakland, Washtenaw, and Wayne Counties, in the Eastern District of Michigan and elsewhere, SOLOMON AWUSAH did knowingly and willfully solicit and receive remuneration, that is, kickbacks and bribes, directly and indirectly, overtly and covertly, in cash and in kind, including by check, in return for referring an individual to a person for the furnishing and arranging for the furnishing of any item and service for which payment may be made in whole and in part under a federal health care program, that is, Medicare, as set forth below:

Count Defendant	Approximate Date of Payment	Description	Approximate Amount
4 AWUSAH	December 6, 2017	Cash payment	\$1,200.00
5 AWUSAH	April 6, 2018	Cash payment	\$200.00

All in violation of Title 42, United States Code, Section 1320a-7b(b)(1)(A) and Title 18, United States Code, Section 2.

COUNT 6
(18 U.S.C. §§ 1957 and 2—Money Laundering)
D-2 SHAHZAD AHMAD

49. Paragraphs 1 through 22 of the General Allegations section and Paragraphs 26 to 31 of Count 1 of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

50. On or about the date set forth below, in the Eastern District of Michigan and elsewhere, SHAHZAD AHMAD, did knowingly engage and attempt to engage in the following monetary transaction by through or to a financial institution, affecting interstate and foreign commerce, in criminally derived property of a value greater than \$10,000, that is, the transfer of funds, such property having been derived from a specified unlawful activity, that is, health care fraud.

COUNT DEFENDANT	APPROXIMATE DATE	TRANSFER FROM	TRANSFER TO	APPROXIMATE AMOUNT
6 AHMAD	March 20, 2017	JPMC account x2319 controlled by AHMAD	JPMC account x0576	\$300,000

In violation of Title 18, United States Codes, Sections 1957 and 2.

FORFEITURE ALLEGATIONS
(18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461;
18 U.S.C. §§ 982(a)(1) and (7)—Criminal Forfeiture)

51. The allegations contained in Counts 1 through 6 of this Indictment are re-alleged and incorporated by reference as though fully set forth herein for the purpose of alleging forfeiture against defendants SOLOMON AWUSAH, SHAHZAD AHMAD, and ASHRAF ALI pursuant to Title 18, United States Code, Sections 981 and 982, and Title 28, United States Code, Section 2461.

52. Pursuant to Title 18, United States Code, Section 981(a)(1)(C), together with Title 28, United States Code, Section 2461, upon being convicted of the crimes charged in Counts 1 through 5 of this Indictment, the convicted defendant(s) shall forfeit to the United States any property, real or personal, which constitutes or is derived from proceeds traceable to the commission of the offense.

53. Pursuant to Title 18, United States Code, Section 982(a)(7), upon being convicted of the crimes charged in Counts 1 through 5 of this Indictment, the convicted defendant(s) 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 the offense.

54. Pursuant to Title 18, United States Code, Section 982(a)(1), upon being convicted of the crime charged in Count 6 of this Indictment, the convicted

defendant shall forfeit to the United States any property, real or personal, involved in the offense, or any property traceable to such property.

55. Money Judgment: Property subject to forfeiture includes, but is not limited to a forfeiture money judgment, in an amount to be proved in this matter, representing the total amount proceeds and/or gross proceeds obtained as a result of defendants' violations as set forth in Counts 1 through 5 of this Indictment, and representing the total value of property involved in, or traceable to property involved in, defendant's violation as set forth in Count 6 of this Indictment.

56. Substitute Assets: If the property described above as being subject to forfeiture, 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 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 Title 21, United States Code, Section 853(p) as incorporated by Title 18, United States Code, Section 982(b) and/or Title 28, United States Code, Section 2461, to seek to forfeit any other property of

SOLOMON AWUSAH, SHAHZAD AHMAD, and ASHRAF ALI up to the value of such property.

THIS IS A TRUE BILL.

Grand Jury Foreperson

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Date: June 21, 2018