

15

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA

v.

CHADI BAZZI, R.Ph.,

Defendant.

_____ /

Case:2:18-cr-20418
Judge: Hood, Denise Page
MJ: Patti, Anthony P.
Filed: 06-14-2018 At 03:59 PM
SEALED MATTER (LG)

VIO.: 18 U.S.C. § 1349
18 U.S.C. § 1347
18 U.S.C. § 2
18 U.S.C. § 981
18 U.S.C. § 982

INDICTMENT

THE GRAND JURY CHARGES:

GENERAL ALLEGATIONS

At all times relevant to this Indictment:

The Medicare and Medicaid Programs

1. The Medicare program (“Medicare”) 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 covered different types of benefits and was separated into different program “parts.” Medicare Part D subsidized the cost of prescription drugs

for Medicare beneficiaries in the United States. Generally, Medicare Part D covered part or all of the costs of prescription drugs dispensed to a Medicare beneficiary if, among other requirements, the prescription drugs were medically necessary and ordered by a physician.

3. In order to receive Medicare Part D benefits, a beneficiary enrolled in one of several Medicare drug plans. Medicare drug plans were operated by private health care insurance companies approved by Medicare. Those companies were often referred to as drug plan “sponsors.” A beneficiary in a Medicare drug plan could fill a prescription at a pharmacy and use his or her plan to pay for some or all of the prescription drugs.

4. Medicare, through CMS, compensated the Medicare drug plan sponsors for providing prescription drug benefits to beneficiaries. Medicare paid the sponsors a monthly fee for each Medicare beneficiary of the sponsors’ plans. Such payments were called capitation fees. The capitation fee was adjusted periodically based on various factors, including the beneficiary’s medical conditions. In addition, in some cases where a sponsor’s expenses for a beneficiary’s prescription drugs exceeded that beneficiary’s capitation fee, Medicare reimbursed the sponsor for a portion of those additional expenses.

5. The Michigan Medicaid program (“Medicaid”) was a federal and state funded health care program providing benefits to individuals and families who met

specified financial and other eligibility requirements, and certain other individuals who lacked adequate resources to pay for medical care. CMS was responsible for overseeing the Medicaid program in participating states, including Michigan. Individuals who received benefits under Medicaid were referred to as Medicaid “beneficiaries.”

6. Medicaid covered the costs of certain medical services, products, and benefits, including prescription drug benefits, for Medicaid beneficiaries. Generally, Medicaid covered part or all of the costs of prescription drugs dispensed to a Medicaid beneficiary if, among other requirements, the prescription drugs were medically necessary and ordered by a physician.

7. Medicaid paid for covered services either through what was called Medicaid “fee-for-service” or through Medicaid health plans.

8. Medicare, Medicare drug plan sponsors, Medicaid, and Medicaid health plans were “health care benefit program[s],” as defined by Title 18, United States Code, Section 24(b).

The Private Health Insurance Program

9. Blue Cross and Blue Shield of Michigan (“BCBS”) was a nonprofit, privately operated insurance company authorized and licensed to do business in the state of Michigan. BCBS provided health care benefits, including prescription drug

benefits, to member entities and individuals. Individuals insured by BCBS were referred to as BCBS “members.”

10. BCBS had agreements with participating providers, including pharmacies, to furnish medical services to BCBS members.

11. BCBS was a “health care benefit program,” as defined by Title 18, United States Code, Section 24(b).

Pharmacy Benefit Managers

12. Pharmacy benefit managers (“PBMs”) managed prescription drug benefits provided by Medicare (through Medicare drug plan sponsors), Medicaid health plans, and BCBS. PBMs received, adjudicated, and paid claims on behalf of the health care benefit programs.

13. After a pharmacy dispensed a prescription drug to a beneficiary or member, the pharmacy submitted a claim, typically electronically, to the PBM acting on behalf of the specific health care benefit program. The PBM, on behalf of the health care benefit program, reimbursed the pharmacy, typically electronically, through direct deposits into accounts held, and previously identified, by the pharmacy.

14. CVS Caremark, OptumRx, and Express Scripts were three of several PBMs that managed prescription drug benefits for Medicare (through Medicare drug plan sponsors) and Medicaid health plans. Express Scripts managed prescription

drug benefits for BCBS. CVS Caremark processed and adjudicated claims in Arizona. OptumRx and Express Scripts processed and adjudicated claims outside the state of Michigan.

The Pharmacy

15. BFRX L.L.C. d/b/a Better Care Neighborhood Pharmacy (“Better Care”) was a pharmacy and Michigan limited liability company located at 12111 Conant Street, Hamtramck, Michigan 48212.

The Defendant

16. Defendant CHADI BAZZI, a resident of Wayne County, Michigan, was a licensed pharmacist in Michigan and the owner, manager, and pharmacist-in-charge of Better Care.

COUNT 1

Conspiracy to Commit Health Care Fraud and Wire Fraud (18 U.S.C. § 1349)

17. Paragraphs 1 through 16 of the General Allegations section of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

18. From at least in or around January 2011, and continuing through in or around the present, the exact dates being unknown to the Grand Jury, in Wayne County, in the Eastern District of Michigan, and elsewhere, CHADI BAZZI and

others did willfully and knowingly combine, conspire, confederate, and agree to commit certain offenses against the United States, that is:

- (a) to violate Title 18, United States Code, Section 1347, that is, to knowingly and willfully execute a scheme and artifice to defraud health care benefit programs affecting commerce, as defined in Title 18, United States Code, Section 24(b), that is, Medicare, Medicare drug plan sponsors, Medicaid, Medicaid health plans, and BCBS, and to obtain, by means of materially false and fraudulent pretenses, representations, and promises, money and property owned by, and under the custody and control of, said health care benefit programs, in connection with the delivery of and payment for health care benefits, items, and services; and
- (b) to violate Title 18, United States Code, Section 1343, that is, to knowingly and with the intent to defraud, devise and intend to devise a scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, knowing that the pretenses, representations, and promises were false and fraudulent when made, and did knowingly transmit and cause to be transmitted, by means of wire communication in interstate

commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice.

Purpose of the Conspiracy

19. It was a purpose of the conspiracy for CHADI BAZZI and others to unlawfully enrich themselves and others by, among other things: (a) submitting, and causing the submission of, false and fraudulent claims to Medicare, Medicare drug plan sponsors, Medicaid, Medicaid health plans, and BCBS through Better Care; (b) concealing, and causing the concealment of, the submission of false and fraudulent claims to Medicare, Medicare drug plan sponsors, Medicaid, Medicaid health plans, and BCBS, and the receipt and transfer of the proceeds of the fraud; and (c) diverting fraud proceeds for the personal use and benefit of the defendant and others.

Manner and Means of the Conspiracy

The manner and means by which the defendant and others sought to accomplish the purpose of the conspiracy included, among others, the following:

20. CHADI BAZZI maintained national provider identifiers for Better Care in order to submit claims to Medicare, Medicare drug plan sponsors, Medicaid, Medicaid health plans, and BCBS.

21. CHADI BAZZI, on behalf of Better Care, entered into pharmacy provider agreements with CVS Caremark, OptumRX, and Express Scripts, among other PBMs.

22. CHADI BAZZI and others submitted, and caused the submission of, false and fraudulent claims to Medicare, Medicare drug plan sponsors, Medicaid, Medicaid health plans, and BCBS, via interstate wires and on behalf of Better Care, for prescription drugs that were medically unnecessary, not ordered by a physician, and not dispensed.

23. CHADI BAZZI and others submitted, and caused the submission of, false and fraudulent claims to Medicare and Medicare drug plan sponsors, via interstate wires and on behalf of Better Care, for prescription drugs purportedly dispensed to persons who were, in fact, deceased.

24. False and fraudulent claims that CHADI BAZZI and others electronically submitted, and caused to be electronically submitted, to Medicare, Medicare drug plan sponsors, Medicaid, and Medicaid health plans were processed and adjudicated electronically by CVS Caremark, OptumRx, and Express Scripts, among other PBMs, outside the state of Michigan. False and fraudulent claims that CHADI BAZZI and others electronically submitted, and caused to be electronically submitted, to BCBS were processed and adjudicated electronically by Express Scripts outside the state of Michigan.

25. Qlarant, a Medicare Drug Integrity Contractor, conducted an invoice review for Better Care. Qlarant compared Better Care's purchases of certain medications to its Medicare and Medicaid claims data for those same medications

during the time period of January 2011 through December 2016. Qlarant concluded that Better Care's inventory of prescription drugs was not sufficient to support its claim submissions to Medicare and Medicaid. Based upon the shortage detected, Qlarant concluded that Medicare and Medicaid paid Better Care approximately \$4,729,144 for medications that Better Care did not have sufficient inventory to dispense.

26. CHADI BAZZI and others caused an approximate loss of at least \$4.7 million to Medicare and Medicaid because of the false and fraudulent claims that CHADI BAZZI and others submitted and caused to be submitted.

27. CHADI BAZZI and others caused an approximate loss of at least \$1.1 million to BCBS because of the false and fraudulent claims that CHADI BAZZI and others submitted and caused to be submitted.

28. CHADI BAZZI and others caused the transfer and disbursement of illicit proceeds derived from the fraudulent scheme to themselves and others.

All in violation of Title 18, United States Code, Section 1349.

COUNTS 2-8
Health Care Fraud
(18 U.S.C. §§ 1347 and 2)

29. Paragraphs 1 through 16 of the General Allegations section of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

30. On or about the dates set forth below, in Wayne County, in the Eastern District of Michigan, and elsewhere, CHADI BAZZI did knowingly and willfully execute, and attempt to execute, a scheme and artifice to defraud health care benefit programs affecting commerce, as defined in Title 18, United States Code, Section 24(b), that is, Medicare and Medicare drug plan sponsors, and to obtain, by means of materially false and fraudulent pretenses, representations, and promises, money and property owned by, and under the custody and control of, said health care benefit programs, in connection with the delivery of and payment for health care benefits, items, and services.

Purpose of the Scheme and Artifice

31. It was a purpose of the scheme and artifice for CHADI BAZZI and others to unlawfully enrich themselves and others by, among other things: (a) submitting, and causing the submission of, false and fraudulent claims to Medicare and Medicare drug plan sponsors through Better Care; (b) concealing, and causing the concealment of, the submission of false and fraudulent claims to Medicare and Medicare drug plan sponsors, and the receipt and transfer of the proceeds of the fraud; and (c) diverting fraud proceeds for the personal use and benefit of the defendant and others.

The Scheme and Artifice

32. Paragraphs 20 through 28 of Count One of this Indictment are re-alleged and incorporated by reference as though fully set forth herein as a description of the scheme and artifice.

Acts in Execution of the Scheme and Artifice

33. On or about the dates set forth below, in Wayne County, in the Eastern District of Michigan, CHADI BAZZI did knowingly and willfully execute, and attempt to execute, a scheme and artifice to defraud health care benefit programs affecting commerce, as defined in Title 18, United States Code, Section 24(b), that is, Medicare and Medicare drug plan sponsors, and to obtain, by means of materially false and fraudulent pretenses, representations, and promises, money and property owned by, and under the custody and control of, said health care benefit programs, in connection with the delivery of and payment for health care benefits, items, and services, in that CHADI BAZZI submitted and caused the submission of false and fraudulent claims for payment and falsely represented that Better Care provided prescription medications to Medicare beneficiaries:

Count	Beneficiary	Beneficiary Date of Death	Claim Received and Service Date	Description of Prescription Medication	Claim Control Number
2	L.M.	2/2/14	2/13/14	Restasis	140443606 681029999
3	H.S.	11/4/13	4/15/14	Hydrocodone-Acetaminophen	141054139 391082999

Count	Beneficiary	Beneficiary Date of Death	Claim Received and Service Date	Description of Prescribed Medication	Claim Control Number
4	H.S.	11/4/13	4/15/14	Oxycodone	141054133 217053999
5	H.S.	11/4/13	5/14/14	Hydrocodone-Acetaminophen	141342395 570070999
6	H.S.	11/4/13	5/14/14	Oxycodone	141342393 857097999
7	C.W.	n/a	9/6/17	Lidocaine	172493856 369003999
8	C.W.	n/a	9/6/17	Spiriva	172024050 194098999

All in violation of Title 18, United States Code, Sections 1347 and 2.

CRIMINAL FORFEITURE

34. The above allegations contained in this Indictment are incorporated by reference as if set forth fully herein for the purpose of alleging criminal forfeiture to the United States of America of certain property in which CHADI BAZZI has an interest.

35. Upon conviction of a violation alleged in this Indictment, CHADI BAZZI 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 such violations, pursuant to 18 U.S.C. § 982(a)(7) and 18 U.S.C. § 981(a)(1)(C), as incorporated by 28 U.S.C. § 2461.

36. *Substitute Assets*: If the property described above as being subject to forfeiture, 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 that cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to 21 U.S.C. § 853(p) as incorporated by 18 U.S.C. § 982(b) and/or 28 U.S.C. § 2461, to seek to forfeit any other property of defendant, up to the value of the forfeitable property described above.

37. *Money Judgment:* The government shall also seek a forfeiture money judgment from the defendant for a sum of money representing the total amount of proceeds obtained as a result of defendant's violations of 18 U.S.C. § 1349, as alleged in this Indictment.

THIS IS A TRUE BILL.

Grand Jury Foreperson

MATTHEW SCHNEIDER
UNITED STATES ATTORNEY

s/Wayne F. Pratt

WAYNE F. PRATT
Chief, Health Care Fraud Unit
Assistant United States Attorney
211 West Fort Street, Suite 2001
Detroit, Michigan 48226
(313) 226-2548
wayne.pratt@usdoj.gov

s/Dustin Davis

DUSTIN DAVIS
Assistant Chief
Criminal Division, Fraud Section
U.S. Department of Justice
1400 New York Avenue, N.W.
Eighth Floor
Washington, D.C. 20005
(504) 680-3051
dustin.davis@usdoj.gov

s/Rebecca Szucs

REBECCA SZUCS
Trial Attorney
Criminal Division, Fraud Section
U.S. Department of Justice
1400 New York Avenue, N.W.
Eighth Floor
Washington, D.C. 20005
(202) 262-3520
rebecca.szucs@usdoj.gov

Dated: June 14, 2018