

ORIGINAL

Approved: Lois A. Pellegrino
LOUIS A. PELLEGRINO
Assistant United States Attorney

Before: HONORABLE HENRY B. PITMAN
United States Magistrate Judge
Southern District of New York

18 MAG 5368

```

-----X
:
UNITED STATES OF AMERICA      :      SEALED COMPLAINT
:
:                               :
- v. -                        :      Violation of
:                               :      18 U.S.C. §§ 1347 and 2
JAMES WOODSON,               :
:                               :      COUNTY OF OFFENSE:
:                               :      NEW YORK
:                               :
Defendant.                   :
:
-----X

```

SOUTHERN DISTRICT OF NEW YORK, ss.:

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

COUNT ONE
(Health Care Fraud)

1. From at least in or about January 1, 2011, up to and including the present, in the Southern District of New York and elsewhere, JAMES WOODSON, the defendant, knowingly and wilfully 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, in connection with the delivery of and payment for health care benefits, items, and services, to wit, WOODSON fraudulently obtained prescription drugs to which he was not entitled under the Medicare program.

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

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

2. I am a Special Agent with HHS-OIG, and I have been personally involved in the investigation of this matter. This affidavit is based upon my conversations with other law enforcement agents and witnesses, my examination of reports and records, and my personal participation in the investigation of this matter. Because this affidavit is being submitted for the limited purpose of establishing 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.

3. Based on my training and experience as a Special Agent with HHS-OIG, I know, in substance and in part, the following:

a. The Medicare Program ("Medicare") is a federal health care program providing benefits to persons who are over the age of 65 or have certain qualifying disabilities. Medicare is administered by the Centers for Medicare and Medicaid Services ("CMS"), a federal agency under the Department of Health and Human Services.

b. Individuals who receive benefits under Medicare are referred to as "Medicare beneficiaries." Part D of Medicare was established by the Medicare Prescription Drug, Improvement, and Modernization Act of 2003. Part D of Medicare is a "health care benefit program," as defined by Title 18, United States Code, Section 24 (b).

c. Part D of Medicare provides subsidized prescription drug insurance coverage to qualifying Medicare beneficiaries. Drugs covered by Part D of Medicare include only those medications that are prescribed for a medically accepted indication and that are medically necessary for a Medicare beneficiary. Among the types of drugs covered by Part D of Medicare are antiretrovirals used to treat the Human Immunodeficiency Virus ("HIV") that causes Acquired Immunodeficiency Syndrome ("AIDS").

d. Under Part D of Medicare, CMS contracts with private health insurance providers to offer approved prescription drug plans ("PDPs") to qualifying Medicare beneficiaries. PDP sponsors, in turn, pay prescription drug providers (e.g., retail and institutional pharmacies) to provide pharmacy services to PDP enrollees. The PDP sponsors are

compensated through a combination of enrollee premiums and reimbursement from CMS.

4. From my review of Medicare records and other records, conversations with other law enforcement agents, and interviews of witnesses, I have learned, in substance and in part, the following:

a. From at least in or about 2011, up to and including the present (the "Relevant Period"), JAMES WOODSON, the defendant, was a Medicare beneficiary who received prescription drug benefits through Part D of Medicare.

b. WOODSON is also a veteran of the United States Armed Forces, and as such, WOODSON is eligible for medical care at Veteran's Administration ("VA") medical facilities. During the Relevant Period, WOODSON also received prescription drug benefits through his eligibility for VA care.

c. WOODSON has obtained prescriptions for various antiretroviral and other drugs, including antiretroviral combinations and protease inhibitors (collectively, "HIV Drugs"). These HIV Drugs must be obtained from a pharmacy with a prescription from a licensed physician.

d. A private contractor retained by CMS, also known as a Medicare Prescription Drug Integrity Contractor ("MEDIC"), reviewed WOODSON's Medicare history from in or about January 1, 2011 through in or about May 6, 2016, including the prescriptions that were submitted under WOODSON's Medicare number in connection with Medicare Part D. The MEDIC analysis noted, among other things, the following:

i. The HHS-OIG published a report in or about May 2014, which studied more than 1600 Medicare Part D beneficiaries and delineated at least six measures to identify beneficiaries with questionable utilization patterns. The measures HHS-OIG report specified include:

- No indication of a positive HIV condition;
- Excessive Doses of an HIV drug;
- Excessive Supply of an HIV drug;
- High Number of pharmacies or prescribers;
- Contraindicated combinations of HIV drugs;
- Multiple switching of Medicare Part D plans.

The MEDIC analysis showed that WOODSON exhibited behavior consistent with all but one of the listed utilization patterns.

iii. For example, during the Relevant Period, out of a total of approximately 808 prescriptions obtained by WOODSON during that period, WOODSON obtained approximately 537 prescriptions for various HIV drugs. During the Relevant Period, WOODSON was associated with at least 16 different Medicare Part D plans. WOODSON associated with at least three different Medicare plans for payment per year, and reached as high as five plan changes per year. WOODSON did not stay with any one plan for more than seven months, and he frequently utilized plans for as little as three months or less. Based on my training and experience, this type of "plan hopping" behavior is consistent with fraudulent selling of HIV medication on the black market.

iv. Likewise, WOODSON utilized a high number of doctors to prescribe his HIV medication, and a high number of pharmacies to fill the prescriptions. In total, during the Relevant Period, WOODSON utilized at least 34 different pharmacies and at least 40 different doctors. In all years except 2013, WOODSON received HIV medication from six or more pharmacies within the calendar year. WOODSON also utilized six or more prescribing doctors per year, reaching a high of 14 doctors in 2014. Based on my training and experience, "doctor shopping" and "pharmacy shopping" are another sign that a patient is engaged in diversion by selling HIV medication on the black market.

v. The MEDIC analysis also concluded that WOODSON consistently received an excess of supply of HIV medication. For example, in 2011, seven of the 19 HIV medications that WOODSON received contained excess supply, ranging in duration from 25 excess days to 565 days' excess supply. Similarly in 2016, three of WOODSON's nine HIV medications ranged from 179 to 269 days' excess supply. In sum, during the entire relevant time period, WOODSON filled multiple complete HIV regimens from multiple prescribers and at multiple pharmacies.

vi. The total estimated loss for the excessive HIV Drug medications that were prescribed to WOODSON and submitted under WOODSON's Medicare number during the Relevant Period is no less than approximately \$815,502.39. In other words, the Medicare program paid approximately \$815,502.39 for

HIV Drug medications for WOODSON that were not medically necessary.

5. Furthermore, from my review of VA records and other medical records, and conversations with law enforcement agents, I have learned, in substance and in part, the following:

a. During the Relevant Period, JAMES WOODSON, the defendant, also consistently obtained HIV medication from the VA. From my analysis of VA records, I identified more than 40 different occasions during the Relevant Period when JAMES WOODSON, the defendant, obtained HIV medication from the VA, while, at the same time, he had filled the aforementioned prescriptions for HIV medications through Medicare Part D.

b. Based on my training and experience, "double dipping" and utilizing multiple combinations of HIV drug regimens is also indicative of activity in which the defendant is potentially selling excess HIV medication on the black market.

6. Based on these suspicions, on or about August 22, 2016, I and other law enforcement investigators interviewed JAMES WOODSON, the defendant. During the course of the interview, among other things, WOODSON stated that he does not use the HIV medications he receives from Medicare. WOODSON explained that he sells the Medicare HIV medications on the black market, and has also received "kickbacks" from certain pharmacies to sell this medication.

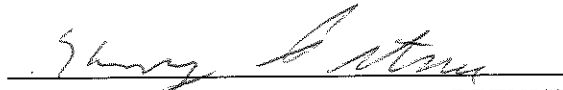
7. Accordingly, no portion of the approximately \$815,502.39 expended by the Medicare program was related to prescriptions issued for a legitimate medical need, and therefore those prescriptions were fraudulently obtained.

WHEREFORE, deponent asks that a warrant be issued for the arrest of JAMES WOODSON, the defendant, and that he be arrested, and imprisoned or bailed, as the case may be.



LIZBETH ROLON
Special Agent
Department of Health & Human Services
Office of the Inspector General

Sworn to before me this
22nd day of June, 2018.



THE HONORABLE HENRY B. PITMAN
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF NEW YORK