UNITED STATES DISTRICT COURT

for the

Eastern District of Louisiana

United States of America
v.

LOUELLA GIVENS

Defendant(s)

Case No. 15-75-mag

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of October 1, 2006 throug the present in the parish of ORLEANS in the Eastern District of Louisiana, the defendant(s) violated:

Code Section	*Offense Description*
18 U.S.C. 1347	Conspiracy to Commit Health Care Fraud
18 U.S.C. 1349	Health Care Fraud
18 U.S.C. 1320a-7b	Anti-Kickback Statute

This criminal complaint is based on these facts:

SEE AFFIDAVIT

☑ Continued on the attached sheet.

Complainant's signature

Wesley Root, Special Agent HHS-OIG

Printed name and title

Sworn to before me and signed in my presence.

Date: 6/16/2015

Judge's signature

City and state: New Orleans, Louisiana

Hon. Joseph C. Wilkinson, Jr., U.S. Magistrate Judge

Printed name and title

SEALED

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

UNITED STATES OF AMERICA,	**Case No. 15-75-mag**
V.	**Filed Under Seal**
LOUELLA GIVENS	

AFFIDAVIT IN SUPPORT OF

AN APPLICATION FOR A CRIMINAL COMPLAINT

I, Wesley Root, being first duly sworn, hereby depose and state as follows:

A. BACKGROUND OF AFFIANT

1. I am a Special Agent with the United States Department of Health and Human Services, Office of Inspector General (OIG), and have been so employed for approximately 5 years. I am currently assigned to the Baton Rouge Field Office. My duties and responsibilities include investigating health care fraud involving Medicare and other government funded health care programs.

2. In my capacity as a Special Agent with the OIG, I have received instruction relative to investigative procedures and other aspects of investigating health care fraud matters. I have conducted and participated in criminal and civil investigations concerning health care fraud. The opinions and facts set forth in this affidavit are based upon my training, experience, consultation with other experienced investigators and other sources of information relative to health care

fraud violations of Title 18, United States Code, Sections 1347 and 1349, and Title 42, United States Code, Section 1320a-7b (anti-kickback statute).

3. I am personally familiar with the facts and circumstances surrounding this investigation from my own investigative activities and from information obtained from other law enforcement officers with personal knowledge of the facts. Based upon my investigation and the information contained in this affidavit, it is my belief that Louella Givens (Givens), a.k.a. Louella Harding, through Maxima Home Health Care Corporation (Maxima) and other affiliated home health care entities owned by Givens including Home Care Associates, Inc. (Home Care), House Call 2000 Home Health Care Agency (House Call 2000), a.k.a. House Call Home Health Care, and Titan Management Services, LLC (Titan) (together, MAXIMA COMPANIES), has engaged in violations of Title 18, United States Code, Section 1349, conspiracy to commit healthcare fraud, Title 18, United States Code, Section 1347, health care fraud; Title 42, and United States Code, Section 1320a-7b, the anti-kickback statute.

4. The Department of Justice and the Department of Health and Human Services are entitled to the information requested in this complaint and affidavit in their capacity as health oversight agencies as the information is necessary to further health oversight activities pursuant to Title 45, Code of Federal Regulations, Sections 164.512(d) and 45 C.F.R. 164.501.

B. PURPOSE OF THE AFFIDAVIT

5. As set forth below and more fully described herein, this affidavit concerns the criminal complaint against Louella Givens. Affiant and others have been

conducting a joint health care fraud investigation of Maxima, House Call 2000 and Bayou River since July 2014, with the FBI and Louisiana Department of Justice Medicaid Fraud Control Unit (MFCU) investigators. Givens is the owner or the person in control of these entities, and these entities have been enrolled with Medicare as providers under the name Bayou River, doing business as Home Care, since October 1, 2006; Bayou River, doing business as House Call/Home Care, since December 1, 2011; and as Titan, doing business as Maxima, since December 11, 2011. Givens or immediate family members are listed as owners, managers, officers or agents for each of these entities with Medicare and the Louisiana Secretary of State.

6. During the course of the investigation, information was received that Givens, as the owner and controlling officer of Maxima and the affiliated companies previously listed, was submitting false claims to Medicare for services not rendered, services rendered that were not medically necessary, and paying kickbacks to an employee and a marketer for patient referrals. Except where otherwise noted, agents or investigators of the OIG, the FBI and/or MFCU provided the information set forth in this affidavit to me directly or indirectly. Information was also obtained through interviews of witnesses who had some association or interaction with Givens, Maxima and/or the related companies.

7. Title 18, United States Code, Section 1349, conspiracy to commit health care fraud creates an offense where, "(1) two or more persons, in some way or manner, came to a mutual understanding to try to accomplish a common and unlawful

plan, as charged in the indictment; and, (2) the defendant, knowing the unlawful purpose of the plan, willfully joined in it."

8. Title 18, United States Code, Section 1347, health care fraud (18 U.S.C. § 1347) creates an offense when someone "knowingly and willfully executes, or attempts to execute, a scheme or artifice—

    (1) to defraud any health care benefit program; or

    (2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any health care benefit program,

in connection with the delivery of or payment for health care benefits, items, or services. The statute continues to state that with respect to violations of this section, a person need not have actual knowledge of this section or specific intent to commit a violation of this section.

9. Title 42, United States Code, Section 1320a-b7(b) creates an offense when someone "knowingly and willfully solicits or receives any remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly or covertly, in cash or in kind—

    (A) in return for referring an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part under a Federal health care program, or

    (B) in return for purchasing, leasing, ordering, or arranging for or recommending purchasing, leasing, or ordering any good, facility, service,

or item for which payment may be made in whole or in part under a Federal health care program."

10. Based upon my experience and training, and the facts set forth in this affidavit, I believe that there is sufficient probable cause of violations of Title 18, United States Code, Section 1349 (conspiracy to commit health care fraud); Title 18, United States Code, Section 1347 (health care fraud); and Title 42, United States Code, Section 1320a-7b (the anti-kickback statute) have been committed by Givens through the companies she owned and/or operates.

C. THE MEDICARE PROGRAM AND HOME HEALTH CARE SERVICES

11. The Medicare Program (Medicare) is a federal health care program providing benefits to persons who are over the age of 65 or disabled, and is a "health care benefit program," as defined by Title 18, United States Code, Section 24(b). Medicare is administered by the United States Department of Health and Human Services (HHS) through its agency, the Centers for Medicare & Medicaid Services (CMS). Individuals who receive benefits under Medicare are referred to as Medicare beneficiaries.

12. AdvanceMed is the Zone Program Integrity Contractor (ZPIC) for Zone 5, which contracts with CMS to investigate and assist with preventing fraud, waste, and abuse in the Medicare program. The ZPIC is dedicated to protecting the integrity of the Medicare program through the use of audits, medical reviews, and investigating cases of potential fraud and abuse. Cases of potential fraud and abuse are subsequently referred by AdvanceMed to OIG for further development.

13. Part A of the Medicare program covers certain eligible home health care costs for medical services provided by a home health agency (HHA) to beneficiaries that required home health care services because of an illness or disability that cause them to be home bound.

14. The Medicare Part A program reimburses 100% of the allowable charges for participating HHAs that provided home health care services only if the patient qualified for home health care benefits. A patient qualifies for home health care services only if:

    a. The patient is confined to the home (referred to as homebound);

    b. The patient is under the care of a physician who specifically determines there was a need for home health care, and the physician establishes a written Plan of Care (POC) for the patient; and

    c. The determining physician signs a certification statement specifying that: the beneficiary needs intermittent skilled nursing services, physical therapy, or speech therapy; the beneficiary is confined to the home; a POC for furnishing services has been established and would be periodically reviewed; and the services will be furnished while the beneficiary is under the care of the physician who established the POC; and, effective January 1, 2011, certification includes a face-to-face visit by the certifying physician.

15. HHAs are reimbursed under the Home Health Prospective Payment System (PPS). Under PPS, Medicare pays Medicare-certified HHAs a predetermined base payment for each 60 day period that care is needed. This 60-day period is

called an episode of care. The base payment is adjusted based on the health condition and care needs of the beneficiary. This adjustment is done through a patient assessment tool for measuring and detailing the patient's condition known as the Outcome and Assessment Information Set (OASIS).

16. For beneficiaries for whom skilled nursing is medically necessary, Medicare pays for such skilled nursing services that are provided by the HHA. The basic requirement that a physician certify that a beneficiary is confined to the home is a continuing requirement for a beneficiary to receive home health care services.

17. **Record Keeping Requirements:** Medicare Part A regulations require HHAs providing services to Medicare patients to maintain complete and accurate medical records reflecting the medical assessment and diagnosis of their patients, as well as records documenting actual treatment of the patients to whom services were provided and for whom claims for reimbursement were submitted by the HHA.

18. Among the written records required to document the appropriateness of the home health care claims submitted under Part A of Medicare is a POC that includes the physician order for home health care, diagnoses, types of services/frequency of visits, prognosis/rehabilitation potential, functional limitations/activities permitted, medications/treatments/nutritional requirements, safety measures/discharge plans, goals, and physician signature. Also required is a signed certification statement by an attending physician certifying that the patient is under his/her care, is confined to his or her home, and is in need of the planned home health services (emphasis added).

19. Medicare Part A regulations require provider HHAs to maintain medical records of each visit made by a nurse, therapist, and home health aide to a beneficiary. The record of a nurse's visit is required to describe, among other things, any significant observed signs or symptoms, any treatment and drugs administered, any reactions by the patient, any teaching and the understanding of the patient, and any changes in the patient's physical or emotional condition. The home health nurse, therapist and aide are required to document the hands-on personal care provided to the beneficiary as the services are deemed necessary to maintain the beneficiary's health or facilitate treatment of the beneficiary's primary illness or injury. These written medical records are generally created and maintained in the form of clinical notes and home health aide notes and observations.

D. THE SUBJECT COMPANIES

20. The investigation revealed Givens owned (either personally or in the names of family members), operated and controlled the companies listed as follows. As of June 2, 2015, the Louisiana Secretary of State identified the following as officers of the MAXIMA COMPANIES:

a. Bayou River: Llewellyn C. Scott is listed as the registered agent and the director of Bayou River. Givens has identified Scott as her son and business partner.

b. Home Care: Llewellyn C. Scott is listed as the agent and director of Home Care, and has been identified by Givens as the son and business partner of Givens.

c. House Call 2000: Charles C. Harding and Louella P. Givens are listed as the agent and directors of House Call 2000. Harding is the deceased husband of Givens.

d. Titan: I. C. Harding is listed as the registered agent and director, and has been identified by Givens as her son and business partner.

e. Maxima: L.C. Scott is listed as the agent and director of Maxima, and has been identified by Givens as her son and business partner.

E. THE MEDICARE FRAUD SCHEME

21. On July 31, 2014, the OIG, FBI, and MFCU initiated a health care fraud investigation of the MAXIMA COMPANIES. The investigation was predicated upon information from a Confidential Human Source (CHS-1) indicating that Givens, the owner and manager of each of these entities during their existence, was paying individuals for referrals for home health care services and billing Medicare for services that were not medically necessary and/or not provided.

22. The investigation has included a review of public records, bank records, Medicare claims data, and interviews of Medicare beneficiaries and former employees and/or associates of the companies. Many of the beneficiaries apparently did not meet the aforementioned Medicare criteria for home health care. For example, many of the beneficiaries were not homebound; they reported to investigators that they regularly left their residences without the aid of others or mobility devices. The information obtained by investigators also indicated that many of these same beneficiaries reported never having seen or had any contact with the physician listed on Maxima billing documents as the referring physician, and were not nor

had ever been under the care of the physician listed as the referring physician. Information obtained in some of these interviews is set forth below. Investigators also learned that a former employee and/or an associate of these entities received kickbacks for referring patients to the entities in order to bill Medicare for home health services. These kickbacks were paid by Givens, directly or indirectly through co-conspirators, either in cash or through checks.

23. Cooperating Physician 1 admitted to investigators to falsely certifying Medicare beneficiaries to receive home health services who were not homebound and who were not qualified to receive home health. Cooperating Physician 1 stated that CMS-485 Home Health Certification Forms (Forms 485) for Maxima patients were delivered to the physician's office by someone named Louella. Louella had conversations with the Cooperating Physician 1 at the office and on the telephone regarding Maxima referrals. Some of names of the patients on these documents were the same names as patients that Cooperating Physician 1 had fraudulently certified as homebound for another home health agency.

24. Cooperating Physician 1 falsely certified Forms 485 for Maxima from in or around August 2013 until the time that Cooperating Physician 1 was indicted. Maxima, which is owned by Givens, was paid over $300,000 by Medicare for claims submitted listing Cooperating Physician 1 as the referring physician.

25. Medicare requires physicians who prescribe and refer a patient to receive home health to be under the physician's care. Physicians who have never treated a patient cannot prescribe home health, because the POC certifies that the patient is

under their care. Medicare additionally requires, effective January 1, 2011, the home health certification to include a face-to-face visit by the certifying physician

26. Physician G was the highest referring physician of home health services to Maxima. From in or around July 2011 until in or around July 2014, Maxima submitted approximately $1,319,017.56 in home health care claims for patients certified by Physician G. Investigators interviewed Medicare beneficiaries who Physician G had certified as homebound and referred for home health care services at Maxima. When interviewed, these beneficiaries did not recognize Physician G.

a. Maxima Clients Did Not Qualify for Home Health Services

Medicare Beneficiary W.D.

27. Medicare beneficiary W.D. told investigators that he/she received home health services from Maxima from 8/21/2011 through at least 4/13/2014, or at least nine home health care episodes. W.D. was initially approached by a Registered Nurse (Nurse 1), who asked if W.D. was interested in receiving home health services. Physician A, who was indicted and pleaded guilty to Health Care Fraud in the Eastern District of Louisiana for referring patients for home health services that were not medically necessary in a separate investigation, was listed as the referring physician for seven of W.D.'s nine episodes of home health care. W.D. told investigators that he/she was in fine shape, walked around the neighborhood and to church regularly without any difficulties. W.D. also stated that he/she still went dancing and performed ten pushups every other day for exercise.

28. Between 8/21/2011 through 4/3/2014, Maxima was paid approximately $14,949.55 by Medicare for home health services allegedly provided to W.D. The following claims were submitted by Maxima to Medicare for home health services that Maxima claimed to have provided to W.D.:

Episode Dates	Diagnosis	Referring Physician
8/21/11 – 10/19/11	Mal Hypertension Ht wo wf 40200	Bayou River Health Systems
10/20/11 – 12/18/11	Arthropothay NOS-Mult 71699	Physician A
12/19/11 – 2/16/12	Arthropathy NOS-Mult 71699	Physician A
4/9/13 – 6/7/13	Hypertension Hrt Dis 40290	Physician A
6/8/13 – 8/6/13	General Osteoarthrosis 71500	Physician A
8/7/13 – 10/5/13	Gouty Arthropathy 27400	Physician A
10/6/13 – 12/4/13	Hypertension Hrt Dis 40290	Physician A
12/5/13 – 2/2/14	Hypertension Hrt Dis 40290	Physician E
2/3/14 – 4/3/14	Arthopathy 71689	Physician E

Medicare Beneficiary I.F.

29. Medicare beneficiary I.F. stated that Maxima had provided home health services through Nurse 2, who visited I.F. once every two weeks. Nurse 2 checked I.F.'s vital signs, blood pressure, ears and hearing aide batteries. Medicare billing records for Maxima indicate that I.F. was billed for at least 15 episodes of home health by Maxima from 10/20/11 through at least 6/5/14. The referring physician for the first seven episodes was Physician F, and the referring physician for the last eight episodes was Physician G. I.F. told agents that Physician G was not

his/her regular physician, that he did not know her and that he did not recall ever seeing her. I.F. stated that he/she did not have arthritis, and walks regularly from his/her house to the local store and church. I.F. does not utilize a walker or wheelchair, but does use a cane when walking from home to the store or to church.

30. Despite I.F. informing investigators that he/she has never seen Physician G as a patient, Physician G personally billed Medicare for home health services for I.F. on 10/14/2012, 8/10/2013 and 10/09/2013.

31. Between 10/20/11 through 6/5/14, Maxima was paid approximately $30,237.82 Medicare for home health services allegedly provided to I.F. The following claims were submitted by Maxima to Medicare for home health services that Maxima claimed to have provided to I.F.:

Episode Dates	Diagnosis	Referring Physician
10/20/11 – 12/18/11	Arthropathy 71609	Physician F
12/19/11 – 2/16/12	Arthropathy 11689	Physician F
2/17/12 – 4/16/12	Hyp hrt Dis 40290	Physician F
4/17/12 – 6/15/12	Hyp hrt Dis 40290	Physician F
6/16/12 – 8/14/12	Hyp hrt Dis 40290	Physician F
8/15/12 – 10/13/12	Arthropathy 71689	Physician F
10/14/12 – 12/12/12	Coronary Athrscl Natve Vssl 41401	Physician F
12/13/12 – 2/10/13	Hyp Hrt Dis 40290	Physician G
2/11/13 – 4/11/13	Hyp Hrt Dis 40290	Physician G
4/12/13 – 6/10/13	Hyp Hrt Dis 40290	Physician G

Episode Dates	Diagnosis	Referring Physician
8/10/13 – 10/8/13	Hyp Hrt Dis 40290	Physician G
10/9/13 – 12/7/13	Hyp Hrt Dis 40290	Physician G
12/8/13 – 2/5/14	Hyp Hrt Dis 40290	Physician G
2/6/14 – 4/6/14	Rheumatoid Arthritis 7140	Physician G
4/7/14 – 6/5/14	Rheumatoid Arthritis 7140	Physician G

Medicare Beneficiary M.T.

32. Medicare billing information indicates that Maxima billed for at least four episodes of home health services for Medicare beneficiary M.T. from 8/13/13 through at least 4/9/14. The physician listed as the referring physician for home health services is Physician B, who was indicted in an unrelated case and pleaded guilty to Conspiracy to Commit Health Care Fraud in the Eastern District of Louisiana, for referring Medicare beneficiaries for home health services that were not medically necessary. M.T. does not know Physician B, and Physician B has never provided medical services to M.T. M.T.'s regular physician is Physician D. M.T. is able to care for his/herself and disabled child. M.T. can ambulate without the assistance of a cane, and regularly goes shopping with another daughter.

33. Between 8/13/11 through 4/9/14, Maxima was paid approximately $8,097.64 by Medicare for home health services allegedly provided to M.T. The following claims were submitted by Maxima to Medicare for home health services that Maxima claimed to have provided to M.T.:

Episode Dates	Diagnosis	Referring Physician
8/13/13 – 10/11/13	Osteoarthrosis 71598	Physician B
10/12/13 – 12/10/13	Hyp Hrt Dis 40291	Physician B
12/11/13 – 2/8/14	Hyp Hrt Dis 40291	Physician B
2/9/14 – 4/9/14	Obs. Chronic Bronch 49121	Physician B

Medicare Beneficiary E.T.

34. Medicare billing information indicates that Maxima billed at least four episodes of home health for Medicare beneficiary E.T. from 7/10/14 through at least 3/6/15. The billing information indicates that Physician G was the referring physician on at least three of the episodes, and at least one of the episodes listed Physician C as the referring physician. E.T. informed the investigators that neither Physician G nor Physician C was ever E.T.'s treating physician, and that E.T did not recognize either of the physicians. E.T. also informed the investigators that E.T. is able to leave the home at any time, as long as E.T.'s spouse is available to drive, because E.T. does not drive. Neither E.T. nor E.T.'s spouse recognized photographs of either Physician G or Physician C. E.T.'s spouse accompanies E.T. on all medical appointments.

35. Despite E.T. informing investigators that she has never seen Physician G as a patient, Physician G personally billed Medicare for home health re-certification services for E.T. on 1/06/2014 and 3/31/2014.

36. Between 7/10/14 through at least 3/6/15, Maxima was paid approximately $7,585.26 Medicare for home health services allegedly provided to E.T. The

following claims were submitted by Maxima to Medicare for services that Maxima claimed to have provided to E.T.:

Episode Dates	Diagnosis	Referring Physician
7/10/14 – 9/7/14	DM II Neuro uncontrolled – 25062	Physician G
9/8/14 – 11/6/14	Hypertension Heart Disease – 40250	Physician G
11/7/14 – 1/5/15	DM II Neuro uncontrolled - 25062	Physician G
1/6/15 – 3/6/15	DM II Neuro uncontrolled - 25062	Physician C

Medicare Beneficiary C.B.

37. Medicare billing information indicates that Maxima billed at least 11 episodes of home health for Medicare beneficiary C.B. from 7/6/13 through at least 4/26/15. The billing information indicates that Physician G was the referring physician on at least six of the episodes, and that the referring physician on at least four of the episodes was Physician D. C.B. informed the investigators that C.B. had never been treated by Physician G, and C.B. did not recognize a photograph of Physician G. C.B. also informed the investigators that C.B. is able to leave the home, and that C.B. regularly walks to the grocery store down the street from C.B.'s home.

38. Despite C.B. informing investigators that he/she has never seen Physician G as a patient, Physician G personally billed Medicare for home health services provided for C.B. on 7/06/2013, 9/04/2013, 11/03/2013, and 3/03/2013.

39. C.B. identified Physician D as C.B.'s primary care physician. Physician D is listed as the referring physician on at least four of the episodes of home health care billed by Maxima for services allegedly rendered to C.B. Physician D was

indicted in the Eastern District of Louisiana for Health Care Fraud for referring Medicare beneficiaries for home health services that were not medically necessary and for accepting kickbacks for referrals of patients.

40. Between 7/6/13 through at least 4/26/15, Maxima was paid approximately $23,021.56 by Medicare for home health services allegedly provided to C.B. The following claims were submitted by Maxima to Medicare for services that Maxima claimed to have provided to C.B.:

Episode Dates	**Diagnosis**	**Referring Physician**
7/6/13 - 9/3/13	Osteoarthosis – 71500	Physician G
9/4/13 – 11/2/13	Malignant Hypertension - 4010	Physician G
11/3/13 – 1/1/14	Hypertension – 4019	Physician G
1/2/14 – 3/2/14	Esophageal Reflux – 53081	Physician G
3/3/14 – 5/1/14	Arthropathy – 71699	Physician G
5/2/14 – 6/30/14	Hypertension HRT Dis 40290	Physician G
7/1/14 – 8/29/14	Arthropathy – 71680	Physician D
8/30/14 – 10/28/14	Esophogeal Reflux – 53081	No physician listed
10/29/14 – 12/27/14	AC DVT EMBL Low Ext – 45340	Physician D
12/28/14 – 2/25/15	Osteoarthosis – 71598	Physician D
2/26/15 – 4/26/15	Hys Hrt Dis – 40290	Physician D

41. According to LeAnne Dodson, who is a Senior Lead Claims Review Analyst the Team Lead for the Home Health Medical Review team for AdvanceMed,

physicians who have never treated a patient cannot prescribe home health, because the POC certifies that the patient is under their care.

b. Evidence of Fraud in Billing Data.

42. Many beneficiaries did not need or qualify for skilled nursing. The skilled nursing purportedly provided by Maxima often extended well beyond the initial 60-day episode of care because the physicians who signed Form 485s and the Registered Nurses (RNs) employed by Maxima were willing to re-certify the patients, regardless of medical necessity. The analysis of Medicare billing data provided by AdvanceMed for Maxima for the time period of 1/1/09 through 6/27/14 indicates that Maxima provided at least 59 patients out of a total of 247 with over 360 days of service for skilled nursing, speech or physical therapy. In addition, another 63 patients allegedly received these services for greater than 180 days. Below is a breakdown of the length of stays for Maxima's beneficiaries:

# OF DAYS OF STAY	NUMBER OF BENEFICIARIES
0 – 90	61
91 – 180	64
181 – 360	63
361 – 540	34
GREATER THAN 540	25

43. Dodson stated that on average, a beneficiary will receive home health care for approximately two episodes, which is about four months. By contrast, as demonstrated in the chart above, from 1/1/09 through 6/27/14, almost half (122 out of 247) of Maxima's beneficiaries exceed the national average by at least two

months, while almost a quarter (59 out of 247) have received home health services for greater than one year.

44. Physician B admitted to investigators to falsely certifying Medicare beneficiaries to receive home health services who were not homebound and who were not qualified to receive home health. Physician B stated that Form 485s were delivered to the physician's office from someone named Louella, who had conversations with the Physician B both at the office and on the telephone. Some of the names of the patients on these documents were the same names as patients that Physician B had fraudulently certified as homebound for another home health agency. Physician B falsely certified Form 485s for Maxima from about August of 2013 until the time that Physician B was indicted.

45. Analysis of data provided by AdvanceMed revealed the following physicians were the top four referrers of Medicare beneficiaries to Maxima for home health services from 1/1/09 to 6/27/14:

Referring Physician	**Number of Beneficiaries**	**Amount Paid to Maxima**
Physician G	78	$612,568.61
Physician G	55	$408,731.55
Physician B	53	$309,452.18
Physician A	20	$119,568.56
Nola Health Solutions LLC	17	$71,845.53
Total		$1,522,166.43

46. The total amount paid to Maxima during the time period of 1/1/09 through 6/27/14 from all referring physicians was $2,384,190, which included a total of 73 physicians. In sum, five physicians and/or clinic groups accounted for

approximately 64% of the total amount paid to Maxima. Of these five physicians, four were convicted of health care-related offenses in the Eastern or Middle Districts of Louisiana.

47. Maxima submitted 88 individual claim lines for five beneficiaries for services purportedly provided after the beneficiary's date of death:

Name	Date of Death	Min From Date	Max Thru Date
W.J.	**11/23/2013**	11/25/13	12/11/13
M.J	**09/17/2013**	9/19/13	10/2/13
E.M.	**07/05/2012**	7/6/12	8/16/12
W.G.	**02/03/2012**	2/6/12	3/1/12
L.W.	**11/27/2012**	11/28/12	1/3/13

The Minimum From Date through Maximum Thru Date indicate that during this time period, Maxima billed for multiple types of home health services on particular days, whether they were skilled nursing services, therapy services or certified nursing assistant services. These billings indicate that Maxima continued to bill for these home health services for multiple visits for these beneficiaries for up to one to two months after the patient's date of death.

c. Kickbacks for Patient Referrals

48. Former Employee A worked as a Certified Nursing Assistant at Maxima for approximately two years. Prior to working for Maxima, Former Employee A worked for Givens at her other home health agency, House Call 2000, when it was located in LaPlace, Louisiana. Former Employee A has worked for other home health agencies throughout the New Orleans area, including Memorial Home Health, Inc. (Memorial). Former Employee A went to work for Maxima after

Memorial closed, in or around May 2013, because of the criminal investigation involving its business practices.

49. Around the beginning of 2014, Former Employee A knew that Maxima was desperate for business, so Former Employee A went to the Employee B, the DON at Maxima who was also the DON when Former Employee A worked for House Call 2000. Former Employee A asked Employee B if Maxima would pay referral fees for new patients that were brought to the company for home health services. Employee B stated that it was possible that Maxima would pay Former Employee A for referring new patients for home health services.

50. Former Employee A then called Givens on the phone to inquire about being paid referral fees for bringing in new patients to Maxima. Givens stated that if the patient's Medicare numbers could be billed to Medicare, that Former Employee A would be paid $250 per patient. Givens instructed Former Employee A to give the new patients' Medicare numbers to Employee B in order for Employee B to check the system to see if the numbers could be billed to Medicare.

51. After speaking with Givens regarding the referral fees, Former Employee A then took the potential new patients' Medicare numbers to Employee B in order to check the Medicare system to see if the numbers were valid. Former Employee A told Employee B that Givens agreed to pay referral fees for the Medicare numbers, to which Employee B replied that he/she would check the Medicare numbers to verify eligibility. Of the initial eight Medicare numbers that Former Employee A gave to Solomon, Former Employee A received referral fees for three

of the patients, which was added to Former Employee A's regular payroll check that Former Employee A received from Maxima.

52. Former Employee A received the original eight Medicare beneficiary numbers from a former co-worker at Memorial who was also associated with Givens. Associate B was a marketer for CHS 1, and pled guilty in 2014 in the Eastern District of Louisiana to Conspiracy to Commit Health Care Fraud and Receiving Kickbacks. Associate B told Former Employee A that if Former Employee A received payments for the referrals from Maxima, that Former Employee A would pay Associate B $100 out of the $250 kickback payment that Former Employee A received from Maxima. Associate B provided Former Employee A with an additional batch of five Medicare beneficiary numbers that Former Employee A presented to Maxima; however, someone from Maxima told Former Employee A that the numbers were not good so Maxima did not pay Former Employee A any money for those Medicare numbers.

53. Former Employee A recalled one of the patients that Former Employee A was paid a referral fee for by Maxima was for Medicare beneficiary I.A. Former Employee A also arranged with Maxima to have a doctor's visit done at I.A.'s house. Former Employee A was assigned to I.A. as a Certified Nursing Assistant, but never rendered any medical services to I.A.; Former Employee A just performed light housekeeping. I.A. was referred for home health services by Physician B. Maxima billed at least five episodes of home health for I.A. from 8/7/13 through at least 6/2/14, and was paid approximately $12,574.29 for those episodes.

54. The following billing was submitted by Maxima to Medicare for services Maxima claimed to have provided to I.A. after Former Employee A referred the patient for home health services to Maxima:

Episode Dates	Diagnosis	Referring Physician
08/07/13 – 10/05/13	DM II Neuro Uncntrld - 24941	Physician B
10/06/13 – 12/04/13	Arthropathy NEC-Mult - 71689	Physician B
12/05/13 – 02/02/14	Hypertension NOS – 4019	Physician B
02/03/14 – 04/03/14	DM II Neuro Uncntrld	Physician B
04/04/14 – 06/02/14	Dec DM Renal Uncontrld – 24941	Physician B

55. Associate B first met Givens around 2004, when Associate B was acting as a recruiter for home health agencies in the New Orleans area. Associate B was introduced to Givens through a mutual friend. Associate B was interested in getting referral fees for patients from Givens's company, House Call 2000. Associate B told Givens that Associate B could provide House Call 2000 patient referrals for $500 per referral. Associate B then faxed over to House Call 2000 the names of 12 Medicare beneficiaries; however, Associate B did not initially receive any payments for the referrals. Associate B later met with Givens at a dinner meeting, and arranged for Givens to pay $3,000 total, which was withdrawn from an ATM machine near the restaurant, in three separate transactions.

56. Associate B lost touch with Maxima after Hurricane Katrina, with the next contact being with Employee B in 2012, when Employee B offered Associate B a

position as a recruiter, which would pay $500 per patient referral; however, Associate B remained in the recruiting job at Memorial that was paying $600 per patient referral.

57. In 2014, Associate B discovered that Maxima was desperate for patients, so Associate B approached Employee A about referring patients from Memorial, whose owner had been indicted, to another company in order to get referral fees. Employee A stated that Givens and Maxima could not pay $500, but could pay $250 per referral. Associate B then passed the names of 20 Medicare beneficiaries to Employee A, who forwarded the names to Givens, who then paid Employee A for these referrals. Employee A then met with Associate B, and paid Associate B $2,000 in cash on the first occasion, $500 on a second occasion, and $2,500 on a third occasion.

58. A Confidential Human Source (CHS-2) informed law enforcement that Givens attempted to purchase his/her business's medical license and patient files. His/her business was shut down due to a health care fraud investigation. CHS-2 told investigators that Givens had a history of closing a troubled Medicare provider number and purchasing a new one in order to avoid the company from being audited.

59. CHS-2 was first contacted by Employee B. CHS-2 told Employee B he/she was only interested in doing business with Maxima's owner Givens. Givens later called CHS-2 and expressed her interested in purchasing CHS-2's company's patient files. Givens told CHS-2 she wanted to maintain a census of 100 patients and with the purchase of CHS-2's patient files she would be able to do that.

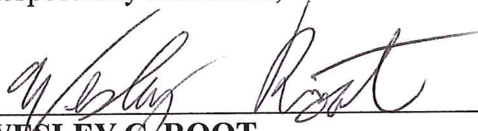
60. CHS-2 informed investigators that Givens employed doctors to verify and prescribe home health services for Maxima's patients. Additionally, CHS-2 told investigators that Givens paid nurses and CNAs to transfer patients from other home health agencies to her companies, House Call and Maxima.

G. CONCLUSION

61. Based upon the information contained in this affidavit, there is probable cause to believe that Givens, through Maxima, and unnamed co-conspirators, engaged in a scheme to submit fraudulent billings to Medicare for home health services that were either not provided or for which there was a lack of medical necessity, with the only purpose for the billings being to fraudulently obtain reimbursement from Medicare. Additionally there is probable cause to believe Givens, via Maxima and other companies in her control, willfully solicited and paid remuneration including cash in exchange for Medicare patient referrals.

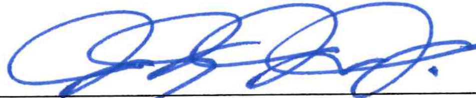
WHEREFORE, Affiant respectfully submits that probable cause exists, as alleged above, that Louella Givens engaged in violations of federal law, namely Title 18, United States Code, Section 1349, conspiracy to commit healthcare fraud, United States Title 18, United States Code, Section 1347 (health care fraud), and Title 42, United States Code, Section 1320a – 7b (the anti-kickback statute).

Respectfully submitted,



WESLEY C. ROOT
Special Agent
U.S. Department of Health and Human Services
Office of the Inspector General

Sworn to and subscribed before me this 16th day of June, 2015.



HONORABLE JOSEPH C. WILKINSON, JR.
UNITED STATES MAGISTRATE JUDGE