

JUN 10 2015

David J. Bradley, Clerk of Court

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

Sealed
Public and unofficial staff access
to this instrument are
prohibited by court order.

UNITED STATES OF AMERICA,

v.

NIRMAL MAZUMDAR,

Defendant.

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Criminal No.

UNDER SEAL

15CR317

INDICTMENT

The Grand Jury charges:

General Allegations

At all times material to this Indictment, unless otherwise specified:

1. The Medicare Program ("Medicare") was a federal healthcare program providing benefits to individuals who were over the age of 65 or disabled. Medicare was administered by the United States Department of Health and Human Services, through its agency, the Centers for Medicare and Medicaid Services ("CMS"). Individuals receiving 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. "Part A" of the Medicare program covered certain eligible home healthcare costs for medical services provided by a home healthcare agency ("HHA") to beneficiaries requiring home health services because of an illness or disability causing them to be homebound. Payments for home healthcare services were typically made directly to a HHA based on claims submitted to the Medicare program for qualifying services that had been provided to eligible beneficiaries, rather than to the beneficiaries.

4. Physicians, clinics, and other healthcare providers, including HHAs that provided services to Medicare beneficiaries, were able to apply for and obtain a Medicare “provider number.” A healthcare provider that was issued a Medicare provider number was able to file claims with Medicare to obtain reimbursement for services provided to beneficiaries. A Medicare claim was required to set forth, among other things, the beneficiary’s name and Medicare identification number, the services that were performed for the beneficiary, the date the services were provided, the cost of the services, and the name and identification number of the physician or other healthcare provider that ordered the services.

5. The Medicare program paid for home health services only if the patient qualified for home healthcare benefits. A patient qualified for home healthcare benefits only if:

- a. the patient was confined to the home, also referred to as homebound;
- b. the patient was under the care of a physician who specifically determined there was a need for home healthcare and established the Plan of Care (or “POC”); and
- c. the determining physician signed a certification statement specifying that:
 - i. the beneficiary needed intermittent skilled nursing services, physical therapy, or speech therapy;
 - ii. the beneficiary was confined to the home;
 - iii. a POC for furnishing services was established and periodically reviewed; and
 - iv. the services were furnished while the beneficiary was under the care of the physician who established the POC.

6. Medicare regulations required HHAs providing services to Medicare patients to maintain complete and accurate 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 by the HHA.

7. These medical records were required to be sufficient to permit Medicare, through its contractors, to review the appropriateness of Medicare payments made to the HHA.

8. Fiango Home Healthcare Inc. ("Fiango") was a Texas corporation doing business at 10101 Fondren Road, Houston, Texas. Fiango submitted claims to Medicare for home health services.

9. Defendant **NIRMAL MAZUMDAR**, a resident of Harris County, Texas, signed authorizations for Fiango certifying that Medicare beneficiaries qualified for home health services.

10. Co-Conspirator #1 ("CC-1") was an owner, Chief Executive Officer, and director of Fiango.

11. Co-Conspirator #2 ("CC-2") was an owner, director of nursing, and officer of Fiango. CC-2 was a registered nurse.

COUNT 1
Conspiracy to Commit Healthcare Fraud
(Violation of 18 U.S.C. § 1349)

12. Paragraphs 1 through 11 are re-alleged and incorporated by reference as if fully set forth herein.

13. From in or around February 2006 through in or around May 2015, the exact dates being unknown to the Grand Jury, in the Houston Division of the Southern District of Texas, and elsewhere, defendant

NIRMAL MAZUMDAR

did knowingly and willfully combine, conspire, confederate and agree with CC-1, CC-2, and others known and unknown to the grand jury, to violate Title 18, United States Code, Section 1347, that is,

to execute a scheme and artifice to defraud a healthcare benefit program affecting commerce, as defined in Title 18, United States Code, Section 24(b), that is, Medicare, 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 healthcare benefit program, in connection with the delivery of and payment for healthcare benefits, items and services.

Purpose of The Conspiracy

14. It was a purpose of the conspiracy for defendant **NIRMAL MAZUMDAR**, CC-1, CC-2, and others known and unknown to the grand jury to unlawfully enrich themselves by (a) submitting false and fraudulent claims to Medicare, (b) concealing the submission of false and fraudulent claims to Medicare and the receipt and transfer of proceeds from the fraud, and (c) diverting proceeds of the fraud for the personal use and benefit of defendant and his co-conspirators.

Manner and Means of The Conspiracy

The manner and means by which defendant **NIRMAL MAZUMDAR** and his co-conspirators sought to accomplish the object and purpose of the conspiracy included, among other things, the following:

15. CC-1 and CC-2 maintained a Medicare provider number, which they used to submit claims to Medicare for home health services that were not medically necessary or not provided.

16. CC-1 and CC-2 paid kickbacks to defendant **NIRMAL MAZUMDAR** in exchange for him authorizing medically unnecessary home health services for Medicare beneficiaries for whom CC-1 and CC-2 submitted claims to Medicare.

17. Defendant **NIRMAL MAZUMDAR** signed medical records falsely representing that Medicare beneficiaries were under his care and qualified for home health services, when they actually were not under his care and did not qualify for home health services under Medicare.

18. Fiango billed Medicare for home health services that were not provided to those beneficiaries and were not medically necessary for those beneficiaries.

19. From in or about February 2006 to in or about February 2015, CC-1 and CC-2 submitted and caused to be submitted approximately \$10 million in claims to Medicare for home health services purportedly provided by Fiango. Medicare paid approximately \$13 million on those claims.

20. After Medicare deposited payments into Fiango's bank accounts, CC-1 and CC-2 transferred proceeds of the fraud to defendant **NIRMAL MAZUMDAR**, themselves, and their co-conspirators.

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

COUNT 2
Healthcare Fraud
(Violation of 18 U.S.C. §§ 1347 and 2)

21. Paragraphs 1 through 11 and 15 through 20 are re-alleged and incorporated by reference as if fully set forth herein.

22. On or about the date specified below, in the Houston Division of the Southern District of Texas, and elsewhere, defendant

NIRMAL MAZUMDAR

aided and abetted by, and aiding and abetting, others known and unknown to the Grand Jury, in connection with the delivery of and payment for healthcare benefits, items, and services, did knowingly and willfully execute and attempt to execute, a scheme and artifice to defraud a healthcare benefit program affecting commerce, as defined in Title 18, United States Code, Section 24(b), that is, Medicare, 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

Medicare, as set forth below: Medicare paid Fiango approximately \$3,687.86 for home health services purportedly provided to Medicare beneficiary S.C. from on or about February 14, 2013 to on or about April 14, 2013.

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

COUNTS 3
False Statements Relating to Healthcare Matters
(Violation of 18 U.S.C. §§ 1035 and 2)

23. Paragraphs 1 through 11 and 15 through 20 are re-alleged and incorporated by reference as if fully set forth herein.

24. On or about the dates set forth below, in Harris County, in the Southern District of Texas, and elsewhere, defendant

NIRMAL MAZUMDAR

aided and abetted by, and aiding and abetting, others, did knowingly and willfully make materially false, fictitious, and fraudulent statements and representations, and make and use materially false writings and documents, as set forth below, knowing the same to contain materially false, fictitious, and fraudulent statements and entries, in connection with the delivery of and payment for healthcare benefits, items, and services, and in a matter involving a healthcare benefit program, specifically Medicare:

Count	Medicare Beneficiary	Approximate Start of Care Date	Description	Approximate Medicare Payment
3	S.C.	February 14, 2013	Home Health Certification and Plan of Care	\$3,687.86

All in violation of Title 18, United States Code, Sections 1035 and 2.

COUNT 4
Conspiracy to Pay and Receive Healthcare Kickbacks
(Violation of 18 U.S.C. § 371)

25. Paragraphs 1 through 11 and 15 through 20 of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

26. From in or around February 2006 through in or around May 2015, the exact dates being unknown to the Grand Jury, in the Houston Division of the Southern District of Texas, and elsewhere, defendant

NIRMAL MAZUMDAR

did knowingly and willfully combine, conspire, confederate and agree with CC-1 and others known and unknown to the grand jury, to commit certain offenses against the United States, that is,

a. to violate Title 42, United States Code, Section 1320a-7b(b)(1), by knowingly and willfully soliciting and receiving remuneration, specifically, kickbacks and bribes, directly and indirectly, overtly and covertly, in return for referring individuals for the furnishing and arranging for the furnishing of any item and service for which payment may be made in whole or in part by Medicare; and for the purchasing, leasing, ordering, and arranging for, and recommending the purchasing, leasing, and ordering of any good, item, and service for which payment may be made in whole and in part by a Federal health care program, that is, Medicare; and

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

indirectly, overtly and covertly, in return for referring individuals for the furnishing and arranging for the furnishing of any item and service for which payment may be made in whole or in part by Medicare or Medicaid; and for the purchasing, leasing, ordering, and arranging for and recommending the purchasing, leasing, and ordering of any good, item, and service for which payment may be made in whole and in part by a Federal health care program, that is, Medicare.

Purpose of The Conspiracy

27. It was a purpose of the conspiracy for defendant **NIRMAL MAZUMDAR**, CC-1, and their co-conspirators to unlawfully enrich themselves by paying and receiving kickbacks and bribes in exchange for the referral of Medicare beneficiaries for whom Fiango submitted claims to Medicare.

Manner and Means of The Conspiracy

The manner and means by which defendant **NIRMAL MAZUMDAR**, CC-1, and their co-conspirators sought to accomplish the object and purpose of the conspiracy included, among other things, the following:

28. Paragraphs 15 through 20 of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

Overt Acts

29. In furtherance of the conspiracy, and to accomplish its object and purpose, the conspirators committed and caused to be committed, in the Houston Division of the Southern District of Texas, the following overt acts:

a. On or about September 18, 2013, CC-1 paid defendant **NIRMAL MAZUMDAR** approximately \$3,750 for signing documents authorizing Medicare beneficiaries to receive home health services from Fiango.

b. On or about September 27, 2013, CC-1 paid defendant **NIRMAL MAZUMDAR** approximately \$1,500 for signing documents authorizing Medicare beneficiaries to receive home health services from Fiango.

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

COUNT 5

**Payment and Receipt of Healthcare Kickbacks
(Violation of 42 U.S.C. § 1320a-7b(b)(1) and (b)(2), 18 U.S.C. § 2)**

30. Paragraphs 1 through 11 and 15 through 20 of this Indictment are re-alleged and incorporated by reference as if fully set forth herein.

31. On or about the date enumerated below, in Harris County, in the Southern District of Texas, and elsewhere, defendant **NIRMAL MAZUMDAR** as set forth below, aided and abetted by, and aiding and abetting, others known and unknown to the Grand Jury, did knowingly and willfully offer, pay, solicit, and receive remuneration, specifically, kickbacks and bribes, directly and indirectly, overtly and covertly, in return for referring individuals for the furnishing and arranging for the furnishing of any item and service for which payment may be made in whole or in part by Medicare; and for the purchasing, leasing, ordering, and arranging for and recommending the purchasing, leasing, and ordering of any good, item, and service for which payment may be made in whole or in part by a Federal health care program, that is, Medicare as set forth below: on or about September 18, 2013, CC-1 paid defendant **NIRMAL MAZUMDAR** approximately \$3,750 for signing documents authorizing Medicare beneficiaries to receive home health services from Fiango.

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

CRIMINAL FORFEITURE
(18 U.S.C. § 982(a)(7))

32. Pursuant to Title 18, United States Code, Section 982(a)(7), the United States of America gives notice to defendant **NIRMAL MAZUMDAR** that upon conviction of any Counts in this Indictment, all property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of such offenses, is subject to forfeiture.

33. Defendant **NIRMAL MAZUMDAR** is notified that upon conviction, a money judgment may be imposed equal to the total value of the property subject to forfeiture.

34. Defendant **NIRMAL MAZUMDAR** is notified that if any of the forfeitable property, or any portion thereof, as a result of any act or omission of defendant or his co-conspirators:

- 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 which cannot be divided without difficulty;

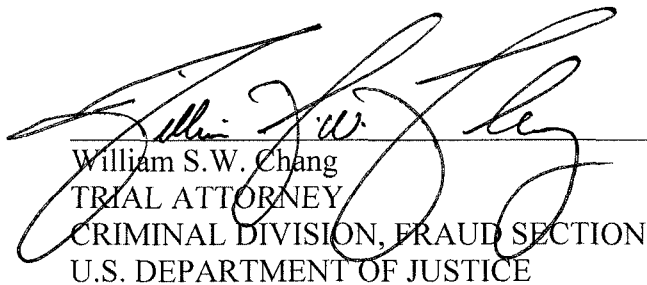
it is the intent of the United States to seek forfeiture of any other property of defendants up to the total value of the property subject to forfeiture, pursuant to Title 21, United States Code, Section 853(p), incorporated by reference in Title 18, United States Code, Section 982(b)(1).

A TRUE BILL

Original Signature on File

FORFEITURE

KENNETH MAGIDSON
UNITED STATES ATTORNEY



William S.W. Chang
TRIAL ATTORNEY
CRIMINAL DIVISION, FRAUD SECTION
U.S. DEPARTMENT OF JUSTICE