UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA

CASE NO. 8:15 CR 178 T 36TGW

v.

AMAURY PEREZ and
PILAR GARCIA LORENZO

18 U.S.C. § 1349
18 U.S.C. § 1956(h)
18 U.S.C. § 1957
18 U.S.C. § 982 (forfeiture)

INDICTMENT

The Grand Jury charges that:

GENERAL ALLEGATIONS

At all times material to this Indictment:

A. The Medicare Program

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

4. Physicians, clinics and other health care providers, including HHAs, that provided services to Medicare beneficiaries were able to apply for and obtain a "provider number." A health care provider that received 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 information number, the services that were performed for the beneficiary, the date that the services were provided, the cost of the services, and the name and identification number of the physician or other health care provider who ordered the services.

5. CMS did not directly pay Medicare Part A claims submitted by Medicare-certified HHAs. CMS contracted with different companies to administer the Medicare Part A program throughout different parts of the United States. In the State of Florida, CMS contracted with Palmetto Government Benefits Administrators ("Palmetto") to administer Part A HHA claims. As administrator,

Palmetto was to receive, adjudicate and pay claims submitted by HHA providers under the Part A program for home health claims.

B. Medicare Part A Coverage and Regulations

1. Reimbursements

6. The Medicare Part A program reimbursed 100% of the allowable charges for participating HHAs providing home health care services only if the patient qualified for home health benefits. A patient qualified for home health 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 health care and established the Plan of Care ("POC"); and

c. the determining physician signed a certification statement specifying that the beneficiary needed intermittent skilled nursing services, physical therapy, or speech therapy and that the beneficiary was confined to the home; that a POC for furnishing services was established and periodically reviewed; and that the services were furnished while the beneficiary was under the care of the physician who established the POC.

7. HHAs were reimbursed under the Home Health Prospective Payment System ("PPS"). Under PPS, Medicare paid Medicare-certified HHAs a predetermined base payment for each 60 days that care was needed. This 60-day period was called an "episode of care." The base payment was adjusted based on the health condition and care needs of the beneficiary. This adjustment was done through the Outcome and Assessment Information Set ("OASIS"), which was a patient assessment tool for measuring and detailing the patient's condition. If a beneficiary was still eligible for care after the end of the first episode of care, a second episode could commence. There were no limits to the number of episodes of home health benefits a beneficiary could receive as long as the beneficiary continued to qualify for home health benefits.

8. In order to be reimbursed, the HHA would submit a Request for Anticipated Payment ("RAP") and subsequently receive a portion of its payment in advance of services being rendered. At the end of a 60-day episode, when the final claim was submitted, the remaining portion of the payment would be made. As explained in more detail below, "Outlier Payments" were additional PPS payments based on visits in excess of the norm. Palmetto paid Outlier Payments to HHA providers under PPS where the providers' RAP submissions established that the cost of care exceeded the established Health Insurance Prospective Payment System ("HIPPS") code threshold dollar amount.

2. Record Keeping Requirements

9. Medicare Part A 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 reimbursement were submitted by the HHAs. These medical records were required to be sufficient to permit Medicare, through Palmetto and other contractors, to review the appropriateness of Medicare payments made to the HHA under the Part A program.

10. Among the written records required to document the appropriateness of home health care claims submitted under Part A of Medicare was a POC that included 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 the physician's signature. Also required was a signed certification statement by an attending physician certifying that the patient was confined to his or her home and was in need of the planned home health services, and an OASIS.

11. Medicare Part A regulations required provider HHAs to maintain medical records of every visit made by a nurse, therapist, and home health aide to a beneficiary. The record of a nurse's visit was 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 were required to document the hands-on personal care provided to the beneficiary as the services were deemed necessary to maintain the beneficiary's health or to facilitate treatment of the beneficiary's primary illness or injury. These written medical records were generally created and maintained in the form of "clinical notes" and "home health aide notes/observations."

3. Special Outlier Provision

12. Medicare regulations allowed certified home health agencies to subcontract home health care services to nursing companies, registries, or groups (nursing groups), which would, in turn, bill the certified home health agency. That certified home health agency would then bill Medicare for all services provided to the patient by the subcontractor. The HHA's professional supervision over arranged-for services required the same quality controls and supervision of its own employees.

13. For insulin-dependent diabetic beneficiaries, Medicare paid for insulin injections by an HHA when a beneficiary was determined to be unable to inject his or her own insulin and the beneficiary had no available care-giver able and willing to inject the beneficiary. Additionally, for beneficiaries for whom occupational or physical therapy was medically necessary, Medicare paid for such therapy provided by an HHA. The basic requirements *that a ph*ysician

certify that a beneficiary is confined to the home or homebound and in need of home health services, as certified by a physician, was a continuing requirement for Medicare to pay for such home health benefits.

14. While payment for each episode of care was adjusted to reflect the beneficiary's health condition and needs, Medicare regulations contained an "outlier" provision to ensure appropriate payment for those beneficiaries who had the most extensive care needs, which may result in an Outlier Payment to the HHA. These Outlier Payments were additions or adjustments to the payment amount based on an increased type or amount of medically necessary care. Adjusting payments through Outlier Payments to reflect the HHA's cost in caring for each beneficiary, including the sickest beneficiaries, ensured that all beneficiaries had access to home health services for which they were eligible.

C. Defendants and Entities

15. Gold Care Home Health Services, Inc. ("Gold Care") was a Florida corporation incorporated on or about January 6, 2011, that had a purported principal place of business at 1502 West Busch Boulevard, Suite E, Tampa, Hillsborough County, Florida. Gold Care was an HHA that purported to provide home health care services to eligible Medicare beneficiaries. Effective on or about March 7, 2012, Gold Care became authorized to use Medicare provider number xxxx58 to submit claims to Medicare for HHA-related benefits and services.

16. Defendant PILAR GARCIA LORENZO established Gold Care and was its President, Administrator, Registered Agent, owner, and authorized official through on or about July 1, 2014, when she became Gold Care's Vice President and joint owner with Defendant AMAURY PEREZ.

17. PILAR GARCIA LORENZO established and maintained signature authority on a bank account for Gold Care with JPMorgan Chase Bank, account number ending 9083.

18. On or about July 1, 2014, AMAURY PEREZ became Gold Care's President, Director, Secretary, Registered Agent, and authorized official and joint owner with PILAR GARCIA LORENZO.

19. PILAR GARCIA LORENZO was a resident of Hillsborough County, Florida.

20. AMAURY PEREZ was a resident of Lee County, Florida.

21. Minimalist Solutions, Inc. was a Florida corporation incorporated on or about January 7, 2008. Minimalist Solutions' original name was "Financial & Money Management Services Corp." On or about September 1, 2008, the name was changed to Minimalist Solutions. Minimalist Solutions had a purported principal place of business at 2360 West 68th Street, Suite 126, Hialeah, Miami-Dade County, Florida. Minimalist Solutions maintained a bank account with Peoples Credit Union, account number ending 8078.

22. Doger Group, Inc. was a Florida corporation incorporated on or about October 2, 2012. Doger Group had a purported principal place of business

at 1544 West 49th Street, Hialeah, Miami-Dade County, Florida. Doger Group maintained a bank account with Peoples Credit Union, account number ending 7315.

23. Don Koky Enterprises Corp. was a Florida corporation incorporated on or about February 27, 2002. Don Koky Enterprises had a purported principal place of business at 1840 West 49th Street, Suite 708, Hialeah, Miami-Dade County, Florida. Don Koky Enterprises maintained a bank account with Peoples Credit Union, account number ending 7883.

24. MA Perez Service LLC was a Florida limited liability company established on or about October 5, 2012. AMAURY PEREZ was its sole managing member and registered agent. MA Perez Service had a purported principal place of business at 2003 SW 12th Terrace, Cape Coral, Lee County, Florida.

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

1. Paragraphs 1 through 24 of the General Allegations section of this Indictment are realleged and incorporated by reference as though fully set forth herein.

2. Beginning in or around July 2014 and continuing through in or around October 2014, in the Middle District of Florida, and elsewhere, the defendants,

AMAURY PEREZ and

PILAR GARCIA LORENZO,

in connection with the delivery of and payment for health care benefits, items, and services, did knowingly and willfully combine, conspire, confederate and agree with each other and with others, known and unknown to the Grand Jury, to commit certain offenses against the United States, that is:

a. To knowingly and willfully execute a scheme and artifice to defraud a health care 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 health care benefit program, in connection with the delivery and payment for health care benefits, items and services, in violation Title 18, United States Code, Section 1347; and

b. To knowingly and with the intent to defraud devise and intend to devise a scheme and artifice to defraud, and for obtaining 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, writing, signs, signals, pictures and sounds for the purpose of executing such scheme and artifice, in violation of Title 18, United States Code, Section 1343.

Purpose of the Conspiracy

3. It was a purpose and object of the conspiracy for the Defendants and their co-conspirators to unlawfully enrich themselves by, among other things: (a) causing the submission of false and fraudulent claims to Medicare; (b) concealing the submission of false and fraudulent claims to Medicare and the receipt and transfer of the proceeds from the fraud; and (c) diverting proceeds of the fraud for the personal use and benefit of the Defendants and their co-conspirators.

Manner and Means of the Conspiracy

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

4. AMAURY PEREZ, PILAR GARCIA LORENZO, and their co-conspirators would establish and control Gold Care, which purported to provide home health services;

5. AMAURY PEREZ, PILAR GARCIA LORENZO, and their co-conspirators would submit and cause the submission of Medicare Enrollment Applications, Electronic Funds Transfer Agreements, and other documents and

forms to Medicare identifying themselves as owners, officers, managers, and/or administrators of Gold Care for purposes of participating in Medicare;

6. AMAURY PEREZ, PILAR GARCIA LORENZO, and their co-conspirators would submit and cause the submission of false and fraudulent Medicare reimbursement claims on behalf of Gold Care for services not rendered, not medically necessary, and not legitimately prescribed by a physician, including through the use of wire communications in interstate commerce, and would receive payment for such claims;

7. AMAURY PEREZ, PILAR GARCIA LORENZO, and their co-conspirators would misappropriate and unlawfully use unique identifying information of physicians and Medicare beneficiaries in the submission of false and fraudulent Medicare reimbursement claims;

8. AMAURY PEREZ, PILAR GARCIA LORENZO, and their co-conspirators would establish and control a bank account for Gold Care into which Medicare would deposit reimbursements of approximately $2,449,378 based on false and fraudulent claims, which reimbursements would then be transferred and disbursed; and

9. AMAURY PEREZ, PILAR GARCIA LORENZO, and their co-conspirators would perform acts and make statements to hide and conceal, and cause to be hidden and concealed, the purposes of, and the acts done in furtherance of, said conspiracy.

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

COUNT TWO
(Conspiracy To Commit Money Laundering)
(18 U.S.C. § 1956(h))

1. Paragraphs 1 through 24 of the General Allegations section of this Indictment are realleged and incorporated by reference as though fully set forth herein.

2. Beginning in or around July 2014 and continuing through in or around October 2014, in the Middle District of Florida, and elsewhere, the defendants,

AMAURY PEREZ and
PILAR GARCIA LORENZO,

did willfully, that is, with the intent to further the objects of the conspiracy, and knowingly combine, conspire, and agree with each other and with other persons, known and unknown to the Grand Jury, to commit offenses against the United States, that is,

a. to knowingly conduct a financial transaction affecting interstate and foreign commerce, which financial transaction involved the proceeds of specified unlawful activity, knowing that the property involved in the financial transaction represented the proceeds of some form of unlawful activity, and knowing that the transaction was designed in whole and in part to conceal and disguise the nature, the location, the source, the ownership, and the control of the proceeds of

specified unlawful activity, in violation of Title 18, United States Code, Section 1956(a)(1)(B)(i); and

b. to knowingly engage in a monetary transaction by, through, and to a financial institution, affecting interstate and foreign commerce, in criminally derived property of a value greater than $10,000, such property having been derived from specified unlawful activity, in violation of Title 18, United States Code, Section 1957.

It is further alleged that the specified unlawful activity is conspiracy to commit health care fraud and wire fraud in violation of Title 18, United States Code, Section 1349, and health care fraud, in violation of Title 18, United States Code, Section 1347.

Manner and Means

3. AMAURY PEREZ, PILAR GARCIA LORENZO, and their co-conspirators would obtain and maintain control of Gold Care and cause the submission to Medicare of false and fraudulent claims for reimbursement for health care benefits, items, and services that were not provided, were not medically necessary, and were not legitimately prescribed by a physician.

4. AMAURY PEREZ, PILAR GARCIA LORENZO, and their co-conspirators would establish and maintain control of a bank account for Gold Care into which Medicare would deposit reimbursements based on false and

fraudulent claims, which reimbursements would then be transferred and disbursed to themselves and their co-conspirators.

5. AMAURY PEREZ and his co-conspirators would cause the transfer of checks from Gold Care to the bank accounts of shell companies, including Minimalist Solutions, Doger Group, and Don Koky Enterprises, in order to conceal the fraud and the fraud proceeds.

All in violation of Title 18, United States Code, Section 1956(h).

COUNTS THREE AND FOUR
Money Laundering
(18 U.S.C. § 1957)

1. Paragraphs 1 through 24 of the General Allegations section of this Indictment are realleged and incorporated by reference as though fully set forth herein.

2. On or about the dates set forth below in each count, in the Middle District of Florida, and elsewhere, the defendants,

AMAURY PEREZ and
PILAR GARCIA LORENZO,

did knowingly engage and attempt to engage in monetary transactions affecting interstate commerce, by, through, and to a financial institution, in criminally derived property of a value greater than $10,000, and such property having been derived from specified unlawful activity:

Count	Defendant	On or About Date	Monetary Transaction
3	PILAR GARCIA LORENZO	Aug. 5, 2014	The deposit of $38,000 via cashier's check payable to "Pilar Garcia Lorenzo" from Gold Care's JPMorgan Chase Bank account ending 9083, into GARCIA's JPMorgan Chase Bank account ending 1752.
4	AMAURY PEREZ	Sep. 2, 2014	The withdrawal of $50,000.00 via check number 1369 payable to "Amaury Perez" from Gold Care's JPMorgan Chase Bank account ending 9083.

It is further alleged that the specified unlawful activity is conspiracy to commit health care fraud and wire fraud, in violation of Title 18, United States Code, Section 1349, and health care fraud, in violation of Title 18, United States Code, Section 1347.

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

FORFEITURE

1. All of the allegations contained above are hereby realleged and incorporated by reference for the purpose of alleging forfeitures pursuant to Title 18, United States Code, Section 982.

2. Upon conviction of a violation of Title 18, United States Code, Section 1349, as alleged in Count One of this Indictment, the defendants shall forfeit to the United States of America, pursuant to Title 18, United States Code, Section 982(a)(7), any property, real or personal, that constitutes or is derived,

directly or indirectly, from gross proceeds traceable to the commission of the offense.

3. Upon conviction of a violation of Title 18, United States Code, Section 1956 or 1957, the defendants shall forfeit to the United States of America, pursuant to Title 18, United States Code, Section 982(a)(1), any property, real or personal, involved in such offense and any property traceable to such property.

4. The property to be forfeited includes, but is not limited to, the following:

a. A forfeiture money judgment of at least $2,449,378.

b. The contents of JPMorgan Chase Bank account number ending 9083 held in the name of Gold Care.

c. The contents of JPMorgan Chase Bank account number ending 9136 held in the name of AMAURY PEREZ.

d. The contents of JPMorgan Chase Bank account number ending 1752 held in the name of PILAR GARCIA LORENZO.

5. If any of the property described above, 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 which cannot be divided without difficulty,

the United States of America shall be entitled to forfeiture of substitute property under the provisions of Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b)(1).

A TRUE BILL,

_____
FOREPERSON

A. LEE BENTLEY, III
United States Attorney

By: _____
CHRISTOPHER J. HUNTER
Senior Trial Attorney
Criminal Division, Fraud Section
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By: _____
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