

**SEALED**

CLERK US DISTRICT COURT  
NORTHERN DIST. OF TX  
FILED

**ORIGINAL**

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

2015 JUN -3 PM 12: 32

UNITED STATES OF AMERICA

DEPUTY CLERK \_\_\_\_\_ *o*

v.

No. **3-15 CR0240-B**

MARIAMMA VIJU (01)

(To be Filed Under Seal)

INDICTMENT

The Grand Jury charges:

At all times material to this indictment:

General Allegations

The Medicare Program Generally

1. The Medicare Program (Medicare) was a federal health care program providing benefits to persons who were over the age of 65 or disabled. Individuals receiving benefits through Medicare were referred to as Medicare "beneficiaries."

2. Medicare was a "health care benefit program" as defined by 18 U.S.C. § 24(b), that affected commerce, and as that term is used in 18 U.S.C. § 1347.

Medicare Coverage of Home Health Care Services

3. Medicare paid for certain home health care services, which were medically necessary and covered by the Medicare program.

4. According to 42 CFR § 409.42, for home health care services to be covered and therefore compensable by Medicare, all of the following requirements had to be met:

- (a) The beneficiary must have been confined to the home or an institution that is not a hospital or nursing facility (i.e., homebound);

- (b) The beneficiary must have been under the care of a physician who establishes the plan of care;
- (c) The beneficiary must have been in need of skilled services, such as intermittent skilled nursing services, physical therapy, speech-language pathology services, or continuing occupational therapy services;
- (d) The beneficiary must have been under a plan of care that meets the requirements specified in 42 CFR § 409.43; and
- (e) The home health care services must have been provided by, or under arrangements made by, a participating home health care agency.

5. In order for a patient to be eligible to receive home health care services covered by Medicare, the law required that a physician certify in all cases that the patient was confined to their home. The condition of the patient should have been such that there existed a normal inability to leave home and, consequently, leaving home would have required a considerable and taxing effort. If a patient did in fact leave the home, the patient may nevertheless have been considered homebound if the absences from the home were infrequent or for periods of relatively short duration, or were attributable to the need to receive health care treatment.

6. Medicare compensation to home health care agencies was based on the Prospective Payment System (PPS). Under this system, Medicare paid a home health care agency a base payment, which was adjusted based on the severity of the beneficiary's health condition and care needs. The PPS payment provided home health care agencies with payments for each 60-day episode of care for each beneficiary. If the beneficiary was still eligible for home health care after a home health episode, they may

have been recertified for another 60-day home health episode. There was no limit to the number of home health episodes that a beneficiary could receive.

7. To obtain reimbursement from Medicare for home health care services provided to beneficiaries, home health care agencies were required to submit claims either electronically or on a standardized form. Whether an agency submitted claims electronically or on paper, the agency agreed and was required to submit claims that were accurate, complete, and truthful.

#### The Medicaid Program Generally

8. The Texas Medicaid Program (Medicaid) was a state program jointly funded by the State of Texas and the federal government that provided medical and related services to families with dependent children, and aged, blind, or disabled individuals whose income and other financial and economic resources were insufficient for them to meet the cost of necessary medical services. Individuals receiving benefits through Medicaid were referred to as Medicaid “clients.”

9. Medicaid was a “health care benefit program” as defined by 18 U.S.C. § 24(b), that affected commerce, and as that term is used in 18 U.S.C. § 1347.

10. To obtain reimbursement from Medicaid for medical services provided to clients, providers were required to submit claims either electronically or on a standardized form. Whether a provider submitted claims electronically or on paper, the provider agreed and was required to submit claims that were accurate, complete, and truthful.

11. The Medicaid program could pay a portion of a claim originally submitted to Medicare in the event that the beneficiary/client had both Medicare and Medicaid coverage. This portion was generally twenty percent of the Medicare allowance for the billed charge. For these individuals, providers submitted their claims to Medicare, which paid a percentage (usually 80%) of the allowable claim. The claim was then forwarded by Medicare to Medicaid, which paid the coinsurance or deductible without further review of the claim.

Dallas Home Health Care, Inc.

12. Dallas Home Health Care, Inc. (Dallas Home Health) was an approved home health agency in the Medicare system.

13. Dallas Home Health submitted false and fraudulent claims to Medicare and Medicaid for home health care services on behalf of Medicare beneficiaries and Medicaid clients who were not homebound or otherwise eligible for home health care service.

14. Dallas Home Health also submitted false and fraudulent claims on behalf of homebound Medicare beneficiaries and Medicaid clients that exaggerated the patients' health conditions and that falsely represented the services that were actually provided to them.

The Defendant

15. **Mariamamma Viju (Viju)**, a resident of Garland, Texas, co-owned Dallas Home Health. **Viju**, a registered nurse licensed by the State of Texas, served as the Director of Nursing for Dallas Home Health. In addition to her role at Dallas Home

Health, **Viju** worked as a nurse at Baylor University Medical Center at Dallas (Baylor) until she was terminated on or about October 2012.

Coconspirator Not Named as a Defendant Herein

16. Person A co-owned Dallas Home Health. Person A also worked as a registration specialist at Parkland Health and Hospital System (Parkland) until he was terminated in October 2011.

Count One  
Conspiracy to Commit Health Care Fraud  
(Violation of 18 U.S.C. § 1349 (18 U.S.C. § 1347))

17. Paragraphs 1 through 16 of this indictment are realleged and incorporated by reference as though fully set forth herein.

18. From in or around January 2008, through in or around July 30, 2013, in the Dallas Division of the Northern District of Texas and elsewhere, **Viju**, together with her coconspirator, Person A, who is not named as a defendant in this indictment, did knowingly and willfully combine conspire, confederate, and agree with each other, and with others known and unknown to the Grand Jury, to violate 18 U.S.C. § 1347, that is, to execute a scheme and artifice to defraud health care benefit programs affecting commerce, as defined by 18 U.S.C. § 24(b), that is, Medicare and Medicaid, 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, those health care benefit programs, in connection with the delivery of, and payment for, health care benefits, items, and services.

Objects of the Conspiracy

19. It was an object of the conspiracy for **Viju** and her coconspirators to unlawfully enrich themselves through the submission of false and fraudulent Medicare and Medicaid claims by Dallas Home Health for home health care services that were medically unnecessary and for services that were not provided, and to conceal these facts from Medicare and Medicaid.

20. From January 1, 2008 to July 30, 2013, Dallas Home Health submitted claims to Medicare and Medicaid totaling \$2,731,144.44. Dallas Home Health was paid \$2,525,315.38 for these claims.

Manner and Means of the Conspiracy

21. The manner and means by which **Viju** and her coconspirators sought to accomplish the purpose of the conspiracy included, among other things:

22. It was part of the scheme to defraud for **Viju** and her coconspirators to knowingly submit, and cause to be submitted, to Medicare and Medicaid, claims for home health care services on behalf of Medicare beneficiaries and Medicaid clients who were not homebound, and for home health care services that were not provided as claimed on behalf of Medicare beneficiaries and Medicaid clients who were homebound.

23. It was part of the scheme to defraud for **Viju** and her coconspirators to exaggerate the nature of patients' health conditions in order to increase the amount billed to Medicare and Medicaid, and paid to Dallas Home Health.

24. It was part of the scheme to defraud to surreptitiously collect Medicare beneficiaries' and Medicaid clients' identifying information to recruit them as patients. **Viju** purposefully took patient information from her job at Baylor with the intent to give it to Person A to use in connection with Dallas Home Health's business. Person A used his position as a registration specialist at Parkland to obtain confidential patient information, including their Medicare and Medicaid numbers, with the intent to use that information to solicit patients for Dallas Home Health.

25. It was part of the scheme to defraud to give kickbacks to Medicare beneficiaries and Medicaid clients to retain them as patients of Dallas Home Health. For example, **Viju** and Person A gave one beneficiary, R.L., a \$25 Walmart gift card, transportation, and \$40 cash.

All in violation of 18 U.S.C. § 1349 (18 U.S.C. § 1347).



Counts Two through Six  
Health Care Fraud  
(Violations of 18 U.S.C. §§ 1347 and 2)

26. Paragraphs 1 through 16 and 19 through 25 of this indictment are realleged and incorporated by reference as though fully set forth herein.

27. On or about the dates specified below, in the Dallas Division of the Northern District of Texas, and elsewhere, **Viju**, in connection with the delivery and payment for health care benefits, items, and services, did knowingly and willfully execute, and attempt to execute, a scheme and artifice to defraud health care benefit programs as defined by 18 U.S.C. § 24(b), that is, Medicare and Medicaid, 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 and Medicaid, that is, **Viju** submitted, and aided and abetted in submitting, false and fraudulent claims to Medicare and Medicaid, seeking reimbursement for the cost of home health services on behalf of the following beneficiaries, who were not homebound:

Count	Beneficiary / Client	Approximate Date	Approximate Amount Submitted to Medicare	Approximate Amount Submitted to Medicaid
2	C.S.	08/12/2011 to 10/10/2011	\$2,534.39	\$0.00
3	P.H.	10/08/2012 to 12/06/2012	\$1,094.39	\$0.00
4	N.O.	03/04/2013 to 05/02/2013	\$4,974.39	\$2,160.00
5	R.S.	04/30/2013 to 06/28/2013	\$1,866.11	\$4,289.74
6	G.B.	05/06/2013 to 07/14/2013	\$1,659.50	\$0.00

All in violation of 18 U.S.C. §§ 1347 and 2.

Count Seven

Wrongful Disclosure of Individually Identifiable Health Information  
(Violation of 42 U.S.C. § 1320d-6(a), (b)(3))

28. Paragraphs 1 through 16 and 24 of this indictment are realleged and incorporated by reference as though fully set forth herein.

29. Baylor is a covered entity as defined by 45 CFR Part 160 and Subparts A and E of 45 CFR Part 164, the HIPAA privacy regulation described in 42 U.S.C. § 1320d-9(b)(3).

30. On or about a date between March 22, 2011 and September 23, 2011, **Viju** knowingly, and without authorization, obtained individually identifiable health information relating to individuals that was maintained by a covered entity, namely Baylor, with the intent to sell, transfer, and use that individually identifiable health information for commercial advantage and personal gain, that is, with the intent to give the information to Person A for his and her personal gain and for commercial use by Dallas Home Health

All in violation of 42 U.S.C. § 1320d-6(a) and (b)(3).

Forfeiture Notice  
(18 U.S.C. § 982(a)(7))

31. Upon conviction of any offense alleged in this indictment, and pursuant to 18 U.S.C. § 982(a)(7), **Viju** shall forfeit to the United States any property, real or personal, constituting or derived from, directly or indirectly, the gross proceeds traceable to the commission of the offense.

32. The above-referenced property subject to forfeiture includes, but is not limited to, a “money judgment” in the amount of U.S. currency constituting the gross proceeds traceable to the offense.

Substitute Assets

33. Pursuant to 21 U.S.C. § 853(p), as incorporated by 18 U.S.C. § 982(b), if any of the above-described property subject to forfeiture, as a result of any act or omission of the defendant, cannot be located upon the exercise of due diligence; has been transferred or sold to, or deposited with, a third person; has been placed beyond the jurisdiction of the Court; has been substantially diminished in value; or has been commingled with other property which cannot be subdivided without difficulty, it is the intent of the United States to seek forfeiture of any other property of the defendant up to the value of the above-described property subject to forfeiture.

A TRUE BILL.

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FOREPERSON

JOHN R. PARKER  
ACTING UNITED STATES ATTORNEY



Handwritten signature of Douglas B. Brasher in black ink, featuring a stylized 'D' and 'B'.

DOUGLAS B. BRASHER

Assistant United States Attorney

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

THE UNITED STATES OF AMERICA

v.

MARIAMMA VIJU

**3-15 CR0240-B**

SEALED INDICTMENT

18 USC § 1349 (18 USC § 1347)  
Conspiracy to Commit Health Care Fraud

18 USC §§ 1347 and 2  
Health Care Fraud

42 USC §§ 1320d-6(a), (b)(3)  
Wrongful Disclosure of Individually Identifiable Health Information

18 USC § 982 (a)(7)  
Forfeiture Notice

7 Counts

A true bill rendered

DALLAS

FOREPERSON

Filed in open court this 3<sup>rd</sup> day of June 2015

Warrant to be Issued

Clerk

UNITED STATES DISTRICT/MAGISTRATE JUDGE

No Criminal matter pending