

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. **17-20442**
18 U.S.C. § 1347
18 U.S.C. § 2
18 U.S.C. § 982(a)(7)

CR-UNGARO
/O'SULLIVAN

UNITED STATES OF AMERICA

vs.

ALEJANDRO HERNANDEZ RIOS,

Defendant.

INDICTMENT

The Grand Jury charges that:

GENERAL ALLEGATIONS

At all times material to this Indictment:

The Medicare Program

1. The Medicare Program ("Medicare") was a federally funded program that provided free or below-cost health care benefits to certain individuals, primarily the elderly, blind, and disabled. The benefits available under Medicare were governed by federal statutes and regulations. The United States Department of Health and Human Services ("CMS"), oversaw and administered Medicare. Individuals who received benefits under Medicare were commonly referred to as Medicare "beneficiaries."

2. Medicare programs covering different types of benefits were separated into different program "parts." Part D of Medicare subsidized the costs of prescription drugs for Medicare beneficiaries in the United States. It was enacted a part of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 and went into effect on January 1, 2006.

3. In order to receive Part D benefits, a beneficiary enrolled in a Medicare drug plan. Medicare drug plans were operated by private companies approved by Medicare. Those companies were often referred to as drug plan “sponsors.” A beneficiary in a Medicare drug plan could fill a prescription at a pharmacy and use his or her plan to pay for some or all of the prescription.

4. A pharmacy could participate in Part D by entering a retail network agreement with one or more Pharmacy Benefit Managers (“PBMs”). Each PBM acted on behalf of one or more Medicare drug plans. Through a plan’s PBM, a pharmacy could join the plan’s network. When a Part D beneficiary presented a prescription to a pharmacy, the pharmacy submitted a claim to the PBM that represented the beneficiary’s Medicare drug plan. The PBM determined whether the pharmacy was entitled to payment for each claim and periodically paid the pharmacy for outstanding claims. The drug plan’s sponsor reimbursed the PBM for its payments to the pharmacy.

5. A pharmacy could also submit claims to a Medicare drug plan to whose network the pharmacy did not belong. Submission of such out-of-network claims was not common and often resulted in smaller payments to the pharmacy by the drug plan sponsor.

6. Medicare, through CMS, compensated the Medicare drug plan sponsors. Medicare paid the sponsors a monthly fee for each Medicare beneficiary of the sponsors’ plans. Such payments were called capitation fees. The capitation fees were adjusted periodically based on various factors, including the beneficiary’s medical condition. In addition, in some cases where a sponsor’s expenses for a beneficiary’s prescription drugs exceeded that beneficiary’s capitation fee, Medicare reimbursed the sponsor for a portion of those additional expenses.

7. Medicare, Medicare drug plan sponsors, and PBMs were “health care benefit

program[s],” as defined by Title 18, United States Code, Section 24(b).

8. All Medicare beneficiaries are assigned a Health Insurance Claim Number (“HICN”) which is unique to each beneficiary.

9. All doctors who participate in Medicare are assigned a National Provider Identification Number (“NPIN”) which is unique to each doctor.

Medicare Drug Plan Sponsors

10. Medco Containment Life Insurance Co. and Medco Containment of NY (“MEDCO”), Stonebridge Life Insurance Co. (“Stonebridge”), and UnitedHealthcare Insurance Co. (“UnitedHealthcare”) were Medicare drug plan sponsors.

The Defendant and a Related Entity

11. Independence Pharmacy and Discount, Inc. (“Independence”), located at 5143 SW 8th Street, Miami, FL, was a Florida corporation, incorporated on or about August 26, 2013, that did business in Miami-Dade County and purportedly provided prescription drugs to Medicare beneficiaries.

12. **ALEJANDRO HERNANDEZ RIOS**, a resident of Miami-Dade County, became the owner and Registered Agent of Independence on or about June 2014.

COUNTS 1-5 **Health Care Fraud** **(18 U.S.C. § 1347)**

1. The General Allegations section of this Indictment is re-alleged and incorporated by reference as though fully set forth herein.

2. From in or around June 2014, through in or around September 2014, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

ALEJANDRO HERNANDEZ RIOS,

in connection with the delivery of and payment for health care benefits, items, and services, did knowingly and willfully execute, and attempt to 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, MEDCO, Stonebridge, and UnitedHealthcare, 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, these health care benefit programs.

Purpose of the Scheme and Artifice

3. It was a purpose of the scheme and artifice for the defendant and his accomplices to unlawfully enrich themselves by, among other things: (a) submitting and causing the submission of false and fraudulent prescription drug claims to health care benefit programs; (b) concealing the submission of false and fraudulent prescription drug claims to healthcare benefit programs; (c) concealing the receipt and transfer of the fraud proceeds; and (d) diverting fraud proceeds for the personal use and benefit of themselves and others, and to further the fraud.

The Scheme and Artifice

4. **ALEJANDRO HERNANDEZ RIOS** submitted and caused the submission of claims that falsely and fraudulently represented that various health care benefits, primarily prescription drugs, were medically necessary, and provided by Independence to Medicare beneficiaries, when, in fact, they were not provided and were not medically necessary.

5. As a result of such false and fraudulent prescription drug claims, Medicare and Medicare drug plan sponsors, including MEDCO, Stonebridge, and UnitedHealthcare, through their PBMs, made overpayments funded by Medicare to Independence, in the approximate amount of \$1.6 million.

6. **ALEJANDRO HERNANDEZ RIOS** used the proceeds of the health care fraud

for his personal use and benefit and to further the fraud..

Acts in Execution or Attempted Execution of the Scheme and Artifice

7. On or about the dates set forth as to each count below, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant, **ALEJANDRO HERNANDEZ RIOS**, in connection with the delivery of and payment for health care benefits, items, and services, did knowingly and willfully execute, and attempt to execute, the above-described scheme and artifice to defraud health care benefit programs affecting commerce, as defined by Title 18, United States Code, Section 24(b), that is, Medicare, MEDCO, Stonebridge, and UnitedHealthcare, 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 programs, by submitting and causing the submission of false and fraudulent claims seeking the identified dollar amounts, and representing that Independence provided pharmaceutical items and service to Medicare beneficiaries pursuant to physicians' orders and prescriptions:

COUNT	BENEFICIARY	APPROX. DATE OF CLAIM	CLAIM NO.	DRUG & APPROX. AMT. PAID	MEDICARE DRUG PLAN SPONSOR
1	H.S.	07/22/2014	0174420346 6224135043 8500105294 8647406487	Abilify Tab 30mg; \$1,110	MEDCO
2	A.Q.	08/04/2014	2158377463 7109674021 5837746371 0967404071	Latuda Tab 120 mg; \$1,073	MEDCO
3	M.M.	08/07/2014	3283836187 5173794019 8232203980 2477406487	Risperdal Inj. 50 mg; \$1,303	MEDCO
4	F.T.	08/21/2014	1423330769 38097999	Xifaxan Tab 550 mg; \$1,451	UnitedHealthcare
5	M.M.	09/02/2014	4447757034	Abilify Tab 20 mg; \$1,104	Stonebridge

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

FORFEITURE
(18 U.S.C. § 982 (a)(7))


1. The allegations contained in this Indictment are re-alleged and incorporated by reference as though fully set forth herein for the purpose of alleging forfeiture to the United States of certain property in which the defendant **ALEJANDRO HERNANDEZ RIOS** has an interest.

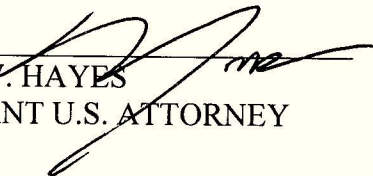
2. Upon conviction of any violation of Title 18, United States Code, Sections 1347, as alleged in this Indictment, the defendant so convicted shall forfeit to the United States any property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the offense pursuant to Title 18, United States Code, Section 982(a)(7).

All pursuant to Title 18, United States Code, Section 982(a)(7), and the procedures set forth in Title 21, United States Code, Section 853, made applicable by Title 18, United States Code, Section 982(b).

A TRUE BILL

FOF


BENJAMIN G. GREENBERG
ACTING UNITED STATES ATTORNEY


JAMES V. HAYES
ASSISTANT U.S. ATTORNEY

UNITED STATES OF AMERICA

CASE NO. _____

vs.

CERTIFICATE OF TRIAL ATTORNEY*

ALEJANDRO HERNANDEZ RIOS,

Defendant.

Superseding Case Information:

Court Division: (Select One)

X Miami Key West
 FTL WPB FTP

New Defendant(s) Yes No
Number of New Defendants
Total number of counts

I do hereby certify that:

- I have carefully considered the allegations of the indictment, the number of defendants, the number of probable witnesses and the legal complexities of the Indictment/Information attached hereto.
- I am aware that the information supplied on this statement will be relied upon by the Judges of this Court in setting their calendars and scheduling criminal trials under the mandate of the Speedy Trial Act, Title 28 U.S.C. Section 3161.
- Interpreter: (Yes or No) Yes
List language and/or dialect Spanish
- This case will take 5 days for the parties to try.
- Please check appropriate category and type of offense listed below:

(Check only one)

(Check only one)

I	0 to 5 days	<u> X </u>	Petty	<u> </u>
II	6 to 10 days	<u> </u>	Minor	<u> </u>
II	11 to 20 days	<u> </u>	Misdem.	<u> </u>
IV	21 to 60 days	<u> </u>	Felony	<u> X </u>
V:	61 days and over	<u> </u>		

6. Has this case been previously filed in this District Court? (Yes or No) Yes

If yes:

Judge:

Case No. _____

(Attach copy of dispositive order)

Has a complaint been filed in this matter?

(Yes or No) No

If yes:

Magistrate Case No. _____

Related Miscellaneous numbers: _____

Defendant(s) in federal custody as of _____

Defendant(s) in state custody as of _____

Rule 20 from the _____ District of _____

Is this a potential death penalty case? (Yes or No) No

7. Does this case originate from a matter pending in the Northern Region of the U.S. Attorney's Office prior to October 14, 2003? Yes X No

8. Does this case originate from a matter pending in the Central Region of the U.S. Attorney's Office prior to September 1, 2007? Yes X No

James V. Hayes
ASSISTANT UNITED STATES ATTORNEY
Florida Bar No. A5501717

*Penalty Sheet(s) attached

REV 4/8/08

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

PENALTY SHEET

Defendant's Name: ALEJANDRO HERNANDEZ RIOS

Case No: _____

Counts #: 1-5

Health Care Fraud

Title 18, United States Code, Section 1347

* **Max.Penalty:** Ten (10) years' imprisonment as to each count

Count #:

* **Max.Penalty:**

***Refers only to possible term of incarceration, overlap does not include possible fines, restitution, special assessments, parole terms, or forfeitures that may be applicable.**