

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. **18-20487**

18 U.S.C. § 1349
18 U.S.C. § 371
42 U.S.C. § 1320a-7b(b)(2)(A)
18 U.S.C. § 1035(a)(2)
18 U.S.C. § 2
18 U.S.C. § 982(a)(7)

CR-MARTINEZ

OTAZO-REYES

UNITED STATES OF AMERICA

vs.

**MARGARITA PALOMINO and
NORMA ZAYAS,**

Defendants.

_____ /

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 (“HHS”), through its agency, the Centers for Medicare and Medicaid Services (“CMS”), oversaw and administered Medicare. Individuals who received benefits under Medicare were commonly referred to as Medicare “beneficiaries.”

2. Medicare was a “health care benefit program,” as defined by Title 18, United States Code, Section 24(b), and a Federal health care program, as defined by Title 42, United States Code, Section 1320a-7b(f).

3. Medicare programs covering different types of benefits were separated into different program “parts.” “Part A” of the Medicare program covered certain eligible home health care costs for medical services provided by a home health agency (“HHA”), also referred to as a “provider,” to persons who already qualified for Medicare and who additionally required home health services because of an illness or disability that caused them to be homebound.

4. CMS did not directly pay Medicare Part A claims submitted by Medicare-certified HHAs. CMS contracted with different private 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”). As administrator, Palmetto was to receive, adjudicate and pay claims submitted by HHA providers under the Part A program for home health claims. Additionally, CMS separately contracted with companies in order to review HHA providers’ claims data. CMS first contracted with TriCenturion, a Program Safeguard Contractor. Subsequently, on December 15, 2008, CMS contracted with SafeGuard Services, a Zone Program Integrity Contractor. Both TriCenturion and SafeGuard Services safeguarded the Medicare Trust Fund by reviewing HHA providers’ claims for potential fraud, waste, and/or abuse.

5. 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.” In its enrollment application, a provider was required to disclose to Medicare any person or company who held an ownership interest of 5% or more or who had managing control of the provider. 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 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 provider number of the physician or other health care provider who ordered the services.

6. By becoming a participating provider in Medicare, enrolled providers agreed to abide by the policies and procedures, rules, and regulations governing reimbursement, including the Federal Anti-Kickback Statute. To receive Medicare funds, enrolled providers, together with their authorized agents, employees, and contractors, were required to abide by all provisions of the Social Security Act, the regulations promulgated under the Act, and applicable policies, procedures, rules, and regulations issued by CMS and its authorized agents and contractors. Health care providers were given and provided with online access to Medicare manuals and services bulletins describing proper billing procedures and billing rules and regulations.

Part A Coverage and Regulations

Reimbursements

7. 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 the patient:

- (a) was confined to the home, also referred to as homebound;
- (b) 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, physical therapy, speech therapy, or a continued need for occupational therapy; 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.

Record Keeping Requirements

8. 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 the actual treatment of patients to whom services were provided and for whom claims for reimbursement were submitted by the HHA. These medical records were required to be sufficiently complete to permit Medicare, through Palmetto and other contractors, to review the appropriateness of Medicare payments made to the HHA under the Part A program.

9. Among the written records required to document the appropriateness of home health care claims submitted under Part A of Medicare were: (i) a POC that included the physician order, diagnoses, types of services/frequency of visits, prognosis/rehab potential, functional limitations/activities permitted, medications/treatments/nutritional requirements, safety measures/discharge plans, goals, and the physician's signature; and (ii) 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.

10. 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 instruction provided to the patient 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."

11. Medicare regulations allowed Medicare certified HHAs to subcontract home health care services to nursing companies, therapy staffing services agencies, registries, or groups (nursing groups), which would bill the certified home health agency. The Medicare certified HHA would, in turn, bill Medicare for all services rendered to the patient. The HHA's professional supervision over subcontracted-for services required the same quality controls and supervision as of its own salaried employees.

12. Medicare paid for insulin injections by an HHA when a beneficiary was determined to be unable to inject his/her own insulin and the beneficiary had no available caregiver able or willing to inject the beneficiary. The basic requirement that the beneficiary be confined to the home or be homebound was a continuing requirement for a Medicare beneficiary to receive home health benefits.

The Defendants, Related Companies, and Individuals

13. Sunshine Home Health Care Services, Inc. ("Sunshine Home Health"), located at 12488 SW 8th Street, Miami, Florida, was a Florida corporation, incorporated on or about October

31, 2003, with its principal place of business in Miami-Dade County, in the Southern District of Florida. It purported to provide home health care services to eligible Medicare beneficiaries.

14. Empire Home Health Agency, Inc. (“Empire Home Health”), located at 7801 Coral Way, Suite 132, Miami, Florida, was a Florida corporation, incorporated on or about December 18, 2001, with its principal place of business in Miami-Dade County, in the Southern District of Florida. It purported to provide home health care services to eligible Medicare beneficiaries.

15. Mildred & Marce Home Health Care Services, Inc. (“Mildred & Marce Home Health”), located at 11180 West Flagler, Suite 13, Miami, Florida, was a Florida corporation, incorporated on or about April 13, 2007, with its principal place of business in Miami-Dade County, in the Southern District of Florida. It purported to provide home health care services to eligible Medicare beneficiaries.

16. Nursing Care PRN, Inc. (“Nursing Care Home Health”), located at 5545 SW 8th Street, #203, Coral Gables, Florida, was a Florida corporation, incorporated on or about February 28, 2006, with its principal place of business in Miami-Dade County, in the Southern District of Florida. It purported to provide home health care services to eligible Medicare beneficiaries.

17. Summer Health Care, Inc. (“Summer Home Health”), located at 3408 West 84 Street, Suite 112, Hialeah, Florida, was a Florida corporation, incorporated on or about April 3, 2007, with its principal place of business in Miami-Dade County, in the Southern District of Florida. It purported to provide home health care services to eligible Medicare beneficiaries.

18. Excellent Home Health Care, Inc. (“Excellent Home Health”), located at 9930 SW 164th Court, Miami, Florida, was a Florida corporation, incorporated on or about July 11, 2005, with its principal place of business in Miami-Dade County, in the Southern District of Florida. It purported to provide home health care services to eligible Medicare beneficiaries.

19. Defendant **MARGARITA PALOMINO** was a resident of Miami-Dade County.

20. Defendant **NORMA ZAYAS** was a resident of Miami-Dade County and the owner of Nursing Care Home Health.

21. Rafael Arias, a resident of Miami-Dade County, was the owner of numerous home health agencies that purported to provide home health care services to eligible Medicare beneficiaries, including Sunshine Home Health, Empire Home Health, and Mildred & Marce Home Health.

22. Aylen Gonzalez, a resident of Miami-Dade County, was a patient recruiter and a co-owner of Excellent Home Health.

23. Aylin Dulzaides, a resident of Miami-Dade County, was a patient recruiter, the co-owner of Excellent Home Health with Aylen Gonzalez, and a co-owner of Summer Home Health.

24. Marcelino Suarez Ferrer, a resident of Miami-Dade County, was a registered nurse who purported to provide nursing services for home health agencies, including Sunshine Home Health, Mildred and Marce Home Health, and Summer Home Health.

COUNT 1

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

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

2. From in or around January 2010, through in or around January 2014, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendants,

**MARGARITA PALOMINO
and
NORMA ZAYAS,**

did willfully, that is, with the intent to further objects of the conspiracy, and knowingly combine,

conspire, confederate, and agree with each other, Rafael Arias, Aylen Gonzalez, Aylin Dulzaides, Marcelino Suarez Ferrer, and 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 of and payment for health care benefits, items, and services, in violation of Title 18, United States Code, 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 and foreign commerce, writings, 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 of the conspiracy for the defendants and their co-conspirators to unlawfully enrich themselves by, among other things: (a) submitting and causing the submission of false and fraudulent claims to Medicare based on kickbacks and bribes; (b) submitting and causing the submission of false and fraudulent claims to Medicare for services that were medically unnecessary, that were not eligible for Medicare reimbursement, and that were never provided; (c) concealing the submission of false and fraudulent claims to Medicare; (d) the receipt and transfer

of fraud proceeds; and (e) diverting fraud proceeds for their personal use and benefit, the use and benefit of others, and to further the fraud.

Manner and Means of the Conspiracy

The manner and means by which the defendants and their co-conspirators sought to accomplish the objects and purpose of the conspiracy included:

4. Even though Rafael Arias, in fact, owned Empire Home Health and Mildred & Marce Home Health, Rafael Arias recruited other individuals: (a) to represent themselves as the owners of these agencies; and (b) to submit and cause to be submitted Medicare enrollment documentation in which these individuals falsely and fraudulently represented to Medicare that they were the actual owners of these agencies and would abide by the Medicare laws, regulations, and program instructions applicable to those agencies, including the Federal Anti-Kickback Statute.

5. As a result of the submission of these false and fraudulent enrollment documents, Medicare allowed Empire Home Health and Mildred & Marce Home Health to submit claims for services purportedly rendered to eligible Medicare beneficiaries.

6. **NORMA ZAYAS, MARGARITA PALOMINO**, Rafael Arias, and their co-conspirators operated several Miami-Dade home health agencies, including Sunshine Home Health, Empire Home Health, and Mildred & Marce Home Health.

7. Rafael Arias and **NORMA ZAYAS** paid and caused to be paid bribes and kickbacks to **MARGARITA PALOMINO**, Aylen Gonzalez, Aylin Dulzaides, Marcelino Suarez Ferrer, and other co-conspirators in return for referring Medicare beneficiaries to several Miami-Dade home health agencies, including Sunshine Home Health, Empire Home Health, and Mildred & Marce Home Health.

8. **NORMA ZAYAS, MARGARITA PALOMINO**, Rafael Arias, Aylen Gonzalez, Aylin Dulzaides, and their co-conspirators submitted and caused to be submitted false and fraudulent claims to Medicare seeking payment for home health care services purportedly provided to these recruited beneficiaries, many of whom did not qualify for and did not need home health care services.

9. **MARGARITA PALOMINO**, Rafael Arias, Marcelino Suarez Ferrer, and their co-conspirators falsified, fabricated, and altered, and caused the falsification, fabrication, and alteration of Sunshine Home Health and Mildred & Marce Home Health medical records to support claims for home health care services that were medically unnecessary, never provided, not eligible for Medicare reimbursement, and procured through the payment of kickbacks and bribes.

10. **MARGARITA PALOMINO**, Marcelino Suarez Ferrer, and their co-conspirators falsified and fabricated medical records to make it appear that home health care services were provided by licensed medical professionals, including Marcelino Suarez Ferrer, when in fact they were not.

11. **MARGARITA PALOMINO, NORMA ZAYAS**, and their co-conspirators caused Sunshine Home Health, Empire Home Health, and Mildred & Marce Home Health to submit false and fraudulent claims to Medicare, through the use of interstate wires, that (a) were the result of the payment of bribes and kickbacks to patient recruiters in return for patient referrals, (b) were not medically necessary and were not provided as billed, (c) were supported by falsified documentation, and (d) were submitted pursuant to Medicare enrollment documents that fraudulently misrepresented the identities of the agencies' true owners.

12. As a result of such false and fraudulent claims, **MARGARITA PALOMINO, NORMA ZAYAS**, and their co-conspirators caused Medicare to make payments in an amount exceeding \$4.65 million.

13. **MARGARITA PALOMINO, NORMA ZAYAS**, and their conspirators diverted the fraud proceeds for the personal use and benefit of themselves and to further the fraud.

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

COUNT 2

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

1. Paragraphs 1 through 12, 17 through 19, and 22 through 24 of the General Allegations section of this Indictment are realleged and incorporated by reference as though fully set forth herein.

2. From in or around February 2014, through in or around March 2015, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

MARGARITA PALOMINO,

did willfully, that is, with the intent to further objects of the conspiracy, and knowingly combine, conspire, confederate, and agree with Aylen Gonzalez, Aylin Dulzaides, Marcelino Suarez Ferrer, and 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 of and payment for health care

benefits, items, and services, in violation of Title 18, United States Code, 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 and foreign commerce, writings, 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 of the conspiracy for the defendant and her co-conspirators to unlawfully enrich themselves by, among other things: (a) submitting and causing the submission of false and fraudulent claims to Medicare based on kickbacks and bribes; (b) submitting and causing the submission of false and fraudulent claims to Medicare for services that were medically unnecessary, that were not eligible for Medicare reimbursement, and that were never provided; (c) concealing the submission of false and fraudulent claims to Medicare; (d) the receipt and transfer of fraud proceeds; and (e) diverting fraud proceeds for their personal use and benefit, the use and benefit of others, and to further the fraud.

Manner and Means of the Conspiracy

The manner and means by which the defendant and her co-conspirators sought to accomplish the objects and purpose of the conspiracy included, among other things:

4. Even though Aylen Gonzalez and Aylin Dulzaides in fact owned Excellent Home Health, they recruited **MARGARITA PALOMINO** to falsely and fraudulently represent that she was the owner of Excellent Home Health.

5. In or around April 2014, August 2014, December 2014, and February 2015, **MARGARITA PALOMINO** signed and caused to be submitted Medicare enrollment documents on behalf of Excellent Home Health in which she falsely and fraudulently identified herself as an actual owner of this agency and failed to disclose the ownership interest and managing control of Aylen Gonzalez and Aylin Dulzaides.

6. As part of these enrollment documents, **MARGARITA PALOMINO** certified to Medicare that she would abide by the Medicare laws, regulations, and program instructions applicable to Excellent Home Health, including the Federal Anti-Kickback Statute.

7. As a result of the submission of these false and fraudulent enrollment documents, Medicare allowed Excellent Home Health to submit claims for services purportedly rendered to eligible Medicare beneficiaries.

8. **MARGARITA PALOMINO**, Aylen Gonzalez, Aylin Dulzaides, and their co-conspirators operated Summer Home Health and Excellent Home Health.

9. Aylin Dulzaides and her co-conspirators paid and caused to be paid bribes and kickbacks to **MARGARITA PALOMINO**, Aylen Gonzalez, and other co-conspirators in return for referring Medicare beneficiaries to Summer Home Health.

10. Aylen Gonzalez, Aylin Dulzaides, and their co-conspirators paid and caused to be paid bribes and kickbacks to **MARGARITA PALOMINO** and other co-conspirators in return for referring Medicare beneficiaries to Excellent Home Health.

11. **MARGARITA PALOMINO**, Aylen Gonzalez, Aylin Dulzaides, and other co-conspirators submitted and caused to be submitted false and fraudulent claims to Medicare seeking payment for home health care services purportedly provided to these referred beneficiaries, many of whom did not qualify for and did not need home health care services.

12. **MARGARITA PALOMINO**, Aylin Dulzaides, Marcelino Suarez Ferrer, and other co-conspirators falsified, fabricated, and altered, and caused the falsification, fabrication, and alteration of Summer Home Health medical records to support claims for home health care services that were medically unnecessary, never provided, not eligible for Medicare reimbursement, and procured through the payment of kickbacks and bribes.

13. **MARGARITA PALOMINO**, Marcelino Suarez Ferrer, and their co-conspirators falsified and fabricated medical records to make it appear that home health care services were provided by licensed medical professionals, including Marcelino Suarez Ferrer, when in fact they were not.

14. **MARGARITA PALOMINO** and her co-conspirators caused Summer Home Health and Excellent Home Health to submit false and fraudulent claims to Medicare, through the use of interstate wires, that (a) were the result of the payment of bribes and kickbacks to patient recruiters in return for patient referrals, (b) were not medically necessary and were not provided as billed, (c) were supported by falsified documentation, and (d) were submitted pursuant to Medicare enrollment documents that fraudulently misrepresented the identities of the agencies' true owners.

15. As a result of such false and fraudulent claims, **MARGARITA PALOMINO** and her co-conspirators caused Medicare to make payments in an amount exceeding \$1.89 million.

16. **MARGARITA PALOMINO** her co-conspirators diverted the fraud proceeds for the personal use and benefit of themselves and to further the fraud.

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

COUNT 3

**Conspiracy to Defraud the United States and to Pay and Receive Health Care Bribes and Kickbacks
(18 U.S.C. § 371)**

1. Paragraphs 1 through 12, 17 through 19, and 22 and 23 of the General Allegations section of this Indictment are realleged and incorporated by reference as though fully set forth herein.

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

MARGARITA PALOMINO,

did willfully, that is, with the intent to further objects of the conspiracy, and knowingly combine, conspire, confederate, and agree with Aylen Gonzalez, Aylin Dulzaides, and others known and unknown to the Grand Jury, to commit certain offenses against the United States, that is:

a. to defraud the United States by impairing, impeding, obstructing, and defeating through deceitful and dishonest means, the lawful government functions of the United States Department of Health and Human Services in its administration and oversight of the Medicare program;

b. to violate Title 42, United States Code, Section 1320a-7b(b)(1)(A), by knowingly and willfully soliciting and receiving any remuneration, including kickbacks and bribes, directly and indirectly, overtly and covertly, in cash and in kind, in return for referring an individual to a person for the furnishing or arranging for the furnishing of items and services for which payment may be made in whole or in part under a Federal health care program, that is, Medicare; and

c. violate Title 42, United States Code, Section 1320a-7b(b)(2)(A), by knowingly and willfully offering and paying remuneration, including kickbacks and bribes, directly and indirectly, overtly and covertly, in cash and in kind, to any person to induce such person to refer an individual

to a person for the furnishing and arranging for the furnishing of any item and service for which payment may be made in whole and in part under a Federal health care program, that is, Medicare.

Purpose of the Conspiracy

3. It was a purpose of the conspiracy for the defendant and her co-conspirators to unlawfully enrich themselves by: (a) soliciting and receiving remuneration, including kickbacks and bribes, in return for referring Medicare beneficiaries to home health agencies to serve as patients; (b) offering and paying remuneration, including kickbacks and bribes, to patient recruiters for referring Medicare beneficiaries to home health agencies; and (c) submitting and causing the submission of claims to Medicare for home health care services purportedly provided to the referred beneficiaries.

Manner and Means of the Conspiracy

The manner and means by which the defendant and her co-conspirators sought to accomplish the objects and purpose of the conspiracy included, among other things:

4. **MARGARITA PALOMINO**, Aylene Gonzalez, and their co-conspirators solicited and received kickbacks and bribes from conspirator home health agency owners and operators in return for referring Medicare beneficiaries to Miami-Dade home health agencies, including Summer Home Health and Excellent Home Health.

5. Aylene Gonzalez, Aylin Dulzaides, and their co-conspirators offered and paid kickbacks and bribes to co-conspirator patient recruiters, including **MARGARITA PALOMINO**, for referring Medicare beneficiaries to Miami-Dade home health agencies, including Summer Home Health and Excellent Home Health.

6. **MARGARITA PALOMINO**, Aylene Gonzalez, Aylin Dulzaides, and their co-conspirators caused several Miami-Dade home health agencies, including Summer Home Health

and Excellent Home Health, to submit claims to Medicare for home health services that were purportedly provided to Medicare beneficiaries.

7. **MARGARITA PALOMINO**, Aylen Gonzalez, Aylin Dulzaides, and their co-conspirators caused Medicare to pay several Miami-Dade home health agencies, including Summer Home Health and Excellent Home Health, for home health services purportedly provided to Medicare beneficiaries.

OVERT ACTS

In furtherance of the conspiracy, and to accomplish its objects and purpose, at least one of the conspirators committed and caused to be committed, in the Southern District of Florida, at least one of the following overt acts, among others:

1. On or about April 10, 2014, **MARGARITA PALOMINO** negotiated check number 5171 from Summer Home Health in the amount of \$7,260.

2. On or about April 10, 2014, **MARGARITA PALOMINO** signed the CMS-855A Medicare Enrollment Application as the President of Excellent Home Health and represented that Excellent Home Health would comply with the laws, regulations, and program instructions of the Medicare program.

3. On or about April 22, 2014, **MARGARITA PALOMINO** negotiated check number 5209 from Summer Home Health in the amount of \$8,635.

4. On or about July 26, 2014, **MARGARITA PALOMINO** signed the CMS-855A Medicare Enrollment Application as the President of Excellent Home Health and represented that Excellent Home Health would comply with the laws, regulations, and program instructions of the Medicare program.

5. On or about August 14, 2014, **MARGARITA PALOMINO** signed the CMS-855A Medicare Enrollment Application as the President of Excellent Home Health and

represented that Excellent Home Health would comply with the laws, regulations, and program instructions of the Medicare program.

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

COUNT 4
Conspiracy to Defraud the United States and to Pay and Receive Health Care Bribes and Kickbacks
(18 U.S.C. § 371)

1. Paragraphs 1 through 12, 16, 20, and 23 of the General Allegations section of this Indictment are realleged and incorporated by reference as though fully set forth herein.

2. From in or around April 2013, through in or around June 2013, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

NORMA ZAYAS,

did willfully, that is, with the intent to further objects of the conspiracy, and knowingly combine, conspire, confederate, and agree with Aylin Dulzaides and others known and unknown to the Grand Jury, to commit certain offenses against the United States, that is:

a. to defraud the United States by impairing, impeding, obstructing, and defeating through deceitful and dishonest means, the lawful government functions of the United States Department of Health and Human Services in its administration and oversight of the Medicare program;

b. to violate Title 42, United States Code, Section 1320a-7b(b)(1)(A), by knowingly and willfully soliciting and receiving any remuneration, including kickbacks and bribes, directly and indirectly, overtly and covertly, in cash and in kind, in return for referring an individual to a person for the furnishing or arranging for the furnishing of items and services for which payment may be made in whole or in part under a Federal health care program, that is, Medicare; and

c. violate Title 42, United States Code, Section 1320a-7b(b)(2)(A), by knowingly and willfully offering and paying remuneration, including kickbacks and bribes, directly and indirectly, overtly and covertly, in cash and in kind, to any person to induce such person to refer an individual to a person for the furnishing and arranging for the furnishing of any item and service for which payment may be made in whole and in part under a Federal health care program, that is, Medicare.

Purpose of the Conspiracy

3. It was a purpose of the conspiracy for the defendant and her co-conspirators to unlawfully enrich themselves by: (a) soliciting and receiving remuneration, including kickbacks and bribes, in return for referring Medicare beneficiaries to home health agencies to serve as patients; (b) offering and paying remuneration, including kickbacks and bribes, to patient recruiters for referring Medicare beneficiaries to home health agencies; and (c) submitting and causing the submission of claims to Medicare for home health care services purportedly provided to the referred beneficiaries.

Manner and Means of the Conspiracy

The manner and means by which the defendant and her co-conspirators sought to accomplish the objects and purpose of the conspiracy included, among other things:

4. Aylin Dulzaides and her co-conspirators solicited and received kickbacks and bribes from conspirator home health agency owners and operators in return for referring Medicare beneficiaries to Nursing Care Home Health.

5. **NORMA ZAYAS** and her co-conspirators offered and paid kickbacks and bribes to co-conspirator patient recruiters, including Aylin Dulzaides, for referring Medicare beneficiaries to Nursing Care Home Health.

6. **NORMA ZAYAS**, Aylin Dulzaides, and their co-conspirators caused Nursing

Care Home Health to submit claims to Medicare for home health services that were purportedly provided to Medicare beneficiaries.

7. **NORMA ZAYAS**, Aylin Dulzaides, and their co-conspirators caused Medicare to pay Nursing Care Home Health at least approximately \$1.12 million for home health services purportedly provided to Medicare beneficiaries.

OVERT ACTS

In furtherance of the conspiracy, and to accomplish its objects and purpose, at least one of the conspirators committed and caused to be committed, in the Southern District of Florida, at least one of the following overt acts, among others:

1. On or about June 14, 2013, **NORMA ZAYAS** caused check number 304 to be issued from Nursing Care Home Health to Aylin Dulzaides in the amount of \$7,250.

2. On or about June 26, 2013, **NORMA ZAYAS** caused check number 335 to be issued from Nursing Care Home Health to Aylin Dulzaides in the amount of \$6,735.

3. On or about June 26, 2013, **NORMA ZAYAS** caused check number 336 to be issued from Nursing Care Home Health to Aylin Dulzaides in the amount of \$4,110.

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

COUNTS 5-6

Payment of Bribes and Kickbacks in Connection with a Federal Health Care Program (42 U.S.C. § 1320a-7b(b)(2)(A))

1. Paragraphs 1 through 12, 16, 20, and 23 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 enumerated below as to each count, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

NORMA ZAYAS,

did knowingly and willfully, in concert with others known and unknown to the Grand Jury, offer and pay remuneration, that is, kickbacks and bribes, directly and indirectly, overtly and covertly, in cash and in kind, to a person to induce such person to refer an individual to a person for the furnishing and arranging for the furnishing of any item and service for which payment may be made in whole and in part by a Federal health care program, that is, Medicare:

Count	Approximate Date of Kickback	Approximate Kickback Amount
5	June 26, 2013	\$6,735
6	June 26, 2013	\$4,110

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

COUNT 7
False Statements Relating to Health Care Matters
(18 U.S.C. § 1035(a)(2))

1. Paragraphs 1 through 12, 18 through 19, and 22 and 23 of the General Allegations section of this Indictment are realleged and incorporated by reference as though fully set forth herein.

2. On or about August 14, 2014, in Miami-Dade County, in the Southern District of Florida and elsewhere, the defendant,

MARGARITA PALOMINO,

in any matter involving a health care benefit program, knowingly and willfully made any materially false, fictitious, and fraudulent statements and representations, and made and used any materially false writing and document knowing the same to contain any materially false, fictitious and fraudulent statement and entry, in connection with the delivery of and payment for health care benefits, items, and services, that is, the defendant signed and caused to be submitted to Medicare

a Medicare enrollment application (CMS-855A) stating that the defendant had a 100% direct ownership interest in and 100% management control in Excellent Home Health, when in truth and in fact, and as the defendant then and there well knew, Aylene Gonzalez and Aylin Dulzaides were the owners of and had management control in Excellent Home Health.

In violation of Title 18, United States Code, Sections 1035(a)(2) and 2.

COUNT 8
False Statements Relating to Health Care Matters
(18 U.S.C. § 1035(a)(2))

1. Paragraphs 1 through 12, 18 and 19, and 22 and 23 of the General Allegations section of this Indictment are realleged and incorporated by reference as though fully set forth herein.

2. On or about February 26, 2015, in Miami-Dade County, in the Southern District of Florida and elsewhere, the defendant,

MARGARITA PALOMINO,

in any matter involving a health care benefit program, knowingly and willfully made any materially false, fictitious, and fraudulent statements and representations, and made and used any materially false writing and document knowing the same to contain any materially false, fictitious and fraudulent statement and entry, in connection with the delivery of and payment for health care benefits, items, and services, that is, the defendant signed and caused to be submitted to Medicare a Medicare enrollment application (CMS-855A) stating that the defendant had a 100% direct ownership interest in and 100% management control in Excellent Home Health, when in truth and in fact, and as the defendant then and there well knew, Aylene Gonzalez and Aylin Dulzaides were the owners of and had management control in Excellent Home Health.



In violation of Title 18, United States Code, Sections 1035(a)(2) and 2.

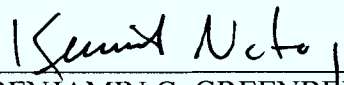
FORFEITURE
(18 U.S.C. § 982(a)(7))

1. The allegations contained in this Indictment are realleged 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 defendants, **MARGARITA PALOMINO** and **NORMA ZAYAS**, have an interest.

2. Upon conviction of a violation alleged in Counts 1 through 8 of this Indictment, the defendants so convicted shall each forfeit to the United States, pursuant to Title 18, United States Code, Section 982(a)(7), all property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of such violation.

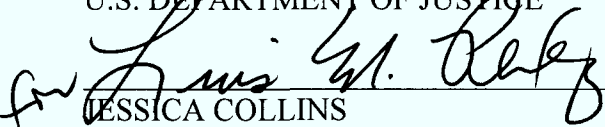
All pursuant to Title 18, United States Code, Section 982(a)(7), and the procedures set forth in Title 21, United States Code, Section 853, as made applicable by Title 18, United States Code, Section 982(b).

A TRUE BILL. 

FOREP;



BENJAMIN G. GREENBERG
UNITED STATES ATTORNEY
SOUTHERN DISTRICT OF FLORIDA

JOSEPH BEEMSTERBOER
DEPUTY CHIEF
CRIMINAL DIVISION, FRAUD SECTION
U.S. DEPARTMENT OF JUSTICE



JESSICA COLLINS
LESLIE WRIGHT
TRIAL ATTORNEYS
CRIMINAL DIVISION, FRAUD SECTION
U.S. DEPARTMENT OF JUSTICE