

2020R00926/RV/HH

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

FILED

FEB 21 2024

AT 8:30
CLERK, U.S. DISTRICT COURT - DNJ

UNITED STATES OF AMERICA	:	Hon. Susan D. Wigenton
	:	
	:	Crim. No. 21-430
v.	:	
	:	18 U.S.C. § 1349
	:	18 U.S.C. § 1347
ALEXANDER BALDONADO	:	18 U.S.C. § 371
	:	42 U.S.C. § 1320a-7b(b)(1)(B)
	:	18 U.S.C. § 2

SUPERSEDING INDICTMENT

The Grand Jury in and for the District of New Jersey, sitting at Newark, charges:

1. Unless otherwise indicated, at all times relevant to this Superseding Indictment:

The Defendant

a. Defendant ALEXANDER BALDONADO was a resident of New York and a licensed physician. ALEXANDER BALDONADO was an enrolled Medicare provider and submitted claims to Medicare for payment.

Relevant Entities and Individuals

b. "Lab Company 1" and "Lab Company 2" were laboratories located in New York with common ownership. Lab Company 1 and Lab Company 2 were enrolled Medicare providers and submitted claims to Medicare for payment.

c. “Lab Company 3” was a laboratory located in Secaucus, New Jersey. Lab Company 3 served as a reference laboratory that performed genetic testing on specimens referred by Lab Company 1 and Lab Company 2.

d. “Brace Company 1” was a durable medical equipment (“DME”) supply company located in Hazlet, New Jersey. Brace Company 1 was an enrolled Medicare provider and submitted claims to Medicare for payment.

e. “Co-Conspirator 1” was a resident of New York and representative of Lab Company 1.

f. “Co-Conspirator 2” was a resident of New Jersey and owned and operated Brace Company 1.

The Medicare and Medicaid Programs

g. The Medicare Program (“Medicare”) was a federally funded health care program that provided free or below-cost benefits to certain individuals, primarily the elderly, blind, or disabled. The benefits available under Medicare were governed by federal statutes and regulations. Medicare was administered by the Centers for Medicare and Medicaid Services (“CMS”), a federal agency within the U.S. Department of Health and Human Services (“HHS”).

h. The New York Medicaid Program (“Medicaid”) was jointly funded by federal and state governments and was a program that provided benefits to certain low-income individuals and families in New York State. Medicaid was administered by CMS and the New York State Department of Health.

i. Medicare and Medicaid were each a “health care benefit program,” as defined in Title 18, United States Code, Section 24(b), and a “Federal health care program,” as defined in Title 42, United States Code, Section 1320a-7b(f). Individuals who received Medicare or Medicaid benefits were referred to as “beneficiaries.”

j. Medicare was divided into four parts: hospital insurance (Part A), medical insurance (Part B), Medicare Advantage (Part C), and prescription drug benefits (Part D). Medicare Part B covered medically necessary physician office services and outpatient care, including laboratory tests and DME.

k. Physicians, clinics, laboratories, and other health care providers (collectively, “providers”) that provided items and services to Medicare and Medicaid beneficiaries were able to apply for and obtain a “provider number.” Providers that received a Medicare and Medicaid provider number were able to file claims with Medicare and Medicaid to obtain reimbursement for services provided to beneficiaries.

l. When seeking reimbursement from Medicare and Medicaid for provided benefits, services, or items, providers submitted the cost of the benefit, service, or item provided together with a description and the appropriate “procedure code,” as set forth in the Current Procedural Terminology (“CPT”) Manual or the Healthcare Common Procedure Coding System (“HCPCS”). Additionally, claims submitted to Medicare and Medicaid seeking reimbursement were required to include: (i) the beneficiary’s name; (ii) the date upon which the benefit, item, or service was provided or supplied to the beneficiary; and (iii) the

name of the provider, as well as the provider's unique identifying number, known either as the Unique Physician Identification Number ("UPIN") or National Provider Identifier ("NPI"). Claims seeking reimbursement from Medicare and Medicaid were able to be submitted in hard copy or electronically.

m. Medicare, in receiving and adjudicating claims, acted through fiscal intermediaries called Medicare administrative contractors ("MACs"), which were statutory agents of CMS for Medicare Part B. The MACs were private entities that reviewed claims and made payments to providers for services rendered and items provided to beneficiaries. The MACs were responsible for processing Medicare claims arising within their assigned geographical area, including determining whether the claim was for a covered service or item.

n. To receive Medicare reimbursement, providers needed to have applied to the MAC and executed a written provider agreement. The Medicare provider enrollment application for physicians and non-physician practitioners, CMS Form 855I, was required to be signed by the provider. CMS Form 855I contained a certification that stated:

I agree to abide by the Medicare laws, regulations, and program instructions that apply to me or to the organization listed in section 4A of this application. The Medicare laws, regulations, and program instructions are available through the Medicare Administrative Contractor. I understand that payment of a claim by Medicare is conditioned upon the claim and the underlying transaction complying with such laws, regulations and program instructions (including, but not limited to, the Federal Anti-Kickback Statute, 42 U.S.C. section 1320a-7b(b) . . .).

o. In executing CMS Form 855I, providers further certified that they “w[ould] not knowingly present or cause to be presented a false or fraudulent claim for payment by Medicare and w[ould] not submit claims with deliberate ignorance or reckless disregard of their truth or falsity.”

p. Medicare and Medicaid paid for claims only if the items or services were medically reasonable, medically necessary for the treatment or diagnosis of the patient’s illness or injury, documented, and actually provided as represented to Medicare and Medicaid. Medicare and Medicaid would not pay for items or services that were procured through kickbacks and bribes.

q. In certain limited circumstances, Medicare permitted laboratories to establish arrangements with so-called “reference laboratories.” Such arrangements existed when a laboratory received a specimen for testing, but instead of testing the specimen in-house, the laboratory acted as a “referring laboratory” by sending the specimen to another laboratory, the “reference laboratory,” to complete the testing.

Genetic Tests

r. Cancer genetic tests were laboratory tests that used DNA sequencing to detect mutations in genes that could lead to a higher risk of developing cancer or to assist in the treatment of an existing cancer. Cancer genetic tests were not a method of diagnosing, in the first instance, whether an individual had cancer.

s. In order to have a cancer genetic test performed, an individual typically provided a saliva sample, which contained DNA material (“specimen”). The specimen was then transmitted to a laboratory for testing.

t. DNA specimens were submitted along with laboratory requisition forms that identified the patient, the patient’s insurance, and the specific test to be performed. In order for laboratories to submit claims to Medicare for cancer genetic tests, the tests had to be approved by a physician or other authorized medical professional who attested to the medical necessity of the test.

u. Medicare did not cover diagnostic testing, including cancer genetic testing, that was “not reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member.” Title 42, United States Code, Section 1395y(a)(1)(A). Except for certain statutory exceptions, Medicare did not cover “[e]xaminations performed for a purpose other than treatment or diagnosis of a specific illness, symptoms, complaint, or injury.” Title 42, Code of Federal Regulations, Section 411.15(a)(1).

v. If diagnostic testing was necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member, Medicare imposed additional requirements before covering the testing. Title 42, Code of Federal Regulations, Section 410.32(a) provided that “all diagnostic x-ray tests, diagnostic laboratory tests, and other diagnostic tests must be ordered by the physician who is treating the beneficiary, that is, the physician who furnishes a consultation or treats a beneficiary for a specific

medical problem and who uses the results in the management of the beneficiary's specific medical problem. Tests not ordered by the physician who is treating the beneficiary are not reasonable and necessary."

Durable Medical Equipment

w. Medicare and Medicaid covered an individual's access to DME, such as off-the-shelf ("OTS") ankle braces, knee braces, back braces, elbow braces, wrist braces, and hand braces (collectively, "braces"). OTS braces required minimal self-adjustment for appropriate use and did not require expertise in trimming, bending, molding, assembling, or customizing to fit the individual.

x. Medicare and Medicaid claims for DME were required to be supported by proper documentation in accordance with Medicare rules and regulations.

y. A claim for DME submitted to Medicare or Medicaid qualified for reimbursement only if the DME was reasonable, medically necessary for the treatment or diagnosis of the beneficiary's illness or injury, prescribed by a licensed physician, actually provided as represented to Medicare or Medicaid, and not procured through kickbacks or bribes.

COUNT 1
Conspiracy to Commit Health Care Fraud

2. Paragraph 1 of this Superseding Indictment is realleged here.

3. From in or around 2018, and continuing through in or around May 2021, in the District of New Jersey and elsewhere, the defendant,

ALEXANDER BALDONADO,

did knowingly and intentionally combine, conspire, confederate, and agree with Co-Conspirator 1 and others, known and unknown to the Grand Jury, 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, contrary to Title 18, United States Code, Section 1347.

Goal of the Conspiracy

4. It was the goal of the conspiracy for defendant ALEXANDER BALDONADO, Co-Conspirator 1, and others known and unknown to the Grand Jury to unlawfully enrich themselves and others by, among other things, (a) soliciting, receiving, offering, and paying kickbacks and bribes in exchange for ordering laboratory tests, including genetic tests, for Medicare beneficiaries; (b) submitting and causing the submission of false and fraudulent claims to Medicare for services that were ordered and referred through illegal kickbacks and bribes, medically unnecessary, ineligible for reimbursement, and not

provided as represented; (c) concealing the submission of false and fraudulent claims to Medicare and the receipt and transfer of the proceeds of the fraud; and (d) diverting proceeds of the fraud for their personal use and benefit, for the use and benefit of others, and to further the fraud.

Manner and Means of the Conspiracy

5. The manner and means by which defendant ALEXANDER BALDONADO, Co-Conspirator 1, and their co-conspirators sought to accomplish the goal of the conspiracy included, among others, the following:

a. Defendant ALEXANDER BALDONADO solicited and received kickbacks and bribes from Co-Conspirator 1 and others in exchange for ordering laboratory tests, including genetic tests, that were billed to Medicare by Lab Company 1 and Lab Company 2.

b. Defendant ALEXANDER BALDONADO solicited and received kickbacks and bribes from Co-Conspirator 1 and others in exchange for referring Medicare beneficiaries to Lab Company 1 and Lab Company 2 for laboratory tests, including genetic tests.

c. On or about March 24, 2020, defendant ALEXANDER BALDONADO falsely certified to Medicare that he would comply with all Medicare rules and regulations, including that he would not knowingly present or cause to be presented a false and fraudulent claim for payment by Medicare.

d. In or around September 2020, during the national emergency and global pandemic caused by the novel coronavirus disease 2019 (“COVID-19”), defendant ALEXANDER BALDONADO and his co-conspirators gained

access to Medicare beneficiaries and their genetic samples by offering COVID-19 testing to residents living in a retirement community.

e. Defendant ALEXANDER BALDONADO ordered cancer genetic tests for Medicare beneficiaries even though: in some cases, the beneficiaries were seeking only COVID-19 testing; he was not treating the beneficiaries for cancer, symptoms of cancer, or any other medical condition; he did not use the test results in the treatment of the beneficiaries or the management of their care; and he did not conduct a patient visit or consultation that would justify approval of the orders for genetic testing on the beneficiaries.

f. Defendant ALEXANDER BALDONADO signed cancer genetic testing laboratory requisition forms for Medicare beneficiaries falsely certifying and attesting that the tests were medically necessary for the diagnosis or detection of a disease or disorder and that the results would be used in the medical management and care decisions for the beneficiary.

g. Defendant ALEXANDER BALDONADO and his co-conspirators falsified and altered laboratory requisition forms, including by adding false information about the Medicare beneficiaries' personal and family history of cancer, to falsely represent the medical necessity of the cancer genetic tests.

h. Defendant ALEXANDER BALDONADO submitted and caused to be submitted false and fraudulent claims to Medicare for services, including lengthy office visits, for Medicare beneficiaries for whom he ordered cancer genetic tests, including beneficiaries to whom defendant ALEXANDER

BALDONADO and his co-conspirators gained access by offering COVID-19 testing to residents living in a retirement community. These services were medically unnecessary, ineligible for reimbursement, not provided as represented, and never actually rendered.

i. Defendant ALEXANDER BALDONADO did not explain the results of the cancer genetic tests to the Medicare beneficiaries for whom he ordered the tests, and the beneficiaries rarely received the results from the tests, which were performed by Lab Company 3 in New Jersey, pursuant to a reference agreement with Lab Company 1 and Lab Company 2.

j. Defendant ALEXANDER BALDONADO, Co-Conspirator 1, and others concealed kickback and bribe payments by, among other ways, making and receiving payments in cash and falsely referring to kickbacks and bribes as payments for rent or loans.

k. Defendant ALEXANDER BALDONADO caused Lab Company 1 and Lab Company 2 to submit in excess of approximately \$20.7 million in false and fraudulent claims to Medicare for laboratory tests, including cancer genetic tests, that were ordered and procured through kickbacks and bribes, medically unnecessary, ineligible for reimbursement, and not provided as represented. Medicare paid Lab Company 1 and Lab Company 2 in excess of approximately \$2 million based on these false and fraudulent claims.

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

COUNTS 2 – 7
Health Care Fraud

6. Paragraph 1 of this Superseding Indictment is realleged here.

7. From in or around 2018, and continuing through in or around May 2021, in the District of New Jersey and elsewhere, the defendant,

ALEXANDER BALDONADO,

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 Medicare, a health care benefit program as defined in 18 U.S.C. § 24(b), 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.

Goal of the Scheme

8. Paragraph 4 of this Superseding Indictment is realleged here as a description of the goal of the scheme.

The Scheme

9. Paragraph 5 of this Superseding Indictment is realleged here as a description of the scheme.

Executions of the Scheme

10. On or about the dates specified below, in the District of New Jersey and elsewhere, defendant ALEXANDER BALDONADO, aided and abetted by, and aiding and abetting, Co-Conspirator 1 and others known and unknown to the Grand Jury, submitted and caused to be submitted the following false and fraudulent claims for cancer genetic tests that were billed to Medicare by Lab

Company 1, performed by Lab Company 3 in New Jersey, ordered and referred through illegal kickbacks and bribes, medically unnecessary, ineligible for reimbursement, and not provided as represented, in an attempt to execute, and in execution of, the scheme as described in Paragraph 5, with each execution set forth below forming a separate count:

Count	Medicare Beneficiary	Approx. Claim Date	Procedure Code	Ordering Provider	Approx. Amount Billed to Medicare
2	Medicare Beneficiary 1	9/11/20	81162	ALEXANDER BALDONADO	\$2,395.80
3	Medicare Beneficiary 2	9/11/20	81162	ALEXANDER BALDONADO	\$2,395.80
4	Medicare Beneficiary 3	9/10/20	81162	ALEXANDER BALDONADO	\$2,395.80
5	Medicare Beneficiary 4	9/10/20	81162	ALEXANDER BALDONADO	\$2,395.80
6	Medicare Beneficiary 5	9/26/20	81162	ALEXANDER BALDONADO	\$2,395.80
7	Medicare Beneficiary 6	9/10/20	81162	ALEXANDER BALDONADO	\$2,395.80

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

COUNT 8

Conspiracy to Defraud the United States and to Offer, Pay, Solicit, and Receive Health Care Kickbacks (Laboratory Testing)

11. Paragraphs 1 and 10 of this Superseding Indictment are realleged here.

12. From in or around 2018, and continuing through in or around May 2021, in the District of New Jersey and elsewhere, the defendant,

ALEXANDER BALDONADO,

did knowingly and intentionally combine, conspire, confederate, and agree with Co-Conspirator 1 and others known and unknown to the Grand Jury to:

a. defraud the United States by cheating the United States government and any of its agencies and departments out of money and property, and by impairing, impeding, obstructing, and defeating through deceitful and dishonest means, the lawful government functions of HHS and CMS in their administration and oversight of Medicare;

b. violate Title 42, United States Code, Section 1320a-7b(b)(1), by knowingly and willfully soliciting and receiving any remuneration, specifically, 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 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, and in return for purchasing, leasing, ordering, and arranging for and recommending purchasing, leasing, and ordering any good, facility, service, and

item for which payment may be made in whole and in part by a Federal health care program, that is, Medicare; and

c. violate Title 42, United States Code, Section 1320a-7b(b)(2), by knowingly and willfully offering and paying any remuneration, specifically, 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, and to induce such a person to purchase, lease, order, and arrange for and recommend purchasing, leasing, and ordering any good, facility, service, and item for which payment may be made in whole and in part under a Federal health care program, that is, Medicare.

Goal of the Conspiracy

13. Paragraph 4 of this Superseding Indictment is realleged here as a description of the goal of the conspiracy.

Manner and Means of the Conspiracy

14. Paragraph 5 of this Superseding Indictment is realleged here as a description of the manner and means of the conspiracy.

Overt Acts

15. In furtherance of the conspiracy and to accomplish its goal, at least one of the conspirators committed and caused the commission of one or more of the following acts in the District of New Jersey and elsewhere:

a. In or around September 2020, defendant ALEXANDER BALDONADO solicited and received an illegal kickback of approximately \$4,000

in cash from Co-Conspirator 1 in exchange for signing cancer genetic testing laboratory requisition forms for Medicare beneficiaries that Lab Company 1 used to bill Medicare.

b. On or about September 10, 2020, defendant ALEXANDER BALDONADO signed cancer genetic testing laboratory requisition forms for Medicare Beneficiary 3, Medicare Beneficiary 4, Medicare Beneficiary 5, and Medicare Beneficiary 6 falsely certifying and attesting that the tests were medically necessary for the diagnosis or detection of a disease or disorder and that the results would be used in the medical management and care decisions for the beneficiaries.

c. On or about September 11, 2020, defendant ALEXANDER BALDONADO signed cancer genetic testing laboratory requisition forms for Medicare Beneficiary 1 and Medicare Beneficiary 2 falsely certifying and attesting that the tests were medically necessary for the diagnosis or detection of a disease or disorder and that the results would be used in the medical management and care decisions for the beneficiaries.

d. On or about October 23, 2020, Lab Company 3, located in New Jersey, performed a cancer genetic test ordered by defendant ALEXANDER BALDONADO on a specimen collected from Medicare Beneficiary 4.

e. On or about October 29, 2020, Lab Company 3, located in New Jersey, performed a cancer genetic test ordered by defendant ALEXANDER BALDONADO on a specimen collected from Medicare Beneficiary 5.

f. On or about November 4, 2020, Lab Company 3, located in New Jersey, performed a cancer genetic test ordered by defendant ALEXANDER BALDONADO on a specimen collected from Medicare Beneficiary 2.

g. On or about November 6, 2020, Lab Company 3, located in New Jersey, performed a cancer genetic test ordered by defendant ALEXANDER BALDONADO on a specimen collected from Medicare Beneficiary 6.

h. On or about November 10, 2020, Lab Company 3, located in New Jersey, performed a cancer genetic test ordered by defendant ALEXANDER BALDONADO on a specimen collected from Medicare Beneficiary 1.

i. On or about November 20, 2020, Lab Company 3, located in New Jersey, performed a cancer genetic test ordered by defendant ALEXANDER BALDONADO on a specimen collected from Medicare Beneficiary 3.

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

COUNT 9

Conspiracy to Defraud the United States and to Offer, Pay, Solicit, and Receive Health Care Kickbacks (Durable Medical Equipment)

16. Paragraph 1 of this Superseding Indictment is realleged here.

17. From in or around September 2020, and continuing through in or around April 2021, in the District of New Jersey and elsewhere, the defendant,

ALEXANDER BALDONADO,

did knowingly and intentionally combine, conspire, confederate, and agree with Co-Conspirator 2 and others known and unknown to the Grand Jury to:

a. defraud the United States by cheating the United States government and any of its departments or agencies out of money and property, and by impairing, impeding, obstructing, and defeating through deceitful and dishonest means, the lawful government functions of HHS and CMS in its administration and oversight of Medicare and Medicaid;

b. violate Title 42, United States Code, Section 1320a-7b(b)(1), by knowingly and willfully soliciting and receiving any remuneration, specifically, 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 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 and Medicaid, and in return for purchasing, leasing, ordering, and arranging for and recommending purchasing, leasing, and ordering any good, facility, service, and item for which payment may be made in whole and in part by a Federal health care program, that is, Medicare and Medicaid; and

c. violate Title 42, United States Code, Section 1320a-7b(b)(2), by knowingly and willfully offering and paying any remuneration, specifically, 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 and Medicaid, and to induce such a person to purchase, lease, order, and arrange for and recommend purchasing, leasing, and ordering any good, facility, service, and item for which payment may be made in whole and in part under a Federal health care program, that is, Medicare and Medicaid.

Goal of the Conspiracy

18. It was the goal of the conspiracy for defendant ALEXANDER BALDONADO, Co-Conspirator 2, and others known and unknown to the Grand Jury to unlawfully enrich themselves and others by, among other things, (a) soliciting, receiving, offering, and paying kickbacks and bribes in exchange for ordering orthotic braces for Medicare and Medicaid beneficiaries; (b) submitting and causing the submission of false and fraudulent claims to Medicare and Medicaid for orthotic braces that were ordered and referred through illegal kickbacks and bribes, medically unnecessary, and ineligible for reimbursement; (c) concealing the submission of false and fraudulent claims to Medicare and Medicaid and the receipt and transfer of the proceeds of the fraud; and (d) diverting fraud proceeds for their personal use and benefit, for the use and benefit of others, and to further the fraud.

Manner and Means of the Conspiracy

19. The manner and means by which defendant ALEXANDER BALDONADO, Co-Conspirator 2, and others sought to accomplish the goal of the conspiracy included, among others, the following:

a. On or about March 24, 2020, defendant ALEXANDER BALDONADO falsely certified to Medicare that he would comply with all Medicare rules and regulations, including that he would abide by the Federal Anti-Kickback Statute and that he would not knowingly present or cause to be presented a false and fraudulent claim for payment by Medicare.

b. Defendant ALEXANDER BALDONADO solicited and received kickbacks and bribes from Co-Conspirator 2 in exchange for ordering orthotic braces for Medicare and Medicaid beneficiaries that could be billed to Medicare and Medicaid by Brace Company 1.

c. Defendant ALEXANDER BALDONADO solicited and received kickbacks and bribes from Co-Conspirator 2 in exchange for referring Medicare and Medicaid beneficiaries to Brace Company 1 for orthotic braces.

d. Defendant ALEXANDER BALDONADO ordered orthotic braces that were medically unnecessary, including for patients with whom he did not have any consultation or examination regarding orthotic braces.

e. Defendant ALEXANDER BALDONADO and his co-conspirators falsified, fabricated, altered, and caused the falsification, fabrication, and alteration of patient records and chart notes, including by adding false diagnoses and false patient complaints, to falsely represent the

medical necessity of orthotic braces ordered in exchange for kickbacks and bribes.

f. Defendant ALEXANDER BALDONADO and his co-conspirators concealed and disguised the scheme by preparing and causing to be prepared false documentation and paying and receiving illegal kickbacks in cash.

g. Defendant ALEXANDER BALDONADO and his co-conspirators caused Medicare and Medicaid to be billed for orthotic braces that were ordered through illegal kickbacks and bribes, medically necessary, and ineligible for reimbursement.

Overt Acts

20. In furtherance of the conspiracy, and to accomplish its goal, at least one of the conspirators committed, and caused to be committed, in the District of New Jersey and elsewhere, at least one of the following overt acts, among others:

a. In or around September 2020, defendant ALEXANDER BALDONADO solicited and received an illegal kickback of approximately \$2,500 in cash from Co-Conspirator 2 in exchange for orthotic brace orders and referrals, including referrals of Medicare and Medicaid beneficiaries.

b. On or about September 30, 2020, Brace Company 1, located in New Jersey, submitted claims to Medicare totaling approximately \$5,931 for approximately seven orthotic braces ordered by defendant ALEXANDER

BALDONADO for Medicare beneficiaries referred by defendant ALEXANDER BALDONADO in exchange for kickbacks and bribes.

c. In or around October 2020, defendant ALEXANDER BALDONADO solicited and received an illegal kickback of approximately \$2,500 in cash from Co-Conspirator 2 in exchange for orthotic brace orders and referrals of Medicare and Medicaid beneficiaries at Co-Conspirator 2's residence in New Jersey.

d. On or about April 20, 2021, defendant ALEXANDER BALDONADO solicited an illegal kickback in exchange for orthotic brace orders and referrals, including orders for and referrals of Medicare and Medicaid beneficiaries, from Co-Conspirator 2, located in New Jersey. Specifically, over the phone, defendant ALEXANDER BALDONADO offered to refer more than 50 patients to Co-Conspirator 2 for orthotic braces.

e. On or about April 21, 2021, defendant ALEXANDER BALDONADO, via text message, offered to refer 87 patients for back, knee, ankle, and neck braces in exchange for illegal kickbacks.

f. On or about April 21, 2021, defendant ALEXANDER BALDONADO solicited and received an illegal kickback of approximately \$2,500 in cash from Co-Conspirator 2 in exchange for orthotic brace orders and referrals of Medicare and Medicaid beneficiaries.

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

COUNT 10
Solicitation of Health Care Kickbacks

21. Paragraphs 1 and 18-20 of this Superseding Indictment are realleged here.

22. On or about April 20, 2021, in the District of New Jersey and elsewhere, the defendant,

ALEXANDER BALDONADO,

did knowingly and willfully solicit remuneration, specifically, kickbacks and bribes, directly and indirectly, overtly and covertly, in cash and in kind, in return for purchasing, leasing, ordering, and arranging for and recommending purchasing, leasing, and ordering any good, facility, service, and item for which payment may be made in whole and in part by a Federal health care program.

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

FORFEITURE ALLEGATIONS

1. The allegations contained in Counts 1 through 10 of this Superseding Indictment are realleged here for the purpose of alleging forfeiture against defendant ALEXANDER BALDONADO.

2. Pursuant to Title 18, United States Code, Section 982(a)(7), upon being convicted of the offenses charged in Counts 1 through 10 of this Superseding Indictment, defendant ALEXANDER BALDONADO 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 offenses.

Substitute Assets Provision

3. If any of the above-described forfeitable property, 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 person;
- 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 subdivided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b) and Title 28, United States Code, Section 2461(c), to seek forfeiture of any other property of defendant ALEXANDER BALDONADO up to the value of the


forfeitable property described above.

A True Bill,


For person

Philip R. Sellinger
PHILIP R. SELLINGER
United States Attorney

GLENN S. LEON
Chief
Criminal Division, Fraud Section
United States Department of Justice


REBECCA YUAN
Assistant Chief
HYUNGJOO HAN
Trial Attorney
Criminal Division, Fraud Section
United States Department of Justice

CASE NUMBER: Crim. No. 21-430

**United States District Court
District of New Jersey**

UNITED STATES OF AMERICA

v.

ALEXANDER BALDONADO

**SUPERSEDING INDICTMENT
FOR**

**18 U.S.C. § 1349
18 U.S.C. § 1347
18 U.S.C. § 371
42 U.S.C. § 1320a-7b(b)(1)(B)
18 U.S.C. § 2**

A True Bill,


Foreperson

**PHILIP R. SELLINGER
UNITED STATES ATTORNEY
FOR THE DISTRICT OF NEW JERSEY**

**REBECCA YUAN
ASSISTANT CHIEF
HYUNGJOO HAN
TRIAL ATTORNEY
(202) 754-0901**
