

AUSA

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVI

Case:2:12-cr-20269
Judge: Roberts, Victoria A.
MJ: Michelson, Laurie J.
Filed: 04-25-2012 At 04:52 PM
INDI USA V SEALED MATTER (EB)

UNITED STATES OF AMERICA

v.

D-1 GLENN ENGLISH,
D-2 GREGORY LAWRENCE,
D-3 RICHARD HOGAN
D-4 DONALD BERRY,
D-5 FELICIA MARSH,
D-6 JAMIE MOREAU,

VIO: 18 U.S.C. § 1347
18 U.S.C. § 1349
18 U.S.C. § 982
18 U.S.C. § 2

Defendants.

INDICTMENT

THE GRAND JURY CHARGES:

General Allegations

At all times relevant to this Indictment:

1. The Medicare program was a federal health care program providing benefits to persons who were over the age of 65 or disabled. Medicare was administered by the Centers for Medicare and Medicaid Services (CMS), a federal agency under the United State Department of Health and Human Services. Individuals who received benefits under Medicare were referred to as Medicare "beneficiaries."

2. Medicare was a "health care benefit program," as defined by Title 18, United States Code, section 24(b).

3. The Medicare program included coverage under two primary components, hospital insurance (Part A) and medical insurance (Part B). Part B of the Medicare Program

covered the cost of physicians' services and other ancillary services not covered by Part A. The claims at issue in this indictment were submitted under Part B of the Medicare program.

4. Wisconsin Physicians Service was the CMS-contracted carrier for Medicare Part B, which included psychotherapy services, in the state of Michigan. TrustSolutions, LLC was the Program Safeguard Contractor for Medicare Part A and Part B in the state of Michigan.

5. By becoming a participating provider in Medicare, enrolled providers agreed to abide by the policies and procedures, rules, and regulations governing reimbursement. To receive Medicare funds, enrolled providers, together with their authorized agents, employees, and contractors, were required to abide by all the provisions of the Social Security Act, the regulations promulgated under the Act, and applicable policies and procedures, rules, and regulations, issued by CMS and its authorized agents and contractors.

6. Upon certification, the medical provider, whether a clinic or an individual, was assigned a provider identification number for billing purposes (referred to as a PIN). When the medical provider rendered a service, the provider submitted a claim for reimbursement to the Medicare contractor/carrier that included the PIN assigned to that medical provider. When an individual medical provider was associated with a clinic, Medicare Part B required that the individual provider number associated with the clinic be placed on the claim submitted to the Medicare contractor.

7. Health care providers were given and/or provided with online access to Medicare manuals and services bulletins describing proper billing procedures and billing rules and regulations. Providers could only submit claims to Medicare for services they rendered, and providers were required to maintain patient records to verify that the services were provided as described on the claim form.

8. To receive reimbursement for a covered service from Medicare, a provider was required to submit a claim, either electronically or using a form (e.g., a CMS-1500 form or UB-92), containing the required information appropriately identifying the provider, patient, and services rendered.

9. New Century Adult Day Program Services, LLC (New Century), was a Michigan corporation that operated, at various times, at 400 S. Dort Highway, Flint, MI 48503, and 1616 Davison Road, Flint, MI 48506. New Century was a Medicare provider and submitted claims directly to Medicare.

10. GLENN ENGLISH, a resident of Wayne County, Michigan, was an owner and controller of New Century.

11. GREGORY LAWRENCE, a resident of Wayne County, Michigan, was a Medicare provider and Director at New Century.

12. RICHARD HOGAN, a resident of Genesee County, Michigan, was a Program Coordinator at New Century.

13. DONALD BERRY, a resident of Wayne County, Michigan, was a Medicare provider at New Century.

14. FELICIA MARSH, a resident of Wayne County, Michigan, was a Medicare provider at New Century.

15. JAMIE MOREAU, a resident of Genesee County, Michigan, was an employee at New Century.

COUNT 1
(18 U.S.C. § 1349 – Conspiracy to Commit Health Care Fraud)

D-1 GLENN ENGLISH
D-2 GREGORY LAWRENCE
D-3 RICHARD HOGAN
D-4 DONALD BERRY
D-5 FELICIA MARSH
D-6 JAMIE MOREAU

16. Paragraphs 1 through 15 of the General Allegations section of this Indictment are re-alleged and incorporated by reference, as though fully set forth herein.

17. From in or around October 2009, and continuing through in or around April 2012, the exact dates being unknown to the Grand Jury, in Genesee County, in the Eastern District of Michigan, Southern Division, at Flint, and elsewhere, the defendants, GLENN ENGLISH, GREGORY LAWRENCE, RICHARD HOGAN, DONALD BERRY, FELICIA MARSH, JAMIE MOREAU and others did willfully and knowingly combine, conspire, confederate and agree with each other and others known and unknown to the Grand Jury, to violate Title 18, United States Code, Section 1347, that is, 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, 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 service.

Purpose of the Conspiracy

18. It was a purpose of the conspiracy for defendants GLENN ENGLISH, GREGORY LAWRENCE, RICHARD HOGAN, DONALD BERRY, FELICIA MARSH, JAMIE MOREAU and others to unlawfully enrich themselves by, among other things, (a) submitting false and

fraudulent claims to Medicare; (b) concealing the submission of false and fraudulent claims to Medicare and the receipt and transfer of the proceeds from the fraud; and (c) diverting proceeds of the fraud for the personal use and benefit of the defendants and their co-conspirators.

Manner and Means

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

19. GLENN ENGLISH would incorporate New Century in or around October 2009.

20. GLENN ENGLISH would execute a Medicare provider enrollment application for New Century in or around November 2009, and would obtain Medicare provider numbers for New Century and individual Medicare provider numbers for licensed social workers, including LAWRENCE, BERRY, and MARSH.

21. GLENN ENGLISH would control the operations at New Century.

22. GREGORY LAWRENCE, RICHARD HOGAN, and JAMIE MOREAU would manage and assist in the management of New Century's day-to-day operations.

23. GLENN ENGLISH, RICHARD HOGAN and others would pay, and cause to be paid, kickbacks in cash and in items of value in exchange for Medicare beneficiary information.

24. JAMIE MOREAU would collect patient signatures and maintain billing documents for psychotherapy that was not medically necessary and not provided.

25. GREGORY LAWRENCE, DONALD BERRY, FELICIA MARSH, and others would create and sign false psychotherapy documents for Medicare beneficiaries who did not receive or need the services that New Century claimed it provided to them.

26. GLENN ENGLISH, GREGORY LAWRENCE, RICHARD HOGAN, DONALD BERRY, FELICIA MARSH, JAMIE MOREAU and others would bill Medicare, and cause

Medicare to be billed, for psychotherapy and related services that were medically unnecessary and not provided.

27. Between November 2009 and April 2012, GLENN ENGLISH, GREGORY LAWRENCE, RICHARD HOGAN, DONALD BERRY, FELICIA MARSH, JAMIE MOREAU and others would submit, or cause to be submitted, approximately \$2.8 million in claims for psychotherapy services, and Medicare would pay approximately \$883,158.05 on those claims.

28. GLENN ENGLISH and others would control New Century's bank accounts, and GLENN ENGLISH, GREGORY LAWRENCE, RICHARD HOGAN, DONALD BERRY, FELICIA MARSH, JAMIE MOREAU, and others would receive proceeds of these Medicare billings through these bank accounts.

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

COUNTS 2-6
(18 U.S.C. §§ 1347 and 2 – Health Care Fraud)

D-1 GLENN ENGLISH
D-2 GREGORY LAWRENCE

29. Paragraphs 1-15 of the General Allegations section of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

30. On or about the dates enumerated below, in Genessee County in the Eastern District of Michigan, and elsewhere, the defendants, GLENN ENGLISH, GREGORY LAWRENCE and others known and unknown to the Grand Jury, did knowingly and willfully cause to be submitted to Medicare the following false and fraudulent claims for payment:

Count	Beneficiary	ICN	On or About Claim Date	Billing Code/Procedure	Approximate Amount Billed
2	S.H.	1111081117600	14-Mar-11	90806 (45-50 minute individual psychotherapy session); 90853 (45-50 minute group psychotherapy session)	\$150.00
3	S.H.	1111082155890	18-Mar-11	90806 (45-50 minute individual psychotherapy session); 90853 (45-50 minute group psychotherapy session)	\$150.00
4	S.H.	1111083103780	21-Mar-11	90806 (45-50 minute individual psychotherapy session); 90853 (45-50 minute group psychotherapy session)	\$150.00
5	S.H.	1111087093200	23-Mar-11	90806 (45-50 minute individual psychotherapy session); 90853 (45-50 minute group psychotherapy session)	\$150.00
6	S.H.	1111088124340	25-Mar-11	90806 (45-50 minute individual psychotherapy session); 90853 (45-50 minute group psychotherapy session)	\$150.00

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

CRIMINAL FORFEITURE
(18 U.S.C. § 982)

31. The allegations contained in Counts One through Six are re-alleged and incorporated by reference as though fully set forth herein for the purpose of alleging forfeiture to the United States of America of any property, real or personal obtained by the defendants, that is, GLENN ENGLISH, GREGORY LAWRENCE, RICHARD HOGAN, DONALD BERRY, FELICIA MARSH, and JAMIE MOREAU, by commission of the offenses charged in Counts One through Six, pursuant to the provisions of 18 U.S.C. § 982(a)(7) and 28 U.S.C. § 2461.

32. As a result of the violation of Title 18, United States Code, Section 1349, as set forth in this Indictment, defendants GLENN ENGLISH, GREGORY LAWRENCE, RICHARD HOGAN, DONALD BERRY, FELICIA MARSH, and JAMIE MOREAU shall forfeit to the

United States any property, real or personal, constituting, or derived from, any proceeds obtained, directly or indirectly, as a result of such violation, pursuant to 18 U.S.C. § 982(a)(7) and 28 U.S.C. § 2461.

33. As a result of the violations of Title 18, United States Code, Sections 1347 and 2, as set forth in this Indictment, defendants GLENN ENGLISH and GREGORY LAWRENCE shall forfeit to the United States any property, real or personal, that constitutes or is derived from, gross proceeds traceable to the commission of such violations, pursuant to 18 U.S.C. § 982(a)(7).

34. Substitute Assets: If the property described above as being subject to forfeiture, as a result of any act or omission of the defendant:

- a) Cannot be located upon the exercise of due diligence;
- b) Has been transferred or sold to, or deposited with, a third party;
- c) Has been placed beyond the jurisdiction of the Court;
- d) Has been substantially diminished in value; or
- e) Has been commingled with other property that cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to 21 U.S.C. § 853(p) as incorporated by 18 U.S.C. § 982(b) and/or 28 U.S.C. § 2461, to seek to forfeit any other property of defendants GLENN ENGLISH, GREGORY LAWRENCE, RICHARD HOGAN, DONALD BERRY, FELICIA MARSH, and JAMIE MOREAU, up to the value of the forfeitable property described above.

35. Money Judgment: A sum of money equal to at least \$883,158.05 in United States currency, or such amount as is proved at trial in this matter, representing the total amount of proceeds obtained as a result of defendant's violations of 18 U.S.C. §§ 1349 and 1347, as alleged in this Indictment.

All pursuant to Title 18, United States Code, Section 982(a)(7).

THIS IS A TRUE BILL.

s/GRAND JURY FOREPERSON
Grand Jury Foreperson

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Dated: April 25, 2011