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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

February 2012 Grand Jury

CR12-0382

| | | |
|---------------------------|---|---------------------------------|
| UNITED STATES OF AMERICA, |) | No. CR _____ |
| |) | |
| Plaintiff, |) | <u>I N D I C T M E N T</u> |
| |) | |
| v. |) | [18 U.S.C. § 1349: Conspiracy |
| |) | to Commit Health Care Fraud; |
| BOLADEMI ADETOLA, |) | 18 U.S.C. § 1347: Health Care |
| a/k/a/ "Demi," and |) | Fraud; 18 U.S.C. § 2(b): |
| YURI MARTIN LOPEZ, |) | Causing an Act to be Done; 18 |
| a/k/a/ "Toby," |) | U.S.C. § 982(a)(7): Forfeiture] |
| a/k/a "Juan Carlos," |) | |
| |) | |
| Defendants. |) | |

The Grand Jury charges:

COUNT ONE

[18 U.S.C. §§ 1349, 2(b)]

A. INTRODUCTORY ALLEGATIONS

At all times relevant to this Indictment:

The Conspirators

1. Defendant BOLADEMI ADETOLA ("ADETOLA"), also known as ("aka") "Demi," owned and operated a durable medical equipment ("DME") supply company called Latay Medical

1 Services ("LATAY"). Defendant ADETOLA submitted applications to
2 Medicare to obtain and maintain a Medicare provider number for
3 LATAY.

4 2. LATAY's offices were located at 14612 Crenshaw
5 Boulevard, Gardena, California, within the Central District of
6 California.

7 3. Defendant YURI MARTIN LOPEZ ("LOPEZ"), aka "Toby," aka
8 "Juan Carlos," who had a personal relationship with ADETOLA,
9 worked at LATAY as a manager, technician, and delivery driver.

10 4. Between in or around January 2005 and in or around
11 September 2009, LATAY submitted to Medicare claims totaling
12 approximately \$8,413,858.71.

13 The Medicare Program

14 5. Medicare was a federal health care benefit program,
15 affecting commerce, that provided benefits to individuals who
16 were over the age of 65 or disabled. Medicare was administered
17 by the Centers for Medicare and Medicaid Services ("CMS"), a
18 federal agency under the United States Department of Health and
19 Human Services ("HHS").

20 6. Medicare was subdivided into several parts, including
21 Medicare Part B, which covered physician's services and DME, such
22 as power wheelchairs, power wheelchair accessories, and
23 orthotics.

24 7. CMS contracted with private insurance companies to (a)
25 certify DME providers for participation in the Medicare program
26 and monitor their compliance with Medicare standards; (b) process
27 and pay claims; and (c) perform program safeguard functions, such
28 as identifying and reviewing suspect claims.

1 8. Individuals who qualified for Medicare benefits were
2 referred to as Medicare "beneficiaries." Each Medicare
3 beneficiary was given a Health Identification Card containing a
4 unique identification number ("HICN").

5 9. DME companies, physicians, and other health care
6 providers that provided medical services that were reimbursed by
7 Medicare were referred to as Medicare "providers."

8 10. To obtain payment from Medicare, a DME company first
9 had to apply for and obtain a provider number. By signing the
10 provider application, the DME company agreed to abide by Medicare
11 rules and regulations, including the Anti-Kickback Statute (42
12 U.S.C. § 1320a-7b(b)), which, among other things, prohibited the
13 payment of kickbacks or bribes for the referral of Medicare
14 beneficiaries for any item or service for which payment may be
15 made by the Medicare program.

16 11. If Medicare approved a provider's application, Medicare
17 would assign the provider a Medicare provider number, enabling
18 the provider (such as a DME company) to submit claims to Medicare
19 for services and supplies provided to Medicare beneficiaries.

20 12. To obtain and maintain their Medicare provider number
21 billing privileges, DME suppliers had to meet Medicare standards
22 for participation. The Medicare contractor responsible for
23 evaluating and certifying DME providers' compliance with these
24 standards was Palmetto GBA ("Palmetto").

25 13. Until about September 2006, CIGNA processed and paid
26 Medicare DME claims in Southern California. From in or about
27 October 2006 onward, Noridian Administrative Services
28 ("Noridian") performed this function.

1 14. Most DME providers, including LATAY, submitted their
2 claims electronically pursuant to an agreement with Medicare that
3 they would submit claims that were accurate, complete, and
4 truthful.

5 15. Medicare paid DME providers only for DME that was
6 medically necessary to the treatment of a beneficiary's illness
7 or injury, was prescribed by a beneficiary's physician, and was
8 provided in accordance with Medicare regulations and guidelines
9 that governed whether a particular item or service would be paid
10 by Medicare.

11 16. To bill Medicare for DME it provided to a beneficiary,
12 a DME provider was required to submit a claim (Form 1500) to
13 Noridian or CIGNA. Medicare required claims to be truthful,
14 complete, and not misleading. In addition, when a claim was
15 submitted, the provider was required to certify that the services
16 or supplies covered by the claim were medically necessary.

17 17. Medicare required a claim for payment to set forth,
18 among other things, the beneficiary's name and HICN, the type of
19 DME provided to the beneficiary, the date the DME was provided,
20 and the name and unique physician identification number ("UPIN")
21 or National Provider Identifier ("NPI") number of the physician
22 who prescribed or ordered the DME.

23 18. Medicare had a co-payment requirement for DME.
24 Medicare reimbursed providers 80% of the allowed amount of a DME
25 claim and the beneficiary was ordinarily obligated to pay the
26 remaining 20%.

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1 B. THE OBJECT OF THE CONSPIRACY

2 19. Beginning on or about January 1, 2005, and continuing
3 through on or about September 30, 2009, in Los Angeles County,
4 within the Central District of California, and elsewhere,
5 defendants ADETOLA and LOPEZ, together with others known and
6 unknown to the Grand Jury, knowingly combined, conspired, and
7 agreed to commit health care fraud, in violation of Title 18,
8 United States Code, Section 1347.

9 C. THE MANNER AND MEANS OF THE CONSPIRACY

10 20. The object of the conspiracy was carried out, and to be
11 carried out, in substance, as follows:

12 a. Individuals known as "marketers" obtained Medicare
13 beneficiaries' information by offering them medically unnecessary
14 power wheelchairs, hospital beds, orthotics, and other DME. In
15 some cases, the marketers took or referred the beneficiaries to
16 fraudulent medical clinics, doctors' offices, and other locations
17 where fraudulent prescriptions and medical documents were
18 generated using the beneficiaries' personal information and
19 HICNs.

20 b. Defendant ADETOLA and other co-conspirators would
21 acquire these false and fraudulent prescriptions and other
22 documents from the medical clinics, doctors' offices, and other
23 sources for the purpose of using these prescriptions and
24 documents to submit and cause the submission of false and
25 fraudulent claims to Medicare on behalf of LATAY.

26 c. Defendant LOPEZ and other co-conspirators would sign
27 false and fraudulent delivery receipts and home evaluation forms
28 for power wheelchairs, power wheelchair accessories, orthotics,

1 hospital beds, and other DME purportedly provided by LATAY to
2 Medicare beneficiaries when in fact the DME was not delivered as
3 represented, the home evaluations were not performed, and/or the
4 conditions of the home were misrepresented.

5 d. After acquiring the false and fraudulent documents,
6 defendants ADETOLA and LOPEZ would submit and cause the
7 submission of false and fraudulent claims to Medicare for power
8 wheelchairs, power wheelchair accessories, orthotics, hospital
9 beds, and other DME purportedly provided by LATAY to Medicare
10 beneficiaries.

11 e. Defendants ADETOLA and LOPEZ would submit and cause the
12 submission of claims to Medicare for power wheelchairs,
13 orthotics, hospital beds, and other DME that were not provided to
14 the beneficiaries or that the beneficiaries did not want or
15 medically need. In some cases, defendants ADETOLA and LOPEZ
16 would claim to Medicare that LATAY had provided the beneficiaries
17 with expensive power wheelchairs, orthotics, or other DME when,
18 in fact, LATAY had provided the beneficiaries with less expensive
19 DME.

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COUNTS TWO THROUGH THIRTEEN

[18 U.S.C. §§ 1347, 2(b)]

A. INTRODUCTORY ALLEGATIONS

21. The Grand Jury incorporates by reference and re-alleges paragraphs 1 through 18 above as though set forth in their entirety here.

B. THE SCHEME TO DEFRAUD

22. Beginning on or about January 1, 2005, and continuing through on or about September 30, 2009, in Los Angeles County, within the Central District of California, and elsewhere, defendants ADETOLA and LOPEZ, together with others known and unknown to the Grand Jury, knowingly, willfully, and with intent to defraud, executed, and attempted to execute, a scheme and artifice: (a) to defraud a health care benefit program, namely Medicare, as to material matters in connection with the delivery of and payment for health care benefits, items, and services; and (b) to obtain money from Medicare by means of material false and fraudulent pretenses and representations and the concealment of material facts in connection with the delivery of and payment for health care benefits, items, and services.

C. MEANS TO ACCOMPLISH THE SCHEME TO DEFRAUD

23. The fraudulent scheme operated, in substance, as described in Paragraph 20 of this Indictment, which is hereby incorporated by reference as if stated in its entirety here.

D. THE EXECUTION OF THE FRAUDULENT SCHEME

24. On or about the dates set forth below, within the Central District of California and elsewhere, defendants ADETOLA and LOPEZ, together with others known and unknown to the Grand

1 Jury, for the purpose of executing and attempting to execute the
 2 fraudulent scheme described above, knowingly and willfully caused
 3 to be submitted to Medicare the following false and fraudulent
 4 claims for payment:

| COUNT | CLAIM NUMBER | APPROX. DATE SUBMITTED | APPROX. AMOUNT OF CLAIM | NATURE OF CLAIM |
|--------|---------------------|------------------------|-------------------------|---|
| TWO | 10721382 3476000 | 8/1/2007 | \$5,460 | Power wheelchair and accessories for E.T. |
| THREE | 10724082 4307000 | 8/24/2007 | \$5,460 | Power wheelchair and accessories for I.A. |
| FOUR | 10724082 4308000 | 8/24/2007 | \$2,200 | Knee Orthosis for I.A. |
| FIVE | 10724082 4313000 | 8/28/2007 | \$283.03 | Hospital bed and accessories for I.A. |
| SIX | 10734187 7494000 | 11/28/2007 | \$5,460 | Power wheelchair and accessories for M.R. |
| SEVEN | 10716984 5610000 | 5/3/2007 | \$130.62 | Hospital bed for H.P. |
| EIGHT | 10806482 1893001 | 3/4/2008 | \$5,460 | Power wheelchair and accessories for L.V.N. |
| NINE | 10806482 1894001 | 3/4/2008 | \$2,200 | Knee Orthosis for L.V.N. |
| TEN | 10811981 7890000 | 4/28/2008 | \$5,460 | Power wheelchair and accessories for S.C.L. |
| ELEVEN | 10811981 7891000 | 4/28/2008 | \$955 | Lumber Orthosis for S.C.L. |

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| <u>COUNT</u> | <u>CLAIM NUMBER</u> | <u>APPROX. DATE SUBMITTED</u> | <u>APPROX. AMOUNT OF CLAIM</u> | <u>NATURE OF CLAIM</u> |
|--------------|---------------------|-------------------------------|--------------------------------|---------------------------------------|
| TWELVE | 10812282 7475000 | 4/30/2008 | \$283.03 | Hospital bed and accessories for P.B. |
| THIRTEEN | 10812282 7482000 | 4/30/2008 | \$283.03 | Hospital bed and accessories for P.D. |

FORFEITURE NOTICE

[18 U.S.C. § 982(a)(7), 21 U.S.C. § 853,
and 28 U.S.C. § 2461(c)]

25. The Grand Jury hereby realleges and incorporates by reference Counts One through Thirteen of this Indictment as though fully set forth herein, for the purpose of alleging forfeiture, pursuant to the provisions of Title 18, United States Code, Section 982(a)(7).

26. Defendants ADETOLA and LOPEZ, if convicted of any the offenses charged under Counts One through Thirteen of this Indictment, shall forfeit to the United States the following property:

a. All right, title, and interest in any and all property, real or personal, which constitutes or is derived from proceeds traceable to such offenses including, but not limited to:

i. approximately \$19,121.13 seized on or about December 18, 2009, from Bank of America account number *****-7467, in the name of Latay Medical Services;

ii. one 2006 Infiniti M45-V8, VIN JNKBY01EX6M202677;
and

iii. one 2010 Mercedes Benz GLK, VIN WDCGG8HB7AF268339.

b. A sum of money equal to the total amount of proceeds derived from each such offense for which defendants are convicted, or for which defendants may be held jointly and severally liable.

27. If, as a result of any act or omission by defendants ADETOLA or LOPEZ any of the foregoing money or property

1 (a) cannot be located upon the exercise of due diligence; (b) has
2 been transferred or sold to, or deposited with, a third party;
3 (c) has been placed beyond the jurisdiction of the court; (d) has
4 been substantially diminished in value; or (e) has been
5 commingled with other property that cannot be subdivided without
6 difficulty, then any other property or interests of defendants
7 ADETOLA and LOPEZ, up to the value of the money and property
8 described in the preceding paragraph of this Indictment, shall be
9 subject to forfeiture to the United States.

10
11 A TRUE BILL

12
13 IS/
14 Foreperson

15 ANDRÉ BIROTTE JR.
16 United States Attorney

17 *Don*
Donny C. Kim
Dep. Chief, Crim. Div. FOR.

18 ROBERT E. DUGDALE
19 Assistant United States Attorney
20 Chief, Criminal Division

21 BEONG-SOO KIM
22 Assistant United States Attorney
23 Chief, Major Frauds Section

24 SAM S. SHELDON
25 Deputy Chief, Fraud Section
26 United States Department of Justice

27 CHARLES LA BELLA
28 Deputy Chief, Fraud Section
United States Department of Justice

MARY ANN MCCARTHY
Trial Attorney, Fraud Section
United States Department of Justice