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6 United States of America

7
8 IN THE UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA,
11 Plaintiff,
12 v.
13 MARIELA PANGANIBAN,
14 Defendant.

CASE NO. 2:21-cr-0032 TLN
18 U.S.C. § 371 – Conspiracy to Pay and Receive
Health Care Kickbacks

15
16 I N F O R M A T I O N

17 The United States Attorney charges:

18 MARIELA PANGANIBAN,
19 defendant herein, as follows:

20 I N T R O D U C T I O N

21 At all relevant times,

22 1. The Medicare Program (“Medicare”) was a federal health care program providing
23 benefits to persons 65 or older and persons with certain disabilities. Medicare was administered by the
24 Centers for Medicare and Medicaid Services (“CMS”), which was a federal agency under the United
25 States Department of Health and Human Services. Individuals who received benefits under Medicare
26 were referred to as “beneficiaries.”

27 2. Medicare was a “health care benefit program,” as defined in 18 U.S.C. § 24(b), and a
28 “Federal health care program,” as defined in 42 U.S.C. § 1320a-7b(f).

1 3. Medicare was divided into four parts that covered different services. As relevant to this
2 Information, Medicare Part A provided coverage for home health care services, including in-home
3 physical therapy, skilled nursing, and occupational therapy, as well as hospice services.

4 4. To participate in Medicare Part A, a health care provider was required to submit an
5 application form known as a CMS Form 855A. An authorized representative of the provider was
6 required to sign the application, which contained a certification statement that provided:

7 I agree to abide by the Medicare laws, regulations, and program instructions that apply to
8 this provider. . . . I understand that payment of a claim by Medicare is conditioned upon
9 the claim and the underlying transaction complying with such laws, regulations and
10 program instructions (including, but not limited to, the Federal anti-kickback statute and
the Stark law), and on the provider's compliance with all applicable conditions of
participation in Medicare.

11 5. CMS Form 855A contained additional certifications, including that the provider "will not
12 knowingly present or cause to be presented a false or fraudulent claim for payment by Medicare and will
13 not submit claims with deliberate ignorance or reckless disregard of their truth or falsity."

14 6. Once approved to participate in Medicare Part A, a provider obtained a Medicare
15 provider number. The provider used the Medicare provider number to submit claims to Medicare
16 requesting reimbursement for Part A services it provided to beneficiaries. Medicare required that a claim
17 set forth the beneficiary's name, the type and cost of the services rendered, and the date the services
18 were rendered. Medicare paid reimbursement for Part A services directly to the provider, rather than to
19 the beneficiaries who received services.

20 7. Medicare would not reimburse a provider for services where the underlying referral for
21 those services was procured through the payment or offer of a kickback or bribe.

22 8. MARIELA PANGANIBAN resided in Elk Grove, California. MARIELA
23 PANGANIBAN worked as the Director of Social Services at Skilled Nursing Facility 1. In her role at
24 Skilled Nursing Facility 1, MARIELA PANGANIBAN assisted Medicare beneficiaries in selecting
25 home health care agencies, following their discharge from Skilled Nursing Facility 1. MARIELA
26 PANGANIBAN was able to and did steer beneficiary referrals to specific providers she selected.

27 9. Co-conspirator 1 owned, beneficially owned, and controlled Home Health Agency 1,
28 Home Health Agency 2, and Hospice Agency 1 (collectively, "Co-conspirator Agencies").

1 10. Co-conspirator 2 was Co-conspirator 1's husband and owned, beneficially owned, and
2 controlled the Co-conspirator Agencies.

3 11. Person 1 was Co-conspirator 1 and Co-conspirator 2's family member

4 12. Skilled Nursing Facility 1 was a skilled nursing facility located in Roseville, California.

5 13. Home Health Agency 1 was a home health care agency located in Folsom, California.
6 Home Health Agency 1 was a Medicare provider that submitted claims to Medicare for Part A services.

7 14. Home Health Agency 2 was a home health care agency located in El Dorado Hills,
8 California. Home Health Agency 2 was a Medicare provider that submitted claims to Medicare for Part
9 A services.

10 15. Hospice Agency 1 was a hospice agency located in Folsom, California. Hospice Agency
11 1 was a Medicare provider that submitted claims to Medicare for Part A services

12 THE CONSPIRACY

13 16. From in or around January 2016, and continuing through in or around April 2019, in the
14 State and Eastern District of California, Co-conspirator 1, Co-conspirator 2, and MARIELA
15 PANGANIBAN knowingly and willfully combined, conspired, confederated, and agreed with each
16 other and others known and unknown to the United States to commit certain offenses against the United
17 States, that is:

18 a. to knowingly and willfully offer and pay any remuneration (including any kickback,
19 bribe, or rebate) directly or indirectly, overtly or covertly, in cash or in kind, in return
20 for referring an individual to a person for the furnishing or arranging for the
21 furnishing of any item or service for which payment may be made in whole or in part
22 by Medicare, a federal health care program as defined in 42 U.S.C. § 1320a-7b(f), in
23 violation of 42 U.S.C. § 1320a-7b(b)(2)(A); and

24 b. to knowingly and willfully solicit and receive any remuneration (including any
25 kickback, bribe, or rebate) directly or indirectly, overtly or covertly, in cash or in
26 kind, in return for referring an individual to a person for the furnishing or arranging
27 for the furnishing of any item or service for which payment may be made in whole or
28 in part by Medicare, a federal health care program as defined in 42 U.S.C. § 1320a-

1 7b(f), in violation of 42 U.S.C. § 1320a-7b(b)(1)(A).

2 MANNER AND MEANS

3 The manner and means by which Co-conspirator 1, Conspirator 2, and MARIELA
4 PANGANIBAN, and their co-conspirators sought to accomplish the objects of the conspiracy included,
5 among others, the following:

6 17. Co-conspirator 1 and Co-conspirator 2 established the Co-conspirator Agencies and
7 obtained and maintained Medicare provider numbers for the agencies to submit claims to Medicare for
8 the cost of Medicare Part A services.

9 18. Co-conspirator 1 and Co-conspirator 2 controlled the day-to-day operations of the Co-
10 conspirator Agencies.

11 19. On behalf of the Co-conspirator Agencies, Co-conspirator 1, Co-conspirator 2, and others
12 falsely certified to Medicare that they would comply with all Medicare laws, rules, and regulations,
13 including by not paying kickbacks and bribes for beneficiary referrals.

14 20. Co-conspirator 1 and Co-conspirator 2 offered and paid kickbacks and bribes to, among
15 others, individuals employed by hospitals, skilled nursing facilities, and assisted living facilities,
16 including MARIELA PANGANIBAN, as well as the employees' spouses, in exchange for the
17 employees referring Medicare beneficiaries to the Co-conspirator Agencies for home health care and
18 hospice services.

19 21. Co-conspirator 1 and Co-conspirator 2 also directed others to pay beneficiary referral
20 sources kickbacks on their behalf, including Person 1.

21 22. MARIELA PANGANIBAN solicited and received from Co-conspirator 1 kickbacks and
22 bribes in exchange for MARIELA PANGANIBAN referring and causing the referral of beneficiaries
23 from Skilled Nursing Facility 1 to Home Health Agency 1 and Home Health Agency 2 for Part A
24 services.

25 23. After referring beneficiaries to the agencies, MARIELA PANGANIBAN provided Co-
26 conspirator 1 the names of the beneficiaries she referred.

27 24. After Home Health Agency 1 or Home Health Agency 2 accepted a beneficiary
28 MARIELA PANGANIBAN referred to the agency, Co-conspirator 1 paid MARIELA PANGANIBAN a

1 cash kickback for the referral or directed Person 1 to pay MARIELA PANGANIBAN a kickback for the
2 referral.

3 25. Co-conspirator 1, Co-conspirator 2, and others caused the Co-conspirator Agencies to
4 submit claims to Medicare for the cost of services purportedly provided to beneficiaries MARIELA
5 PANGANIBAN and others referred to the agencies in exchange for kickbacks.

6 26. In total, Co-conspirator 1, Co-conspirator 2, and others caused the Co-conspirator
7 Agencies to submit over 8,000 claims to Medicare for the cost of home health care and hospice services
8 purportedly provided to Medicare beneficiaries. Based on those claims, Medicare paid the agencies over
9 approximately \$31,000,000 in reimbursement. Of that amount, Medicare paid Home Health Agency 1
10 and Home Health Agency 2 reimbursement of over approximately \$735,000 for services purportedly
11 provided to beneficiaries MARIELA PANGANIBAN referred to Home Health Agency 1 and Home
12 Health Agency 2 in exchange for kickbacks.

13 OVERT ACTS

14 In furtherance of the conspiracy, and to accomplish its objects and purposes, at least one of the
15 conspirators committed, or caused to be committed, in the Eastern District of California, the following
16 overt acts, among others:

17 27. On or about February 1, 2019, MARIELA PANGANIBAN sent a text message to Co-
18 conspirator 1 that contained a list of beneficiaries MARIELA PANGANIBAN referred to Home Health
19 Agency 1.

20 28. On or about March 13, 2019, MARIELA PANGANIBAN sent a text message to Co-
21 conspirator 1 that contained a list of beneficiaries MARIELA PANGANIBAN referred to Home Health
22 Agency 1.

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

24
25 Dated: February 10, 2021

MCGREGOR W. SCOTT
United States Attorney

26
27 By: 

MATTHEW THUESEN
Assistant United States Attorney

United States v. Panganiban
Penalties for Information

Defendant
MARIELA PANGANIBAN

COUNT 1:

VIOLATION: 18 U.S.C. § 371 – Conspiracy to pay and receive health care kickbacks

PENALTIES: Up to 5 years of imprisonment, or fine up to \$250,000, or both;
Up to 3 years of supervised release;
Restitution

SPECIAL ASSESSMENT: \$100 (mandatory on each count)