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Criminal Case Summaries

State v. Cristino Morales and Maria Carmen Cruz

The Court sentenced Cristino Morales for health care claims fraud on January 23, 2004, to three years in State prison, ordered him to pay restitution in the amount of \$10,000, and debarred him from participating in the Medicaid Program for a minimum period of five years. A State Grand Jury had charged Morales and Maria Carmen Cruz with health care claims fraud and Medicaid fraud. According to the indictment, Morales and Cruz, the owner/operators of a Camden clinic known as “New Hopes of New Jersey,” allegedly billed the Medicaid Program, between May of 1999 and October of 1999, for mental health counseling and psychological services that were not rendered or not rendered as billed. The State alleged that more than \$13,000 was stolen from the Medicaid Program based on fraudulent billings. Morales was the Executive Director of the clinic and Cruz served as the clinic’s administrator.

Previously, Cruz pled guilty to Medicaid fraud and was sentenced to three years probation conditioned upon performing 150 hours of community service. In addition, she was debarred from participating in the Medicaid Program for a period of five years.

State v. I&I Transportation, Imad Elbashir and Imadelin A. Khair

Imad Elbashir was sentenced on February 6, 2004, to three years in State prison, ordered to pay \$103,000 in restitution and penalties, and debarred from participating in the Medicaid Program for a period of five years

for health care claims fraud. Imadelin A. Khair and the corporation, I&I Invalid Coach, previously pled guilty to health care claims fraud. The Court sentenced Khair to three years in State prison. Khair and the corporation were ordered to pay \$103,235 in restitution, and the corporation was dissolved and ordered to refrain from doing business in the State of New Jersey.

The State had charged Elbashir, Khair, and I&I Invalid Coach with conspiracy, health care claims fraud, theft by deception, Medicaid fraud, and corporate misconduct. I&I, Elbashir, and Khair owned an invalid coach provider that provided non-emergency medical transportation to Medicaid recipients. The State showed that I&I inflated mileage on claims submitted to the Medicaid Program. I&I received \$90,000 in undeserved payments based on the false mileage claims.

State v. Manuprasad Parikh

The Court sentenced Manuprasad Parikh on January 9, 2004, to three years probation. The Court also ordered \$180,000 in restitution, \$180,000 in civil fines, and 300 hours of community service. Parikh was also debarred from participating in the Medicaid Program for 12 years.

Parikh, the owner of Irving Pharmacy, pled guilty to an Accusation charging him with Medicaid fraud. Parikh, through Irving Pharmacy, fraudulently billed the Medicaid Program for expensive prescriptions (Serostim) used in HIV treatment valued at approximately \$180,000 even though they were never dispensed to Medicaid recipients.

The Medicaid Fraud Section referred the matter to the Board of Pharmacy for appropriate licensing action.

State v. Michael Stavitski, Wall Pharmacy, Avon Pharmacy and Belmar Pharmacy

Michael Stavitski was sentenced on June 18, 2004, to seven years State prison, ordered to pay restitution and penalties in the amount of \$1.1 million, and received a seven-year suspension of his Medicaid privileges and suspension of his pharmacy license for one year.

A State Grand Jury charged Stavitski, a licensed pharmacist and the operator of four pharmacy corporations located in Monmouth County, with health care claims fraud, corporate misconduct, and Medicaid fraud. The grand jury charged three of the four pharmacy corporations with health care claims fraud and Medicaid fraud. Between May of 1996 and February of 2002, Stavitski and the three pharmacies allegedly submitted numerous claims for payment which reflected that medications or refills of medications were provided to Medicaid and privately insured patients when, in fact, such medications were never provided. Additionally, in many instances, Stavitski allegedly billed for providing medications that were never prescribed by physicians. Stavitski, Wall Pharmacy, Avon Pharmacy, and Belmar Pharmacy all pled guilty to health care claims fraud.

The Medicaid Fraud Section referred this case to the Board of Pharmacy; and in November of 2004, the Board revoked Stavitski’s pharmacy license.

State v. Eliezer Martinez, et al.

Following a five-week jury trial, on October 27, 2004, Eliezer Martinez, owner and operator of a drug and alcohol counseling center, was convicted of health care claims fraud and Medicaid fraud. He is scheduled to be sentenced in early 2005.

Previously, a State Grand Jury returned an indictment charging Eliezer Martinez, Olga Marquez, Olga Bonett, Juanita Melendez, Jose Jimenez, Bartolo Moreno, and Luz Senquiz with health care claims fraud and Medicaid fraud. Hispanic Counseling and Family Services of New Jersey, Inc., was a drug and alcohol counseling center owned and operated by Eliezer Martinez. According to the indictment, Martinez, Marquez, Bonett, Melendez, Jimenez, Moreno, and Senquiz, counselors employed at the center on behalf of Hispanic Counseling and Family Services of New Jersey, Inc., allegedly submitted fraudulent health care claims to the Medicaid Program seeking reimbursement for medical services provided to Medicaid recipients when, in fact, the health care services had not been provided.

Olga Marquez was accepted into the Camden County PTI Program conditioned upon completion of 50 hours of community service and her cooperation with the State. Bonett and Melendez pled guilty to health care claims fraud; and on October 5, 2004, the Court sentenced Melendez to one year probation conditioned upon her continued cooperation with OIFP's investigation. Jimenez pled guilty to health care claims fraud; and on October 7, 2004, the Court sentenced Jimenez to one year probation conditioned upon continued cooperation with OIFP's investigation. The Court sentenced Bonett on October 22, 2004, to one year probation also conditioned upon her cooperation with OIFP's investigation. Senquiz pled guilty to health care claims fraud and on October 22, 2004, the Court sentenced Senquiz to one year probation conditioned upon continued cooperation with OIFP's investigation. Bartolo



Supervising Deputy Attorney General John Krayniak, Chief of OIFP's Medicaid Fraud Section discusses emerging Medicaid fraud issues.

Moreno was admitted into the PTI Program on December 23, 2004.

**State v.
Azam Khan, Shahid Khawaja,
Milton Barasch and Axat Jani**

Axat Jani pled guilty to health care claims fraud. Jani was sentenced on October 15, 2004, to four years in State prison and ordered to pay a criminal fine of \$10,000. Jani's Medicaid Program privileges were suspended for a period of five years and his medical license was suspended for one year. Milton Barasch, a licensed pharmacist, pled guilty to health care claims fraud. Shahid Khawaja, owner of S Brothers Pharmacy, pled guilty on February 17, 2004, to money laundering. Azam Khan pled guilty to health care claims fraud.

OIFP's Medicaid Fraud Unit uncovered that the defendants allegedly billed the Medicaid Program approximately \$293,815 for medications either never dispensed or dispensed to persons using another person's Medicaid recipient number. Some bills were allegedly submitted to the Medicaid Program for medications prescribed for Medicaid recipients who had died years before.

These matters will also be referred to the respective professional licensing boards for action as may be appropriate.

**State v.
Steven Aberbach**

Steven Aberbach, a licensed pharmacist who pled guilty to health care claims fraud, was sentenced on March 12, 2004, to three years in State prison and ordered to pay a \$10,000 fine. Before sentencing, he had paid \$200,000 in restitution and fines. Aberbach, who was the owner/pharmacist of Springfield Pharmacy in Springfield, admitted that, between August of 2001 and June of 2003, he filled legitimate prescriptions for medicines on doctors' orders for a Medicaid patient, then added several false prescriptions for the same patient so that he could bill the Medicaid Program. This case was referred to the New Jersey Board of Pharmacy.

**State v.
Adebowale Oyenusi
and Quick Script Pharmacy**

Adebowale Oyenusi was sentenced on January 26, 2004, to five years State prison, ordered to pay \$152,215 in restitution, and a \$75,000 fine. The corporate defendant, T&N Pharmaceutical Co., was sentenced on April 24, 2004, to pay a \$75,000 fine. After an investigation by the Division of Criminal Justice's Major Narcotics Unit and the Medicaid Fraud Section of OIFP, a jury convicted Oyenusi and T&N Pharmaceutical Co.,

trading as Quick Script Pharmacy, of conspiracy, Medicaid fraud, and theft by deception. Oyenusi, through Quick Script, submitted false claims for payment for fraudulent prescriptions.

***State v.
Recovery Services, Inc.***

***State v.
Bennie M. Martin***

After being extradited and returned to New Jersey from Texas by OIFP, Bennie M. Martin, a substance abuse counselor, pled guilty to health care claims fraud, Medicaid fraud, and misconduct by a corporate official. The Court sentenced Martin on April 8, 2004, to seven years State prison and ordered him to pay \$587,290 in restitution to the Medicaid Program and to Passaic County. Martin also agreed to forfeit \$333,754 which had been frozen in Recovery Services, Inc., bank accounts. This money will be applied toward restitution in addition to the \$587,290 ordered by the Court.

According to a State Grand Jury indictment, between February of 2001 and September of 2002, Martin allegedly fraudulently obtained the names and Medicaid recipient numbers of Medicaid recipients who were not counseled at Recovery Services, Inc. Using the recipients' names and numbers, Martin allegedly falsely billed the Medicaid Program, falsely claiming he had provided the counseling services to those Medicaid recipients. Martin and Recovery Services, Inc., allegedly fraudulently submitted claims to Medicaid totaling over \$900,000 for counseling sessions that never took place.

***State v.
Harvey Lee Bellamy
and Bernice Bellamy***

Harvey Lee Bellamy, the owner of H&B Medical Transportation Services, Inc. (H&B), pled guilty to health care

claims fraud; and Bernice Bellamy, who was in charge of billing, pled guilty to Medicaid fraud. Harvey Lee Bellamy was sentenced on June 11, 2004, to three years State prison and received a five-year debarment order from the Medicaid Program. Bernice Bellamy was sentenced on June 11, 2004, to five years probation and received a five-year debarment order from the Medicaid Program. Restitution for both will be ordered in an amount to be determined by the Court.

H&B was a mobility assistance patient transportation service located in Magnolia, Camden County, that provided transportation to Medicaid patients who require transportation to and from their medical treatment appointments. According to a State Grand Jury indictment, Harvey and Bernice Bellamy, through H&B, allegedly committed health care claims fraud and Medicaid fraud by billing the Medicaid Program for extra crew members who purportedly provided assistance to Medicaid recipients during the vehicle transports, even though extra crew members had not been provided during the transports. The Bellamys' false bills to Medicaid amounted to \$22,860.

***State v.
Jacqueline McCaskill***

Jacqueline McCaskill was sentenced on May 20, 2004, to two years probation. McCaskill pled guilty to an Accusation charging her with Medicaid fraud. McCaskill worked as a clerk for the Passaic County Medicaid Assistance Center. She was responsible for assigning Medicaid numbers and cards to persons who qualified for the Medicaid Program and who were eligible for Medicaid health care and prescription benefits. McCaskill admitted that she fraudulently assigned herself and her four children Medicaid recipient numbers so that she and her children would qualify for Medicaid

benefits they were not qualified for under the Program. Between July 1, 2000, and December 26, 2001, McCaskill and her children wrongfully received Medicaid benefits of approximately \$33,215.

McCaskill also admitted that she sold fictitious Medicaid cards to friends who did not qualify for Medicaid in return for money and other gifts.

***State v.
Ashokkuma Patel***

Ashokkuma Patel pled guilty to an Accusation on October 25, 2004, charging him with health care claims fraud and Medicaid fraud. The Accusation charged that Patel's repurchase of drugs resulted in \$7,717 being fraudulently billed to the Medicaid Program. Patel admitted that between July 8, 2003, and February 17, 2004, at the instruction of another, he bought prescription drugs from Medicaid recipients by paying them \$20 to \$50 per prescription. The prescriptions were then returned to the MLK Pharmacy inventory to be resold. Unbeknownst to Patel, the drugs were repurchased from OIFP investigators and cooperating witnesses acting in an undercover capacity posing as Medicaid recipients.

OIFP's investigation revealed that Patel filled prescriptions for Medicaid recipients, billed the Medicaid Program for the drugs, purchased the drugs back from the Medicaid recipients at greatly reduced prices, returned the drugs to the pharmacy's inventory, and billed Medicaid again for resold drugs. In essence, MLK Pharmacy created a "black market" by selling and repurchasing prescription drugs, while billing multiple claims to the Medicaid Program for the drugs.

Patel is scheduled to be sentenced early in 2005.

State v. Mary Villone

A State Grand Jury returned an indictment on December 7, 2004, charging Mary Villone with health care claims fraud and Medicaid fraud. Mary Villone, the administrator of PE Medical Transport, Inc., allegedly submitted false transportation claims to the Medicaid Program between January of 2002 and February of 2004. PE Medical Transport provided mobility assistance vehicles and transportation assistance to Medicaid patients who required transportation to and from health care providers.

The State alleged that Villone falsified prior authorization requests, certificates of medical necessity, and transportation trip certifications which Villone submitted in support of claims for transportation services not rendered and for patients who did not require transportation. The State alleged that, in total, Villone submitted approximately 2,080 false claims totaling \$51,500 to the Medicaid Program.

During the investigation, PE Medical Transport settled the case with the State by paying \$204,000 in restitution and \$204,000 in civil penalties. An additional \$42,000 was forfeited to the State. The Medicaid Fraud Section "froze" PE Medical Transport's bank accounts which totaled approximately \$400,000.

Medicaid Civil Case Settlements

GlaxoSmithKline, Inc.

The State of New Jersey Medicaid Program and the National Association of Medicaid Fraud Control Units reached a settlement agreement with GlaxoSmithKline, Inc., makers of Flonase, a nasal spray, and Paxil, an anti-depressant medication.

GlaxoSmithKline allegedly violated the federal Medicaid drug rebate statute by failing to accurately report statutorily mandated "best price" information on the drugs. GlaxoSmithKline's actions allegedly decreased the rebate amount owed to the State. In addition to the Medicaid settlement, the Medicaid Fraud Section recovered \$850,608 in restitution and penalties for the PAAD and Senior Gold State programs.

Bayer Corporation

The New Jersey Medicaid Program has reached a settlement agreement, through the National Association of Medicaid Fraud Control Units, with Bayer Corporation, the maker of Cipro, an anti-infective, and Adalat, a calcium channel blocker. Bayer allegedly misrepresented the "best price" information on these drugs, thereby decreasing the rebate amount owed to the State of New Jersey. The amount of restitution and penalties for the Medicaid portion of these drugs is \$6,797,685.

The Medicaid Fraud Section is investigating the impact of Bayer's conduct on New Jersey PAAD Program claims.

Rite Aid Pharmacies

Rite Aid Pharmacies reached a national global settlement with the Medicaid Program through the National Association of Medicaid Fraud Control Units. Rite Aid has paid restitution to the State of New Jersey in the amount of \$235,375. The Medicaid Fraud Control Unit alleged that Rite Aid failed to reverse payments for unfilled prescriptions.

Greater Trenton Behavioral Health

Greater Trenton Behavior Health settled with the State of New Jersey's Medicaid Program for \$16,245 in resti-

tution. Greater Trenton, a mental health clinic, allegedly billed for two or more intake evaluations per year in violation of Medicaid regulations.

Schering Plough

The New Jersey Medicaid Program reached a settlement agreement with Schering Plough through the National Association of Medicaid Fraud Control Units. Schering Plough makes Claritin, an allergy medication. A citizen's *qui tam* lawsuit alleged Schering Plough manipulated the average wholesale price to the detriment of the Medicaid Program. Schering Plough paid \$6,265,819 in restitution and penalties.

Walmart Pharmacies

The New Jersey Medicaid Program reached a settlement agreement with Walmart Pharmacies through the National Association of Medicaid Fraud Control Units. Walmart paid the State of New Jersey \$8,773 in restitution and penalties for allegedly not refunding or crediting the Medicaid Program if a beneficiary failed to pick up a medication.

PE Medical Transport, Inc.

PE Medical Transport, Inc., reached a settlement with the Medicaid Fraud Section and the Division of Medical Assistance and Health Services. The Medicaid Fraud Section alleged that PE Medical Transport submitted false claims for transportation services it failed to render. PE Medical Transport signed a Consent Order on December 21, 2004, and it paid \$204,000 in restitution, \$204,000 in penalties and/or fines, and forfeited \$42,000 to the Civil Remedies and Forfeiture Bureau.