

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

United States Courts
Southern District of Texas
FILED

JUL 22 2009

UNITED STATES OF AMERICA

v.

NOEL JHAGROO,

Defendant.

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Criminal No. **H-09-420**

UNDER SEAL

Clerk of Court

Sealed
Public and unofficial staff access
to this instrument are
prohibited by court order.

INDICTMENT

The Grand Jury charges:

General Allegations

At all times material to this Indictment:

1. The Medicare Program ("Medicare") was a federal health care program providing benefits to individuals 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 States Department of Health and Human Services. Medicare was a "health care benefit program" as defined by Title 18, United States Code, Section 24(b).

2. Medicare was subdivided into multiple Parts. Medicare Part B covered physician's services and outpatient care, including an individual's access to durable medical equipment ("DME"), such as orthotic devices, enteral nutrition, and feeding supply kits.

TRUE COPY I CERTIFY
ATTEST: JUL 24 2009
Clerk of Court
L. Silmone
Deputy Clerk

3. Orthotic devices were a type of DME that included rigid and semi-rigid devices such as foot braces, ankle-foot braces, knee braces, leg braces, cervical braces, back braces, shoulder braces, elbow braces, hand braces, neck braces, head-neck braces, and quad canes (collectively “orthotics”).

4. Enteral nutrition and feeding supply kits were a type of DME that included liquid nutrition supplements fed through a tube passed directly or indirectly through the stomach. Enteral nutrition was typically provided through a large syringe that was attached to a feeding tube, using gravity or a pump to infuse it into a feeding tube over a longer period of time. Medicare referred to the items used to get the nutrition into the tube (whether syringe, gravity, or pump) as an enteral feeding supply kit.

5. Individuals who qualified for Medicare benefits were commonly referred to as Medicare “beneficiaries.” Each beneficiary was given a Medicare identification number.

6. DME companies, pharmacies, physicians, and other health care providers that provided services to Medicare beneficiaries were referred to as Medicare “providers.” In order to participate in Medicare, providers were required to submit an application in which the providers agreed to comply with all Medicare-related laws and regulations. If Medicare approved a provider’s application, Medicare assigned the provider a Medicare “provider number.” A health care provider with a Medicare provider number could file claims with Medicare to obtain reimbursement for services rendered to beneficiaries.

7. Medicare reimbursed DME companies and other health care providers for services rendered to beneficiaries. Medicare would generally pay reimbursement for DME and related medications only if they were prescribed by the beneficiary's physician and were medically necessary to the treatment of the beneficiary's illness or injury.

8. To receive reimbursement from Medicare, providers submitted or caused the submission of claims to Medicare for payment of services to beneficiaries, either directly or through a billing company.

9. CMS contracted with Durable Equipment Regional Carriers ("DMERCs") to provide Medicare benefits and process claims for reimbursement. The DMERCs that processed and paid Medicare DME claims in Texas was Cigna Government Services ("Cigna").

10. In order to bill Medicare for services rendered, a provider submitted a claim form (Form 1500) to Cigna. When a Form 1500 was submitted, usually in electronic form, the provider certified: (1) that the contents of the form were true, correct, and complete; (2) that the form was prepared in compliance with the laws and regulations governing Medicare; and (3) that the contents of the claim were medically necessary.

11. A Medicare claim for DME reimbursement was required to set forth, among other things, the beneficiary's name and unique Medicare identification number, the equipment or medicine provided to the beneficiary, the date the equipment or medicine was provided, the cost of the equipment or medicine, and the name and unique physician identification number of the physician who prescribed or ordered the equipment or medicine.

12. Defendant **NOEL JHAGROO**, a resident of Harris County, Texas, was the owner and operator of Trucare Medical Equipment Services.

13. Trucare Medical Equipment Services (“Trucare”) was a Texas business entity doing business at 9388 Humble Westfield Road, Humble, Texas, 77338. Among other things, Trucare billed Medicare for enteral nutrition products, enteral nutrition feeding supply kits, and orthotics.

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

1. Paragraphs 1 through 13 of the General Allegations section of this Indictment are realleged and incorporated by reference as if fully set forth herein.

2. From in or around April, 2004, through the present, the exact dates being unknown to the Grand Jury, in the Houston Division, ofk the Southern District of Texas, and elsewhere, the defendant,

NOEL JHAGROO

did knowingly and willfully combine, conspire, confederate and agree with 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 services.

Purpose of the Conspiracy

3. It was a purpose of the conspiracy for defendant **NOEL JHAGROO** and others, to unlawfully enrich themselves by (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 defendant and his co-conspirators.

Manner and Means of the Conspiracy

4. Defendant **NOEL JHAGROO** would maintain a valid Medicare group provider number for Trucare in order to submit Medicare claims for the cost of DME that was medically unnecessary and was not provided.

5. Defendant **NOEL JHAGROO** would control the day-to-day operations of Trucare.

6. Defendant **NOEL JHAGROO** submitted and caused to be submitted false and fraudulent claims to Medicare, falsely representing that he had supplied Medicare beneficiaries with certain quantities of medically necessary enteral nutrition and feeding supply kits when, in truth and in fact, the enteral nutrition and feeding supply kits were not covered by Medicare because the beneficiaries were not receiving the enteral nutrition through a nose or stomach tube and the defendant was supplying only a fraction

of the enteral nutrition products and none of the feeding supply kits for which he was billing Medicare.

7. Defendant **NOEL JHAGROO** would purchase vanilla and chocolate flavored Ensure and Glucerna products at Costco, among other places.

8. Defendant **NOEL JHAGROO** would personally deliver the Ensure and Glucerna products to the beneficiaries.

9. Defendant **NOEL JHAGROO** submitted claims data to Medicare indicating that one of the beneficiaries receiving the enteral nutrition products had a diagnosis of anorexia, when an interview revealed, and her medical records indicated, she was obese and weighed nearly 400 pounds. She also did not have a feeding tube.

10. Defendant **NOEL JHAGROO** would submit claims to Medicare for DME including orthotic devices. Many of the orthotic devices were components of what was referred to as an "Arthritis Kit" or "Arthro Kit" and purported to be for the treatment of arthritis-related conditions, although they were not medically appropriate for such conditions. The Arthritis Kit would generally contain a number of orthotic devices including braces for both sides of the body and related accessories such as heat pads.

11. Defendant **NOEL JHAGROO** and his co-conspirators would cause the submission of over \$892,000 in claims to the Medicare program for DME purportedly provided by Trucare, when in fact, such DME was not medically necessary, nor in most cases provided.

12. After the payments from Medicare were deposited into Trucare bank accounts, defendant **NOEL JHAGROO** would cause the transfer of the fraudulent proceeds to himself, his family members, and other conspirators.

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

COUNTS 2 - 7
Health Care Fraud
(Violation of 18 U.S.C. §§ 1347 and 2)

1. Paragraphs 1 through 13 of the General Allegations section of this Indictment are realleged and incorporated by reference as though fully set forth herein.

2. From in or around April, 2004, and continuing until continuing through in or around June 2009, in the Houston Division, of the Southern District of Texas, and elsewhere, the defendant, aiding and abetting others known and unknown to the Grand Jury,

NOEL JHAGROO

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 a health care benefit program affecting commerce, as defined in Title 18, United States Code, Section 24(b), that is, Medicare, 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, in connection with the delivery of and payment for health care benefits, items, and services.

Purpose of the Scheme and Artifice

3. It was the purpose of the scheme and artifice for the defendants and their co-conspirators to unlawfully enrich themselves through the submission of false and fraudulent Medicare claims for medically unnecessary durable medical equipment.

The Scheme and Artifice

4. Paragraphs 1 through 12 of Count 1 of this Indictment are realleged and incorporated by reference as though fully set forth herein as a description of the scheme and artifice.

Acts in Execution of the Scheme and Artifice

5. On or about the dates specified as to each count below, in the Houston Division, of the Southern District of Texas, and elsewhere, the defendant, in connection with the delivery of and payment for health care benefits, items, and services, did knowingly and willfully execute, and attempt to execute, the above-described scheme and artifice to defraud a health care benefit program affecting commerce, 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:

<u>Count</u>	<u>Defendant</u>	<u>Medicare Beneficiary</u>	<u>Approximate Date of Claim</u>	<u>Description of Item Billed</u>	<u>Approx. Amount of Claim</u>
2	NOEL JHAGROO	W.B.	08/12/08	Arthritis Kit	\$4,215.64
3	NOEL JHAGROO	E.B.	08/02/08	Arthritis Kit	\$4,215.64
4	NOEL JHAGROO	W.L.B.	07/18/08	Arthritis Kit	\$4,429.81

<u>Count</u>	<u>Defendant</u>	<u>Medicare Beneficiary</u>	<u>Approximate Date of Claim</u>	<u>Description of Item Billed</u>	<u>Approx. Amount of Claim</u>
5	NOEL JHAGROO	E.B.	08/24/08	Enriched Ensure and Feeding Kit	\$1,422.30
6	NOEL JHAGROO	E.M.	08/07/08	Enriched Ensure and Feeding Kit	\$1,422.30
7	NOEL JHAGROO	W.L.B.	08/18/08	Ensure and Feeding Kit	\$714.30

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

CRIMINAL FORFEITURE
(18 U.S.C. §982)

1. The allegations contained in Counts 1 through 7 of this Indictment are realleged and incorporated by reference as though fully set forth herein for the purpose of alleging forfeiture to the United States of America of certain property in which the defendant has an interest.

2. Upon conviction of any violation of Title 18, United States Code, Section 1349 or Title 18, United States Code, Section 1347, the defendants 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 offense, pursuant to Title 18, United States Code, Section 982(a)(7).

3. The property which is subject to forfeiture, includes but is not limited to, a money judgment in the amount of approximately \$532,000 which represents the gross proceeds of the fraud.

4. Pursuant to Title 21 United States Code, section 853(p), as incorporated by reference by Title 18, United States Code, Section 982(b), if any of the forfeitable property, or any portion thereof, as a result of any act or omission of the defendants:

- (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 which cannot be subdivided without difficulty;

5. It is the intent of the United States to seek the forfeiture of other property of the defendant up to the value of the above-described forfeitable properties, including, but not limited to, any identifiable property in the name of defendant **NOEL JHAGROO**.

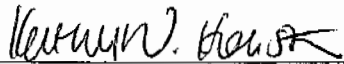
All pursuant to Title 18, United States Code, Section 982 (a)(7) and the procedures set forth at Title 21, United States Code, Section 853, as made applicable through Title 18, United States Code, Section 982(b)(1).

A TRUE BILL

Original Signature on File

FOR PERSON 

TIM JOHNSON
ACTING UNITED STATES ATTORNEY



KATHERINE HOUSTON
TRIAL ATTORNEY
CRIMINAL DIVISION, FRAUD SECTION
U.S. DEPARTMENT OF JUSTICE