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SOUTHERN DISTRICT *of* CALIFORNIA

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**Department of Justice**

U.S. Attorney's Office

Southern District of California

FOR IMMEDIATE RELEASE

Monday, July 13, 2020

## **San Diego Doctor Sentenced to Prison for Fraud Against TRICARE**

**Assistant U. S. Attorney Valerie H. Chu, (619) 546-6750**

SAN DIEGO – Dr. Marco Antonio Chavez was sentenced to 21 months in custody and ordered to pay restitution of \$783,764.37 for defrauding TRICARE, the health care benefits program for military service members and their dependents.

According to court documents, Chavez was a physician licensed by the State of California Medical Board. Chavez provided psychiatry services, including therapy and prescription medications for children and adults diagnosed with ADHD and depression, for San Diego patients whose health care was covered by TRICARE. Chavez defrauded TRICARE by using the personal information of these patients to create and submit false and fraudulent claims for nonexistent appointments when he did not actually treat those patients. And he routinely selected the billing code for the highest-level (and highest-reimbursement) patient visit for these fabricated appointments, to maximize the fraudulent reimbursements he received from TRICARE. He swindled more than \$783,000 from the taxpayer-funded health care program, and used these ill-gotten gains to buy himself luxuries including a red 2016 Jaguar and thousands of dollars' worth of David Yurman jewelry.

Beginning in April 2013, Chavez became a network provider for TRICARE under contract with United Health Care Military & Veterans, West. That August, Chavez became eligible to submit claims directly to TRICARE through XPressClaim ("XPC"), a web-based system. Chavez used that access to help his scheme to defraud TRICARE, using his unique personal security key code to avoid review by other billing staff. He then caused the payments to be electronically transferred into an account that was in his name, which he controlled.

For example, Patient A was taken by his/her mother to see Chavez on just three occasions: December 2, 2013, December 16, 2013, and January 13, 2014. Records indicate that Chavez billed and was paid by TRICARE for 80 dates of service for Patient A, including for 21 dates *before* Patient A's initial visit on December 2, 2013. On each of the three dates that correspond to dates when Patient A actually saw Chavez, the claim was submitted to TRICARE via the billing system used by administrative staff in Chavez's clinic. But for the remaining 77 dates of service billed to TRICARE for Patient A, in which the patient did not actually see Chavez, the XPC code was used—indicating it was Chavez himself who submitted those fraudulent claims directly.

Similarly, Patient B was taken by his/her father to see Chavez on five occasions between May 2014 and August 2014. Records indicate that Chavez billed and was paid by TRICARE for 76 dates of service for Patient B. Each of the remaining 71 dates of service billed to TRICARE for Patient B, when the patient did not actually see Chavez, contained the XPC code, again indicating they were submitted by Chavez directly using XPressClaim.

Chavez tried to deflect attention and avoid detection of his fraudulent billing through a variety of deceptive means. For example, he notified patients that they might see entries on their Explanation of Benefit (“EOB”) forms from TRICARE that they would not recognize. This was an attempt to prevent patients from complaining to TRICARE and drawing attention to the false bills. In reality, Chavez knew that the reason the patients would not recognize the entries on their EOBs was because they had not actually occurred – Chavez had simply made them up.

When the TRICARE contractor conducted an audit and requested certain of Chavez’s patient files, Chavez falsely claimed that he had already sent the files, when he knew those files did not exist and could not have been sent. Chavez also misrepresented that a member of the office staff had stolen his TRICARE checks and deposited them without his permission.

Over the course of his scheme, Chavez submitted approximately \$928,800 in false and fraudulent claims to TRICARE via XPC, and was paid \$783,764.37 on those claims by TRICARE.

Separately, records of the State of California reflect that Chavez’s medical license was suspended in May 2018, upon the finding of an administrative judge that Chavez had treated patients while under the influence of a narcotic or alcohol.

The United States argued in its sentencing papers that Chavez exploited his privileged position as a physician, and his access to patients’ data, to commit his crime. Patients went to Chavez seeking psychiatric treatment for a variety of issues, and trusted him with some of the most troubling and sensitive aspects of their lives. Unbeknownst to them, Chavez saw the patients as his own personal piggy bank: billing opportunities to feed his lifestyle. What is more, Chavez took advantage of TRICARE—a program built upon reliance and trust. Chavez, as a medical provider, easily submitted claims under his name for services he claimed he provided, and got federal funds paid directly into his bank account.

“Through flagrant fraudulent billing, Dr. Chavez stole a quarter of a million dollars from TRICARE and spent it on luxury items, including a Jaguar and designer jewelry. But neither the citizens of this district nor the Department of Justice will stand for defrauding the government,” said U.S. Attorney Robert Brewer. “Anyone who uses TRICARE as a path to unjust enrichment will pay a heavy price, as we are 100 percent committed to protecting vital government health programs for our military and veterans.”

“Dr. Marco Chavez stole more than \$780,000 from the TRICARE program which serves our veterans, military members and their families. This deliberate targeting of a healthcare program which solely aids our military troops and their families is appalling,” said Acting FBI Special Agent in Charge Omer Meisel. “When medical professionals violate their oath to honest patient care for personal greed, it significantly damages the trust required within our health care system. In order to protect the integrity of the healthcare system and government programs like TRICARE that serve our military members, the FBI is committed to rooting out fraud within the healthcare industry. We urge anyone with information about suspected healthcare fraud to contact their local FBI Field Office.”

“Dr. Chavez’ conduct is a particularly egregious example of fraud against the TRICARE program in that his greed clearly took priority over his patients’ trust and well-being,” said Bryan D. Denny, Special Agent in Charge of the Defense Criminal Investigative Service, Western Field Office. “The doctor’s sentencing should serve notice to other unscrupulous healthcare providers that any unprincipled actions that corrupt the integrity of the TRICARE program and ultimately degrade the quality of health care provided to military

service members and their families will be vigorously investigated by DCIS and its law enforcement partners.”

U.S. Attorney Brewer commended Assistant U.S. Attorney Valerie Chu and the FBI and DCIS agents for their exemplary work on this case.

**DEFENDANT****Case Number 18cr2930-L**

Marco Antonio Chavez

Age: 40

Brownsville, Texas

**SUMMARY OF CHARGES**

Health Care Fraud – Title 18, U.S.C., Section 1347

Maximum penalty: Ten years in prison and \$250,000 fine

**AGENCY**

Federal Bureau of Investigation

Defense Criminal Investigative Service

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**Topic(s):**

Financial Fraud

**Component(s):**USAO - California, Southern**Press Release Number:**

CAS20-0713-Chavez

Updated July 13, 2020