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DISTRICT of NEW JERSEY

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District of New Jersey Announces Charges in Health Care Fraud Cases as Part of Nationwide Federal Law Enforcement Effort

Six Charged in New Jersey in $100 Million Telemedicine Scheme; Three Men Admit Guilt in Unrelated Frauds

NEWARK, N.J. – Six individuals have been charged in New Jersey for their roles in a massive nationwide prescription medication and durable medical equipment telemedicine scheme, and three others admitted their roles in three other health care fraud cases. The announcements are part of a federal law enforcement effort to crack down on health care fraud nationwide.

U.S. Attorney Craig Carpenito, District of New Jersey, announced charges against six people: Mark Belter, 46, of North Ridgeville, Ohio; David C. Laughlin, Jr., 46, of Buckeye, Arizona; Stephen Luke, 52, of Phoenix, Arizona, were charged by complaint with conspiracy to violate the Anti-Kickback Statute. In a separate complaint, Ethan Welwart, 32, of North Brunswick, New Jersey; William "Ben" Welwart, 66, of Staten Island, New York; and Elan Yaish, 51, of Tel Aviv, Israel, also were charged with conspiracy to violate the Anti-Kickback Statute for their roles in the same scheme. Ethan Welwart, William Welwart, and Yaish had their initial appearances before U.S. Magistrate Judge James B. Clark III on Sept. 3, 2020, and Belter, Laughlin, and Luke had their initial appearances before U.S. Magistrate Judge Leda Dunn Wettre on Sept. 10, 2020.

Attorney for the United States Rachael A. Honig, District of New Jersey, announced guilty pleas from three defendants in three cases:

Andrew McCubbins, 39, of Draper, Utah, the owner of a telemedicine company, pleaded guilty by videoconference on Sept. 24, 2020, before U.S. District Judge Kevin McNulty to an information charging him with one count each of conspiring to commit wire fraud, conspiracy to commit health care fraud, and conspiring to defraud the United States in connection with a scheme to violate the Anti-Kickback Statute.

Christian Mohases, 38, of Santa Ana, California, pleaded guilty by videoconference on Sept. 24, 2020, before U.S. District Judge Kevin McNulty to an information charging him with one count of conspiring to commit health care fraud and one count of conspiring to defraud the United States in connection with a scheme to violate the Anti-Kickback Statute.

Luis Roa, 51, of Santiago, Chile, pleaded guilty by videoconference on Sept. 24, 2020, before U.S. District Judge Kevin McNulty to an information charging him with one count of conspiring to commit health care

fraud and one count of conspiring to defraud the United States in connection with a scheme to violate the Anti-Kickback Statute.

The announcements are part of a nationwide federal law enforcement effort to combat telemedicine fraud, prescription fraud and durable medical equipment fraud. As part of this effort, the Department of Justice is announcing today the largest amount of alleged fraud loss ever charged – $4.5 billion in allegedly false and fraudulent claims submitted by more than 86 criminal defendants in 19 judicial districts around the country – related to nationwide schemes involving telemedicine: the use of telecommunications technology to provide health care services remotely.

Belter et al.

Beginning in January 2016 and continuing for more than three years, the six defendants exchanged kickbacks and bribes with each other and others. Belter, who owned and operated a marketing company in Ohio called Health Pain Solutions, identified Medicare beneficiaries and targeted them for specific prescription medications or durable medical equipment (DME) like braces. He then sent the beneficiaries' information to Laughlin and Luke, who owned RediDoc. Belter paid Laughlin and Luke kickbacks for each signed prescription and doctor's order for those beneficiaries that Laughlin and Luke collected from doctors under contract with RediDoc. Laughlin and Luke in turn paid those doctors kickbacks for each prescription and doctor's order they signed. Laughlin and Luke transmitted the prescriptions to Apogee, a pharmacy owned and run by Ethan Welwart, William Welwart, and Yaish, and doctor's orders to DME providers, who submitted claims for reimbursement to Medicare and other insurers. Ethan Welwart, William Welwart, and Yaish at Apogee subsequently paid Belter kickbacks from the reimbursements they received, in exchange for Belter's actions in originating the beneficiaries' claims.

After identifying target beneficiaries, Belter or his employees telephoned them, purportedly to obtain their medical history and consent to receive medications or DME. The purpose of these calls was so that Belter could record the conversations with the beneficiaries and convince them to try certain medications or DME. Belter had no medical licenses or training.

Belter purposely did not tell the beneficiaries what doctor would prescribe the medication or DME. The conspirators believed that the beneficiaries may not consent to receive medication or DME from an unknown doctor. In an email to William Welwart and another Apogee employee on Jan. 15, 2018, Belter wrote that, when he called beneficiaries, he did not provide specifics: "I think you might lose some people [beneficiaries] when you mention a Doctor name they have never heard of."

After obtaining the beneficiary's medical history and purported consent, Belter transmitted a beneficiary intake form, the recorded call, and a pre-filled prescription for medication or DME order to Laughlin and Luke at RediDoc. Under a contract, Belter paid Laughlin and Luke a fee of approximately $95 for each prescription that RediDoc obtained from one of its contracted doctors; $100 for each DME order; and $115 for a prescription and a DME order.

RediDoc recruited and contracted with doctors around the country to sign prescriptions and DME orders. RediDoc paid its contracted doctors anywhere from $7 to $30 per "consultation," depending on whether they prescribed medication, DME, or both. For example, according to one RediDoc contract, RediDoc agreed to pay a doctor $15 per "consultation" by telephone with no prescription; $20 per "consultation" resulting in a medication prescription or DME order; and $30 per "consultation" resulting in a medication prescription and DME order. RediDoc had similar contracts with doctors across the country and paid them over $5.5 million during the scheme.

The defendants and other conspirators caused the submission of false and fraudulent claims to health care benefit programs, including Medicare, in excess of $100 million for prescription medication and DME.

The charge of conspiracy to violate the Anti-Kickback Statute is punishable by a potential penalty of five years in prison and a fine of $250,000 fine, or twice the gross gain or loss from the offense, whichever is greater.

The government is represented in this case by Senior Trial Counsel Jason S. Gould and Assistant U.S. Attorneys Nicole Mastropieri and Hayden Brockett of the Health Care Fraud Unit in Newark, as well as Senior Trial Counsel Barbara Ward of the Asset Recovery and Money Laundering Unit in Newark.

The charges and allegations contained in the complaints are merely accusations, and the defendants are presumed innocent unless and until proven guilty.

McCubbins

McCubbins owned and operated a telemedicine company based in Utah that purported to provide health care services through health care professionals to Medicare beneficiaries. McCubbins and others paid kickbacks and bribes to various parties in exchange for referrals and orders for medically unnecessary genetic cancer screening tests (CGX Tests) for Medicare beneficiaries, ultimately leading to approximately $89 million in Medicare payments.

In order to generate referrals of Medicare beneficiaries to the telemedicine company, McCubbins and others paid kickbacks and bribes to individuals operating call centers targeting Medicare beneficiaries for CGX Tests. Once the telemedicine company received the referrals, health care professionals acting on its behalf wrote medically unnecessary orders for CGX Tests for the Medicare beneficiaries. McCubbins bribed medical doctors, nurse practitioners, and physician assistants to prescribe the CGX Tests for Medicare beneficiaries. These health care professionals wrote medically unnecessary orders for CGX Tests without performing legitimate medical consultations and after only cursory telephonic interactions with the Medicare beneficiaries. In addition, the Telemedicine Company also bribed doctors to purportedly “supervise” nurses and other health care professionals in order to legitimize the their prescriptions for CGX Tests. In reality, however, the supervising physicians had no legitimate clinical or collaborative relationship with the health care professionals they claimed to supervise.

Mohases

Mohases and his conspirators owned and operated multiple call centers through which they obtained doctors’ orders for DME, namely orthotic braces, and patient referrals for genetic CGX tests for Medicare beneficiaries. Mohases and his conspirators provided these orders and referrals in exchange for bribes from certain companies that provided the braces and performed the CGX Tests, ultimately leading to approximately $8.5 million in Medicare payments for medically unnecessary DME and CGX Tests.

Mohases and his conspirators obtained the DME orders and CGX Test referrals through the use of marketing call centers and telemedicine companies. Mohases used telemedicine companies to generate DME orders that were medically unnecessary because they were generated without any legitimate physician-patient relationship and without complying Medicare’s telemedicine requirements. In order to conceal the kickback arrangements, Mohases and his conspirators entered into sham contracts that made it appear that they were providing legitimate services. Mohases generated false invoices to match the sham contracts and to conceal the kickback scheme.

Roa

Roa and his conspirators owned and operated multiple call centers through which they obtained doctors' orders for DME, namely braces, and patient referrals for CGX tests for Medicare beneficiaries. Roa and his conspirators provided these orders and referrals in exchange for bribes from certain companies that provided the braces and performed the CGX tests, ultimately leading to approximately $6.9 million in Medicare payments for medically unnecessary DME and CGX tests.

Roa and his conspirators obtained the DME orders and CGX test referrals through the use of marketing call centers and telemedicine companies. Roa used telemedicine companies to generate DME orders that were medically unnecessary because they were generated without any legitimate physician-patient relationship and without complying with Medicare's telemedicine requirements. In order to conceal the kickback arrangements, Roa and his conspirators entered into sham contracts that made it appear that they were providing legitimate services. Roa generated false invoices to match the sham contracts and to conceal the kickback scheme.

The charge of conspiracy to commit wire fraud is punishable by a maximum potential penalty of 20 years in prison and a fine of $250,000, or twice the gross profit or loss caused by the offense, whichever is greater. The charge of conspiracy to commit health care fraud is punishable by a maximum potential penalty of 10 years in prison and a fine of $250,000, or twice the gross profit or loss caused by the offense, whichever is greater. The charge of conspiracy to violate the federal Anti-Kickback Statute is punishable by a maximum potential penalty of five years in prison and a fine of $250,000, or twice the gross profit or loss caused by the offense, whichever is greater.

The government in the cases against McCubbins, Mohases and Roa is represented by Assistant U.S. Attorneys Sean M. Sherman, J. Stephen Ferketic, and Ryan O'Neill of the Opioid Abuse Prevention & Enforcement Unit, and Senior Trial Counsel Ward.

U.S. Attorney Carpenito and Attorney for the United States Honig credited special agents of the FBI, under the direction of Special Agent in Charge George M. Crouch. Jr. in Newark; the Department of Health and Human Services-Office of Inspector General, under the direction of Scott J. Lampert; the U.S. Department of Defense, Office of the Inspector General, Defense Criminal Investigative Service, under the direction of Special Agent in Charge Leigh-Alistair Barzey; and the U.S. Department of Veterans Affairs Office of Inspector General, under the direction of Special Agent in Charge Christopher F. Algieri with the ongoing investigations.

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