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Western District of Pennsylvania

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Florida Businessman Pleads Guilty in Three Cases Involving Conspiracies to Commit Health Care Fraud, Pay and Receive Unlawful Kickbacks, and Money Laundering

Agrees to Pay Restitution of More Than \$97 Million and Forfeit More Than \$30 Million and a Luxury Boat

PITTSBURGH, Pa. – A resident of Fort Lauderdale, Florida, pleaded guilty in federal court to three counts of conspiracy related to the submission of fraudulent health care claims, United States Attorney Cindy K. Chung announced today.

Daniel Hurt, 58, pleaded guilty to one count of conspiracy to commit health care fraud, pay and receive unlawful kickbacks, and commit money laundering, as charged in a criminal Information filed in the Western District of Pennsylvania on July 26, 2022; one count of conspiracy to commit health care fraud, as charged in a criminal Information filed in the District of New Jersey on August 31, 2022; and one count of conspiracy to pay and receive kickbacks, as charged in a Second Superseding Indictment filed in the Southern District of Florida. Prior to the defendant's guilty pleas, the cases originating in the District of New Jersey and the Southern District of Florida were transferred to the Western District of Pennsylvania.

As to the conduct originating in the Western District of Pennsylvania, Hurt admitted during his plea hearing that beginning in late 2018 and continuing through approximately October 2019, he participated in a conspiracy related to Medicare billing for cancer genomic (CGx) testing. CGx testing used DNA sequencing to detect mutations in genes that could indicate a higher risk of developing certain types of cancers in the future. CGx testing, however, was not a method of diagnosing whether an individual presently had cancer. Hurt admitted that he and his co-conspirators, including individuals associated with so-called marketing entities, acquired thousands of testing samples from Medicare beneficiaries located throughout the United States. Marketers used targeted campaigns to induce beneficiaries to submit CGx specimens by means of cheek swabs sent to their homes or provided to them at purported "health fairs" held throughout the United States.

Hurt subsequently caused CGx specimens to be sent to Ellwood City Medical Center (ECMC), a hospital located in Ellwood City, Pennsylvania. Hurt further used ECMC as the billing entity for Medicare purposes despite the fact that the facility did not possess properly validated equipment to conduct any CGx testing on-site and, as such, ECMC staff were required, at Hurt's direction, to repackage the samples and send them to third-party reference laboratories that

were capable of completing the testing. In order to justify Medicare reimbursement for the CGx testing, Hurt and his co-conspirators obtained CGx prescriptions from telemedicine physicians without regard to the fact that the doctors did not conduct proper telemedicine visits, were not treating the Medicare beneficiaries for cancer or symptoms of cancer, and did not use the test results in the treatment of the beneficiaries. Hurt further admitted causing ECMC to submit Medicare claims for CGx testing that regularly exceeded \$12,000 per beneficiary. In total, between approximately January 2019 and October 2019, Medicare reimbursed ECMC more than \$25 million for CGx testing. During this time, Hurt directed ECMC staff to transfer millions of dollars from ECMC-related accounts to bank accounts that Hurt controlled. In turn, Hurt admitted using funds he obtained from ECMC to pay millions of dollars in kickbacks to the marketers, among others, in exchange for their efforts to obtain CGx samples. To disguise such kickbacks, Hurt entered into sham contracts with the marketers to make it appear that they were engaged in, and being paid for, legitimate marketing and referral services. Likewise, Hurt, acting through entities he controlled, entered into similar agreements and business arrangements with ECMC that disguised the payments he obtained from the facility as purportedly legitimate payments, including payments related to management services at ECMC's laboratory. Payments, in fact, were based on the volume of CGx tests and the amount of resulting Medicare reimbursements. Finally, Hurt admitted that he and others used a portion of Medicare reimbursements obtained through the fraudulent submission of CGx claims to engage in monetary transactions in excess of \$10,000, including approximately \$3 million in payments toward the purchase of a luxury watercraft in Florida called "In My DNA."

As to the conduct originating in the District of New Jersey, Hurt admitted his involvement in a similar but separate conspiracy between January 2019 and October 2021. Specifically, Hurt admitted that he owned several clinical laboratories that conducted or arranged for a variety of medical tests, and that he paid kickbacks and bribes to various entities who supplied referrals and orders for CGx for Medicare and other health care benefit program beneficiaries, without regard to medical necessity. The Hurt-controlled laboratories submitted claims for payment to Medicare for these CGx tests, and Medicare reimbursed the laboratories without knowing that the services were not medically necessary or were procured through the payment of kickbacks. During the conspiracy, Hurt, through the laboratories, submitted or caused to be submitted claims to Medicare, including claims for beneficiaries residing in New Jersey. Hurt likewise admitted paying kickbacks to entities who supplied referrals for each CGx test that was billed to Medicare and other health care benefit programs. To conceal the payments of bribes, Hurt and the suppliers entered into sham contracts to make it appear that the suppliers were engaged in, and being paid for, legitimate marketing and referral services. This conspiracy resulted in Medicare paying the Hurt-controlled laboratories at least \$53.3 million for CGx test claims, with Hurt receiving at least \$26.9 million from the Medicare reimbursements.

As to the conduct originating in the Southern District of Florida, Hurt admitted that he and his co-conspirators were engaged in a scheme to defraud health insurance plans, including two plans funded by the U.S. government, TRICARE and CHAMPVA. TRICARE provides worldwide health care benefits to military personnel and their dependents, as well as military retirees. CHAMPVA operates through the Department of Veteran's Affairs and shares the costs of health care services for eligible beneficiaries, including veterans. Hurt admitted that he and his co-conspirators participated in a scheme to bill TRICARE, CHAMPVA, and other insurance providers for expensive compounded medications that were not medically necessary. Hurt and his co-conspirators worked with patient recruiters to solicit patients who had health care insurance, including TRICARE and CHAMPVA. The patient recruiters, in turn, would generate prescriptions containing the patients' information, and a limited selection of expensive compounded medications. These prescriptions, which used formulations created or altered to obtain the maximum possible reimbursement from the insurance companies, were then referred to a telemedicine service located in Utah. Hurt and his co-conspirators paid for the telemedicine services only after the prescriptions had been generated, and the prescriptions were then sent to a pharmacy owned by Hurt and his coconspirators.

Beginning in the fall of 2014, Hurt and two co-conspirators formed a corporation, OptimuMD. Through OptimuMD, Hurt and his co-conspirators purchased a three (3) percent interest in Executive Pharmacy, located in Broward County, Florida. In return, Hurt and his co-conspirators were to receive up to 70% of the gross revenues from Executive Pharmacy. During the conspiracy,

Hurt and his co-conspirators directed patient recruiters and the telemedicine service to send thousands of medically unnecessary prescriptions to Executive Pharmacy. After filling the prescriptions, the pharmacy would bill the patients' insurance plan thousands of dollars for the compounded medications. Once the pharmacy received payment for the prescriptions, the pharmacy would then pay a kickback to Hurt and his co-conspirators. Hurt and his co-conspirators would then pay kickbacks to the patient recruiters. Executive Pharmacy paid OptimuMD millions of dollars during the scheme—money generated by the prescriptions for medically unnecessary compounded medications. As part of his plea, Hurt admitted to personally receiving \$4,265,144 from the scheme. Furthermore, he has agreed to pay \$18,440,230 in restitution to TRICARE and \$450,844 in restitution to CHAMPVA.

As part of his plea agreement, Hurt has agreed to pay restitution to Medicare, TRICARE, and CHAMPVA in an amount totaling \$97,360,451.76. Hurt has separately agreed to the entry of forfeiture money judgments totaling \$31,148,624.70, and to forfeit the luxury watercraft, "In My DNA."

As to each of the conspiracies charged originally in the Western District of Pennsylvania and Southern District of Florida, Hurt faces a maximum sentence of five years in prison and a fine of not more than the greater of \$250,000 or an alternative fine in an amount not more than the greater of twice the gross pecuniary gain to any person or twice the pecuniary loss to any person other than the defendant. As to the conspiracy originally charged in the District of New Jersey, Hurt faces a maximum sentence of ten years in prison and a fine of not more than the greater of \$250,000 or an alternative fine in an amount not more than the greater of twice the gross pecuniary gain to any person or twice the pecuniary loss to any person other than the defendant. Under the Federal Sentencing Guidelines, the actual sentence imposed would be based upon the seriousness of the offenses and the prior criminal history, if any, of the defendant.

Assistant United States Attorney Eric G. Olshan of the Western District of Pennsylvania is prosecuting these cases on behalf of the government. Assistant United States Attorney Sean M. Sherman handled the investigation of the conduct that led to the Information originally filed in the District of New Jersey, and Assistant United States Attorney Cynthia Wood of the Southern District of Florida handled the investigation that led to the Second Superseding Indictment originally filed in the Southern District of Florida. The Federal Bureau of Investigation, U.S. Department of Health and Human Services – Office of Inspector General, Defense Criminal Investigative Service, Internal Revenue Service – Criminal Investigation, U.S. Department of Labor – Employee Benefits Security Administration, U.S. Department of Veterans Affairs – Office of Inspector General, Food and Drug Administration – Office of Criminal Investigation, and U.S. Army Criminal Investigation Division – Florida Fraud Resident Unit conducted the investigations of the defendant.

Topic(s):

Financial Fraud
Health Care Fraud

Component(s):

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