

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA

v.

D-1 CARIDAD GUILARTE,
D-2 CLARA GUILARTE,
D-3 NOEL FREYTES,
D-4 MIRIAM FREYTES,
D-5 REYNEL BETANCOURT,
D-6 TIMOTHY PIERCE,

Defendants.

Case:2:09-cr-20261
Judge: Hood, Denise Page
MJ: Scheer, Donald A
Filed: 06-11-2009 At 04:19 PM
INDI: USA V. SEALED MATTER (NH)

VIO.: 18 U.S.C. § 1349
18 U.S.C. § 1347
18 U.S.C. § 2
18 U.S.C. § 1956
18 U.S.C. § 1957
18 U.S.C. § 982

INDICTMENT

THE GRAND JURY CHARGES:

GENERAL ALLEGATIONS

At all times pertinent to this indictment:

1. The Medicare program was a federal health care program providing benefits to persons 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 State Department of Health and Human Services. Individuals who received benefits under Medicare were referred to as Medicare "beneficiaries."
2. Medicare was a "health care benefit program," as defined by Title 18, United States Code, Section 24(b).
3. The Medicare Program included coverage under two primary components, hospital insurance (Part A) and medical insurance (Part B). Part B of the Medicare

Program covered the costs of physicians' services and other ancillary services not covered by Part A. Part B of the Medicare program covered a limited set of medications, including medications that were administered via infusion and injection and that were furnished as part of a physician service. Injection treatments involved the administration of medication by inserting a syringe directly into the vein, muscle or the fatty tissue beneath the skin. Infusion treatments involved the administration of medication through a catheter into the bloodstream.

4. Medicare Part B for injection and infusion therapies was administered in Michigan by Wisconsin Physicians Service ("WPS"), a company that contracted with CMS to receive, adjudicate, process, and pay certain Part B claims.

5. Payments under the Medicare Program were often made directly to a provider of the goods or services, rather than to the beneficiary. This occurred when the provider submitted the claim to Medicare for payment, either directly or through a billing company.

6. Physicians, clinics, and other health care providers that provided services to Medicare beneficiaries were able to apply for and obtain a "provider number." A health care provider who was issued a Medicare provider number was able to file claims with Medicare to obtain reimbursement for services provided to beneficiaries. A Medicare claim was required to set forth, among other things, the beneficiary's name, the date the services were provided, the cost of the services, and the name and identification number of the physician or other health care provider who had ordered the services.

7. Dearborn Medical Rehabilitation Center ("DMRC") was a Michigan corporation, purportedly doing business at 23917 Ford Road, Dearborn, Michigan. DMRC was a medical clinic that purported to specialize in treating patients by providing infusion and injection therapy. DMRC was a Medicare provider and submitted claims to the Medicare program through billing companies.

8. Defendant CARIDAD GUILARTE, a resident of Wayne County, Michigan, and Orange County, Florida, was an operator of DMRC.

9. Defendant CLARA GUILARTE, a resident of Wayne County, Michigan, and Dade County, Florida, was an operator of DMRC.

10. Defendant NOEL FREYTES, a resident of Wayne County, Michigan, was a driver and patient recruiter employed by DMRC.

11. Defendant MIRIAM FREYTES, a resident of Wayne County, Michigan, was a medical assistant who was employed by DMRC. MIRIAM FREYTES was also a purported patient at DMRC.

12. A physician, licensed to practice medicine in the state of Michigan, practiced at DMRC. DMRC, using its group provider number, submitted claims to Medicare seeking reimbursement for the cost of injection and infusion treatments purportedly furnished to Medicare beneficiaries under the care of this physician.

13. Defendant REYNEL BETANCOURT, a resident of Wayne County, Michigan, was employed by DMRC.

14. Defendant TIMOTHY PIERCE, a resident of Wayne County, Michigan, was a driver and patient recruiter employed by DMRC. TIMOTHY PIERCE was also a purported patient at DMRC.

15. CJR Consulting was a Florida corporation whose resident agent was CARIDAD GUILARTE.

16. CCR Wellness Services, Inc. was a Michigan corporation whose resident agent was CARIDAD GUILARTE.

17. Medical Care Center, Inc. was a Florida business controlled by CLARA GUILARTE.

18. Spick and Span Quality Maintenance, Inc. was a Michigan corporation whose resident agent was NOEL FREYTES.

19. Perfect Data Request Inc. was a Michigan corporation whose resident agent was REYNEL BETANCOURT.

20. From in or about December 2005 through in or about February 2007, DMRC submitted claims to Medicare under the provider number of a physician who practiced at DMRC.

COUNT ONE
(18 U.S.C. § 1349 – Health Care Fraud Conspiracy)

D-1 CARIDAD GUILARTE
D-2 CLARA GUILARTE
D-3 NOEL FREYTES
D-4 MIRIAM FREYTES
D-5 REYNEL BETANCOURT
D-6 TIMOTHY PIERCE

21. . Paragraphs 1 through 20 of the General Allegations section of this Indictment are re-alleged and incorporated by reference as if fully set forth herein. From in or around November 2005, through in and around March 2007, the exact dates being unknown to the Grand Jury, at Wayne County, in the Eastern District of Michigan, and elsewhere, the defendants, CARIDAD GUILARTE, CLARA GUILARTE, NOEL FREYTES, MIRIAM FREYTES, REYNEL BETANCOURT, and TIMOTHY PIERCE, did knowingly and willfully combine, conspire, confederate and agree with each other and 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

22. It was a purpose of the conspiracy for CARIDAD GUILARTE, CLARA GUILARTE, NOEL FREYTES, MIRIAM FREYTES, REYNEL BETANCOURT, and

TIMOTHY PIERCE, and their co-conspirators, to unlawfully enrich themselves by, among other things, (a) submitting false and fraudulent claims to Medicare; (b) offering and paying cash kickbacks and bribes to Medicare beneficiaries for the purpose of such beneficiaries arranging for the use of their Medicare beneficiary numbers by the conspirators as the bases of claims filed for medically unnecessary infusion and injection therapy services and other services; (c) soliciting and receiving kickbacks and bribes in return for arranging for the furnishing of services for which payment may be made by Medicare by providing their Medicare beneficiary numbers, which formed the basis of claims filed for infusion and injection therapy and other services; (d) concealing the submission of false and fraudulent claims to Medicare, the receipt and transfer of the proceeds from the fraud, and the payment of the kickbacks; and (e) diverting proceeds of the fraud for the personal use of the defendants and their co-conspirators.

MANNER AND MEANS

23. The manner and means by which the defendants and their co-conspirators sought to accomplish the purpose of the conspiracy included, among others, the following:

24. CARIDAD GUILARTE caused to be filed Articles of Incorporation in the State of Michigan for DMRC, listing an associate as the president and registered agent of DMRC.

25. An associate of CARIDAD GUILARTE and CLARA GUILARTE completed and submitted an application for Medicare participation, CMS Form 855, for DMRC to CMS.

26. CARIDAD GUILARTE and CLARA GUILARTE hired a physician licensed to practice in the state of Michigan, and retained a medical biller to make it appear that DMRC was a legitimate clinic providing medical treatment.

27. The physician employed by DMRC completed a reassignment of benefits form, CMS Form 855R, to reassign to DMRC payments for services billed to Medicare under his provider number.

28. MIRIAM FREYTES met with patients who were Medicare beneficiaries and administered infusion and injection therapy without regard to medical necessity.

29. A co-conspirator paid cash to TIMOTHY PIERCE, for the purpose of inducing TIMOTHY PIERCE to recruit Medicare beneficiaries to act as DMRC patients and to pay cash kickbacks to those Medicare beneficiaries.

30. CARIDAD GUILARTE provided money to NOEL FREYTES and REYNEL BETANCOURT from DMRC's bank account, for the purpose of inducing NOEL FREYTES and REYNEL BETANCOURT to recruit Medicare beneficiaries to act as DMRC patients and to pay cash kickbacks to those Medicare beneficiaries.

31. NOEL FREYTES, TIMOTHY PIERCE, and REYNEL BETANCOURT paid patients who were Medicare beneficiaries cash kickbacks of approximately \$25 per visit, in return for the patients signing medical documents and reimbursement forms at DMRC.

32. Defendants MIRIAM FREYTES and TIMOTHY PIERCE, and other co-conspirators, solicited and received kickbacks for allowing DMRC to submit claims to

Medicare for infusion and injection therapy and other services that were medically unnecessary and were not provided.

33. Defendants CARIDAD GUILARTE, CLARA GUILARTE, NOEL FREYTES, MIRIAM FREYTES, REYNEL BETANCOURT, TIMOTHY PIERCE, and their co-conspirators caused the submission of approximately \$9,122,159.35 of false and fraudulent claims to Medicare under the provider number of a physician at DMRC, seeking reimbursement for the costs of infusion and injection therapy and other services that were not medically necessary and were not provided.

34. After the payments from Medicare were deposited into the DMRC bank account, CARIDAD GUILARTE and CLARA GUILARTE caused the transfer of approximately \$4,275,799.75 to themselves and to sham companies they and their co-conspirators owned and controlled.

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

COUNTS 2 - 4
(18 U.S.C. §§ 1347 and 2 - Health Care Fraud)

D-1 CARIDAD GUILARTE
D-2 CLARA GUILARTE
D-4 MIRIAM FREYTES

35. Paragraphs 1 through 20 of the General Allegations section of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

36. On or about the dates enumerated below, at Wayne County, in the Eastern District of Michigan, the defendants, CARIDAD GUILARTE, CLARA GUILARTE, and MIRIAM FREYTES, in connection with the delivery of a 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, 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 Medicare, in connection with the delivery and payment for health care benefits, items, and services.

Purpose of the Scheme and Artifice

37. 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 and non-rendered infusion and injection therapy and other services.

The Scheme and Artifice

38. Paragraphs 23 through 34 of Count One of this Indictment are re-alleged 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

39. On or about the dates specified as to each count below, in Wayne County, in the Eastern District of Michigan, and elsewhere, the defendants, CARIDAD GUILARTE, CLARA GUILARTE, and MIRIAM FREYTES, in connection with the delivery of a 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.

Count	Medicare Beneficiary	Stated Date of Service	Date Claim Submitted to Medicare	Description of Services	Approximate Amount of Medicare Claim
2	MIRIAM FREYTES	11/11/2005	01/06/2006	Cosyntropin (40 units)	\$2800
3	M.V.	05/22/2006	08/03/2006	Interferon (100 units)	\$3500
4	R.L.	07/03/2006	08/03/2006	Gamma Globulin injection (40 units)	\$4400

All in violation of Title 18, United States Code, Sections 287 and 2.

COUNT 5
(18 U.S.C. § 1956(h) – Money Laundering Conspiracy)

D-1 CARIDAD GUILARTE
D-2 CLARA GUILARTE
D-3 NOEL FREYTES
D-5 REYNEL BETANCOURT

40. From in or about December 2005 through in or about February 2007, in Wayne County, in the Eastern District of Michigan, and elsewhere, the defendants, CARIDAD GUILARTE, CLARA GUILARTE, NOEL FREYTES, and REYNEL BETANCOURT, did willfully, that is, with the intent to further the objects of the conspiracy, and knowingly combine, conspire, and agree with each other and with other persons, known and unknown to the Grand Jury, to commit offenses against the United States in violation of Title 18, United States Code, Sections 1956 and Section 1957, to wit:

- a. to knowingly conduct a financial transaction affecting interstate and foreign commerce, which in fact involved the proceeds of specified unlawful activity, knowing that the property involved in the financial transaction represented the proceeds of some form of unlawful activity, and knowing that the transaction was designed in whole and in part to conceal and disguise the nature, the location, the source, the ownership, and the control of the proceeds of specified unlawful activity, in violation of Title 18, United States Code, Section 1956(a)(1)(B)(i);
- b. to knowingly engage in a monetary transaction by, through, and to a financial institution, affecting interstate and foreign commerce, in criminally derived property of a value greater than \$10,000, such property having been derived from specified unlawful activity, in violation of Title 18, United States Code, Section 1957.

It is further alleged that the specified unlawful activity is health care fraud, in violation of Title 18, United States Code, Section 1347.

All in violation of Title 18, United States Code, Section 1956(h).

COUNTS 6 - 8
(18 U.S.C. §§ 1957 and 2 – Money Laundering)

D-1 CARIDAD GUILARTE
D-2 CLARA GUILARTE
D-3 NOEL FREYTES
D-5 REYNEL BETANCOURT

41. On or about the dates specified as to each count below, in Wayne County, in the Eastern District of Michigan, and elsewhere, the defendants, CARIDAD

GUILARTE, CLARA GUILARTE, NOEL FREYTES, and REYNEL BETANCOURT, knowingly engaged in a monetary transaction by, through, and to a financial institution, affecting interstate commerce, in criminally derived property of a value greater than \$10,000, such property having been derived from specified unlawful activity:

Count	Defendants	On or about Date	Financial Transaction
6	CARIDAD GUILARTE CLARA GUILARTE NOEL FREYTES	02/23/2007	Check #1421 from DMRC Best Bank account #258217650 in the amount of \$283,000 to Spick & Span Quality Maintenance, Inc. Best Bank account #279226470
7	CARIDAD GUILARTE CLARA GUILARTE REYNEL BETANCOURT	02/27/2007	Check #1425 from DMRC Best Bank account #258217650 in the amount of \$265,000 to Perfect Data Request, Inc. JP Morgan Chase bank account #724532304
8	CARIDAD GUILARTE CLARA GUILARTE	11/30/2006	Wire transfer in the amount of \$300,000 from DMRC Best Bank account #258217650 to Medical Care Center, Inc. Regions Bank account #171007403

All in violation of Title 18, United States Code, Section 1957 and 2.

COUNTS 9 - 11
(18 U.S.C. §§ 1956(a)(1)(B)(i) and 2 - Money Laundering)

D-1 CARIDAD GUILARTE
D-2 CLARA GUILARTE
D-3 NOEL FREYTES
D-5 REYNEL BETANCOURT

42. On or about the dates specified as to each count below, in Wayne County, in the Eastern District of Michigan, and elsewhere, the defendants, CARIDAD GUILARTE, CLARA GUILARTE, NOEL FREYTES, and REYNEL BETANCOURT, did knowingly conduct and attempt to conduct a financial transaction affecting interstate commerce, which in fact involved the proceeds of specified unlawful activity, knowing

that the property involved in the financial transaction represented the proceeds of some form of unlawful activity, and knowing that the transaction was designed in whole and in part to conceal and disguise the nature, the location, the source, the ownership, and the control of the proceeds of specified unlawful activity:

Count	Defendants	On or about Date	Financial Transaction
9	CARIDAD GUILARTE CLARA GUILARTE REYNEL BETANCOURT	01/19/2007	Check #1374 from DMRC Best Bank account #258217650 in the amount of \$62,400 to Perfect Data Request, Inc. JP Morgan Chase bank account #724532304
10	CARIDAD GUILARTE CLARA GUILARTE NOEL FREYTES	11/14/2006	Check #1315 from DMRC Best Bank account #258217650 in the amount of \$236,540 to Spick & Span Quality Maintenance, Inc. Best Bank account #279226470
11	CARIDAD GUILARTE CLARA GUILARTE	02/21/2007	Check #1418 from DMRC Best Bank account #258217650 in the amount of \$200,000 to CCR Wellness Services, Inc. LaSalle Bank account #5403467441

All in violation of Title 18, United States Code, Sections 1956(a)(1)(B)(i) and 2.

**CRIMINAL FORFEITURE
(18 U.S.C. § 982)**

- D-1 CARIDAD GUILARTE**
- D-2 CLARA GUILARTE**
- D-3 NOEL FREYTES**
- D-4 MIRIAM FREYTES**
- D-5 REYNEL BETANCOURT**
- D-6 TIMOTHY PIERCE**

43. The allegations contained in Counts 1 through 11 of this Indictment are re-alleged 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

defendants, CARIDAD GUILARTE, CLARA GUILARTE, NOEL FREYTES, MIRIAM FREYTES, REYNEL BETANCOURT, and TIMOTHY PIERCE have an interest in pursuant to the provisions of Title 18, United States Code, Sections 982(a)(1) and 982(a)(7).

44. Pursuant to Title 18, United States Code, Section 982(a)(7), upon conviction of defendants CARIDAD GUILARTE, CLARA GUILARTE, NOEL FREYTES, MIRIAM FREYTES, REYNEL BETANCOURT, and TIMOTHY PIERCE for any of the offenses charged in Counts 1 to 4 of this Indictment, 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 health care fraud offense. If more than one defendant is convicted of an offense, the defendants so convicted are jointly and severally liable for the amount derived from such offense.

45. Pursuant to Title 18, United States Code, Section 982(a)(1), upon conviction of CARIDAD GUILARTE, CLARA GUILARTE, NOEL FREYTES, and REYNEL BETANCOURT for the money laundering offenses charged in this Indictment, the defendants shall forfeit to the United States any property, real or personal, involved in such offense, or any property traceable to such property. If more than one defendant is convicted of an offense, the defendants so convicted are jointly and severally liable for the amount of property involved in such an offense.

46. Property subject to forfeiture to the United States pursuant to conviction for any offense charged in Counts 1 to 4 of this Indictment, or the money laundering offenses charged in this indictment, includes but is not limited to, cash, all bank accounts

and brokerage accounts; all interests in real estate, partnerships or corporations of any kind, and their assets; all personal property; and other assets, acquired during the time of the offenses, with the proceeds of health care fraud, and/or was property involved in any of the violations.

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).

THIS IS A TRUE BILL.

s/GRAND JURY FOREPERSON

Foreperson

TERRENCE G. BERG
UNITED STATES ATTORNEY

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Dated: June 11, 2009

United States District Court Eastern District of Michigan	Criminal Case Cover	Case:2:09-cr-20261 Judge: Hood, Denise Page MJ: Scheer, Donald A Filed: 06-11-2009 At 04:19 PM INDI: USA V. SEALED MATTER (NH)
NOTE: It is the responsibility of the Assistant U.S. Attorney signing this form to complete		
Companion Case Information:		Companion Case Number:
This may be a companion case based upon LCrR 57.10 (b)(4) ¹ :		Judge Assigned:
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		AUSA's Initials: <i>Dwb</i>

Case Title: USA v. D-1 Caridad Guillarte, et al.

County where offense occurred : Wayne

Check One: Felony Misdemeanor Petty

Indictment/ Information --- no prior complaint.
 Indictment/ Information --- based upon prior complaint [Case number:]
 Indictment/ Information --- based upon LCrR 57.10 (d) [Complete Superseding section below].

Superseding Case Information:

Superseding to Case No: _____ Judge: _____

- Original case was terminated; no additional charges or defendants.
- Corrects errors; no additional charges or defendants.
- Involves, for plea purposes, different charges or adds counts.
- Embraces same subject matter but adds the additional defendants or charges below:

Defendant name Charges

Please take notice that the below listed Attorney is the attorney of record for the above captioned case.

June 11, 2009
Date

John K Neal

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¹ Companion cases are matters in which it appears that (1) substantially similar evidence will be offered at trial, (2) the same or related parties are present, and the cases arise out of the same transaction or occurrence. Cases may be companion cases even though one of them may have already been terminated. 5/20/04