



MEDICAID FRAUD REPORT

**National Association
of Medicaid Fraud Control Units**

November/December 2009

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Utah Facility Pays \$365,555 after Resident's Death

Attorney General Mark Shurtleff announced on December 7 that REM, Utah and National Mentor Services, LLC, agreed to a civil settlement with the state after two employees were convicted on criminal neglect charges.

The companies paid \$365,555 to the state of Utah after a disabled man died after being neglected. In April of 2007, a disabled resident at the supervised residential facility was taken to a hospital emergency room after it was reported he had passed out in his home. The medical staff at the hospital were shocked at the victim's emaciated appearance. The victim was 6'2" and weighed only 110 pounds. He also had multiple pressure sores which are caused when a person is unable to move enough to allow circulation to the skin.

The victim died a month after having surgery for a medical problem. A doctor determined his malnutrition prevented him from recovering from the surgery. The Utah Medicaid Fraud Control Unit investigated the death and learned that the victim weighed more than 200 pounds and was mobile and fairly active a year prior to his death. Criminal charges were filed against three company employees who provided care and supervision to the victim with Medicaid funds under a contract with the Utah Division of Services for Peoples with Disabilities.

Last October, Jessica Poole, the victim's direct care giver was sentenced to 45 days in jail and placed on formal probation after she pleaded guilty to "Aggravated Neglect of a Vulnerable Adult," a class A misdemeanor. Poole's supervisor, Melissa Strickland, pleaded no contest to the same charge and was placed on probation. A judge dismissed charges against REM Utah Director John Harbert due to the lack of evidence that he was personally aware of the neglect going on in the home.

The \$365,555 settlement covers Medicaid restitution, investigation costs and other costs to settle claims with the state.

For further information contact Assistant Attorney General Robert Morton (801) 281-1258.

CASES

Counselors: Missouri

Attorney General Chris Koster announced on December 30 that a licensed professional counselor has been charged with 11 felony counts of Medicaid fraud, one count of obstruction, and one count of stealing by deceit. Lorraine R. Kusior is charged with submitting false reimbursement claims to Medicaid for counseling services she did not perform and providing false patient records with the intention to defraud the state and MO HealthNet.

Attorney General Koster said that the Medicaid Fraud Control Unit's review of Kusior's subpoenaed progress notes and Medicaid claims found evidence of inflated billing. Allegedly, Kusior has fraudulently billed more than \$12,000 to Medicaid.

For further information contact Joe Bindbeutel, Director (573) 751-7192.

Dentists: Alabama

Attorney General Troy King announced on November 18 the arrest of a dentist on charges of Medicaid fraud and First Degree theft of property. Dr. Robert Pierre Antoine Louis was arrested at the Attorney General's Office in Montgomery by agents of the Alabama Medicaid Fraud Control Unit.

The Attorney General's Office alleged that, in October and November of 2008, Louis approached the administrators of seven public schools counties and offered free dental screenings for their students. Louis subsequently billed the Alabama Medicaid Agency for dental procedures on 221 students that were not performed at the screenings and was paid \$14,335 by the Medicaid Agency.

Louis was arrested on warrants charging Medicaid fraud, a class C felony, and First Degree theft of property by deception, a class B felony.

For further information contact Special Agent Timothy Kornegay or Assistant Attorney General Bruce Lieberman (334) 353-8793.

Dentists: Missouri

Attorney General Koster announced on September 28 that Samuel A. Miller, a dentist, pleaded guilty to 13 counts of submitting false reimbursement claims to Missouri's Medicaid program for services not performed.

Attorney General Koster said that Miller, who works primarily with pediatric patients, received nearly \$13,500 from Medicaid for false claims he submitted. He said the fraudulent billing was for

procedures such as x-rays, root canals, and resin-based composite restorations.

Miller came under investigation as a result of a hotline tip to the Attorney General's Medicaid Fraud Control Unit. The MFCU subpoenaed Miller's records, and Miller held back records and even cut off portions of the records to conceal that the billed work had not been performed.

For further information contact Assistant Attorney General Gary W. Fleming (573) 751-7192.

Drug Diversion: Ohio

Attorney General Richard Cordray announced on November 5 that Mykel Hunter-Watson pleaded guilty to two counts of Theft, Felonies of the Fourth Degree and was sentenced to three years of Community Control, suspended driving privileges for six months. If the defendant violates her Community Control she will be sentenced to 18 months in prison.

On June 6, an indictment was returned charging Hunter-Watson with two counts of Theft, both Felonies of the Fourth Degree. Hunter-Watson, a PSA, stole three Darvocet pills and approximately 30 Tramadol pills from a nursing home.

For further information contact Associate Assistant Attorney General Shawn Napier (614) 466-0722.

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Attorney General Cordray announced on November 30 that Robert Clark pleaded guilty to one count of Theft of Drugs, a Felony of the Fourth Degree and was sentenced to Intervention in lieu of Conviction and two years probation. If Clark violates any of the terms of his probation the court will impose a prison sentence of 17 months.

On October 5, a Waiver of Indictment was filed. On October 5, a Bill of Information was filed charging Robert Clark with one count of Theft of Drugs, a felony of the Fourth Degree. Clark, a nurse employed at Arbors of Gallipolis, stole narcotics from the drug cart for his personal use.

For further information contact Senior Assistant Attorney General Constance Nearhood (614) 466-0722.

Drug Diversion: Texas

Attorney General Greg Abbott announced on November 17 that licensed vocational nurse (LVN) Rachel Marlene Boyd was indicted by a state grand jury for fraud under the Health and Safety Code. While employed at Oak Crest Nursing Center, Boyd allegedly diverted resident narcotics without authorization.

For further information contact Rick Copeland, Director or Chief Investigator Jim Fossum (512) 371-4700.

Durable Medical Equipment: Texas

Attorney General Abbott announced on November 2 that Noel Wayne Jhagroo pleaded guilty in federal court to conspiracy to commit health care fraud. Jhagroo owned Trucare Medical Equipment Services, a durable medical equipment company. Jhagroo allegedly caused Medicare and Medicaid beneficiaries to be solicited for their identifying information so that he could fraudulently bill Medicaid and Medicare for DME products for those beneficiaries. For some beneficiaries, no supplies were delivered while others got only a fraction of the enteral nutrition.

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Attorney General Abbott announced on November 3 that Jacqueline Briscoe, a DME provider, pleaded guilty in state court. Briscoe and ten others were indicted in May 2008 for engaging in organized criminal activity. Briscoe is the owner and operator of Briscoe Medical Supply. Between August 2006 and December 2006, Briscoe used allegedly illegally obtained Medicaid recipient numbers to bill Medicaid for incontinence supplies which were not delivered. The suspected fraudulent overpayment is over \$185,000.

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Attorney General Abbott announced on November 3 that Caroline Rexti was sentenced in state court to ten years deferred adjudication community supervision and ordered to pay \$106,000 in restitution after pleading guilty to theft over \$100,000. Co-defendant Samuel Shekari pleaded guilty on October 28 and was sentenced to ten years deferred adjudication community supervision and ordered to pay \$149,000 in restitution. Rexti and Shekari were the owners/operators of Nissi Medical Corporation, a DME company. The two allegedly billed for incontinence products that were not delivered and used Title XIX authorizations which were forged. The suspected fraudulent overpayment is over \$300,000.

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Attorney General Abbott announced on November 3 that Manuela Blanca Rios, office administrator of Roadrunner DME, was indicted by a state grand jury for theft over \$200,000. Manuela allegedly provided incontinence supplies to Medicaid recipients without a physician's order and billed Medicaid for supplies that were not delivered.

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Attorney General Abbott announced on November 3 that Charles Wickware, a DME provider, pleaded guilty in state court. Wickware and ten others were indicted in May 2008, for engaging in organized criminal activity. From July 2006 to January 2007, Wickware, owner and operator of Wickware Medical Services, used allegedly illegally obtained Medicaid recipient numbers to bill Medicaid for incontinence supplies which were not delivered. The suspected fraudulent overpayment is over \$400,000.

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Attorney General Abbott announced on November 13 that durable medical equipment company owner Abayo Adelana was indicted by a state grand jury for aggravated theft of over \$20,000 by a government contractor. Between September 2005 through May 2007, Adelana, owner/operator of Bestmed Health Care, is suspected of billing Medicaid for incontinence supplies that were not delivered. Adelana also falsified his Medicaid/Medicare enrollment applications by not disclosing his prior federal felony conviction.

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Attorney General Abbott announced on November 13 that durable medical equipment owner Abiodun Oladapo Durojaiye was indicted by a state grand jury for aggravated theft of over \$100,00 by a government contractor. Durojaiye, owner of Camad Medical Supplies, billed Medicaid for incontinent supplies and other DME supplies allegedly not provided to recipients.

For further information on all of these case contact Rick Copeland, Director or Chief Investigator Jim Fossum (512) 371-4700.

Health Centers: California

Attorney General Edmund G. Brown Jr. announced on October 26 that Sequoia Community Health Foundation, Inc. pleaded no contest to one count of presenting false Medi-Cal claims, and the defendant was sentenced to three years of informal probation and ordered to pay restitution to the Department of Health Care Service's Medi-Cal program in the amount of \$768,497. Restitution fines were assessed and Sequoia's request for waiver of restitution fines was denied.

Sequoia is a California nonprofit corporation (and a federal tax exempt corporation), operating in Fresno County as a Federally Qualified Health Center (FQHC). As the sole urban FQHC of Fresno County, Sequoia receives both state and federal funding to provide medical care for approximately 40,000 Medi-Cal and Medicare beneficiaries through its eight clinics located throughout Fresno County. During the years 2003 through 2007, the defendant knowingly and with the intent to defraud the Medi-Cal Program re-submitted for payment over 5000 claims that had already been paid by the state.

On August 5, 2008, a felony complaint was filed against Sequoia Community Health Foundation, Inc. charging violations grand theft and presenting false Medi-Cal claims.

For further information contact Deputy Attorney General Bernice Yew (916) 263-0404.

Home Health Care Aides: California

Attorney General Brown announced on September 24 that Sonia M. Rivera waived arraignment on the amended complaint filed and accepted the pre-amendment offer of 16 months prison. She pleaded no contest to felony grand theft. She was also ordered to pay \$2,276.91 restitution to the IHSS program.

On July 15, a felony complaint was filed in Santa Clara County Superior Court charging Rivera, an In-Home Supportive Services (IHSS) provider, with violation of grand theft, and presentation of false and fraudulent claims. An investigation confirmed the allegations of IHSS Fraud. Rivera was incarcerated on four separate occasions in 2007 and 2008 while she continued to submit time-sheets to Santa Clara County for IHSS services she did not provide.

For further information contact Deputy Attorney General Supervisor John Dower (415) 703-5785.

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Attorney General Brown announced on October 28 that pursuant to a plea agreement, Edelia Tulfo entered a plea of no contest to one count of grand theft, as a misdemeanor. The remaining counts were dismissed in the interest of justice. She presented the People with cashier's checks totaling \$5,459.90, payable to the California Healthcare Deposit Fund, as full restitution. She was sentenced to three years of summary probation and ordered to serve one day in the county jail, being booked and released. She was also ordered perform 20 hours of court approved community service and to pay fines totaling \$235.

On September 29, a felony complaint was filed charging the defendant with violation of presentation of a false claim, and grand theft of personal property. An investigation confirmed that Tulfo continued to claim time for care, despite the fact the recipient was out of the country. The timesheets submitted by Tulfo had the recipient's forged signature.

For further information contact Deputy Attorney General James Farrington (415) 703-5784.

Home Health Care Aides: Ohio

Attorney General Cordray announced on November 6 that Tamika Mineo was sentenced to five years of Community Control, 75 hours of Community Service, and ordered to pay restitution in the amount of \$26,458.20. If the defendant violates Community Control, She will receive a prison term of 8 months.

On July 21, an indictment was returned charging Mineo with one count of Theft, a Felony of the Fourth Degree. On September 23, Mineo pleaded guilty to one count of Theft, a Felony of the Fifth Degree. Mineo, a home health aide billed for services not rendered.

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Attorney General Cordray announced on November 6 that Amanda White was sentenced to five years of Community Control, and ordered to pay restitution in the amount of \$118,935. If the defendant violates Community Control she will receive a prison term of 12 months.

On May 19, an indictment was returned charging White with once count of Theft, a Felony of the Third Degree. On September 2, White pleaded guilty to one count of Theft, a Felony of the Fourth Degree. White, a home health aide billed for services not rendered.

For further information on these cases contact Principal Assistant Attorney General Jordan Finegold (614) 466-0722.

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Attorney General Cordray announced on November 30 that Candi Jo Patton pleaded guilty to one count of Theft by Deception, a Felony of the Fifth Degree and was sentenced to one year of Community Control, and ordered to pay restitution in the amount of \$1,836.

On January 21, an indictment was returned charging Candi Jo Patton with one count of Theft by Deception, a Felony of the Fifth Degree. Patton, an independent home health aide billed for services that were not rendered.

For further information contact Associate Assistant Attorney General Claude Nicholson (614) 466-0722.

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Attorney General Cordray announced on November 30 that Brenda Preston was sentenced to three years of Community Control, ordered to serve six months in jail which were suspended, and ordered to pay restitution in the amount of \$8,670.30.

On March 17, an indictment was returned charging Preston with one count of Theft, a Felony of the Fourth Degree. On October 6, Preston pleaded guilty to one count of Theft, a Felony of the Fifth Degree. Preston, an independent home health aide billed for services that were not rendered.

For further information contact Assistant Attorney General Brian Peters (614) 466-0722.

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Attorney General Cordray announced on December 7 that Penny Barnes pleaded guilty to Theft, a misdemeanor of the First Degree and was ordered to pay restitution in the amount of \$3,663.60. On September 15, an indictment was filed charging Penny Barnes with one count of Theft, a felony of the Fifth Degree. Barnes, an independent home health aide, billed for more services than she rendered.

For further information contact Senior Assistant Attorney General Constance Nearhood (614) 466-0722.

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Attorney General Cordray announced on December 9 that Debra Moore was sentenced to three years of Community Control, and ordered to pay restitution in the amount of \$35,184.60. If the Moore violates Community Control she will receive a prison term of five years.

On September 16, an indictment was returned charging Debra Moore with one count of Complicity to Commit Theft, a felony of the Third Degree, two counts of Complicity to Commit Identity Fraud, both felonies of the Third Degree, and one count of Complicity to Commit Identity Fraud, a felony of the Second Degree. On October 14, a jury returned a verdict finding Moore guilty of one count of Aiding and Abetting Theft, a felony of the Fourth Degree, and two counts of Aiding and Abetting taking the Identity of Another, both felonies of the Third Degree.

Moore, conspired with her daughter to steal the identities of two women to obtain Medicaid provider numbers and billed ODJFS for services under those provider numbers.

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Attorney General Cordray announced on December 10 that Channell Conley pleaded guilty to one count of Theft by Deception, a felony of the Fifth Degree and was sentenced to five years of Community Control, and ordered to pay restitution in the amount of \$21,068.02. If Conley violates Community Control she will receive a prison term of 12 months. On October 21, an indictment was returned charging Conley with one count of Theft, a felony of Fourth Degree. Conley, an independent home health aide, billed for services not rendered.

For further information on these two cases contact Associate Assistant Attorney General Shawn Napier (614) 466-0722.

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Attorney General Cordray announced on December 14 that Melody Walette pleaded guilty to one count of Theft, a felony of the Fifth Degree and was sentenced to three years of phone reporting Community Control, and ordered to pay restitution in the amount of \$8,412. If Walette violates Community Control she will receive a prison term of 6 months.

On April 21, an Indictment was returned charging Walette with one count of Theft, a felony of the Fourth Degree, and one count of Tampering with Evidence, a felony of the Third Degree. Walette, an independent home health aide, billed for services not rendered.

For further information contact Senior Assistant Attorney General Constance Nearhood (614) 466-0722.

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Attorney General Cordray announced on December 22 that Tina Lawrence was sentenced to five years of Community Control, 100 hours of Community Service, and ordered to pay restitution in the amount of \$16,101.70. If Lawrence violates Community Control she will receive a prison term of 12 months.

On July 21, an Indictment was returned charging Lawrence with one count of Theft, a felony of the Fourth Degree. On October 29, Lawrence pleaded guilty to one count of Theft, a felony of the Fifth Degree. Lawrence, an independent home health aide, billed for services not rendered.

For further information contact Principal Assistant Attorney General Jordan Finegold (614) 466-0722.

Home Health Care Aides: Oregon

Attorney General John Kroger announced on December 23 the conviction and sentencing of Nicole Gutierrez. Gutierrez was convicted of two felony counts of Theft in the First Degree and one felony count of Making a False Claim for Health Care Payment. She was sentenced by a Clackamas County Circuit Court Judge to 30 days in jail, 36 months of probation and ordered to pay a total fine, fees, and restitution of \$14,811.69.

Gutierrez was paid by the Oregon Medicaid program to provide in-home care to an Oregon Medicaid recipient. Despite being terminated on August 16, 2008, and replaced by another caregiver, Gutierrez continued to submit vouchers for this client until April 21, 2009. This included two vouchers for April 2009, when the client had passed away on April 1.

For further information contact Senior Assistant Attorney General Sheen Y. Wu (971) 673-1922.

Home Health Care Aides: Texas

Attorney General Abbott announced on November 23 that Jackie Faye Rice and Carol Annette Harrison were indicted by a state grand jury for tampering with a governmental record with intent to defraud or cause harm. Home health aides Rice and Harrison allegedly tampered with service delivery documents maintained in client charts of Good Samaritan Home Health.

For further information contact Rick Copeland, Director or Chief Investigator Jim Fossum (512) 371-4700.

Insurance Brokers: Missouri

Attorney General Koster announced on December 3 that Kevin Wayne Louderback, an insurance broker, has pleaded guilty to 12 felony counts related to Medicaid fraud. Koster said Louderback misappropriated more than \$700,000 from Medicaid.

Louderback furnished applications with false information to the Missouri HIPP program, a Medicaid program that pays for the private health insurance premiums for certain individuals with high medical costs. He represented that the monthly insurance premium rates were greater than they actually were and then pocketed the overpayment. Louderback also offered a kickback to people to get them to enroll in an insurance program, fraudulently misstated an insurance company's rate, and then forged documents to set out the false rate.

Louderback pleaded guilty to five counts of Medicaid fraud, one count of offering a kickback to receive a Medicaid payment, four counts of insurance fraud, and two forgery counts.

For further information on this case contact Rick Williams, Director (573) 751-7192.

Medical Clinics: Texas

Attorney General Abbott announced on November 12 that clinic owner Rodney Mesquias was indicted by a state grand jury on two counts of Medicaid fraud over \$200,000. Mesquias, the non-physician owner of Well Care Clinic, allegedly used a physician assistant to provide services without appropriate supervision. The supervising physician, Tin Aung, MD, has allegedly not been in the clinic since March of 2005. He lives in Washington State and is reported to be in ill health.

For further information contact Rick Copeland, Director or Chief Investigator Jim Fossum (512) 371-4700.

Nurses: Arizona

Attorney General Terry Goddard announced on November 23 the sentencing of Melanie Porter. On October 14, Porter was sentenced to two years probation and ordered to pay investigative costs of \$2,000 to the Medicaid Fraud Control Unit beginning December 1 payable at \$100 per month.

Porter between October 2007 through June 2008, falsely claimed to be a registered nurse and to have received a college degree in nursing. The written false claims that Porter made resulted in her gaining employment at two nursing facilities. In addition, she made an application to the Arizona State Board of Nursing (ASBN) in an attempt to become licensed as a registered nurse. In the application Porter submitted to the Arizona State Board of Nursing, she claimed to have a nursing degree from the University of Colorado.

On March 18, Porter was indicted by the State Grand Jury and charged with one count of Fraudulent Schemes and Artifices, class 2 felony; one count of Computer Tampering; class 3 felony; one count Aggravated Taking Identity of Another, class 3 felony; and one count Computer Tampering, class 6 felony.

On July 29, Porter pleaded guilty to amended Count 3: Criminal Possession of a Forgery Device, a class 6 undesignated felony offense.

For further information contact Assistant Attorney Steven J. Duplissis (602) 542-3881.

Nurses: Ohio

Attorney General Cordray announced on November 3 that Joyce Birkhimer pleaded guilty to one count of Theft, a Misdemeanor of the First Degree and was ordered to pay a fine of \$200 and restitution in the amount of \$827.39.

On July 21, an indictment was returned charging Birkhimer with one count of Theft by Deception, a Felony of the Fifth Degree. Birkhimer, an RN billed for services not rendered.

For further information contact Associate Assistant Attorney General Claude Nicholson (614) 466-0722.

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Attorney General Cordray announced on November 3 that Gerald Davies-Fyne pleaded guilty to one count of Theft by Deception, a Misdemeanor of the First Degree and was sentenced to six months in jail-which was suspended, 15 months of probation, and ordered to pay restitution in the amount of \$6,655.

On April 21, an indictment was returned charging Davies-Fyne with one count of Theft by Deception, a Felony of the Fourth Degree. Davies-Fyne, an LPN billed for services not rendered.

For further information contact Associate Assistant Attorney General Shawn Napier (614) 466-0722.

Nurses Aides: Ohio

Attorney General Cordray announced on December 14 that Charles Edgell pleaded guilty to Theft, a misdemeanor of the First Degree and was sentenced to 120 days in jail, 90 days were suspended, two years probation, ordered to pay a \$100 fine and to pay restitution in the amount of \$691.50.

On September 25, an indictment was filed charging Charles Edgell with one count of Theft, a felony of the Fifth Degree. Edgell, an aide stole three rings and cash from nursing home residents of the Arbors at Marietta.

For further information contact Associate Assistant Attorney General Claude Nicholson (614) 466-0722.

Psychiatrists: Tennessee

The Tennessee Bureau of Investigation announced on July 21 that Cupid Poe, a psychiatrist, pleaded guilty in the United States District Court of Middle Tennessee to one count of healthcare fraud. Poe was given four years probation and ordered to pay restitution in the amount of \$68,756 to the Centers for Medicare and Medicaid Services.

This case was opened on March 26, 2008 based upon a referral from the U.S. Department of Health and Human Service's Office of Inspector General. It was alleged that Poe, a provider of counseling services for various nursing homes, billed Medicare and TennCare for services not rendered. Specifically, Poe had allegedly provided spiritual counseling, including leading prayer and songs with residents of the facilities, and billed for psychiatric evaluation and individual psychotherapy. It was further alleged that Poe used unqualified "extenders" to perform similar services though billing records indicated that Poe had personally provided those services.

For further information contact Special Agent Bob Simmons (615) 744-4236.

Personal Care Attendants: Vermont

Attorney General William Sorrell announced on November 24 the initiation of two prosecutions relating to schemes to defraud the Vermont Medicaid Program. These prosecutions are the result of a joint investigation conducted by members of both state and federal law enforcement. Both cases involve allegations of fraud against Vermont Medicaid's Children's Personal Care Services program.

In the state case, Valerie Tofani was arraigned in Vermont District Court for Windsor County on five felony counts of Medicaid Fraud and five misdemeanor counts of False Pretenses. The court imposed conditions of release governing Tofani's conduct while this case is pending. According to papers filed in court, Tofani is accused of submitting claims for payment for providing care under Vermont Medicaid's Children's Personal Care Services program when, in fact, she provided no such care. Court papers also state that Tofani allegedly forged another person's signature on these claims, thereby falsely authorizing payment to herself. She pleaded not guilty to the charges. If convicted, she faces potential penalties of up to fifty-five years imprisonment, or a fine of up to \$10,000, or both.

In the federal case, the Grand Jury returned an indictment accusing Taylor Riff of engaging in a conspiracy with others to submit approximately forty false time sheets to Vermont Medicaid pretending that her children had received care under the Children's Personal Care Services program when, in fact, no such care had been provided. The Grand Jury alleged that these submissions resulted in the Vermont Medicaid program paying more than \$40,000 for services that were not provided. According to the Indictment, Riff shared these proceeds with at least one other member of the conspiracy.

The goal of the Children's Personal Care Services, offered by the state Medicaid Program, is to provide supplemental assistance with self-care and activities of daily living to Medicaid eligible children with significant disability or health conditions at home and in the community.

In order to provide flexibility, the Children's Personal Care Services program provides families of eligible children with the option of selecting the individuals to provide personal care in their homes, and to choose the time when the care is provided. The defendants in these cases are accused of schemes that take advantage of this flexibility so as to defraud the program.

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Attorney General Sorrell announced on December 3 that James Rushford was sentenced on six counts of misdemeanor Petit Larceny, relating to theft of monies from the Vermont Medicaid program. The charges stemmed from his employment as a personal care attendant, and followed from his submission of false timesheets in obtaining payment for services not rendered.

Judge Theresa S. DiMauro sentenced Rushford to three to six years in jail, all suspended, and placed him on five years of probation, subject to standard and special conditions, including payment of restitution to the Vermont Medicaid program in the amount of \$9,169.55. The judge also ordered that Rushford not apply for employment funded through the Vermont Medicaid program, and that he perform 40 hours of community service.

For further information on both cases contact Linda Purdy, Director (803) 828-5511.

Pharmaceutical Companies: Florida

Attorney General Bill McCollum announced on December 9 that Florida will receive \$8.5 million from a settlement with Roxane Laboratories, Inc., and its corporate affiliates. The settlement, which partially resolves a Medicaid fraud lawsuit, was negotiated by the MFCU's Complex Civil Enforcement Bureau. The case is ongoing against two other pharmaceutical companies, Dey, Inc. and Warrick Pharmaceuticals.

Boehringer Ingelheim Roxane, Inc., Boehringer Ingelheim Pharmaceuticals, Inc., Boehringer Ingelheim Corporation and Ben Venue Laboratories, Inc. are included in the settlement.

The \$8.5 million dollar settlement resolves allegations that Roxane set and reported false and inflated prices for medications dispensed by pharmacies and other providers which were then reimbursed by the Florida Medicaid program. The Medicaid program sets the reimbursement rates it pays to Medicaid providers based on the prices reported by drug manufacturers. By reporting inflated prices, the drug manufacturers caused the Florida Medicaid Program to overpay millions of dollars in pharmacy reimbursements.

The allegations constituted violations of the Florida False Claims Act and were originally filed by whistleblower Ven-A-Care of the Florida Keys, Inc. on behalf of the State of Florida. The Attorney General's office investigated the claims and subsequently intervened in the lawsuit. The Agency for Health Care Administration, which is responsible for administering the Medicaid Program, will receive over \$4.4 million for the losses sustained by the Medicaid Program. Additionally, more than \$1.69 million will be deposited in the State of Florida's General Revenue Fund, and over \$188,000 will be deposited to the Legal Affairs Revolving Trust Fund to fund rewards for persons who report and provide information relating to Medicaid fraud.

For further information contact Mark Bodner, Chief, Complex Civil Enforcement Unit (850) 414-3600.

Physicians: California

Attorney General Brown announced on October 12 that Sarath Witana pleaded no contest to a misdemeanor violation of disturbing the peace, and was placed on three year summary probation on the condition that he pay \$2000 in costs of investigation to the Department of Justice, and perform 200 hours of community service.

On October 29, 2008, a criminal complaint was filed against Witana, charging him with receiving unlawful Medi-Cal remuneration and one count of paying unlawful rebates, a felony. An investigation confirmed the allegations that Dr. Witana was receiving kickbacks for referring laboratory tests.

For further information contact Deputy Attorney General Vincent Bonotto (818) 556-2905.

Physicians: District of Columbia

The District of Columbia Medicaid Fraud Control Unit announced on December 18 that Dr. Ehigiator O. Akhigbe, a medical doctor licensed in the District of Columbia, who practiced medicine under the name of Mercigab Medical Center and Pain Clinic, was found guilty on December 17 by a federal jury of one count of Health Care Fraud and sixteen counts of False Statements in Health Care Matters. Akhigbe was already ordered to forfeit \$133,418 of proceeds derived from the health care fraud conviction.

According to the government's evidence at trial, during the period between December 2002 and May 2005, Akhigbe repeatedly submitted false claims to Amerigroup Corporation (Amerigroup), which contracted with the District of Columbia Medicaid Program to provide health care services to low income D.C. residents. Akhigbe, who prepared and submitted his own billing to Amerigroup, repeatedly submitted false claims in which he purported to have performed invasive surgical procedures on D.C. Medicaid patients that were never performed, billed for "ghost office" visits that never occurred, and continued to bill for a period of time after a minor or major procedure during which no additional bills could be submitted, in violation of global billing rules. To substantiate the false billing, Akhigbe created false progress notes indicating the dates, times, and surgical procedures that he claimed to have performed, and inserted the false progress notes into his patients' medical files.

During the trial, the defense claimed that a now deceased individual was responsible for preparing and submitting the false claims to Amerigroup. The defense called two individuals currently employed by Akhigbe, who testified that the deceased individual was responsible for the false billing. In rebuttal, the government was able to establish that neither the deceased individual nor the defense witnesses worked for the defendant during the relevant time.

For further information contact Special Assistant U.S. Attorney Jacqueline Schesnol (202) 727-8008.

Physicians: Ohio

Attorney General Cordray announced on November 12 that Donald Woodard pleaded guilty to one count of Attempted Forgery, a Misdemeanor of the First Degree and was sentenced to six months in jail which will be suspended if court costs in the amount of \$163 are paid.

On May 19, an indictment was returned charging Donald Woodard with six counts of Forgery; all six counts are Felonies of the Fifth Degree. Woodard, an M.D., signed plans of care for Medicaid recipients who were not being treated by him.

For further information contact Senior Assistant Attorney General Constance Nearhood (614) 466-0722.

Resident Abuse: Arizona

Attorney General Goddard announced on November 9 that Ryan Bergen was sentenced to nine months standard probation, forty hours of approved community service, and ordered to pay

\$1,000 in investigative costs.

On March 31, Bergen who was a staff employee in the group home, grabbed a client and threw him against a door frame. The client was under the age of 18. Bergen was terminated after the incident was reported to management.

For further information contact Assistant Attorney General Phil Garrow (602) 542-3881.

Resident Abuse: California

Attorney General Brown announced on October 19 that Bernice Condra pleaded guilty to the battery charge and was sentenced to summary probation for a period of three years, on the condition she serve 15 days jail and perform 40 hours of community service.

On June 18, a criminal complaint was filed with the Marin County Superior Court charging Condra with violation of battery on an elder or dependent adult, and abuse of an elder or dependent adult. An investigation confirmed that Condra was being observed by the Department of Public Health utilizing techniques that are not approved in the patient's care plan. She was trained on this behavior, however, an eyewitness observed her physically and emotionally abusing three residents.

For further information contact Deputy Attorney General Supervisor John Dower (415) 703-5785.

Resident Abuse: Ohio

Attorney General Cordray announced on September 30 that Carl Moore was sentenced to six months in jail, which was suspended, six months of Community Control, ordered to forfeit state tested nursing assistant license, and ordered to pay a fine of \$100.

On June 11, an indictment was returned charging Moore with one count of Patient Abuse, a Felony of the Fourth Degree. On August 13, Moore pleaded guilty to one count of Patient Abuse or Neglect a Misdemeanor of the First Degree. Moore, a certified Nurse Aide struck a nursing home resident in the back of the head.

For further information contact Associate Assistant Attorney General Claude Nicholson (614) 466-0722.

Resident Abuse: Tennessee

The Tennessee Bureau of Investigation announced on September 24 that Jessica Gray, Ulonda Holmes, and Tischinna Wrigley, all direct caregivers, were granted pretrial diversion in the Shelby County Criminal Court as a result of a charge for aggravated assault, willful abuse of an adult. All were ordered to perform 50 hours of community service. Additionally, Gray, Holmes, and Wrigley are in the process of being referred to the abuse registry maintained by the Tennessee Department of Health.

This case was opened on July 23, 2008 based upon a referral from the Tennessee Department

of Human Services' Adult Protective Services. It was alleged that Gray, Holmes, and Wrigley, direct caregivers employed with Mid-South Supported Living, LLC, had abused a client. Suspecting abuse, the client's mother installed a hidden video camera in her son's closet. The videotape revealed that Holmes had given a knife to Gray and instructed her to use the knife to threaten the client because of his fear of sharp objects. The tapes further revealed that Wrigley was also present in the room when Gray threatened the client. Additionally, the client was seen playing with cigarette lighters while the caregivers were on duty.

For further information contact Special Agent Roger Turner (901) 379-3432.

* * * *

The Tennessee Bureau of Investigation announced on October 5 that Karima Dyfan, a home health aide pleaded guilty to one count of adult abuse. Dyfan was sentenced to probation for one year. Additionally, Dyfan is in the process of being referred to the abuse registry maintained by the Tennessee Department of Health.

This case was opened on May 26, 2008 based upon a referral from the Tennessee Department of Human Services' Adult Protective Services. It was alleged that Dyfan, a home health aide employed with EBI Care Incorporated in Nashville, Tennessee, was responsible for abusing a client. The client stated that Dyfan hit her with a belt on her arms, back, and legs several times, which resulted in severe bruises on those areas of her body. Further investigation revealed that Dyfan was alone with the client at the time of the alleged abuse. Dyfan was indicted on one count of aggravated assault and willful abuse of an adult.

For further information contact Special Agent Paul Murray (615) 744-4552.

Resident Abuse: Texas

Attorney General Abbott announced on November 10 that support staff aide Viviana Mendez was indicted by a state grand jury for abuse of a disabled person. Allegedly, Mendez, while employed with the Lubbock State Supported Living Center, assaulted a resident by slapping him several times on the head and face.

* * * *

Attorney General Abbott announced on November 12 that registered nurse Olivia Fern Moore was indicted by a state grand jury on three counts of the Health and Safety code, and one count of injury to an elderly individual. Moore, an employee at Corpus Christi Nursing and Rehabilitation Center, documented that she medicated residents when allegedly, she had left the facility. She also, while under the influence of an unknown substance, allegedly pulled on the G-tube of a resident, causing bleeding. The victim was transported to the hospital, where she died four days later.

* * * *

Attorney General Abbott announced on November 19 that mental retardation assistant Joseph Timothy Blake received eight years deferred adjudication community supervision and was fined

\$1,000 after pleading guilty in state court to injury to a disabled individual.

Blake, while employed at the Abilene State Supported Living Center, allegedly physically abused a resident by kicking him in the knee cap and causing a broken bone.

For further information on these cases contact Rick Copeland, Director or Chief Investigator Jim Fossum (512) 371-4700.

Resident Trust Funds: Alabama

Attorney General King announced on December 7 that a former bookkeeper of Decatur Health and Rehabilitation Center has been convicted of stealing funds from the facility's patient trust fund. Kathy Campbell Houk pleaded guilty before Morgan County Circuit Judge Glenn E. Thompson to First Degree theft of property.

Houk admitted that, while employed at the facility, she stole \$7,337.56 of residents' money held in the facility's patient trust fund. The thefts occurred from late 2006 through late 2008. Houk was sentenced to two years, which was suspended, and she was placed on three years of supervised probation and ordered to make restitution to Decatur Health and Rehabilitation.

For further information contact Senior Special Agent Gerald Shockley, Chief Auditor Richard Keeshan, or Assistant Attorney General Bruce Lieberman (334) 353-8793.

Resident Trust Funds: Ohio

Attorney General Corday announced on December 9 that Ashley Botts was sentenced to four years of Community Control, 200 hours of Community Service, and ordered to pay restitution in the amount of \$15,000.

On July 22, an indictment was returned charging Botts with one count of Theft, a felony of the Third Degree, and one count of Forgery, a felony of the Third Degree. On October 28, Botts pleaded guilty to one count of Theft, a felony of the Fourth Degree. Botts, a former receptionist at Glen Meadows, took money from several patient accounts for her own use.

For further information contact Senior Assistant Attorney General Constance Nearhood (614) 466-0722.

Resident Trust Funds: Tennessee

The Tennessee Bureau of Investigation announced on September 23 that Gwendolyn Davidson, an unlicensed caregiver, pleaded guilty in the Marshall County Criminal Court to one count of willful exploitation of an adult and one count of theft. Davidson was given a four year suspended sentence, five years probation and ordered to pay restitution in the amount of \$11,531.38 to the victim. Additionally, Davidson is in the process of being referred to the abuse registry maintained by the Tennessee Department of Health.

This case was opened on June 18, 2008 based upon a referral from the Tennessee Division of Mental Retardation Services. It was alleged that Gwendolyn Davidson, a personal assistant employed with Impact Center in Lewisburg, Tennessee, wrote, without permission, approximately \$9,600 in checks out of a recipient's account that she holds jointly with her son, a mentally retarded individual. Davidson was responsible for paying bills and shopping for the client, who stated that she never made out checks to Davidson personally. Examination of bank records revealed \$9,643 in checks written to Davidson between November 2007 and May 2008. On May 20 Gwendolyn Davidson was indicted on sixty three counts of theft and two counts of willful exploitation of an adult.

For further information contact Special Agent Ramona Smith (615) 744-4229.

* * * *

The Tennessee Bureau of Investigation announced on October 1 that Nancy and Thomas Wharton, conservators of a trust fund pleaded guilty to theft. Both Nancy and Thomas Wharton were each granted diversion for a period of six years and were ordered to pay joint restitution in the amount of \$65,000 to the trust fund.

This case was opened on September 16, 2008 based upon a referral from the Tennessee Division of Intellectual Disabilities Services. It was alleged that Nancy and Thomas Wharton, named as conservators for a relative's special needs trust fund, removed approximately \$65,000 from the trust account and utilized the funds for themselves rather than the benefit of the victim. Because of the removal of funds, the victim became ineligible for Medicaid benefits for 60 months or until the money was returned. The Wharton's indicated that they had initiated a loan from the trust fund for their personal use but further stated that they were not advised that they could not commit such an action.

For further information contact Special Agent Chris Carpenter (731) 984-6623.

CASE UPDATES

Anti-Kickback: Texas

Attorney General Greg Abbott announced on November 3 that Raul Torres pleaded guilty to violating the anti-kickback statute. Torres was a marketer for Fabian Aurignac, MD. Torres allegedly paid La Familia Adult Day Care Center owner Martha Alaniz on behalf of Aurignac for access to her clients to obtain personal information to fraudulently bill Medicaid for cardiac services. Alaniz pleaded guilty to one count of the anti-kickback statute and was sentenced in September 2009 to two years probation and four months home confinement. (*See: Medicaid Fraud Report*, September/October, p. 20-21)

Aurignac was sentenced in August 2009 to four years and nine months in the federal penitentiary and fined \$20,000. He pleaded guilty in May 2009 to health care fraud and agreed to reimburse the government \$1,157,000.

For further information contact Rick Copeland, Director or Chief Investigator Jim Fossum (512) 371-4700.

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