

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

UNITED STATES OF AMERICA * CRIMINAL NO. 08-148
VERSUS * SECTION: "S"
D'JUAN ROBINSON *
 * * *

FACTUAL BASIS

If this matter were to proceed to trial, the government would prove the following facts through competent evidence:

Joe Kopsa would testify and provide evidence showing that Medicaid is a public insurance (assistance) program that provides primary and preventative health care coverage to low-income families and persons with medical disabilities. UNISYS Corporation is a fiscal intermediary that processes Medicaid claims and makes reimbursement to providers for rendering services to qualified Medicaid recipients. Each claim submitted by a provider discloses the recipient's identification number and the name of the recipient receiving the service, a description of the procedure using a billing code that accurately describes the service rendered, the date of service, the amount billed and the provider's unique Medicaid number.

Records from Medicaid and documents recovered in a search of A New Beginning of New Orleans, Inc. (ANBNO) in May 2005 would prove that ANBNO was an agency located at 3714 Westbank Expressway, Suite 7, Harvey, Louisiana, that was certified by Medicaid to provide services to eligible Medicaid recipients. Michael Davis would testify that on April 28, 2001, he applied for a Medicaid Provider Number (PN) on behalf of ANBNO and Akasia Lee to become a Personal Care Attendant Provider.

ANBNO transmitted its claims to UNISYS electronically. Each electronic billing included a professional services certification, signed by the provider, which stated in part: “the services rendered were necessary, medically indicated and were rendered by me or under my personal supervision. I have reviewed the claim information submitted and certify that it is true, accurate and complete . . . I understand that payment and satisfaction of these claims will be from federal and state funds, and that any false claims, statements, or documents, or concealment of material fact, may be prosecuted under applicable federal and state laws.”

Louisiana Medicaid has an Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program which covers personal care services (PCS) available to eligible recipients meeting the medical necessity criteria for the services. PCS are prescribed by physicians who also approve a plan of care (POC) which specifies the type of PCS to be provided, that is, the activities of daily living for which assistance is needed, and the minimum and maximum frequency and duration of these services.

PCS must be provided through a licensed Personal Care Attendant Medicaid provider in a recipient's home unless it is medically necessary to do so elsewhere. Staff assigned to provide PCS were not to include a member of the recipient's immediate family. Immediate family was defined as father, mother, sister, brother, spouse, child, grandparent, in-law, or any individual acting as parent or guardian of the recipient.

The purpose of ordering PCS was to prevent institutionalization of the recipient, and to enable the recipient to be treated on an outpatient basis rather than an inpatient basis.

EPSDT Personal Care Services include:

1. Basic personal care, toileting and grooming activities, including bathing, hair care and assistance with dressing;
2. Assistance with bladder and/or bowel requirements, including helping the client to and from the bathroom or assisting with bedpan routines;
3. Assisting with eating and food, nutrition and diet activities, including preparing meals for the recipient only;
4. Performing incidental household services only for the recipient that are essential to the recipient's health and comfort in the home, such as changing and washing the recipient's bed linens or cleaning up, or of meal preparation for the recipient only.
5. Accompanying, but not transporting, the recipient to and from the doctor;

Documentation requirements for providers EPSDT PCS include documenting dates of service, services provided (a checklist is adequate), total number of hours worked, time period worked, condition of recipient and service provision difficulties.

The investigation of the billings submitted by ANBNO to the Louisiana Medicaid Program conducted by the Federal Bureau of Investigation, the Office of Inspector General for the U.S. Department of Health and Human Services and the Louisiana Department of Justice's Medicaid Fraud Control Unit indicated that virtually every claim submitted for reimbursement was false and fraudulent.

Crystal Black and Kenyatta Devezin, both former employees of ANBNO, would testify that D'Juan Robinson was employed at ANBNO as an office employee. Black and Devezin would testify that Robinson was regularly present at ANBNO offices on the days the office was opened. Crystal Black would testify that Robinson was involved in the forwarding of forged physician prescriptions and other documents for the purpose of fraudulently obtaining pre-authorizations from Medicaid for PCS. Black would testify that Robinson also created fraudulent documents indicating that she had personally rendered PCS that were not actually provided.

The government would introduce into evidence 5 patients' files that were obtained from the ANBNO office when it was searched by federal law enforcement agents. Those patient files include time sheets and PCS daily schedules indicating that Robinson personally provided PCS to Medicaid recipients. These patients' files contain background information on the patient, the physician's prescriptions ordering the PCS, the Plans of Care, and the Medicaid 90-L preauthorization forms, in addition to time sheets and PCS daily schedules, which falsely

documented that PCS were provided. The medical records of LiAr, AhCa, JaAr, LaAl and LeCo (as described by the patients' initials) contain fraudulent time sheets and PCS daily activity schedules and indicate that D'Juan Robinson provided PCS to these patients.

Crystal Black would testify that the time sheets falsified by D'Juan Robinson were used by Akasia Lee as the basis for billing the Medicaid program for PCS for these patients and to complying with Medicaid regulations requiring documentation supporting claims that are submitted to Medicaid for payment.

The government would introduce the testimony from the parents or guardians of patients, and Crystal Black, that D'Juan Robinson did not render PCS to the 5 patients as indicated in the ANBNO time sheets and PCS daily activity schedules.

The government would also introduce evidence showing that the parents/guardians of LaAl and LeCo participated in the fraud committed against Medicaid by receiving kickbacks from ANBNO for allowing the billing of non-rendered services to Medicaid for their children and for participating in the creation of fraudulent documentation concerning the services that were not provided. These parents/guardians would testify about the manner in which fraud was committed against Medicaid.

The parent/guardian of LeCo would testify that Akasia Lee introduced him/her to D'Juan Robinson and that Robinson told her that he/she would receive half of what ANBNO received from the State if he/she participated in signing the false time sheets. LeCo's parent/guardian

would testify that Robinson paid him/her \$72 every two weeks for completing the false documentation. The parent/guardian of LeCo would also testify that she had conversations with Akasia Lee about these payments.

The parent/guardian of LiAr and JaAr, and the parent/guardian of AhCa, would testify about how they and D’Juan Robinson falsified documentation for services claimed to have been performed for their own children, LiAr, JaAr and AhCa, indicating that Robinson had performed PCS. The parents/guardians of these children would testify that they falsified documentation indicating that they also had provided PCS to other children registered with ANBNO, including Robinson’s own child, in order to get paid as employees. In return, the parents/guardians of LiAr, JaAr and AhCa allowed their children to be billed for PCS that were not provided by Robinson or any other ANBNO staff and signed false time sheets attesting that Robinson had provided PCS.

The government would also introduce evidence obtained in the search of ANBNO showing that forged, altered and falsified prescriptions and other documents required for pre-authorization of services by Medicaid were contained in at least 2 of the 5 patients’ files in which D’Juan Robinson created false time sheets documenting PCS that were not actually rendered. These documents were submitted to the Medicaid Program by ANBNO in order to receive authorization to bill for PCS. These fraudulent documents included prescriptions which indicated that a physician had ordered and authorized the PCS as medically necessary, as well as

care plans which listed diagnoses and/or conditions that the patients did not suffer. This evidence would include original and photocopied prescriptions on which patient names or dates had been whited out, altered, hidden or removed in some manner. The documents were then copied, and other names or dates would be written into the blanks on the copied documents. These documents were then used for various patients for the purpose of seeking preapproval from the State for billing PCS for the patients. Crystal Black would testify that Akasia Lee created these fraudulent documents and used them to obtain preauthorization from Medicaid to bill for PCS.

The government would introduce into evidence financial and billing information provided by Medicaid establishing that ANBNO received approximately \$112,170 for PCS based upon false ANBNO time sheets indicating that D’Juan Robinson was the provider of PCS that were never provided.

PATRICE HARRIS SULLIVAN
Assistant United States Attorney
Bar Roll No. 14987

D’JUAN ROBINSON
Defendant

RICHARD OLSEN
Counsel for Defendant
Bar Roll No.