

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

UNITED STATES OF AMERICA * CRIMINAL NO.
VERSUS * SECTION:
MICHAEL DAVIS *
 * * *

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. On April 28, 2001, **MICHAEL DAVIS** applied for a Medicaid Provider Number (PN) on behalf of ANBNO to become a Personal Care Attendant Provider. The application disclosed that **MICHAEL DAVIS** and **AKASIA LEE** were the owners of ANBNO. ANBNO was issued Medicaid PN 0018874; Medicaid changed the PN for ANBNO to 17081 in September 2003.

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.”

4. 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 services 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 services 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 Services include 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 would testify that Davis was Akasia Lee's boyfriend from at least 2001 through sometime in 2004. Black would also testify that Akasia Lee was listed as a co-owner, officer and manager of ANBNO, and managed all aspects of the facility on a day to day basis. Documents maintained by the Louisiana Medicaid program would be introduced into evidence showing that Lee was listed as a co-owner, officer and manager of ANBNO.

The government would introduce into evidence 6 patients' files that were obtained from the ANBNO office when it was searched. Those patient files would include time sheets and PCS daily schedules indicating that Davis personally provided PCS to Medicaid recipients. These patients' files contained 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 rendered. The following medical records (as described by the patients' initials) contained these fraudulent time sheets and PCS daily activity schedules and indicated that Michael Davis had rendered PCS to these patients: ToDe, AbJo, EuLa, RoLe, DeLe, and DeJe.

Crystal Black would testify that she is a former employee of ANBNO. She would state that these time sheets were used by Akasia Lee as the basis for billing the Medicaid program for PCS services for these patients that were not rendered.

The government would introduce the testimony from Diane Calvin and Carolyn Levier who were guardians of patients, and Crystal Black, that Michael Davis did not render PCS to the 6 patients as indicated in the ANBNO time sheets and PCS daily activity schedules. The testimony of some of these persons would indicate that not only did Michael Davis not render the services indicated in the patient records, but also that they did not know who Michael Davis was, and had never met anyone named Michael Davis who was associated with ANBNO.

The government would also introduce evidence showing that the parent/guardian of DeJe who participated in the fraud committed against Medicaid by receiving kickbacks from ANBNO for allowing the billing of non-rendered services to Medicaid for her child and for participating in the creation of fraudulent documentation concerning the services that were not rendered. Carolyn Levier and Diane Calvin would testify about the manner in which fraud was committed against Medicaid. Calvin would testify that she does not know Michael Davis and that no person from

ANBNO performed PCS on her child(ren). Calvin would testify that Akasia Lee told her that she did not have to provide services to any child but that she would have to complete time sheets and other documentation to indicate that ANBNO services were being performed. Levier would testify that she did not perform any ANBNO services for any child but did fill out documentation for which she received \$72 checks from Akasia Lee's personal account.

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 4 of the 6 patients' files in which Michael Davis created false time sheets documenting PCS that were not 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 patient did not suffer. This evidence would include original and photocopied prescriptions on which patient names or dates had been whited out, but out, 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 \$8,568 for PCS services based upon false ANBNO time sheets indicating that Michael Davis was the provider of PCS that were never rendered. The government would also introduce financial evidence indicating that ANBNO paid Michael Davis at least \$70,000 from 2002 through 2004.

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

MICHAEL DAVIS
Defendant

DONALD M. SOIGNET
Counsel for Defendant
Bar Roll No.