

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA	:	Hon.
	:	
	:	Crim. No. 21-
v.	:	
	:	18 U.S.C. § 1349
	:	18 U.S.C. § 1347
SHAUNTAE WALKER	:	18 U.S.C. § 371
	:	18 U.S.C. § 2

INDICTMENT

The Grand Jury in and for the District of New Jersey, sitting at Newark, charges:

1. Unless otherwise indicated, at all times relevant to this Indictment:

The Defendant

a. Defendant SHAUNTAE WALKER was a resident of Georgia, a licensed nurse practitioner, and an enrolled Medicare provider.

Relevant Entities and Individuals

b. Express Diagnostics, LLC ("Express Diagnostics") was a New Jersey limited liability company, located in East Brunswick, New Jersey, that purported to serve as a diagnostic testing laboratory. Express Diagnostics was enrolled as a Medicare provider and maintained a bank account in New Jersey into which it received payments from Medicare.

c. BioConfirm Laboratory USA, LLC and BioConfirm Laboratories, LLC (collectively, "BioConfirm") were Georgia limited liability

companies located in Doraville, Georgia, that together purported to serve as a diagnostic testing laboratory.

d. Tox Management, LLC (d/b/a “Accurate DX”) was a Texas limited liability company, located in San Antonio, Texas, that purported to serve as a diagnostic testing laboratory.

e. Express Diagnostics, BioConfirm, and Accurate DX are collectively referred to as the “Laboratories.”

f. Reyad Salahaldeen, a co-conspirator not charged in this Indictment, a resident of Georgia, Texas, and Washington, had controlling authority over the Laboratories.

g. Mohamad Mustafa, a co-conspirator not charged in this Indictment, a resident of Georgia, had controlling authority over Express Diagnostics and BioConfirm.

h. Derek McCune and LaTosha McCune, co-conspirators not charged in this Indictment, were residents of Georgia.

The Health Insurance Programs

i. The Medicare Program (“Medicare”) was a federally funded health care program that provided free or below-cost benefits to certain individuals, primarily the elderly, blind, or disabled. The benefits available under Medicare were governed by federal statutes and regulations. Medicare was administered by the Centers for Medicare and Medicaid Services (“CMS”), a federal agency within the U.S. Department of Health and Human Services

“HHS”). Individuals who received Medicare benefits were referred to as “beneficiaries.”

j. Medicare was divided into four parts: hospital insurance (Part A), medical insurance (Part B), Medicare Advantage (Part C), and prescription drug benefits (Part D). Medicare Part B covered medically necessary physician office services and outpatient care, including laboratory tests.

k. The Georgia Medicaid Program (“Medicaid”) provided benefits to certain low-income individuals and families in Georgia. Medicaid was a state and federally funded program administered by CMS and the Georgia Department of Community Health.

l. Medicare and Medicaid were each a “Federal health care program” as defined in Title 42, United States Code, Section 1320a-7b(f), and a “health care benefit program” as defined in Title 18, United States Code, Section 24(b).

m. Physicians, clinics, laboratories, and other health care providers (collectively, “providers”) that provided items and services to Medicare beneficiaries were able to apply for and obtain a “provider number.” Providers that received a Medicare provider number were able to file claims with Medicare to obtain reimbursement for services provided to beneficiaries.

n. When seeking reimbursement from Medicare for provided benefits, services, or items, providers submitted the cost of the benefit, service, or item provided together with a description and the appropriate “procedure code.” Additionally, claims submitted to Medicare seeking reimbursement were

required to include: (i) the beneficiary's name and Health Insurance Claim Number; (ii) the date upon which the benefit, item, or service was provided or supplied to the beneficiary; and (iii) the name of the provider, as well as the provider's unique identifying number, known either as the Unique Physician Identification Number or National Provider Identifier.

o. Medicare, in receiving and adjudicating claims, acted through fiscal intermediaries called Medicare administrative contractors ("MACs"), which were statutory agents of CMS for Medicare Part B. The MACs were private entities that reviewed claims and made payments to providers for services rendered to beneficiaries. The MACs were responsible for processing Medicare claims arising within their assigned geographical area.

p. To receive Medicare reimbursement, providers needed to have applied to the MAC and executed a written provider agreement. The Medicare provider enrollment application for physicians and non-physician practitioners, CMS Form 855I, was required to be signed by the provider. CMS Form 855I contained a certification that stated:

I agree to abide by the Medicare laws, regulations, and program instructions that apply to me or to the organization listed in section 4A of this application. The Medicare laws, regulations, and program instructions are available through the fee-for-service contractor. I understand that payment of a claim by Medicare is conditioned upon the claim and the underlying transaction complying with such laws, regulations, and program instructions (including, but not limited to, the Federal anti-kickback statute . . .)

q. In executing CMS Form 855I, providers further certified that they "w[ould] not knowingly present or cause to be presented a false or

fraudulent claim for payment by Medicare and w[ould] not submit claims with deliberate ignorance or reckless disregard of their truth or falsity.”

r. Medicare and Medicaid paid for claims only if the items or services were medically reasonable, medically necessary for the treatment or diagnosis of the patient’s illness or injury, documented, and actually provided as represented to Medicare and Medicaid. Medicare and Medicaid would not pay for items or services that were procured through kickbacks and bribes.

Genetic Tests

s. Cancer genetic tests (“CGx” tests) were laboratory tests that used DNA sequencing to detect mutations in genes that could lead to a higher risk of developing cancer in the future. Pharmacogenetic tests (“PGx” tests) were laboratory tests that used DNA sequencing to assess how the body’s genetic makeup would affect the response to certain medications. Genetic tests that could predict future risks of cardiac conditions and diseases such as Parkinson’s and Alzheimer’s were also available. All such tests were generally referred to as “genetic testing.” Genetic testing was not a method of diagnosing whether an individual had a disease, such as cancer, at the time of the test.

t. To conduct genetic testing, a laboratory needed to obtain a DNA sample (“specimen”) from the patient. Specimens were typically obtained from the patient’s saliva by using a cheek swab to collect sufficient cells to provide a genetic profile. The specimen was then submitted to the laboratory to conduct a genetic test.

u. DNA specimens were submitted along with laboratory requisition forms that identified the patient, the patient's insurance, and the specific test to be performed. In order for laboratories to submit claims to Medicare or Medicaid for genetic tests, the tests had to be approved by a physician or other authorized medical professional who attested to the medical necessity of the test.

v. Medicare did not cover diagnostic testing, including genetic testing, that was "not reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member." Title 42, United States Code, Section 1395y(a)(1)(A). Except for certain statutory exceptions, Medicare did not cover "[e]xaminations performed for a purpose other than treatment or diagnosis of a specific illness, symptoms, complaint, or injury." Title 42, Code of Federal Regulations, Section 411.15(a)(1).

w. If diagnostic testing was necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member, Medicare imposed additional requirements before covering the testing. Title 42, Code of Federal Regulations, Section 410.32(a), provided that "all diagnostic x-ray tests, diagnostic laboratory tests, and other diagnostic tests must be ordered by the physician who is treating the beneficiary, that is, the physician who furnishes a consultation or treats a beneficiary for a specific medical problem and who uses the results in the management of the beneficiary's specific medical problem. Tests not ordered by the physician who is treating the beneficiary are not reasonable and necessary."

COUNT 1

Conspiracy to Commit Health Care Fraud

2. Paragraph 1 of this Indictment is realleged here.

3. From in or around February 2019 through in or around October 2019, in the District of New Jersey and elsewhere, the defendant,

SHAUNTAE WALKER,

did knowingly and willfully combine, conspire, confederate, and agree with others known and unknown to the Grand Jury, to execute a scheme and artifice to defraud health care benefit programs affecting commerce, as defined in Title 18, United States Code, Section 24(b), that is, Medicare and Medicaid, 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 programs, in connection with the delivery of and payment for health care benefits, items, and services.

Goal of the Conspiracy

4. It was the goal of the conspiracy for defendant SHAUNTAE WALKER and her co-conspirators to unlawfully enrich themselves and others by, among other things, (a) soliciting, receiving, offering, and paying kickbacks and bribes in return for ordering and arranging for the ordering of genetic tests that were referred to the Laboratories; (b) submitting and causing the submission of false and fraudulent claims to Medicare and Medicaid through the Laboratories for genetic tests that were ordered and procured through kickbacks and bribes, medically unnecessary, ineligible for reimbursement, and not provided as represented; (c) concealing the submission of false and fraudulent claims to

Medicare and Medicaid through the Laboratories, the receipt and transfer of the proceeds of the fraud, and the receipt and payment of kickbacks and bribes; and (d) diverting proceeds of the fraud for their personal use and benefit, for the use and benefit of others, and to further the fraud.

Manner and Means of the Conspiracy

5. The manner and means by which defendant SHAUNTAE WALKER and her co-conspirators sought to accomplish the goal of the conspiracy included, among others, the following:

a. Defendant SHAUNTAE WALKER submitted a Medicare provider enrollment application that she never revoked or withdrew, in which she certified that, as an enrolled Medicare provider, she would abide by all applicable Medicare laws, regulations, and program instructions, that she would not knowingly present or cause to be presented a false or fraudulent claim for payment by Medicare, and that she understood that payment of claims by Medicare was conditioned upon the claim and the underlying transaction complying with the federal anti-kickback statute.

b. Defendant SHAUNTAE WALKER and her co-conspirators gained access to Medicare and Medicaid beneficiaries' insurance information and genetic samples through various means of solicitation, including approaching beneficiaries at their homes and appearing at health fairs.

c. Defendant SHAUNTAE WALKER signed laboratory requisition forms ordering medically unnecessary genetic tests for Medicare and Medicaid beneficiaries even though: she was not treating the beneficiaries for cancer,

symptoms of cancer, or any other medical condition; she did not use the test results in the treatment of the beneficiaries or the management of their care; she did not conduct a patient visit or consultation that would justify approval of the orders for genetic tests and, in many instances, never spoke with the beneficiaries; she did not obtain or review the beneficiaries' medical records or otherwise evaluate their purported personal and family medical conditions; and she did not provide the results of the genetic tests to Medicare and Medicaid beneficiaries, who rarely received the results of these tests.

d. Defendant SHAUNTAE WALKER signed laboratory requisition forms and letters falsely certifying and attesting that genetic tests for Medicare and Medicaid beneficiaries were medically necessary for the diagnosis or detection of a disease or disorder and that the results would be used in the medical management and care decisions for the beneficiaries.

e. Defendant SHAUNTAE WALKER transmitted laboratory requisition forms and letters of medical necessity that she signed to her co-conspirators knowing that the forms and letters, along with specimens, would be provided to the Laboratories for the purpose of submitting and causing the submission of false and fraudulent claims to Medicare and Medicaid for genetic tests.

f. Reyad Salahaldeen, Mohamad Mustafa, and others offered, paid, and caused the payment of kickbacks and bribes through the Laboratories and other entities to Derek McCune, LaTosha McCune, and others, in exchange for specimens collected from beneficiaries and fraudulent orders for genetic tests

from defendant SHAUNTAE WALKER, all of which were used to support false and fraudulent claims to Medicare and Medicaid by the Laboratories.

g. Defendant SHAUNTAE WALKER agreed to and did receive in excess of approximately \$71,000 in illegal kickbacks and bribes in exchange for signing laboratory requisition forms ordering genetic tests for Medicare and Medicaid beneficiaries.

h. Defendant SHAUNTAE WALKER caused the Laboratories to submit in excess of approximately \$14.2 million in false and fraudulent claims to Medicare and Medicaid for genetic tests that were ordered and procured through illegal kickbacks and bribes, medically unnecessary, ineligible for reimbursement, and not provided as represented. Medicare and Medicaid paid the Laboratories in excess of approximately \$3 million based on these false and fraudulent claims, including payments by Medicare to an Express Diagnostics bank account in New Jersey.

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

COUNT 2
Health Care Fraud

6. Paragraph 1 of this Indictment is realleged here.

7. From in or around February 2019 through in or around October 2019, in the District of New Jersey and elsewhere, the defendant,

SHAUNTAE WALKER,

in connection with the delivery of, and payment for, health care benefits, items, and services, did knowingly and willfully execute, and attempt to execute, a scheme and artifice to defraud Medicare, a health care benefit program as defined in 18 U.S.C. § 24(b), 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, by submitting and causing the submission of false and fraudulent claims for genetic tests that were ordered and procured through illegal kickbacks and bribes, medically unnecessary, ineligible for reimbursement, and not provided as represented.

Goal of the Scheme and Artifice

8. The Grand Jury realleges Paragraph 4 of this Indictment as a description of the goal of the scheme and artifice.

The Scheme and Artifice

9. The Grand Jury realleges Paragraph 5 of this Indictment as a description of the scheme and artifice.

Execution of the Scheme and Artifice

10. On or about the date specified below, in the District of New Jersey and elsewhere, defendant SHAUNTAE WALKER, aided and abetted by others,

and aiding and abetting others known and unknown to the Grand Jury, submitted and caused to be submitted to Medicare through Express Diagnostics the following false and fraudulent claim for genetic testing that was ordered and procured through illegal kickbacks and bribes, medically unnecessary, ineligible for reimbursement, and not provided as represented, in an attempt to execute, and in execution of, the scheme as described in Paragraph 5:

Count	Medicare Beneficiary	Approx. Claim Date	Approx. Amount Billed to Medicare	Approx. Amount Paid by Medicare
2	E.H.	4/22/2019	\$39,538	\$6,998

In violation of Title 18, United States Code, Section 1347 and Section 2.

COUNT 3
**Conspiracy to Defraud the United States and
Pay and Receive Health Care Kickbacks**

11. Paragraph 1 of this Indictment is realleged here.

12. From in or around February 2019 through in or around October 2019, in the District of New Jersey and elsewhere, the defendant,

SHAUNTAE WALKER,

did knowingly and willfully combine, conspire, confederate, and agree with others, known and unknown to the Grand Jury, to commit certain offenses against the United States, that is:

a. to defraud the United States by cheating the United States government and any of its agencies and departments out of money and property, and by impairing, impeding, obstructing, and defeating through deceitful and dishonest means, the lawful government functions of HHS and CMS in their administration and oversight of Medicare and Medicaid;

b. to violate Title 42, United States Code, Section 1320a-7b(b)(1)(A), by soliciting and receiving any remuneration, specifically, kickbacks and bribes, directly and indirectly, overtly and covertly, in cash and in kind, including by check and wire transfer, in return for referring an individual to a person for the furnishing and arranging for the furnishing of any item and service for which payment may be made in whole and in part by a Federal health care program;

c. to violate Title 42, United States Code, Section 1320a-7b(b)(1)(B), by soliciting and receiving any remuneration, specifically, kickbacks

and bribes, directly and indirectly, overtly and covertly, in cash and in kind, including by check and wire transfer, in return for purchasing, leasing, ordering, and arranging for and recommending purchasing, leasing, and ordering any good, facility, service, and item for which payment may be made in whole and in part by a Federal health care program;

d. to violate Title 42, United States Code, Section 1320a-7b(b)(2)(A), by offering and paying any remuneration, specifically, kickbacks and bribes, directly and indirectly, overtly and covertly, in cash and in kind, including by check and wire transfer, in return for referring an individual to a person for the furnishing and arranging for the furnishing of any item and service for which payment may be made in whole and in part by a Federal health care program; and

e. to violate Title 42, United States Code, Section 1320a-7b(b)(2)(B), by offering and paying any remuneration, specifically, kickbacks and bribes, directly and indirectly, overtly and covertly, in cash and in kind, in return for purchasing, leasing, ordering, and arranging for and recommending purchasing, leasing, and ordering any good, facility, service, and item for which payment may be made in whole and in part under a Federal health care program.

Goal of the Conspiracy

13. The Grand Jury realleges Paragraph 4 of this Indictment as a description of the goal of the conspiracy.

Manner and Means of the Conspiracy

14. The Grand Jury realleges Paragraph 5 of this Indictment as a description of the manner and means of the conspiracy.

Overt Acts

15. In furtherance of the conspiracy, and to accomplish its goal, at least one of the conspirators committed, and caused to be committed, in the District of New Jersey and elsewhere, at least one of the following overt acts, among others:

a. On or about April 22, 2019, defendant SHAUNTAE WALKER caused Express Diagnostics to submit a false and fraudulent claim to Medicare for genetic tests for Medicare beneficiary E.H.

b. On or about May 15, 2019, defendant SHAUNTAE WALKER caused co-conspirator Mohamad Mustafa to pay co-conspirators Derek McCune and LaTosha McCune a kickback of \$21,750, by check from an Express Diagnostics bank account in New Jersey, in exchange for orders for genetic tests ordered by defendant SHAUNTAE WALKER.

c. On or about June 7, 2019, defendant SHAUNTAE WALKER received a kickback of \$3,800 from co-conspirators Derek McCune and LaTosha McCune in exchange for approving orders for genetic tests.

d. On or about June 7, 2019, in response to a text from co-conspirator Derek McCune stating, "I just put the money in your account," defendant SHAUNTAE WALKER texted back, "I got it. Thank you."

All in violation of Title 18, United States Code, Section 371.

FORFEITURE ALLEGATIONS

1. The allegations contained in Counts 1 through 3 of this Indictment are realleged here for the purpose of alleging forfeiture against defendant SHAUNTAE WALKER.

2. Pursuant to Title 18, United States Code, Section 982(a)(7), upon being convicted of the offenses charged in Counts 1 through 3 of this Indictment, defendant SHAUNTAE WALKER 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 offenses.

Substitute Assets Provision

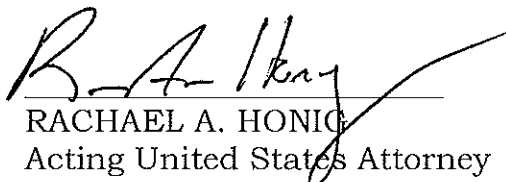
3. If any of the above-described forfeitable property, as a result of any act or omission of the defendant:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third person;
- c. has been placed beyond the jurisdiction of the Court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b) and Title 28, United States Code, Section 2461(c), to seek forfeiture of any other property of defendant SHAUNTAE WALKER up to the value of the forfeitable property described above.

A True Bill, 



For person 


RACHAEL A. HONIG
Acting United States Attorney

JOSEPH S. BEEMSTERBOER
Acting Chief
Criminal Division, Fraud Section
United States Department of Justice

ALLAN MEDINA
Chief, Health Care Fraud Unit
Criminal Division, Fraud Section
United States Department of Justice

JACOB FOSTER
Assistant Chief
Criminal Division, Fraud Section
United States Department of Justice


REBECCA YUAN
GARY A. WINTERS
Trial Attorneys
Criminal Division, Fraud Section
United States Department of Justice

CASE NUMBER: _____

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA

v.

SHAUNTAE WALKER

INDICTMENT FOR

18 U.S.C. §§ 1349, 1347, 2, 371

Foreperson

**RACHAEL A. HONIG
ACTING UNITED STATES ATTORNEY
FOR THE DISTRICT OF NEW JERSEY**

**REBECCA YUAN
GARY A. WINTERS
TRIAL ATTORNEYS
(202) 262-3520**