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STEVEN M. LARIMORE
CLERK U.S. DIST. CT.
S.D. OF FLA. - MIAMI

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
12-20688-CR-UNGARO/TORRES
CASE NO.

18 U.S.C. § 371
18 U.S.C. § 982(a)(7)

UNITED STATES OF AMERICA

vs.

HUBERTO E. MERAYO,

Defendant.

_____ /

INFORMATION

The United States Attorney charges that:

GENERAL ALLEGATIONS

At all times relevant to this Information:

1. The Medicare program (“Medicare”) was a federal health care program providing benefits to persons who were over the age of sixty-five or disabled. Medicare was administered by the Centers for Medicare and Medicaid Services (“CMS”), a federal agency under the United States 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. Part B of the Medicare program covered partial hospitalization programs (“PHPs”) connected with the treatment of mental illness. The treatment program of PHPs closely resembles that of a highly structured, short-term hospital inpatient program, but it is a distinct and organized intensive treatment program that offers less than 24-hour daily care.

4. Under the PHP benefit, Medicare covered the following services: (1) individual and group therapy with physicians or psychologists (or other authorized mental health professionals); (2) occupational therapy; (3) services of social workers, trained psychiatric nurses, and other staff trained to work with psychiatric patients; (4) drugs and biologicals furnished for therapeutic purposes that cannot be self-administered; (5) individualized activity therapies that are not primarily recreational or diversionary; (6) family counseling (for treatment of the patient's condition); (7) patient training and education; and (8) diagnostic services.

5. Medicare generally required that the PHP be provided at a facility that was hospital-based or hospital-affiliated, but Medicare allowed a PHP to be provided in a Community Mental Health Center ("CMHC").

6. Medicare required that, to qualify for the PHP benefit, the services must have been reasonable and necessary for the diagnosis and active treatment of the individual's condition. The program must be reasonably expected to improve or maintain the condition and functional level of the patient and to prevent relapse or hospitalization. The program must have been prescribed by a physician and furnished under the general supervision of a physician and furnished under an established plan of treatment that met Medicare requirement.

7. Typically, a patient who needed this intensive PHP treatment had a long history of mental illness that had been treated. Patients were ordinarily referred either (a) by a hospital after full inpatient hospitalization for severe mental illness, or (b) by a doctor who was trying to prevent full inpatient hospitalization for a severely mentally ill patient the doctor had been treating.

8. Medicare guidelines specifically excluded meals and transportation from coverage under the PHP benefit.

9. Medicare did not cover programs involving primarily social, recreational, or diversionary activities.

10. In order to receive payment from Medicare, a CMHC, medical clinic or physician was required to submit a health insurance claim form to Medicare, called a Form 1450. The claims could be submitted in hard copy or electronically. A CMHC, medical clinic, and physician could contract with a billing company to transmit claims to Medicare on their behalf to process and submit claims for reimbursement.

11. Medicare Part B was administered in Florida by First Coast Service Options ("FCSO"), which, pursuant to contract with the United States Department of Health of Human Services, served as a contracted carrier to receive, adjudicate and pay Medicare Part B claims submitted to it by Medicare beneficiaries, physicians, or CMHCs. Medicare Part B paid CMHCs and physicians directly for the cost of PHP services furnished to eligible Medicare beneficiaries, provided that the services met Medicare requirements.

The Defendant and a Related Corporation

12. T.O. was a CMHC, located at 9732 Southwest 24th Street, Suite 100, Miami, Florida 33165.

13. Defendant **HUBERTO E. MERAYO**, a resident of Miami-Dade County, was one of T.O.'s medical directors.

CONSPIRACY TO COMMIT HEALTH CARE FRAUD
(18 U.S.C. § 371)

14. Paragraphs 1 through 13 of the General Allegations section of this Information are realleged and incorporated by reference as though fully set forth herein.

15. From in or around 2005 through in and around 2008, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

HUBERTO E. MERAYO,

did knowingly and with the intent to further the object of the conspiracy combine, conspire, confederate, and agree with others known and unknown to the United States Attorney, to commit offenses against the United States, that is, in connection with the delivery of and payment for health care benefits, items, and services, to knowingly and willfully execute, and attempt to execute, a scheme and artifice to defraud Medicare, a health care benefit program affecting commerce, as defined in Title 18, United States Code, Section 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, in violation of Title 18, United States Code, Section 1347.

Purpose of the Conspiracy

16. It was a purpose of the conspiracy for **HUBERTO E. MERAYO** and his co-conspirators to unlawfully enrich themselves by submitting false and fraudulent claims to Medicare through T.O. for services that were medically unnecessary and services that were never provided.

Manner and Means of the Conspiracy

The manner and means by which the object and purpose of the conspiracy was sought to be accomplished included, among others, the following:

17. T.O. would pay and cause the payment of kickbacks to owners of nursing homes and assisted living facilities in exchange for the nursing homes and assisted living facilities delivering Medicare beneficiaries housed at their facilities to T.O.

18. The beneficiaries did not need, and did not receive, CMHC services from T.O.

19. **HUBERTO E. MERAYO** would sign medical diagnosis and treatment forms, knowing that the patients he was supposedly treating and supervising the treatment of did not qualify for the services he purported to provide.

20. T.O. would submit false and fraudulent claims to Medicare using **HUBERTO E. MERAYO's** Medicare number, and the Medicare numbers of other physicians.

Overt Acts

In furtherance of the conspiracy and to achieve the objects thereof, at least one of the co-conspirators committed and caused to be committed in the Southern District of Florida, and elsewhere, at least one of the following overt acts, among others:

1. In 2008, **HUBERTO E. MERAYO** signed medical diagnosis and treatment forms for Medicare beneficiaries that did not qualify for CMHC services.

2. In 2008, **HUBERTO E. MERAYO** signed medical diagnosis and treatment forms for Medicare beneficiaries that were due to be discharged from T.O.

3. **HUBERTO E. MERAYO** referred his patients to T.O. even though they did not qualify for CMHC services.

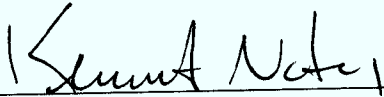
All in violation of Title 18, United States Code, Section 371.

FORFEITURE ALLEGATION

1. The allegations of this Information are realleged 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 defendant, **HUBERTO E. MERAYO**, has an interest.

2. Upon conviction of any violation of Title 18, United States Code, Section 371 as

alleged in the Information, the defendant, **HUBERTO E. MERAYO**, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 982(a)(7), any property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of such offense.



WIFREDO A. FERRER
UNITED STATES ATTORNEY



ROBERT J. LUCK
ASSISTANT UNITED STATES ATTORNEY

UNITED STATES OF AMERICA

CASE NO. _____

vs.

CERTIFICATE OF TRIAL ATTORNEY*

HUBERTO E. MERAYO,

Defendant.

Superseding Case Information:

Court Division: (Select One)

New Defendant(s) Yes _____ No _____
Number of New Defendants _____
Total number of counts _____

X Miami _____ Key West _____
_____ FTL _____ WPB _____ FTP _____

I do hereby certify that:

1. I have carefully considered the allegations of the indictment, the number of defendants, the number of probable witnesses and the legal complexities of the Indictment/Information attached hereto.
2. I am aware that the information supplied on this statement will be relied upon by the Judges of this Court in setting their calendars and scheduling criminal trials under the mandate of the Speedy Trial Act, Title 28 U.S.C. Section 3161.

3. Interpreter: (Yes or No) No
List language and/or dialect _____

4. This case will take 0 days for the parties to try.

5. Please check appropriate category and type of offense listed below:

(Check only one)	(Check only one)		
I 0 to 5 days	<u>X</u>	Petty	_____
II 6 to 10 days	_____	Minor	_____
III 11 to 20 days	_____	Misdem.	_____
IV 21 to 60 days	_____	Felony	<u>X</u>
V 61 days and over	_____		

6. Has this case been previously filed in this District Court? (Yes or No) No

If yes: Judge: _____ Case No. _____
(Attach copy of dispositive order)

Has a complaint been filed in this matter? (Yes or No) No

If yes:
Magistrate Case No. _____
Related Miscellaneous numbers: _____
Defendant(s) in federal custody as of _____
Defendant(s) in state custody as of _____
Rule 20 from the _____ District of _____

Is this a potential death penalty case? (Yes or No) No

7. Does this case originate from a matter pending in the Northern Region of the U.S. Attorney's Office prior to October 14, 2003? _____ Yes X No

8. Does this case originate from a matter pending in the Central Region of the U.S. Attorney's Office prior to September 1, 2007? _____ Yes X No



Robert J. Luck
ASSISTANT UNITED STATES ATTORNEY
Florida Bar No. 0028065

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

PENALTY SHEET

Defendant's Name: HUBERTO E. MERAYO

Case No: _____

Count #: 1

Conspiracy to Commit Health Care Fraud

Title 18, United States Code, Section 371

* **Max. Penalty:** 5 years' imprisonment

***Refers only to possible term of incarceration, does not include possible fines, restitution, special assessments, parole terms, or forfeitures that may be applicable.**