

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

CRIMINAL CASE NO. 14-mj-01149-MJW

UNITED STATES OF AMERICA,

Plaintiff,

v.

1. ANTHONY INNOCENZI,

Defendant.

INFORMATION
Health Care Fraud
(18 U.S.C. § 1347)

THE UNITED STATES ATTORNEY CHARGES:

Introduction

1. ANTHONY INNOCENZI is a Doctor of Podiatry that has been licensed in the state of Colorado since August 20, 2010. He has also been licensed as a Doctor of Podiatry in the state of Ohio since May 7, 1997.

2. JLA SENIOR FOOTCARE CO, LLC (JLA) is a business formed by Dr. ANTHONY INNOCENZI. JLA was registered through the Colorado Secretary of State on July 11, 2011 as a Foreign Entity with a principal office address located at 7972 Aquadale Drive Boardman, OH 44512. The Colorado Articles of Incorporation also show that JLA has a Colorado street address at 7900 E Union Ave. Suite 1100, Denver, CO 80237. 7900 E Union Ave is a virtual office space owned by a virtual office provider called "Regus." In fact, neither INNOCENZI nor JLA SENIOR FOOTCARE CO, LLC had

an office at this address.

3. The Medicare Health Care Benefit Program.

Medicare is a federal insurance program that provides health insurance coverage for people age 65 and older, and for certain disabled people as well. The United States Department of Health and Human Services (HHS) is responsible for the administration of the Medicare program. The Centers for Medicare and Medicaid Services (CMS) is the component agency of HHS that administers and supervises the Medicare program. Individuals who receive benefits under Medicare are referred to as Medicare "beneficiaries".

4. Providers of medical services who desire to participate in Medicare are given a unique provider number, by which their billings are differentiated from other providers such as physicians, hospitals, and other facilities. ANTHONY INNOCENZI had a provider number associated with the Medicare program.

5. As a condition of becoming a Medicare provider, all health care providers are required to fill out a Medicare Provider Application (CMS 855 form). The Medicare Provider Application requires that they provide information about the medial practice including personal information, license information, and practice location information among other required fields. The Medicare Provider Application includes a section titled "Penalties for Falsifying Information", as well as a certification statement which reads in part: "I will not knowingly present or cause to be presented a false or fraudulent claim for payment by Medicare, and will not submit claims with deliberant ignorance or reckless disregard of the truth or falsity." JLA has an arrangement with Novitas, the Medicare Administrative Carrier (MAC) which pays Medicare claims for Colorado, whereby JLA is

allowed to submit Medicare claims for reimbursement electronically rather than by mail.

6. The Medicare program publishes various rules and regulations for providers who participate in the Medicare program. Providers are required to follow these rules as a condition of participation in Medicare and as a condition of payment for services billed to the Medicare program. The Medicare Claims Processing Manual, Chapter 26, Section 10.5 is titled Place of Service (POS) Codes and Definitions. This section gives the specific rules relating to how providers are required to designate the place of service (POS) designating the setting where the services took place. The following information relating to place of service modifiers can be found in the Medicare Claims Processing Manual, Chapter 26, Section 10.5:

As a covered entity, Medicare must use the POS codes from the National POS code set for processing its electronically submitted claims. Medicare must also recognize as valid POS codes from the POS code set when these codes appear on such a claim.

11 Office- Location, other than a hospital, skilled nursing facility (SNF), military treatment facility, community health center, State or local public health clinic, or intermediate care facility (ICF), where the health professional routinely provides health examinations, diagnosis, and treatment of illness or injury on an ambulatory basis. Payment Rate= Non Facility (NF)

31 Skilled Nursing Facility- A facility which primarily provides inpatient skilled nursing care and related services to patients who require medical, nursing, or rehabilitative services but does not provide the level of care or treatment available in a hospital. Payment Rate= Facility (F)

The Medicare Claims Processing Manual, Chapter 26, Section 10.6 is titled Carrier Instructions for Place of Service (POS) Codes. This section gives the specific rules relating to how providers are required to designate the place of service (POS) designating the setting where the services took place. The following information relating

to place of service modifiers can be found in the Medicare Claims Processing Manual, Chapter 26, Section 10.6:

For purposes of payment under the Medicare Physician Fee Schedule (MPFS), the POS code is generally used to reflect the actual setting where the beneficiary receives the face-to-face service. For example, if the physician's face-to-face encounter with a patient occurs in the office, the correct POS code on the claim, in general, reflects the 2-digit POS code 11 for office.

7. Outpatient services for which Medicare can be billed must be designated with codes described in the manual of Physician's Current Procedural Terminology (CPT) published by the American Medical Association. Each of the codes in the CPT manual describes a specific procedure that can be completed by a health care provider. Health Care Providers are required to identify the place of service where the healthcare procedures were performed, i.e. in an office setting, in a Skilled Nursing Facility, at a patient's home, etc. by designating a place of service modifier on each claim sent in for payment to the Medicare and Colorado Medicaid programs. The place of service modifier helps to determine the reimbursement rate that the provider is paid. Services performed by a provider in an office setting are generally paid at a higher rate than at a Skilled Nursing Home setting or home setting because of the inherent costs the provider assumes of renting office space, paying utilities, and other costs associated with running an office.

The Scheme to Defraud Health Care Benefit Programs

8. On September 30, 2010, ANTHONY INNOCENZI signed a Medicare Provider Application (CMS 855) indicating that he had an office in the state of Colorado located at 2901 N 12th St., Grand Junction, CO 81506. As a mandatory part of the

provider application, INNOCENZI signed a certification statement which states in part: "I will not knowingly present or cause to be presented a false or fraudulent claim for payment by Medicare, and will not submit claims with deliberant ignorance or reckless disregard of the truth or falsity."

9. In actuality, ANTHONY INNOCENZI does not have an office at 2901 N 12th St. in Grand Junction, CO. This address actually belongs to a Skilled Nursing Facility called the Mesa Manor Care Facility. INNOCENZI used a storage room/ beauty salon as an operating area to perform podiatry services, and later had those services billed to the Medicare program by his billing company as if they were performed in his own office space.

10. In November 8, 2010 INNOCENZI was granted permission from the Mesa Manor Care Facility to see patients in the facility rent free for three months. However, said arrangement was only a service agreement and was not an agreement to rent office space. INNOCENZI does not have an office at this address, and has never had an office at this location in the past.

11. Medicare claims for services from JLA and Dr. ANTHONY INNOCENZI for the time period November 2010 through mid-June 2011 indicate that INNOCENZI appropriately billed the Medicare program for services performed at Skilled Nursing Facilities through the use of "place of service modifier 31," which indicates that the services were performed in a Skilled Nursing Facility. Beginning around mid-June of 2011, all claims submitted to the Medicare program by INNOCENZI were made with a "place of service modifier 11", which indicates that the services were performed in an office setting. Changing the place of service modifier from a 31 (Skilled Nursing Facility)

to a place of service modifier 11 (Office) in an aggregate results in Medicare reimbursing the provider at a higher rate when the services are completed in an office setting. The higher reimbursement rate is because providers have extra expenses when operating an office such as rent, utilities, and insurance costs, and the Medicare program reimburses providers at a higher rate to help compensate the providers for these expenses.

12. As part of the scheme to defraud Medicare, INNOCENZI falsely assured the representative from a billing company known as Computer Applications Company, Inc. (CACI) that the proper agreements were in place to bill for office place of service codes at each nursing facility.

13. As part of the scheme to defraud Medicare, INNOCENZI scheduled podiatry services with numerous Medicare beneficiaries on April 9, 2013 at the Mesa Manor Care Facility located at 2901 N 12th St., Grand Junction, Colorado, and on July 29, 2013 at Trinidad State Nursing Home located at 409 Benedicta Ave., Trinidad, Colorado.

14. As part of the scheme to defraud Medicare, INNOCENZI saw patients but billed for services not provided, or billed for services based upon the false assertion the patients were seen at his office.

COUNT ONE
Health Care Fraud-Medicare
(18 U.S.C. § 1347)

15. Paragraphs 1-14 above are herein incorporated by reference.

16. On or about April 9, 2013, in the District of Colorado and elsewhere,

1. ANTHONY INNOCENZI

did knowingly and willfully execute and attempt to execute, a scheme and artifice to

defraud a health care benefit program, namely, the Medicare program in connection with the delivery of or payment for health care benefits, items and services while doing business as JLA.

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

JOHN F. WALSH
United States Attorney

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DEFENDANT: ANTHONY INNOCENZI

YOB: 1969

ADDRESS: CANFIELD, OHIO

COMPLAINT FILED? _____ YES NO

IF YES, PROVIDE MAGISTRATE CASE NUMBER: _____
IF NO, PROCEED TO "OFFENSE" SECTION

HAS DEFENDANT BEEN ARRESTED ON COMPLAINT? _____ YES _____ NO

IF NO, A NEW WARRANT IS REQUIRED

OFFENSE: COUNT ONE: Title 18, United States Code, Section 1347, Health Care Fraud

LOCATION OF OFFENSE: Mesa County, Colorado

PENALTY: COUNT ONE: NMT 10 years, \$250,000.00 fine, or both; \$100 Special Assessment Fee.

AGENT: Charles Klein, HHS-OIG

AUTHORIZED BY: Jaime Pena
Assistant U.S. Attorney

ESTIMATED TIME OF TRIAL:

five days or less _____ over five days _____ other

THE GOVERNMENT

_____ will seek detention in this case will **not** seek detention in this case

The statutory presumption of detention **is** or **is not** applicable to this defendant. (Circle one)

OCDETF CASE: _____ Yes No