

AUG 28 2007

UNITED STATES DISTRICT  
SOUTHERN DISTRICT OF TEXAS  
McALLEN DIVISION

Michael N. Milby, Clerk of Court

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UNITED STATES OF AMERICA

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v.

Criminal No. M-07-779

RODNEY LEE RAMOS

INDICTMENT

THE GRAND JURY CHARGES:

Count One

(Conspiracy - 18 U.S.C. §1349 and §1347)

A. INTRODUCTION

At all times material to this indictment:

1. RODNEY LEE RAMOS (hereinafter "Defendant RAMOS") was a resident of Hidalgo County, Texas who operated A Care E. M.S., Inc. ( hereinafter "A Care"), in the capacity of Director of Operations, under the direction of Guadalupe Garces, Jr. And Araceli Garces (hereinafter "the Garces").
2. The Garces were former owners of A-Stat Ambulance Services, Inc., (hereinafter "A-Stat"). The Defendant RAMOS was employed by A-Stat, first as an Emergency Medical Technician (hereinafter referred to E.M.T.) then promoted to E.M.T.-Coordinator.
3. A-Stat was placed on vendor hold by Medicare and Medicaid after it was determined that the Garces were defrauding Medicaid and Medicare.

4. On December 16, 2004, Guadalupe Garces III, the twenty year old son of the Garces incorporated A Care. Guadalupe Garces III is listed as Director, President, and Registered Agent of A Care.
5. A Care is a Texas corporation that provides ambulance transportation services to residents of Hidalgo County, Texas.
6. On November 30, 2004, Defendant RAMOS, acting as Director of A Care submitted a Provider License Application to the Texas Department of State Health Services on behalf of A Care.
7. On March 11, 2005, the Texas Department of State Health Services issued a license on behalf of A Care.
8. On May 10, 2005, Medicare Provider Number AMB430 was assigned to A Care.
9. On June 29, 2005, the Texas Medicaid & Healthcare Partnership (TMHP) approved the application for A Care, as a provider in the Medicaid Program and assigned Provider ID. Base: 1731002.
10. From on or about November 30, 2004 until April 25, 2007, Defendant RAMOS was the Director of Operations for A Care.

### **THE MEDICARE PROGRAM**

The Medicare program is a federally funded health insurance program that provides health care benefits to any person 65 years of age or older, and to certain disabled individuals (also known as “beneficiaries”).

11. Medicare is administered by the United States Department of Health and Human Services (hereinafter referred to as “HHS”). The agency within HHS responsible for oversight of Medicare is the Centers for Medicare and Medicaid Services (hereinafter referred to as “CMS”), formerly known as the Health Care Financing Administration.

12. Medicare primarily consists of two parts. Medicare Part A pays for institutional services, such as inpatient care rendered at hospitals. Medicare Part B pays for certain physician services, outpatient services, and equipment, including ambulance transportation services.

13. Medicare is a “health care benefit program” as defined by Title 18, United States Code, Section 24(b).

### **THE MEDICAID PROGRAM**

The Medicaid program is a state administered health insurance program that provides health care benefits to the poor. Each state designs and administers its own Medicaid program, subject to the requirements mandated by CMS. The program is jointly funded by the federal government as long as the state’s program complies with CMS’s requirements. Covered services include inpatient hospital care, skilled to intermediate nursing home care, professional services provided by physicians, laboratories, and suppliers including ambulance transportation services.

14. The State of Texas contracts with the National Heritage Insurance Company (hereinafter referred to as “NHIC”) to process and pay Medicaid claims submitted by health care providers.

### **COVERAGE FOR END STAGE RENAL DISEASE**

15. Since 1982, Medicare & Medicaid has provided coverage for End Stage Renal Disease (hereinafter referred to as “ESRD”) patients regardless of age.

16. ESRD patients suffer from kidney failure and require regular dialysis treatments. These dialysis treatments usually consist of three treatment sessions a week that are scheduled in advance. Each treatment session usually lasts between 3 to 4 hours.

17. Most ESRD patients do not need an ambulance to take them to their treatment sessions since they drive themselves, have others drive them, or they use other forms of transportation, e.g., wheelchair van.

## COVERAGE FOR AMBULANCE TRANSPORTATION

18. Medicare covers non-emergency scheduled ambulance services under the following conditions:

- i. if the beneficiary is bed-confined, and it is documented that the beneficiary's condition is such that other methods of transportation are contraindicated; or
- ii. the beneficiary's medical condition, regardless of bed-confinement, is such that transportation by ambulance is medically required.

The determination of Medicare coverage for ambulance transportation is based on the condition of the patient at the time of the service.

19. Pursuant to Medicare regulations, a person is considered "bed-confined" in the following circumstances:

- i. is unable to get up from bed without assistance;
- ii. is unable to ambulate; and
- iii. is unable to sit in a chair or wheelchair.

Furthermore, bed-confined is not meant to be the sole criterion to be used in determining if Medicare will pay for a beneficiary to be transported by ambulance.

20. Medicare & Medicaid has defined medical necessity for ambulance transport as occurring only when any other method of transportation is contraindicated, that is, if the patient can use other means of transportation without endangering their health, regardless of whether or not such other transportation is actually available.

21. For non-emergency scheduled, repetitive ambulance services, the provider must obtain a written order from the beneficiary's attending physician certifying that the ambulance transportation is medically necessary.

22. Consistent with the general principles of medical record documentation, an ambulance service provider is required to completely document the patient's condition at the time of the transport and to include the patient's condition that justifies the ambulance transportation.

23. Because each non-emergency ambulance transport must be medically necessary, Medicare reimburses ambulance providers for each separate leg of a round trip.

24. For each transport of an ESRD patient, the E.M.T. aboard the ambulance prepares a report (commonly known as a "run sheet") which includes the patient's condition, such as blood pressure, pulse, respiration, general physical condition, and physical complaints.

25. The run sheets document a patient's condition, the necessity for any care rendered, and the care a provider actually rendered to the patient. As is the case with any medical record, complete and accurate medical documentation in ambulance run sheets is essential for two reasons: (1) it is a necessary component to proper medical care and ensure that the patient receives informed care by a subsequent provider; and (2) the documentation supports any claim for reimbursement submitted by the provider.

26. A patient's ability to ambulate, sit in a chair or wheelchair, and means of entering the ambulance is a medically significant fact and should be noted on the run sheet in order to ensure that the medical records are complete and accurate.

**B. THE CONSPIRACY**

27. From on or about November 30, 2004, and continuing thereafter until on or about April 25, 2007, in the Southern District of Texas and within the jurisdiction of the Court, defendant

**RODNEY LEE RAMOS**

did knowingly and intentionally conspire and agree with other persons known and unknown to the Grand Jury to commit an offense against the United States, that is, to knowingly and willfully execute and attempt to execute a scheme and artifice:

- i. to defraud a health care benefit program, that is, Medicare and Medicaid; and
- ii. to obtain, by means of false and fraudulent pretenses, representations, and promises, any of the money and property owned by, and under the custody and control of a health care benefit program, that is, Medicare and Medicaid;

in connection with the delivery of and payment for health care benefits, items and services, namely, ambulance transportation services.

In violation of Title 18, United States Code, Sections 1349 and 1347.

**Counts Two through Twenty-One**  
**(Health Care Fraud - 18 U.S.C. §§1347 and 2)**

**C. INTRODUCTION**

28. The Grand Jury adopts, re-alleges, and incorporates herein the allegations in paragraphs 1 through 26 of the Introduction to Count One of the Indictment as if set out fully herein.

**D. THE SCHEME AND ARTIFICE**

29. Beginning from on or about November 30, 2004, and continuing thereafter until on or about April 25, 2007, Defendant RAMOS did knowingly and willfully execute and attempt to execute a scheme and artifice to defraud a health care benefit program and to obtain, by means of false and fraudulent pretenses, representations, and promises, any of the money and property owned by, and under the custody and control of a health care benefit program in connection with the delivery of and payment for health care benefits, items and services, namely, by submitting and causing to be

submitted false and fraudulent claims to Medicare and Medicaid for services in connection with the transportation by ambulance of dialysis patients.

**E. MANNER AND MEANS OF THE SCHEME TO DEFRAUD**

30. It was part of the scheme and artifice to defraud that Defendant RAMOS would and did conduct the initial assessment of the ESRD patients to determine whether they qualified for ambulance transportation.

31. It was a further part of the scheme and artifice to defraud that Defendant RAMOS knowing that the patients were not "bed confined" and were able to ambulate and/or sit in a chair or wheelchair, would and did instruct E.M.T.s to transport them for dialysis treatments.

32. It was a further part of the scheme and artifice to defraud that Defendant RAMOS would and did instruct E.M.T.s not to include in the run sheets that the ESRD patient was able to ambulate and/or sit in a chair or wheelchair.

33. It was a further part of the scheme and artifice to defraud that Defendant RAMOS would and did instruct E.M.T.s to change run sheets that indicated that the ESRD patient was able to ambulate and/or sit in a chair or wheelchair.

34. It was a further part of the scheme and artifice to defraud that Defendant RAMOS would and did advise E.M.T.s that Medicare/Medicaid would not pay a claim if the run sheet indicated that the ESRD patient was able to ambulate and/or sit in a chair or wheelchair.

35. It was a further part of the scheme and artifice to defraud that Defendant RAMOS would and did provide the run sheets to the billing clerk with instructions to file the claims for reimbursement with Medicare/Medicaid knowing that said claims were false and/or fraudulent since the ESRD patients did not qualify for ambulance transportation because they were either ambulatory or able to sit in a chair or wheelchair.

**F. EXECUTION OF THE SCHEME TO DEFRAUD**

36. On or about the dates alleged in the counts below, in the Southern District of Texas, and within the jurisdiction of the Court, defendant

**RODNEY LEE RAMOS**

did knowingly and willfully executed and attempted to execute a scheme and artifice:

- i. to defraud a health care benefit program; and
- ii. to obtain, by means of false and fraudulent pretenses, representations, and promises, any of the money and property owned by, and under the custody and control of a health care benefit program;

in connection with the delivery of and payment for health care benefits, items and services, namely, by submitting and causing to be submitted false and fraudulent claims to Medicare and Medicaid for services in connection with the transportation by ambulance of dialysis patients in the amounts indicated below:

**Operating as A Care E.M.S., Inc.**

<b>Count</b>	<b>Patient Initials</b>	<b>Medicare Number</b>	<b>Medicaid Number</b>	<b>Claim Number</b>	<b>Date of Service</b>	<b>Amount Billed</b>
2	G.G.	xxxxx1511A	xxxxx2551	452905182185660	6/10/2005	\$855.00
3	G.G.	xxxxx1511A	xxxxx2551	452805227135570	8/1/2005	\$515.00
4	G.G.	xxxxx1511A	xxxxx2551	452905327199300	11/4/2005	\$575.00
5	G.G.	xxxxx1511A	xxxxx2551	452806031730530	1/16/2006	\$395.00
6	G.G.	xxxxx1511A	xxxxx2551	452806090080830	3/22/2006	\$395.00

7	M.R.	None	xxxxx6790	200523094194072	8/02/2005	\$435.00
8	M.R.	None	xxxxx6790	200530820875517	10/4/2005	\$455.00
9	M.R.	None	xxxxx6790	200602737532113	12/8/2005	\$455.00
10	M.R.	None	xxxxx6790	200605542444619	2/07/2006	\$455.00
11	M.R.	None	xxxxx6790	200613959214646	4/06/2006	\$465.00
12	L.A.	xxxxx2288B	xxxxx7664	452906066312990	2/27/2006	\$555.00
13	L.A.	xxxxx2288B	xxxxx7664	452906129392500	5/01/2006	\$415.00
14	L.A.	xxxxx2288B	xxxxx7664	452206219096440	7/24/2006	\$415.00
15	L.A.	xxxxx2288B	xxxxx7664	452206255118980	9/04/2006	\$415.00
16	L.A.	xxxxx2288B	xxxxx7664	452206284260200	10/02/2006	\$455.00
17	R.A.	None	xxxxx0874	200613959232244	4/25/2006	\$465.00
18	R.A.	None	xxxxx0874	200620872708419	6/07/2006	\$465.00
19	R.A.	None	xxxxx0874	200625483104601	8/07/2006	\$475.00
20	R.A.	None	xxxxx0874	200627086868736	8/30/2006	\$475.00
21	R.A.	None	xxxxx0874	200629791646527	9/22/2006	\$475.00

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

A TRUE BILL

  
FOREPERSON

DONALD J. DeGABRIELLE, Jr.  
UNITED STATES ATTORNEY

  
ASSISTANT UNITED STATES ATTORNEY