

FILED IN OFFICE

2013 SEP 24 PM 12: 29

H. LINDA PIERCE
MUSCOGEE COUNTY
SUPERIOR COURT

8U 13-CR- 1417-2

IN THE SUPERIOR COURT OF MUSCOGEE COUNTY
STATE OF GEORGIA

AUGUST TERM, 2013

STATE OF GEORGIA

v.

DELLA UPSHAW

- * Ct. 1 Medicaid Fraud, a felony,
O.C.G.A. § 49-4-146.1 (b)(1)
- * Ct. 2 Medicaid Fraud, a felony,
O.C.G.A. § 49-4-146.1 (b)(1)
- * Ct. 3 Theft by Taking, a felony,
O.C.G.A. § 16-8-2

BILL OF INDICTMENT

True BILL

[Signature]
Foreperson

SAMUEL S. OLENS
Attorney General

JULIA SLATER
District Attorney
Chattahoochee Judicial Circuit

Returned in Open Court and filed in Office

This _____ day of **SEP 24 2013**, 2013.

[Signature]

Clerk of Superior Court

8U 13-CR- 1417-2

STATE OF GEORGIA, COUNTY OF MUSCOGEE
IN THE SUPERIOR COURT OF SAID COUNTY,

The Grand Jurors selected, chosen and sworn for the County of Muscogee, to wit:

1. John Dale Hester, *Foreperson*
2. Mary Turner, *Secretary*
3. Lonza Walker
4. Lester Sims
5. Brenda Fiquett
6. Marqurite Lamb
7. James Abraham
8. Janelle Tew
9. Matthew Avery
10. Brain Harrington
11. Carmen Bailey
12. Dalvin Tucker
13. Latoria Akins-Jackson
14. Enid Ragan
15. Gloria Taylor
16. Tina Rollins
17. Giovanni Montesclaros
18. Neysa Medley
19. Michael Pittman
20. Harold Pritchett
21. Vera Dixon
22. Margaret Walton
23. Laraine Crittenden-Ware

in the name and behalf of the citizens of Georgia, charge and accuse

DELLA UPSHAW

with the offense of:

MEDICAID FRAUD, a felony, in violation of O.C.G.A. § 49-4-146.1(b)(1)

for that said accused, in the County of Muscogee and State of Georgia, beginning on or about October 1, 2009 and continuing through on or about December 1, 2011, did unlawfully and intentionally obtain and keep for herself medical assistance payments to which the accused was not entitled, and in amounts greater than the accused was entitled, from the Georgia Medicaid program by knowingly and willfully making false statements and false representations, to wit:

1.

Georgia Medicaid, administered by the Georgia Department of Community Health, was established to provide an array of healthcare services and benefits to those who, due to economic circumstances, could not otherwise afford such healthcare services and benefits. Georgia Medicaid is funded jointly by the State of Georgia and the United States Department of Health and Human Services, acting through the centers for Medicare and Medicaid services. Georgia Medicaid is a public plan and contract under which medical benefits, items, and services are provided to individuals.

2.

At all times material to this indictment, Della Upshaw was the owner and operator of Reaching Out Healthcare, Inc., which offered an Adult Day Health program to the community. An Adult Day Health program, as authorized and promoted by Medicaid, is a community-based, medically oriented day program that provides social, health, and rehabilitative services to individuals who are functionally impaired. Adult Day Health services support individuals living with chronic illness and also assist individuals recovering from acute illnesses or injuries. The Adult Day Health program seeks to promote medical stability, to maintain optimal capacity for self-care, and to maximize the individual's highest level of functioning and independence.

3.

Medicaid providers, operating under the authority of Georgia Medicaid, bill for their services by submitting claims to Medicaid electronically. Medicaid providers must use standardized forms which require the provider to identify the dates on which services were rendered, the specific services provided, identified by a procedure code and the identity of the medical provider performing the services.

4.

After defendant Upshaw contracted with Georgia Medicaid to provide Adult Day Health services, she electronically submitted claims to Georgia Medicaid seeking reimbursement for these services. Georgia Medicaid, by and through its fiscal intermediaries, received and processed those claims. Georgia Medicaid, acting through its fiscal intermediaries, then paid the claims by transmitting payments into a bank account controlled by defendant Upshaw.

5.

In contracts with Georgia Medicaid, defendant Upshaw agreed to receive fees for providing the service of adult day care, procedure code S5102. Reimbursement for code S5102 is established by a single unit which constitutes a five hour day of care. The code is reimbursable at the rate of \$50.45 per unit.

6.

While under contract with Georgia Medicaid to provide adult day health services, defendant Upshaw operated her business, Reaching Out Healthcare Services, Inc., in Muscogee County, Columbus, Georgia.

7.

Defendant Upshaw submitted claims for reimbursement for services which were not performed. The members which she reported as having received services were not present on the premises at the times for which the claims were submitted. Member Information Forms used to communicate between defendant Upshaw and the member's community case manager show that various members were repeatedly absent from the day health center; however, billing for these times were submitted as if these members were present.

8.

Defendant Upshaw habitually submitted claims for reimbursement for which there was no documentation of service. Documentation of services is required by Medicaid regulations in order to justify and substantiate services performed.

9.

By engaging in Medicaid Fraud as alleged herein, defendant Upshaw submitted and caused to be submitted to the Georgia Medicaid program fraudulent claims falsely representing that services were provided to the patients when in fact such services were not provided.

10.

By knowingly and willfully making false statements and false representations as set forth above, defendant Upshaw caused the submission of fraudulent claims for adult day care, procedure code S5102, to Georgia Medicaid thereby taking an amount to which she was not entitled,

contrary to the laws of said State, the good order, peace and dignity thereof.

SAMUEL S. OLENS, Attorney General
JULIA SLATER, District Attorney

COUNT TWO

The GRAND JURORS, selected, chosen and sworn for the County of Muscogee, in the name and behalf of the citizens of Georgia, further charge and accuse

DELLA UPSHAW

with the offense of:

MEDICAID FRAUD, a felony, in violation of O.C.G.A. § 49-4-146.1(b)(1)

for that said accused, in the County of Muscogee and State of Georgia, beginning on or about October 1, 2009, and continuing through on or about December 1, 2011, did unlawfully and intentionally obtain and keep for herself medical assistance payments to which the accused was not entitled, and in amounts greater than the accused was entitled, from the Georgia Medicaid program by knowingly and willfully making false statements and false representations, to wit:

11.

Georgia Medicaid, administered by the Georgia Department of Community Health, was established to provide an array of healthcare services and benefits to those who, due to economic circumstances, cannot otherwise afford such healthcare services and benefits. Georgia Medicaid is funded jointly by the State of Georgia and the United States Department of Health and Human Services, acting through the centers for Medicare and Medicaid services. Georgia Medicaid is a public plan and contract under which medical benefits, items and services are provided to individuals.

12.

At all times material to this indictment, Della Upshaw was the owner and operator of Senior Care of Columbus. This entity was a provider operating under Georgia Medicaid's Community Care Services Program. Providers under this program provide Personal Support Services and Extended Personal Support Services, being a combination of basic personal care services and homemaking services for those vulnerable individuals who are medically frail and are unable to care for themselves and unable to function independently.

13.

Medicaid providers, operating under the authority of Georgia Medicaid, bill for their services by submitting claims to Medicaid electronically. Medicaid providers must use standardized forms which require the provider to identify the dates on which services were rendered, the specific services provided, identified by a procedure code and the identity of the medical provider performing the services.

14.

After defendant Upshaw contracted with Georgia Medicaid to provide in home support services, she electronically submitted claims to Georgia Medicaid seeking reimbursement for services. Georgia Medicaid, by and through its fiscal intermediaries, received and processed those claims. Georgia Medicaid, acting through its fiscal intermediaries, then paid the claims by transmitting payments into defendant's bank account.

15.

In contracts with Georgia Medicaid, defendant Upshaw agreed to receive fees for providing in-home support services. Personal Support Services are billed under procedure code T1021. Reimbursement for code T1021 is a time based code for personal care service that reimburses at the rate of \$9.47 per 30 minute increments during the first two and a half hours of home service. When services are extended beyond the first two and a half hours reimbursement decreases to \$8.41 per 30 minute increments and is known as Extended Personal Support Services.

16.

While under contract with Georgia Medicaid to provide home support services, defendant Upshaw operated her business, Senior Care of Columbus, in Muscogee County, Columbus, Georgia.

17.

Defendant Upshaw habitually submitted claims for reimbursement for which there was no documentation of service. Documentation of services is required by Medicaid regulations in order to justify and substantiate services performed.

18.

Defendant Upshaw billed for services when members were not present in their homes and in other instances were not available to receive services at the times for which the claims were submitted. Member Information Forms show that members were discharged from Upshaw's companies during periods of time when billing was submitted for the member.

19.

By engaging in Medicaid Fraud as alleged herein, defendant Upshaw caused to be submitted to the Georgia Medicaid program fraudulent claims falsely representing that services were provided to patients when in fact such services were not provided,

20.

By knowingly and willfully making false statements and false representations as set forth above, defendant Upshaw fraudulently caused the submission of claims for home support services to Georgia Medicaid thereby taking an amount of money to which she was not entitled.

contrary to the laws of said State, the good order, peace and dignity thereof.

SAMUEL S. OLENS, Attorney General
JULIA SLATER, District Attorney

COUNT THREE

The GRAND JURORS, selected, chosen and sworn for the County of Muscogee, in the name and behalf of the citizens of Georgia, further charge and accuse

DELLA UPSHAW

with the offense of:

THEFT BY TAKING, a felony, in violation of O.C.G.A. § 16-8-2

for that said accused, in the County of Muscogee and State of Georgia, between October 1, 2009 and continuing through on or about December 1, 2011, did unlawfully take a sum of money, being U.S. currency, of a value greater than \$500.00 dollars, from the State of Georgia all with the intent to deprive the State of Georgia of said property,

contrary to the laws of said State, the good order, peace and dignity thereof.

SAMUEL S. OLENS, Attorney General
JULIA SLATER, District Attorney

Witnesses

Investigator Ralph Harper
Georgia Medicaid Fraud Control Unit

The Defendant, _____,
waives copy of the Indictment, list of witnesses, full panel,
formal arraignment, and pleads

_____.

This, the ____ of _____ 20 ____.

Assistant Attorney General

Defendant's Attorney

Defendant