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Jury Convicts 5 In \$205M Medicare Fraud, Kickback Scheme

By **Keith Goldberg**

Law360, New York (June 04, 2012, 12:08 PM ET) -- A Florida federal jury on Thursday convicted two Miami-area physicians and three others for their roles in a massive \$205 million Medicare fraud and kickback scheme that has already landed its organizers in prison and led to guilty pleas from several others.

Jurors convicted Dr. Mark Willner and Dr. Alberto Ayala of one count each of conspiracy to commit health care fraud, though they acquitted the two doctors of several additional counts of health care fraud.

Miami-area therapist Vanja Abreu was also convicted of one count of conspiracy to commit health care fraud, while patient recruiters Hilario Morris and Curtis Gates were convicted of receiving health care kickbacks, but acquitted of conspiracy.

The jury deadlocked on conspiracy charges against another therapist, Lydia Ward, as well as mental health counselor Nichole Eckert. The jury also acquitted Eckert on health care fraud charges.

"Today's verdict is a stark reminder that health care professionals, like any other link in the health care fraud chain, will be held criminally accountable if they engage in Medicare fraud," Wifredo A. Ferrer, U.S. Attorney for the Southern District of Florida, said in a statement Thursday. "A license to practice medicine is not a license to defraud the Medicare program."

Sam Rabin, who represents Willner, said his client was prevented by the court from introducing evidence that his actions were legal under Florida state law.

"We believe we have a meritorious appeal and that we will prevail on appeal," Rabin told Law360 on Monday.

Albert Levin, who represents Gates, said he was disappointed in the guilty verdict against his client.

"My client basically is a drug addict and frankly, didn't know what he was doing was illegal," Levin told Law360 on Monday.

Counsel for the other defendants couldn't immediately be reached for comment Monday.

The defendants were accused of submitting false and fraudulent Medicare claims through American Therapeutic Corp., which sought reimbursement for services its Alzheimer's and dementia patients either didn't need or never received.

A federal judge in September sentenced ATC co-owner Lawrence Duran to 50 years in

prison, the longest sentence ever meted out against a Medicare fraud offender. The judge also sentenced ATC co-owner Marianella Valera to 35 years in prison and ATC marketing director Margarita Acevedo to 91 months in prison.

Duran and Valera, who pled guilty to dozens of felony charges, carried out "one of the most brazen health care fraud conspiracies in recent memory," prosecutors said.

Duran and Valera owned and operated ATC while also owning and operating Medlink Professional Management Group Inc., a purportedly separate company that managed ATC's finances and operations. The company, however, had the same directors as ATC and served to hide its fraudulently obtained finances, prosecutors said.

Since December 2002, Duran and Valera submitted false Medicare mental health claims for their institute's patients, bribing patient brokers, Medicare beneficiaries and halfway house owners in a scheme with Acevedo and Medlink Vice President Judith Negron, another ATC co-owner. The fraudulently obtained Medicare funds went toward the defendants' personal expenses in the form of compensation, prosecutors said.

Negron was convicted in August for her role in the scheme and was sentenced to 35 years in prison in January. So far, 14 individuals implicated in the scheme have either been convicted at trial or pled guilty, prosecutors said.

Willner is represented by Samuel J. Rabin Jr. PA. Ayala is represented by Jose M. Quinon and Kristina G. Maranges of Jose M. Quinon PA. Abreu is represented by Charles G. White PA. Morris is represented by Joseph A. Chambrot. Gates is represented by Albert Z. Levin PA. Ward is represented by Dennis N. Urbano. Eckert is represented by Michael R. Tein of Lewis Tein PL.

The case is USA v. Willner et al, case number 1:11-cr-20100 in the U.S. District Court for the Southern District of Florida.

--Additional reporting by Sindhu Sundar. Editing by John Quinn.

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