



Office of the Inspector General

SOCIAL SECURITY ADMINISTRATION

MEMORANDUM

Date: November 8, 2021

To: Nancy Berryhill
Acting Deputy Commissioner, Office of Analytics, Review, and Oversight
Social Security Administration

[REDACTED]

Associate Commissioner for Office of Program Integrity
Social Security Administration

[REDACTED]

General Counsel, Office of General Counsel
Social Security Administration

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From: Michelle M. Murray
Chief Counsel to the Inspector General

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Date: 2021.11.08 16:54:58
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Subject: Referral Pursuant to Section 1129(l) of the Social Security Act – Dr. Americo Oms-Rivera

The Social Security Administration, Office of the Inspector General (SSA/OIG), Office of Investigations in Puerto Rico received information from the Drug Enforcement Administration (DEA) alleging that Americo Oms-Rivera, M.D. (Dr. Oms-Rivera) was fraudulently prescribing schedule II pharmaceutical narcotics to patients. Subsequently, our San Juan Cooperative Disability Investigations Unit, along with the DEA, the Federal Bureau of Investigations, the Health and Human Services Office of the Inspector General, and the Puerto Rico Police Bureau investigated Dr. Oms-Rivera, his assistant, Mayte Gonzalez-Muñoz (Gonzalez-Muñoz), and non-attorney representatives Samuel Perez-Rivera (Perez-Rivera) and Francisco Cabrera-Alvarado (Cabrera-Alvarado). Cabrera-Alvarado is a former SSA employee.

Pursuant to section 1129(l) of the Social Security Act (Act), 42 U.S.C. 1320a-8(l), SSA/OIG is referring 317 disability claims in which we have reason to believe that fraud was involved in the application for Social Security disability benefits.¹ The 317 disability claims were identified specifically by defendants Gonzalez-Muñoz and Perez-Rivera as containing fraudulent information, and are listed in paragraph 9 of Exhibit 2.

¹ Additional claims may be referred at a later date.

Summary of Investigation

The investigation found that Dr. Oms-Rivera assisted patients in fraudulently obtaining SSA disability benefits. As part of the fraud scheme, Dr. Oms-Rivera, with the assistance of Gonzalez-Muñoz and Perez-Rivera, created fraudulent medical records which misrepresented the medical histories of claimants for the purpose of deceiving SSA into paying disability benefits. While the fraudulent reports were prepared by either Dr. Oms-Rivera or Perez-Rivera, Dr. Oms-Rivera signed the reports and Gonzalez-Muñoz charged patients extra fees for the fraudulent reports. Some applicants were then referred to Cabrera-Alvarado.² He coached the applicants on how to complete SSA forms during the application process to ensure they would be approved for disability benefits. Ultimately, fraudulent information was presented to SSA in two ways:

- Backdated Reports. Many of the Psychiatric Medical Reports (PMRs) were backdated to falsely show that patients went to appointments that never took place, in order to create the appearance of a longer history of medical treatment.
- Template Reports. The majority of the PMRs submitted in disability applications were created using templates and fictitious, recycled language that did not accurately represent the patients' medical condition.

Gonzalez-Muñoz identified the 317 claimants being referred as having medical files containing one or both types of the fraudulent information described above. Her sworn statement (Exhibit 2, paragraph 9) further specifies the type of fraudulent information that appears in each file (e.g., template reports, backdated reports, or both).³ Of those 317 files, 99 contained PMRs prepared by Perez-Rivera as stated in paragraph 11 of his sworn statement (Exhibit 7).

Template Analysis

As part of the investigation, the San Juan Cooperative Disability Investigations (CDI) Unit analyzed 1,062 PMRs submitted by patients of Dr. Oms-Rivera. The purpose of the analysis was to identify form or template language that appeared in multiple reports. These 1,062 PMRs were selected for review based on the following criteria:

- [REDACTED]
- [REDACTED]

² Cabrera-Alvarado's plea agreement, set forth in Exhibit 4, states that he coached at least one unidentified applicant during times material to his indictment. However, Dr. Oms-Rivera's plea agreement indicates that multiple applicants were referred to Cabrera-Alvarado (see Exhibit 8).

³ Note that the chart identifying the 317 claimants further shows whether a claimant was also identified by the template analysis conducted by the San Juan Cooperative Disability Investigations Unit. Those claimants are indicated by a "T.A." in the "Template Report Submitted to SSA" column.

- [REDACTED]
- [REDACTED]

For each PMR, the analysis reviewed responses for six questions related to observations, diagnoses, prognoses, and ability. The majority of answers for each question contained the same answer. In numerous cases, complete pages of the PMRs appeared to be replaced by generic template pages. In addition, the analysis revealed that it would be extremely unlikely for Dr. Oms-Rivera to have actually seen all of the patients at the times indicated in the PMRs, as the appointments documented in the PMRs indicate that he would have seen up to 79 patients per day, and 632 patients on weekends and holidays. Additional details of the results of the analysis, including excerpts of the recurring template language, are in the report at Exhibit 3.

Indicators of Fraudulent Information

Evidentiary support establishing the identified fraudulent information may be obtained from the defendants' sworn statements and plea agreements. Additionally, SSA can elicit this information from the claimant during the redetermination process, including SSA interrogatories, testimony and written affidavits. Support illustrating the falsities in each application could also be obtained by comparison of the PMRs to the claimants' full medical files. For example, defendant Gonzalez-Muñoz⁴ identified the following indicators of falsified reports:

- The date of the PMR submitted to SSA predates other new patient forms in the patient's medical file. Gonzalez-Muñoz generally compared the PMR dates to dates noted on the Psychiatric Evaluation form, the Patient Information Sheet form, and the Privacy Notice Form (HIPAA).
- Blank progress notes, which indicate that the patient had visited the office to pick up pre-filled prescriptions without seeing Dr. Oms-Rivera.
- Backdated appointment dates added to the patient file, some of which may fall on weekends and holidays.

PMRs containing the form language identified in the template analysis could be used as additional support of the identified fraud.

Guilty Plea Agreements

As a result of the investigation, the defendants entered into plea agreements and were sentenced as follows:

⁴ By way of example, we have attached reports of investigation reflecting interviews with Gonzalez-Muñoz in which she provides narrative explanations of indicators of template for selected medical files (see Exhibits 9-12).

- Gonzalez-Muñoz. On March 29, 2017, Gonzalez-Muñoz entered into a Plea Agreement whereby she pled guilty to Conspiracy to Defraud the United States in violation of Title 18 United States Code (U.S.C.) Section (§) 371. In the Stipulation of Facts, attached to the Plea Agreement, Gonzalez-Muñoz admitted that she willfully conspired and agreed together with Dr. Oms-Rivera to defraud the United States by assisting individuals in fraudulently obtaining disability benefits by submitting false and/or fraudulent information to the SSA. Gonzalez-Muñoz also admitted that she and Dr. Oms-Rivera referred a disability claimant to Non-Attorney Representative Cabrera-Alvarado, who would assist that person in his/her application for disability benefits even though Cabrera-Alvarado was aware of the backdated the medical record for that person. (Exhibit 1).

In October 2020, Gonzalez-Muñoz appeared in the United States District Court for the District of Puerto Rico and was sentenced to 3 years of probation. She was also ordered to pay a fine of \$1,000.

- Cabrera-Alvarado. On March 29, 2017, Cabrera-Alvarado entered into a Plea Agreement whereby he pled guilty to Conspiracy to Defraud the United States, in violation of Title 18 U.S.C. § 371. In the Stipulation of Facts, attached to the Plea Agreement, Cabrera-Alvarado admitted to meeting with a person identified during the investigation, who was referred to him by Dr. Oms-Rivera and Gonzalez-Muñoz, in order to assist him to fill out the Adult Function Report, SSA Form 3373. During the meeting, Cabrera-Alvarado coached this person as to what to write on the form, in order to be approved for disability benefits. Cabrera-Alvarado further admitted to assisting other individuals in fraudulently obtaining disability benefits by submitting false and/or fraudulent information to the SSA. As part of this plea agreement, Cabrera-Alvarado agreed to refrain from participating as a Non-Attorney Representative or in any role, form or manner in the submission of documents to or the request of benefits from the SSA on behalf or at the behest of others. (Exhibit 4).

In October 2020, Cabrera-Alvarado appeared in the United States District Court for the District of Puerto Rico and was sentenced to 5 years of probation. He was also ordered to pay a fine of \$1,000.

- Perez-Rivera. On March 12, 2020, Perez-Rivera entered into a Plea Agreement whereby he pled guilty to Conspiracy to Commit Wire Fraud, in violation of Title 18 U.S.C. § 1349. In the Statement of Facts, attached to the Plea Agreement, Perez-Rivera admitted to submitting to the SSA fraudulent medical reports he prepared in support of applications for disability insurance benefits submitted by his clients. He also admitted to preparing the Psychiatric Medical Reports, using as a go-by a template medical report and adding fictitious medical appointments. Finally, Perez-Rivera admitted that Dr. Oms-Rivera would sign the fraudulent psychiatric medical report and he would submit the fraudulent report to the SSA. As part of this plea agreement, Perez-Rivera agreed to refrain, in perpetuity, from participating as a Non-Attorney Representative before the SSA. (Exhibit 5).

On June 8, 2021, subsequent to his Plea Agreement, Perez-Rivera signed the Acceptance of Sanction form sent by the SSA agreeing that he was accepting disqualification from acting as a representative of claimants before the SSA, and that he would not be able to advise, assist, or represent, directly or indirectly, any applicants, claimants, prospective

claimants, or beneficiaries in matters related to the programs SSA administers. (Exhibit 6).

In June 2021, Perez-Rivera appeared in the United States District Court for Puerto Rico and was sentenced to 3 years' probation. He was also ordered to pay \$150,000 in restitution to the SSA.

- Dr. Oms-Rivera. On October 20, 2020, Dr. Oms-Rivera entered into a Plea Agreement whereby he pled guilty to Conspiracy to Commit Wire Fraud, in violation of Title 18 U.S.C. § 1349. In the Stipulation of Facts, attached to the Plea Agreement, Dr. Oms-Rivera admitted to submitting to the SSA fraudulent medical reports he prepared in support of applications for disability insurance benefits submitted by his patients. Dr. Oms-Rivera admitted to backdating medical records of patients applying for disability insurance benefits by creating fictitious medical appointments to create the appearance of a longer history of medical treatment, and for the purpose of tricking or deceiving the SSA into approving disability insurance benefits. He also admitted that, aided and abetted by Gonzalez-Muñoz, he charged the patients a fee for the preparation of a fraudulent Psychiatric Medical Report to be submitted to the SSA. Dr. Oms-Rivera admitted to referring patients to Cabrera-Alvarado and Perez-Rivera in order for them to assist the patients in applying for Social Security disability benefits. Dr. Oms-Rivera also admitted that he signed fraudulent psychiatric medical reports prepared by Perez-Rivera, and that these fraudulent reports were submitted to the SSA by Perez-Rivera. As part of this agreement, Dr. Oms-Rivera agreed to pay restitution to the SSA the amount of \$321,000.00, in a term of four years. He also agreed to the following: the forfeiture of a property at Palmas del Mar, Humacao, PR; to self-surrender his DEA license; and to be excluded from participating in SSA cases, as well as Medicare, Medicaid and all other Federal Health Care programs. (Exhibit 8).

In February 2021, Dr. Oms-Rivera appeared in the United States District Court for the District of Puerto Rico and was sentenced to 5 years' probation. He was also ordered to pay \$321,000 in restitution to the SSA and pay a fine of \$7,500.

SSA/OIG confirmed with the Special Assistant United States Attorney currently assigned to this criminal investigation, that SSA's administrative redeterminations under sections 205(u) and 1631(e)(7) of the *Act* for these 317 claims would not, at this point, jeopardize any criminal prosecutions.

If you have any questions or need additional information, please contact the Office of the Counsel to the Inspector General.

