

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

UNITED STATES OF AMERICA

v.

CRIMINAL NO. *3:06cr199WHB-JCS*

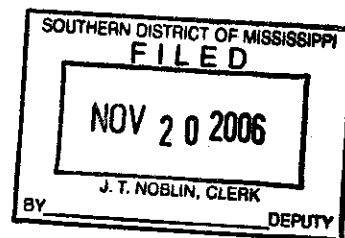
WILSON N. ELLIS

18 U.S.C. § 1035
18 U.S.C. § 1347

The Grand Jury charges:

Introduction

At all times material to this Indictment:



1. **IV MEDICAL LLC** was a limited liability company organized under the laws of the State of Mississippi. It principally operated a clinic on Lakeland Drive in Flowood, Rankin County, Mississippi, and operated other clinics in Hattiesburg and Long Beach, Mississippi. The company name, **IV MEDICAL LLC**, was reserved with the Mississippi Secretary of State on or about January 25, 2001.

2. The defendant, **WILSON N. ELLIS**, was the owner and employee of **IV MEDICAL LLC**. He handled and arranged for the handling of business operations of **IV MEDICAL LLC**, including arranging for the billing of patients treated at all clinic locations of **IV MEDICAL LLC**. The defendant, **WILSON N. ELLIS**, is not a licensed medical doctor or physician and was not, at any time relevant to this Indictment, an authorized or registered provider under the Medicare Program [hereinafter, Medicare].

3. **JUST LOGICAL, INC.**, was a corporation organized under the laws of the State of

Mississippi. It operated a clinic on Lakeland Drive in Hinds County, Mississippi, and operated at other clinic locations in Mississippi. The corporate name JUST LOGICAL, INC., was reserved with the Mississippi Secretary of State on or about July 21, 1995. JUST LOGICAL, INC., was administratively dissolved under Mississippi law on or about March 9, 2001.

4. The defendant, **WILSON N. ELLIS**, was a participant in the operation of JUST LOGICAL, INC., whose participation included arranging for the billing for patients treated at the clinic locations of JUST LOGICAL, INC.

5. Medicare was and is a government-sponsored health insurance system which pays for medical services provided to eligible elderly, blind, and disabled persons. Medicare is financed in part by federal funds through the Centers for Medicare and Medicaid Services [hereinafter CMS], an agency of the United States. CMS was formerly known as the Health Care Financing Administration. Medicare is administered by the Department of Health and Human Services, a Department of the United States.

6. From 1999 through 2002, Cahaba Government Benefits Administrators [hereinafter Cahaba], formerly known as United Healthcare, doing business in Ridgeland, Mississippi, was the Medicare Part B contractor for Mississippi which administered Medicare claims in Mississippi for CMS, which in turn was formerly known as Health Care Financing Administration. To make a claim for reimbursement for provided medical services, a health care provider was required to complete and submit a Medicare Health Insurance Claim form [hereinafter HCFA Form 1500] either by mail or electronically. Each HCFA Form 1500 contained a certification, either signed by the provider or certified electronically. This form, whether submitted for payment either manually or electronically, certified that the services reflected on the form were medically indicated and necessary for the health

of the patient and were personally furnished by the physician or incident to his professional service by his employee under his immediate supervision, except as otherwise permitted, and actually had been provided to eligible recipients.

7. Providers of Medicare Services must have a Medicare Provider Number in order to submit claims for payments. Various medical doctors (physicians) treating patients at the clinic locations of **IV MEDICAL LLC** and **JUST LOGICAL, INC.**, had applied for and received Medicare Provider Numbers which were linked to, or associated with, **IV MEDICAL LLC** and **JUST LOGICAL, INC.**, for payment purposes, so that payments from Medicare for services rendered were sent directly to **IV MEDICAL LLC** and **JUST LOGICAL, INC.**, and not to the medical doctors themselves who had rendered the services which had been billed to Medicare.

8. Outpatient services for which Medicare can be billed should be designated with codes described either as CPT Codes or as HCPCS Codes (commonly pronounced "hick-picks" codes), or local policy codes, if applicable. HCPCS is the acronym for the Health Care Financing Administration Common Procedure Coding System. This system is a uniform method for healthcare providers and medical suppliers to report professional services, procedures, and supplies in a uniform descriptive code. HCPCS has three levels of codes: Level I (CPT Codes) and Level II (HCPCS/National Codes). Level I is the American Medical Association's Current Procedural Terminology [hereinafter CPT Codes], which was developed and is maintained by the AMA. CPT lists five-digit codes with descriptive terms for reporting services performed by healthcare providers and is the country's most widely accepted coding reference. Level II contains additional codes not found in the CPT. These codes begin with a single-letter (A through V), followed by four numeric digits. Level Three codes reflect local medical policy, are assigned by the local Medicare carrier, and

take precedence if applicable. HCPCS/National Codes are now required for reporting most medical services and supplies provided to Medicare and Medicaid patients. Modifiers are used to identify circumstances that alter or enhance the description of a service or a supply.

9. Whether payment of claims is made by the Medicare contractor depends, in part, on correct determination and submission of the CPT Codes, HCPCS Codes, or local codes describing the services rendered in connection with other diagnostic coding establishing the patient's primary medical diagnosis. The Medicare contractor relies upon the truthfulness and completeness of the Codes placed on the HCFA 1500 forms submitted either by mail or electronically to the contractor for payment under Medicare in making a decision whether or not to pay the claims submitted by medical providers.

10. **IV MEDICAL LLC** and **JUST LOGICAL, INC.**, specialized in what is known as alternative medicine, specifically *chelation therapy*, from 1999 through 2002. Chelation therapy is the administration of a man-made amino acid known as ethylenediamine tetra-acetic acid [hereinafter EDTA] and/or other chemical agents into the veins of patients by intravenous administration [hereinafter IV infusion]. EDTA therapy is a medically recognized treatment for heavy metal poisoning, ordinarily either lead poisoning or mercury poisoning. Additionally, there is an unproven theory that EDTA and/or other chemical agents *chelates*, or bonds, with calcium, which is one of the components of atherosclerotic plaque which can be found lining the inner walls of human arteries. Because of that bonding property, there are some people who claim that intravenous administration of EDTA and other chemical agents can remove calcium through the urine to help rid the body of atherosclerotic plaque, fat, and cholesterol. This theory is not scientifically proven and is regarded as an experimental medical treatment by Medicare.

11. At all times relevant to this Indictment, Medicare has denied coverage for chelation therapy – which includes the use of EDTA – in the treatment of atherosclerosis, arteriosclerosis, multiple sclerosis, arthritis, diabetes, calcinosis, or similar generalized conditions of the arteries, because the treatment is classified as experimental. Chelation therapy is only reimbursable under Medicare for the treatment of a limited number of conditions, and specifically for heavy metal poisoning, also known as heavy metal toxicity. Chelation therapy is reimbursable under Medicare only when administered by a medical doctor and by certain other practitioners, but only under the direct supervision of a medical doctor.

12. The correct CPT/HCPCS Codes for chelation therapy are:

- a. M0300 – IV chelation therapy (chemical endarterectomy);
- b. J0600 – Injection, edetate calcium disodium [calcium disodium versenate] up to 1,000mg; and/or
- c. J3520 – Edetate disodium, per 150mg.

13. There are separate CPT Codes for intravenous infusion for therapy and diagnosis, administered by a physician or under the direct supervision of a physician for durations up to one hour, for which the primary CPT Code is 90780. For each additional hour of such intravenous infusion, the CPT Code is 90781. Similarly, there are CPT Codes for evaluation and management of patients by physicians, which include CPT Codes, 99201 for evaluation of a new patient, and 99202 through 99215, all of which involve varying degrees of service and supervision performed by the physician.

14. Medicare will not reimburse claims for office visits billed under CPT Codes 99201 through 99215 performed by one who is not a physician or by one not acting under the supervision

of a physician. Medicare does not and cannot pay for office visits where the purpose of the office visit is to receive a non-covered service.

COUNT 1

The Scheme to Defraud

15. That from on or about January 1, 1999, and continuing thereafter until on or about December 31, 2002, in Rankin County in the Jackson Division of the Southern District of Mississippi and elsewhere, the defendant, **WILSON N. ELLIS**, knowingly and willfully devised and intended to devise a scheme and artifice to defraud a health care benefit program [hereinafter the *health care fraud scheme*] and to obtain money and property from a health care benefit program by means of false and fraudulent pretenses and representations, the defendant then and there well knowing that the pretenses and representations were false when made, in violation of Section 1347, Title 18, United States Code.

Objects of the Scheme

16. That the primary objects of the health care fraud scheme were a) to defraud a health care benefit program, namely: Medicare; b) to obtain payment for treatments which were not authorized under Medicare; and c) to unlawfully enrich the defendant by obtaining money from a health care benefit program based upon fraudulent claims submitted to a health care benefit program, namely: Medicare.

Manner and Means of Accomplishing the Scheme to Defraud

17. That the following were the manner and means of accomplishing the scheme to defraud:

- a. In order to accomplish the health care fraud scheme, the defendant, **WILSON N. ELLIS**, established various clinics where chelation therapy was offered to patients covered under

Medicare. Such clinics were located on Lakeland Drive in Flowood, Mississippi, as well as in Hattiesburg, Mississippi, and in other locations.

b. To further accomplish the health care fraud scheme, the defendant, **WILSON N. ELLIS**, hired and caused to be hired numerous employees to work in the **IV MEDICAL LLC** and **JUST LOGICAL, INC.**, locations in Flowood, Hattiesburg, and Long Beach, Mississippi, including nurses and other employees.

c. To further accomplish the health care fraud scheme, the defendant, **WILSON N. ELLIS**, hired and caused to be hired various physicians who would work at the various clinic locations of **IV MEDICAL LLC** and **JUST LOGICAL, INC.**, on some days when chelation therapy was being administered, but not to work on other days when chelation therapy was also being administered.

d. To further accomplish the health care fraud scheme, the defendant, **WILSON N. ELLIS**, opened various bank accounts for the business operations of **IV MEDICAL LLC**, with **WILSON N. ELLIS** having signatory authority over these accounts and over the funds generated by the operation of **IV MEDICAL LLC** and **JUST LOGICAL, INC.**

e. To further accomplish the health care fraud scheme, between on or about January 1, 1999, to on or about December 31, 2002, the defendant, **WILSON N. ELLIS**, began submitting claims and causing claims to be submitted to Medicare under the Medicare provider numbers of the various physicians he hired to work for **IV MEDICAL LLC** and **JUST LOGICAL, INC.**, seeking reimbursement for non-covered chelation therapy and office visits for patients visiting the clinic locations of **IV MEDICAL LLC** and **JUST LOGICAL, INC.** The claims submitted to Medicare directed that payments be made to **IV MEDICAL LLC** and **JUST LOGICAL, INC.**

f. To further accomplish the health care fraud scheme, the defendant, **WILSON N. ELLIS**, through the operation of the various clinics of **IV MEDICAL LLC** and **JUST LOGICAL, INC.**, caused to be rendered without physician supervision, chelation therapy to Medicare beneficiaries and submitted patient claims and caused others to submit patient claims over the signature and Medicare provider number of various physicians he employed by **IV MEDICAL LLC** and **JUST LOGICAL, INC.**, for patients the defendant, **WILSON N. ELLIS**, knew or should have known were not suffering from heavy metal poisoning, when he then and there well knew such claims were not reimbursable under Medicare. In fact, chelation therapy services provided were rendered when a physician was not within the confines of the clinic, or within any reasonable proximity so as to be in direct supervision of the treatments during the period stated in the specific Counts of the indictment.

g. To further accomplish the health care fraud scheme, the defendant, **WILSON N. ELLIS**, concealed the true nature of the services provided by submitting and by causing others to submit patient claims for the rendering of chelation therapy which did not use the CPT/HCPCS Codes specifically attributable to chelation therapy, CPT/HCPCS Code Numbers M0300 and/or J0600 and/or J3520, but instead contained the CPT Number codes which are used for IV infusion treatment, CPT Code Numbers 90780 and 90781. By misrepresenting the services provided, the defendant, **WILSON N. ELLIS**, caused Medicare to pay claims for reimbursement for chelation therapy which would not otherwise have been covered and reimbursable as Medicare services.

18. The total amount of fraud committed upon Medicare over the duration of the scheme to defraud undertaken by the defendant is in excess of \$100,000.00 in claims for which the defendant **WILSON N. ELLIS** knew no coverage would have been allowed; for the period specifically

covered by the Counts of this indictment, **WILSON N. ELLIS** fraudulently billed \$8,108.17 for services he then and there well knew would not be covered by Medicare for chelation therapy.

Execution of the Scheme to Defraud

19. That on or about the dates listed in the schedule below, in Rankin County in the Jackson Division of the Southern District of Mississippi and elsewhere, the defendant, **WILSON N. ELLIS**, for the purpose of executing and attempting to execute the following acts, namely: the submission of claims for chelation therapy which did not contain CPT Code Number/HCPCS Code Number M0300, and/or J0600, and/or J3520, for chelation therapy.

Patient ID	Service Date	Amount Billed	Location
Patient A	12-3-2001	\$109.29	Hattiesburg
	12-7-2001	\$109.29	Hattiesburg
	12-10-2001	\$109.29	Hattiesburg
	12-14-2001	\$109.29	Hattiesburg
Patient B	12-7-2001	\$109.29	Hattiesburg
	12-12-2001	\$109.29	Hattiesburg
Patient C	12-5-2001	\$109.29	Hattiesburg
	12-12-2001	\$109.29	Hattiesburg
Patient D	12-3-2001	\$109.29	Hattiesburg
	12-5-2001	\$109.29	Hattiesburg
	12-10-2001	\$109.29	Hattiesburg
	12-12-2001	\$109.29	Hattiesburg
Patient E	12-3-2001	\$109.29	Hattiesburg
	12-5-2001	\$109.29	Hattiesburg
	12-7-2001	\$109.29	Hattiesburg

	12-10-2001	\$109.29	Hattiesburg
Patient E, con't	12-12-2001	\$109.29	Hattiesburg
	12-14-2001	\$109.29	Hattiesburg
Patient F	12-3-2001	\$109.29	Hattiesburg
	12-5-2001	\$109.29	Hattiesburg
	12-7-2001	\$109.29	Hattiesburg
	12-10-2001	\$109.29	Hattiesburg
	12-14-2001	\$109.29	Hattiesburg
Patient G	12-26-2001	\$109.29	Hattiesburg

All in violation of Section 1347, Title 18, United States Code.

COUNTS 2 THROUGH 25

18. That the allegations of paragraphs 1. through 19. above are realleged and incorporated herein by reference as if set out in full:

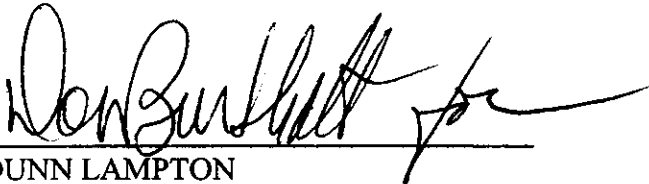
19. That from on or about January 1, 1999, and continuing thereafter until on or about December 31, 2002, in Rankin County in the Jackson Division of the Southern District of Mississippi and elsewhere, the defendant, **WILSON N. ELLIS**, knowingly and willfully did conceal and cover up a material fact in connection with the delivery of and payment for delivery of health care benefits by a health care benefit program, to wit: on or about the dates set forth in the schedule below, the defendant **WILSON N. ELLIS** represented or caused to be represented on claims submitted to Medicare that the services reflected on such claims had been personally administered by a physician and rendered under the direct supervision of a physician practicing medicine in the State of Mississippi, when, in truth and in fact, as the defendant **WILSON N. ELLIS** well knew,

the services rendered had not been personally administered by a physician and provided under the direct supervision of a physician, in that such services were rendered on dates when no physician was present in the clinics operated by **WILSON N. ELLIS**.

Count No.	Patient ID	Service Date	Amount Billed	Location
2	Patient A	12-3-2001	\$109.29	Hattiesburg
3		12-7-2001	\$109.29	Hattiesburg
4		12-10-2001	\$109.29	Hattiesburg
5		12-14-2001	\$109.29	Hattiesburg
6	Patient B	12-7-2001	\$109.29	Hattiesburg
7		12-12-2001	\$109.29	Hattiesburg
8	Patient C	12-5-2001	\$109.29	Hattiesburg
9		12-12-2001	\$109.29	Hattiesburg
10	Patient D	12-3-2001	\$109.29	Hattiesburg
11		12-5-2001	\$109.29	Hattiesburg
12		12-10-2001	\$109.29	Hattiesburg
13		12-12-2001	\$109.29	Hattiesburg
14	Patient E	12-3-2001	\$109.29	Hattiesburg
15		12-5-2001	\$109.29	Hattiesburg
16		12-7-2001	\$109.29	Hattiesburg
17		12-10-2001	\$109.29	Hattiesburg
18		12-12-2001	\$109.29	Hattiesburg
19		12-14-2001	\$109.29	Hattiesburg
20	Patient F	12-3-2001	\$109.29	Hattiesburg
21		12-5-2001	\$109.29	Hattiesburg
22		12-7-2001	\$109.29	Hattiesburg

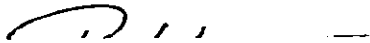
23		12-10-2001	\$109.29	Hattiesburg
24	Patient F, con't	12-14-2001	\$109.29	Hattiesburg
25	Patient G	12-26-2001	\$109.29	Hattiesburg

All in violation of Section 1035, Title 18, United States Code.


DUNN LAMPTON
United States Attorney

A TRUE BILL:

A TRUE BILL:



s/ Signature

Foreperson of the Grand Jury