

Watson

INFORMATION (FELONY)

CF-13-212

IN THE DISTRICT COURT OF OKLAHOMA COUNTY  
STATE OF OKLAHOMA

FILED IN DISTRICT COURT  
OKLAHOMA COUNTY

STATE OF OKLAHOMA, )  
Plaintiff, )  
vs. )  
MISTY BOBBIE DEE ELLERBY, )  
Defendant. )

INFORMATION

JAN 10 2013

TIM RHODES  
COURT CLERK

24 \_\_\_\_\_

In the name and by the authority for the State of Oklahoma, comes now E. SCOTT PRUITT, the duly elected, qualified, and acting Attorney General of the State of Oklahoma, and on his official oath informs the District Court that:

**COUNT 1: MEDICAID FRAUD [56 O.S. §1005(A)(1)]**

On or between January 8, 2009 through February 1, 2010, in Oklahoma County, Oklahoma, Defendant MISTY BOBBIE DEE ELLERBY committed the crime of MEDICAID FRAUD, a felony, in violation of Title 56 O.S. Section 1005(A)(1), by willfully and knowingly causing to be submitted to the Oklahoma Medicaid Program through its fiscal agent, false claims for payment in the aggregate amount of more than \$2,500.00 for Medicaid services not provided to A.B., E.B., Q.B., S.B., and Z.B.

All in violation of the Oklahoma Statutes and against the peace and dignity of the State of Oklahoma.

Dated this 10<sup>th</sup> day of January, 2013.

E. SCOTT PRUITT  
ATTORNEY GENERAL OF OKLAHOMA

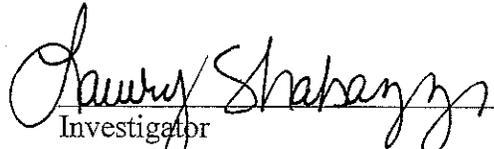
BY:

  
LORY DEWEY, OBA# 19540  
Assistant Attorney General  
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Oklahoma City, OK 73105  
(405) 521-3921

State of Oklahoma )

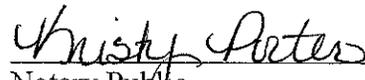
County of Oklahoma ) ss.

I, Lawry Shabazz, being duly sworn upon oath, state that I have read the above and foregoing Information and know the contents thereof, and that the facts stated herein are true.

  
Investigator  
Medicaid Fraud Control Unit

Subscribed and sworn to before me this 10 day of January, 2013.



  
Notary Public

**Witnesses for the State of Oklahoma:**

**Priscilla Broom, contact Attorney General's Office**

**Elizabeth Griffin; 1100 S.W. 103<sup>rd</sup> ST.; Oklahoma City, OK 73139-2961**

**Susan Lowrey, Behavioral Health Audit Specialist; Program Integrity Unit; Oklahoma Health Care Authority; 2401 NW 23<sup>rd</sup> ST., Ste. 1A; Oklahoma City, OK 73107-2423**

**Fred Oraene, Data Processing Analyst & Planning Specialist; Information Systems; Oklahoma Health Care Authority; 2401 NW 23<sup>rd</sup> ST., Ste. 1A; Oklahoma City, OK 73107-2423**

**Richard Pierson, Executive Director; Oklahoma State Board of Licensed Alcohol and Drug Counselors; P.O. Box 54388; Oklahoma City, OK 73154-0817**

**Paula Printup-Porter, Senior Systems Analyst; Program Integrity Unit; Oklahoma Health Care Authority; 2401 NW 23<sup>rd</sup> ST., Ste. 1A; Oklahoma City, OK 73107-2423**

**Beth VanHorn, Legal Operations Director; Oklahoma Health Care Authority; 2401 NW 23<sup>rd</sup> ST.; Oklahoma City, OK 73107-2423**

**Justin Etchieson; Medicaid Fraud Control Unit; Oklahoma Attorney General's Office; 313 NE 21<sup>st</sup> ST.; Oklahoma City, OK 73105-3207**

**Lawry Shabazz; Medicaid Fraud Control Unit; Oklahoma Attorney General's Office; 313 NE 21<sup>st</sup> ST.; Oklahoma City, OK 73105-3207**



Behavioral health counseling services are provided in accordance with an initial assessment and the development of a service plan. The service plan includes the client's diagnosis and determines the appropriate treatment modality for them going forward. Counseling sessions are documented for treatment and billing purposes in a progress note. Progress notes are a chronological written description of services provided to a client that documents the client's response related to the intervention plan or services provided. Progress notes are maintained by the counseling agency and must include the clinician's name, date of service, and session start and stop time. Payment is rendered from the OHCA to the provider for completed work by way of the claim process. The OHCA maintains a database of all provider claims submitted for payment. The OHCA can summarize a provider's billing history in a provider report.

A provider report listing the billings for the years 2008, 2009, and 2010 for Demson Counseling and Associates, Inc., was obtained by retired Medicaid Fraud Control Unit Investigator Robert Kelson.

On January 31, 2012, your affiant completed a subpoena and personally served it to Donald Mbosowo, owner of Demson Counseling and Associates, Inc., located at 1330 North Classen, Suite #215, Oklahoma City, Oklahoma. The subpoena requested complete copies of client files for A.B. (age 17), E.B. (age 15), Q.B. (age 12), S.B. (age 11), and Z.B. (age 11).

On March 26, 2012, your affiant interviewed Priscilla Broom at her residence. Priscilla Broom is the mother of A.B. (age 17), E.B. (age 15), Q.B. (age 12), S.B. (age 11), and Z.B. (age 11). Priscilla Broom reviewed five (5) separate spread sheets, one for each of her children. Priscilla Broom made notations indicating when counseling did not occur by Misty Ellerby. On each spread sheet there was a space provided for her initials indicating the activity did not occur as documented. At the bottom of each spread sheet was a line for Priscilla Broom to sign indicating she reviewed the spreadsheet. Priscilla Broom reviewed the documents and made notations indicating the counseling did not occur and signed each one.

On April 2, 2012, your affiant completed a subpoena and personally served it to Donald Mbosowo, owner of Demson Counseling and Associates, Inc., located at 1330 North Classen, Suite #215, Oklahoma City, Oklahoma. The subpoena requested complete personnel records of all employees of Demson Counseling and Associates, Inc., from January 1, 2008 through June 30, 2010.

On May 15, 2012, your affiant interviewed Misty Ellerby at the Oklahoma Attorney General's Office in Oklahoma City, Oklahoma. Misty Ellerby began working for Demson Counseling and Associates, Inc., in 2008 as a Licensed Professional Counselor - Under Supervision (LADC). Misty Ellerby documented her counseling sessions with clients in a progress note. The progress notes were signed by Misty Ellerby and she hand delivered them to the secretary at Demson Counseling and Associates, Inc. The secretary submitted the progress notes for billing by

utilizing a secure website maintained by the OHCA. Misty Ellerby was paid forty percent (40%) of the total reimbursement that Demson Counseling and Associates, Inc., received from OHCA as a result of her billings.

On May 31, 2012, your affiant completed a subpoena and personally served it to Mid-Del Public Schools (MDPS), located at 7217 S.E. 15<sup>th</sup> Street in Midwest City, Oklahoma. The subpoena requested student attendance records for E.B. (age 15), Q.B. (age 12), S.B. (age 11), and Z.B. (age 11), for the school years of 2008-2009 and 2009-2010.

On November 5, 2012, your affiant completed a subpoena and personally served it to Oklahoma City Public Schools (OCPS), located at 900 N. Klein Avenue in Oklahoma City, Oklahoma. The subpoena requested student attendance records for A.B. (age 17), for the school years of 2008-2009 and 2009-2010.

Your affiant reviewed the billing information provided by OHCA and the student attendance records provided by MDPS and OCPS, and compared it with the progress notes provided by Demson Counseling and Associates, Inc. A spread sheet was prepared based upon the OHCA provider report, the rendering clinician, and the times and days of the week the sessions were provided to A.B. (age 17), E.B. (age 15), Q.B. (age 12), S.B. (age 11), and Z.B. (age 11), as recorded and reflected in each individual progress note.

OCPS attendance records for A.B. (age 17) and Misty Ellerby's progress notes for counseling with A.B. had co-occurring or overlapping times. MDPS attendance records for E.B. (age 15), Q.B. (age 12), S.B. (age 11), and Z.B. (age 11), and Misty Ellerby's progress notes for counseling for each child also had co-occurring or overlapping times. Further, Misty Ellerby listed in the progress notes the location of the counseling sessions occurred at the children's residence when MDPS and OCPS attendance records reveal the children were in fact attending school.

Your affiant has determined that Misty Ellerby submitted false claims and these services are not compensable as the children could not have been receiving counseling by Misty Ellerby at their residence and attending school at the same time.

Your affiant has determined that Misty Ellerby caused false claims to be submitted to the OHCA during the time frame of February 13, 2009 through January 25, 2010, for counseling sessions that did not occur with A.B. (age 17), E.B. (age 15), Q.B. (age 12), S.B. (age 11), and Z.B. (age 11). The amount billed for Behavioral Counseling that did not take place for A.B. (age 17) is \$1,373.57; E.B. (age 15) is \$1,718.91; Q.B. (age 12) is \$1,766.39; S. B. (age 11) is \$1,053.89; and for Z.B. (age 11) is \$1,586.69 for a total of **\$7,499.45**.

Oklahoma Health Care Authority records were reviewed on June 20, 2012, verifying there were no refunds, voids, or cancelled transactions for the above detailed billings during the time frame reviewed.

I request, upon probable cause, the court issue a warrant for the arrest of Misty Bobbie Dee Ellerby on the charges of Medicaid Fraud as described in Title 56 § 1005(A)(1) for knowingly making, or causing to be made a false claim under the Oklahoma Medicaid Program.

Further, your affiant sayeth not.

  
Lawry Shabazz

Subscribed and affirmed before me this 10 Day of January  
Two Thousand Thirteen.

  
Kristy Porter

