

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

STATE OF OKLAHOMA,)
Plaintiff,)
)
vs.)
)
JOSEPH LEE BARCHUE,)
Defendant.)

CF-2013- 0412

FILED IN DISTRICT COURT
OKLAHOMA COUNTY

JAN 17 2013

TIM RHODES
COURT CLERK

12 _____
E. Pruitt

CRIMINAL INFORMATION

E. SCOTT PRUITT, the duly elected, qualified and acting Attorney General of the State of Oklahoma, gives the District Court of Oklahoma County, State of Oklahoma, to know and be informed that:

Count 1: Medicaid Fraud, a Felony
Title 56 O.S. § 1005(A)(1)

On or between September 3, 2010 and May 14, 2011, in Oklahoma County, Oklahoma, the defendant Joseph Lee Barchue committed the crime of **Medicaid Fraud, a felony**, in violation of Title 56 O.S. § 1005(A)(1), by willfully and knowingly causing to be submitted to the Oklahoma Medicaid Program through its fiscal agent, false claims for payment for counseling services which were not eligible for reimbursement due to failure to provide the counseling services to M. S.. The aggregate amount of the false claims is an amount greater than \$2,500.00.

Felony Medicaid Fraud is punishable by imprisonment not to exceed three years or a fine of not more than three times the amount of payments illegally claimed or received or \$10,000.00, whichever is greater, or by both such imprisonment and fine.

In violation of the Oklahoma Statutes and against the peace and dignity of the State of Oklahoma.

Count 2: Medicaid Fraud, a Misdemeanor
Title 56 O.S. § 1005(A)(1)

On or between August 11, 2010 and December 16, 2010, in Oklahoma County, Oklahoma, the defendant Joseph Lee Barchue committed the crime of **Medicaid Fraud, a misdemeanor**, in violation of Title 56 O.S. § 1005(A)(1), by willfully and knowingly causing to be submitted to the Oklahoma Medicaid Program through its fiscal agent, false claims for payment for counseling services which were not eligible for reimbursement due to failure to

provide the counseling services to D. M.. The aggregate amount of the false claims is an amount less than \$2,500.00.

Misdemeanor Medicaid Fraud is punishable by imprisonment not to exceed one year or a fine of not more than three times the amount of payments illegally claimed or received or \$1,000.00, whichever is greater, or by both such imprisonment and fine.

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

Dated this 15th day of January, 2013.

E. SCOTT PRUITT
OKLAHOMA ATTORNEY GENERAL

BY:

Marianne Hardcastle
Marianne Hardcastle, OBA # 15054
Assistant Attorney General
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(918) 581-2745

State of Oklahoma)
County of Oklahoma) ss.

I, Samuel Heinen, being duly sworn upon oath, state I have read the above and foregoing Criminal Information and know the contents thereof, and the facts stated therein are true.

Samuel Heinen

Subscribed and sworn to before me this 17 day of January, 2013.

Kristy Porter
Notary Public

My Commission Expires:

12-20-14



Witnesses for the State of Oklahoma

Samuel Heinen
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Si. S.
M. S.
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Susan Lowery
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related activities at the school. (Cynthia) is a LADC under supervision and is also employed by YCO as of this date.

On April 7, 2011, OAG Investigators Steven Johnson and Dan Prykryl interviewed Maria Vallejo, a former secretary at Heronville Elementary during the time period when (Cynthia) was the principal. Vallejo said that (Joseph) came to Heronville Elementary during summer school hours to meet with (Cynthia) and get a list of students at the school who were on Medicaid so that he could build his client base. Vallejo was aware that (Joseph) was a counselor at the time and witnessed him meeting with students and their families at the school. On one occasion (Joseph) tried to recruit a Heronville student to join his counseling business and even went so far as to give the child his business card. (Cynthia) then went up to (Joseph) and told him that the student was not one of the ones who were receiving Medicaid benefits. (Joseph) then took his business card back from the student and said, "forget it", before walking away.

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 and document 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 times. Payment is rendered from the OHCA to the provider for completed work by way of the claims 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 history report.

Your affiant, along with Investigator Johnson, served multiple subpoenas to YCO for personnel and client records pursuant to this investigation. Those records, along with the billing records obtained from the OHCA provided a comprehensive, detailed view of the services that were billed and then later reimbursed by OHCA. Several provider history reports were compiled and those reports were condensed into spreadsheets. Those spreadsheets were then shown to recipients and their parents/guardians to determine which services may have been fraudulently billed by the provider.

On April 3, 2012, your affiant interviewed Barbara Slater. Slater is the mother of M.S. (age 18) who received counseling services from (Joseph) in 2010 and 2011. Slater is also the mother of St.S. (age 16) and Si.S. (age 14), both of whom were billed for counseling services by (Cynthia) during that same time period. Slater and her family live near Noble, Oklahoma, and they moved there in August of 2010. M.S. began receiving counseling services from (Joseph) while he was still employed by NHYFS. Those services continued even after (Joseph) switched counseling agencies from NHYFS to YCO.

(Joseph and Cynthia) would arrive at the Slater residence in Noble and would pick-up all three of the children and take them somewhere else for their counseling. The group was usually gone for an hour at a time before the children were returned back home. Slater said that she participated in family counseling with her children and (Joseph and/or Cynthia) on only one occasion. Slater reviewed a list of dates for services billed to OHCA for all three of her children. Slater marked the dates when counseling could have possibly taken place, even if it was still somewhat unlikely to have taken place on that date. There were many dates, some of which were billed by (Joseph), that Slater concluded were incorrect and that the billed services were in fact not actually provided to her children.

Slater said that since her family moved to Noble in August, 2010; counseling sessions involving any of her three children and either (Joseph and/or Cynthia) would have only taken place on a weekend day (usually Saturdays), those sessions did not last for more than an hour at a time, never occurred during the week (Monday-Friday), and never took place at their school. Slater recalled (Joseph and Cynthia) coming to counsel her children about once per month. Slater was certain that the last day any of her children were counseled by either (Joseph and/or Cynthia) was May 6, 2011. (Joseph) submitted and was reimbursed for 8 billings for services provided to M.S. after May 6, 2011; including: May 7, 2011 (2); May 9, 2011 (2); May 12, 2011 (2); and May 14, 2011 (2).

On April 11, 2012, your affiant interviewed M.S. regarding the counseling services that he received from (Joseph). M.S. reported seeing (Joseph) for counseling about every other weekend for thirty minutes to one hour at a time. M.S. estimated (Joseph) came to counsel him a total of 10-20 times during the time period of August, 2010, through May, 2011. Counseling always took place outside of the family's residence, often at a local restaurant. M.S. said that he would talk with (Joseph) about counseling-related issues for ten minutes and then he was free to do whatever he wanted for the remainder of the session. M.S. recalled (Joseph) giving him at least one gift, as well as cash money on at least one occasion. Family counseling with (Joseph), M.S., and Slater took place on one occasion.

On May 21, 2012, your affiant interviewed Angela Melhorn regarding the counseling services that were billed for her child, D.M. (age 7), by (Joseph) in 2010. Melhorn said that D.M. went to counseling with (Joseph) just 2-3 times in total. (Joseph) billed OHCA for 22 counseling sessions with D.M. in 2010. Melhorn said that she would be aware of any and all counseling sessions that did take place between (Joseph) and D.M. because she was the one who drove D.M. to the counseling sessions at (Joseph's) office. Melhorn was firm in stating that (Joseph) never counseled D.M. on a weekend day, never counseled D.M. before 5:00 P.M., and that (Joseph) definitely did not counsel D.M. at any point after Thanksgiving Day (November 25, 2010) of that year. (Joseph's) billings for D.M. contradict Melhorn's statements because he billed for 4 dates after Thanksgiving and for 5 weekend days.

On June 11, 2012, your affiant interviewed (Joseph) at the Attorney General's Office in Oklahoma City. (Joseph) confirmed that he is an LADC under supervision and has been employed by YCO for almost two years. (Joseph) said that as an employee of YCO he uses "ThinkHealth" to submit his progress notes for subsequent reimbursement. He has his own unique username and password for the program and upon submission of each progress note, the program attached the user's signature to the bottom of the note. (Joseph) confirmed that any progress note with his signature on it would have been submitted by him.

During the interview with your affiant, (Joseph) continuously denied the allegation that he worked with his wife to recruit any students at her school to sign up for his counseling business. (Joseph) did acknowledge having some clients who were students at Heronville Elementary, but he said those clients were referred to him by people other than (Cynthia). (Joseph) was unsure if he ever counseled any of the Heronville students at the school. (Joseph) did say that he may have made a mistake in a billing before, but he never billed for a service that he did not provide. (Joseph) later confirmed that he does double-check his progress notes before he submits them because he understands the importance of making sure that the times and dates on each note are correct.

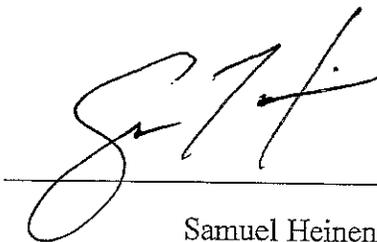
(Joseph) confirmed providing counseling services to M.S. in 2010 and 2011. Just as Barbara Slater had said, (Joseph) also said that the last communication he had with the Slater family was on May 6, 2011. (Joseph) based that date (May 6, 2011) off of records that he appeared to maintain in an old cell phone that he brought to the interview. When asked by your affiant to explain the additional eight billings for M.S. that he submitted after that date, (Joseph) began to deviate from his previous statement that communications with the Slater family ended on May 6, 2011. (Joseph) said that he provided counseling services to M.S. three times per week. (Cynthia) often came with (Joseph) because she would counsel M.S.'s sisters while (Joseph) counseled M.S. separately. (Joseph and Cynthia) usually took the three children out to eat at a restaurant. (Joseph) could not recall whether or not he ever went to go see M.S. at his school in Noble. (Joseph) said that family counseling usually took place inside of the Slater residence and Barbara Slater was always present. (Joseph) denied the allegation that family counseling only took place on one occasion. (Joseph) acknowledged that he did give M.S. cash money at least once, but insisted that he told M.S. to go buy hygiene products with the money; not to spend it on whatever he wanted.

When (Joseph) was asked about the services that he provided to D.M., he initially said that he did not remember D.M.. When asked to explain the times and dates on the progress notes for D.M. that his mother, Angela Melhorn, said were incorrect, (Joseph) said that he could not recall and was not going to answer the question.

Your affiant has identified the total amount of Medicaid Fraud committed by Joseph Barchue for M.S. from September, 2010, through May, 2011, is \$3,228.58 and for D.M. from August, 2010, through December, 2010, is \$1,862.85. The total amount of Medicaid Fraud committed by Joseph Barchue is \$5,091.43.

I request upon probable cause, the court issue a warrant for the arrest of Joseph Lee Barchue on the charges of one (1) felony count and one (1) misdemeanor count of Medicaid Fraud 56 O.S. § 1005.

Further, your affiant sayeth not.


Samuel Heinen

Subscribed and affirmed before me this 20 day of December, 2012.




Kristy Porter

My commission expires:

12-20-14