

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

CF-2013- 0411

STATE OF OKLAHOMA,)
Plaintiff,)
)
vs.)
)
)
CYNTHIA DIANE BARCHUE,)
Defendant.)

FILED IN DISTRICT COURT
OKLAHOMA COUNTY

JAN 17 2013

TIM RHODES
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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 October 5, 2010 and March 25, 2011, in Oklahoma County, Oklahoma, the defendant Cynthia Diane 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, which were reported by Barchue to have been performed during her administrative school days. 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 Felony
Title 56 O.S. § 1005(A)(1)

On or between October 7, 2010 and May 15, 2011, in Oklahoma County, Oklahoma, the defendant Cynthia Diane 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 St. 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 3: Medicaid Fraud, a Felony
Title 56 O.S. § 1005(A)(1)**

On or between October 7, 2010 and May 15, 2011, in Oklahoma County, Oklahoma, the defendant Cynthia Diane 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 Si. 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.

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

Dated this 17th day of January, 2013.

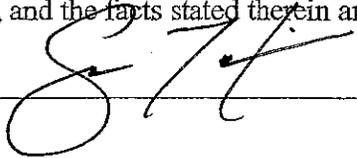
E. SCOTT PRUITT
OKLAHOMA ATTORNEY GENERAL

BY:

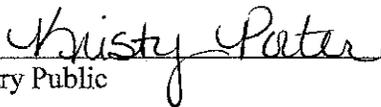

Marianne Hardcastle, OBA # 15054
Assistant Attorney General
Medicaid Fraud Control Unit
907 S Detroit, Suite 750
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(918) 581-2745

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.



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



Notary Public

My Commission Expires:
12-20-14



Witnesses for the State of Oklahoma

Samuel Heinen
Justin Etchieson
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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 and even went so far as to give the child a 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 St.S. (age 16) and Si.S. (age 14), both of whom were billed for counseling services by (Cynthia). Slater is also the mother of M.S. (age 18) who received counseling services from (Joseph) during the same time period. Slater and her family live near Noble, Oklahoma, and they moved there in August of 2010. Since that time, Slater said that any counseling between her two daughters and (Cynthia) would have only taken place on the weekends (usually Saturdays), never during the week, and never at their school. Slater recalled (Cynthia) coming to counsel her daughters about once per month and she believed that (Cynthia) came to see her daughters approximately three times in total.

(Cynthia) and (Joseph) would arrive at the Slater residence and would pick-up her three 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 (Cynthia and Joseph) 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 (Cynthia), that Slater said were incorrect and that services were in fact not actually provided to her children.

On May 14, 2012, your affiant interviewed St.S. regarding the counseling services she received from (Cynthia). St.S. said she never received counseling from (Cynthia) during school hours. St.S. participated in counseling with (Cynthia) a total of five times or less. Every time that (Cynthia) came to see the family, (Joseph) was with her because he counseled M.S. on those same dates. (Cynthia and Joseph) would pick-up all three children at their house and take them somewhere else for their counseling. St.S. was never by herself with (Cynthia), she was always with at least one other sibling. St.S. recalled that counseling with (Cynthia) only took place on the weekends, typically Saturdays, and lasted for about thirty minutes at a time. The frequency of the counseling was once per month or not at all in a given month. St.S. said that her mother participated in family counseling on one occasion. St.S. also recalled being given cash by (Joseph and Cynthia) and she was told to "spend it wisely". St.S. was shown a picture of (Cynthia) and she was able to positively identify the woman in the picture as (Cynthia).

On May 14, 2012, your affiant interviewed Si.S. regarding the counseling services she received from (Cynthia). Si.S. participated in counseling with (Cynthia) approximately five times in total. The frequency of the counseling was once per month or not at all. (Cynthia and Joseph) would pick-up all three children at their house and take them somewhere else for their counseling. (Cynthia) only came on Saturdays and did not get to their house before noon on those days. Si.S. knew that all billings for Sunday mornings would be incorrect because her family was usually at church services. Si.S. recalled each session with (Cynthia) lasting for a total of an hour. Si.S. was never by herself with (Cynthia), she was always with at least one of her other siblings. Si.S. recalled being given \$20.00 in cash by (Joseph and Cynthia) and she was told to "spend it wisely". Si.S. was shown a picture of (Cynthia) and she was unable to positively identify the woman in the picture.

On June 1, 2012, your affiant interviewed (Cynthia) at the Office of Attorney General in Oklahoma City. (Cynthia) said she has worked part-time as a therapist under supervision at YCO for approximately eighteen months. As an employee of YCO who submits client progress notes for billing, (Cynthia) has a unique username and password that she uses to input the information that produces a claim for reimbursement from OHCA. The computer program is called

“ThinkHealth”. Upon the submission of a completed progress note, the program attaches the user’s electronic signature to the note. (Cynthia) confirmed that any progress note with her electronic signature on it would have been submitted by her.

While (Cynthia) was the principal of Heronville Elementary, her OKCPS work hours were Monday–Friday from 7:30 A.M.–4:00 P.M. and then until 4:40 P.M. beginning in March, 2011. (Cynthia) usually left the school by 5:00 P.M. each day. (Cynthia) was very firm in stating that from the time she started work each morning until the time when she was done in the afternoon she exclusively worked on her responsibilities as the principal of the school. (Cynthia) claimed that she never worked on any YCO counseling related tasks during her regular work hours for OKCPS.

(Cynthia) also confirmed that she provided counseling services to St.S. and Si.S. for several months, concluding in May of 2011. (Cynthia) claimed that she provided individual and/or family counseling services to St.S. and Si.S. an average of three times per week. (Cynthia) would come to see St.S. and Si.S. for counseling twice during the week and then also during the weekend, usually Saturdays. (Cynthia) claimed that all family counseling sessions she billed for St.S. and/or Si.S. would have taken place with their mother, Barbara Slater, present and participating in the session. (Cynthia) did say that every time she went to Noble to see the family she did so with her husband, (Joseph). (Joseph) always counseled M.S. while (Cynthia) was counseling St.S. and Si.S. separately. Every time that (Cynthia) counseled St.S. and/or Si.S. (Joseph) counseled M.S. because (Cynthia) never went to see the family alone.

The statements made by (Cynthia) during the above referenced interview and the billings that she submitted or caused to be submitted to OHCA are greatly different from the version of events as told by Slater, St.S., and Si.S.. From October 2010, through May, 2011, (Cynthia) submitted 55 billings for family counseling sessions with St.S. and Si.S.. (Cynthia) stated in the interview that Slater was always present for family counseling with St.S. and/or Si.S.. According to Slater, St.S., and Si.S., family counseling with Slater present took place on only one occasion.

(Cynthia) also said during the above referenced interview that (Joseph) was always with her when she went to counsel St.S. and/or Si.S.. (Cynthia) said that (Joseph) always counseled M.S. when the two went to Noble together. According to billing records that were submitted by (Cynthia) for St.S. and Si.S., and also billing records submitted by (Joseph) for M.S.; there were 37 dates when (Cynthia) billed for services provided to either St.S. or Si.S. and (Joseph) did not also bill for services provided to M.S. on that same date.

Your affiant was able to obtain records from OKCPS that confirmed what dates and times (Cynthia) was considered to be on school district work time during the 2010-2011 school year. Those records were compared with the billing records that

were submitted by (Cynthia) for counseling services that she claimed to have provided to multiple clients. After reviewing billings that were submitted by (Cynthia) there were at least 38 billings with dates and times where (Cynthia) was confirmed to either be on OKCPS district time or out on sick leave but still during her normal OKCPS work hours. (Cynthia) did admit in the interview with your affiant that any billings she submitted while she was confirmed to have been on OKCPS work time must have been a mistake. (Cynthia) repeated that she never worked on unrelated activities while she was at her school. (Cynthia) went on to blame her admitted billing errors on an eye condition she claims to have.

From October, 2010, through March, 2011, the total amount reimbursed to YCO for claims (Cynthia) submitted with dates and times when she was confirmed by OKCPS to be working at Heronville Elementary School and/or on OKCPS time is \$3,718.44. (Cynthia) acknowledged in the interview with your affiant that all of those billings would have to be "mistakes" because she only worked on OKCPS related activities during her normal work hours at the school.

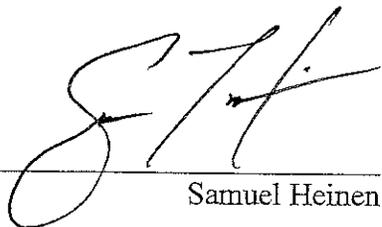
From October, 2010, through May, 2011, the total amount reimbursed to YCO for claims (Cynthia) submitted for St.S. was \$6,774.23. St.S. recalled participating in counseling sessions with (Cynthia) on five or less occasions; typically on Saturdays. Credit will be given for five individual counseling sessions between (Cynthia) and St.S. on five different Saturdays, as well as one Saturday family counseling session between the parties. St.S. said that she met with (Cynthia) for counseling a total of five times or less and family counseling took place only once. Therefore the total amount reimbursed to YCO for claims (Cynthia) caused to be submitted and have since been determined to be fraudulent is \$6,155.75.

From October, 2010, through May, 2011, the total amount reimbursed to YCO for claims (Cynthia) submitted for Si.S. was \$6,768.92. Si.S. recalled participating in counseling sessions with (Cynthia) on five or less occasions; always on Saturdays. Credit will be given for five individual counseling sessions between (Cynthia) and Si.S. on five different Saturdays, as well as one Saturday family counseling session between the parties. Si.S. said that she met with (Cynthia) for counseling a total of five times and that family counseling took place only once. Therefore the total amount reimbursed to YCO for claims (Cynthia) caused to be submitted and have since been determined to be fraudulent is \$6,150.44.

The total amount of Medicaid Fraud committed by Cynthia Diane Barchue from October, 2010, until May, 2011, was \$16,024.63.

I request upon probable cause, the court issue a warrant for the arrest of Cynthia Diane Barchue on the charges of three (3) felony counts 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