UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
SOUTHERN DIVISION
PIKEVILLE

UNITED STATES OF AMERICA

V. **INDICTMENT NO.** 7:20-CR-23-REW-EBA

EUGENE SISCO III

* * * * *

THE GRAND JURY CHARGES:

At all times relevant to this Indictment:

BACKGROUND ON MEDICARE AND MEDICAID

1. The Medicare Program ("Medicare") was a federal "health care benefit program," as defined by 18 U.S.C. § 24(b), that provided benefits to persons who were over the age of sixty-five or disabled. Medicare was administered by the United States Department of Health and Human Services ("HHS") through its agency, the Centers for Medicare & Medicaid Services ("CMS").

2. Individuals who qualified for Medicare benefits were commonly referred to as "beneficiaries," and as beneficiaries, they were eligible to receive a variety of goods and services.

3. The Kentucky Medicaid Program ("Medicaid") was a "health care benefit program," as defined by 18 U.S.C. § 24(b), that provided benefits to Kentucky residents who met certain eligibility requirements, including income requirements. Medicaid was

jointly funded by federal and state sources and administered by CMS and by the Kentucky Cabinet for Health and Family Services, Department for Medicaid Services ("DMS"), located in Franklin County, Kentucky.

4. Individuals who qualified for Medicaid benefits were commonly referred to as "members," and as members, they were eligible to receive a variety of goods and services.

5. Among a variety of items and services, both Medicare and Medicaid provided coverage to beneficiaries and members for outpatient physician services, such as office visits, and laboratory services, including urine drug testing ("UDT").

6. Medicaid also provided coverage to members for Medication Assisted Treatment ("MAT"), intended to treat individuals diagnosed with substance abuse disorders, particularly addiction to opioids. MAT typically consisted of outpatient physician examinations, counseling, UDT, and prescription of buprenorphine.

7. Medical service providers, including clinics and physicians ("service providers"), meeting certain criteria, could enroll in and obtain Medicare and Medicaid provider numbers. Upon Medicare and Medicaid enrollment, service providers were permitted to provide medical services and items to beneficiaries and members, and subsequently submit claims, either electronically or in hardcopy, to Medicare and Medicaid, through fiscal intermediaries, seeking reimbursement for the cost of services and items provided.

8. When seeking reimbursement from Medicare and Medicaid, service providers certified that: (1) the contents of the claim forms were true, correct, and complete;

(2) the claim forms were prepared in compliance with the laws and regulations governing Medicare and Medicaid; and (3) the services purportedly provided, as set forth in the claim forms, were medically necessary.

9. Medicare and Medicaid reimbursed claims submitted by service providers if the services and items provided were medically necessary for the diagnoses and treatment of beneficiaries and members. Conversely, Medicare and Medicaid did not cover and would not reimburse claims for services and items that were not medically necessary.

10. Medicaid, through DMS, and through its fiscal intermediaries, ultimately reimbursed claims submitted by service providers, including for laboratory services and UDT, from Franklin County, Kentucky.

11. Effective March 6, 2015, DMS revised the regulation governing the coverage of physician services in the Medicaid program to specify that a Medicaid provider who is providing a service that Medicaid covers must bill Medicaid for the service, and could not bill the recipient member for that service. In particular, in a letter to Medicaid providers dated March 20, 2015, DMS specified that "[f]or Medicaid providers who previously provided substance abuse disorder treatment and directly charged Medicaid recipients, since those services are now Medicaid covered services the recipient may no longer be charged."

RELEVANT UDT BILLING CODES

12. When seeking reimbursement from Medicare and Medicaid, service providers submitted the cost of the service or item provided together with the appropriate "procedure code," as defined by the American Medical Association, and set forth and

maintained in the Current Procedural Terminology ("CPT") Manual or by the Healthcare Common Procedure Coding System ("HCPCS"). Although service providers submitted the cost of the service provided, together with other information, Medicare and Medicaid reimbursed providers designated amounts according to the CPT or HCPCS code utilized.

13. UDT was divided into two categories: presumptive (qualitative) testing and definitive (quantitative or confirmation) testing. Presumptive testing identified which substances, if any, were present in the provided specimen. Definitive testing identified how much of a particular substance was present in the provided specimen.

14. Presumptive testing was performed in a variety of ways, including utilizing devices that were capable of being read by direct optical observation, such as "cups" that reacted to the specimen and identified which drugs, if any, were present ("optical devices"), as well as by more complex testing performed by instrument chemistry analyzers.

15. Definitive testing was necessarily performed by higher complexity instrument chemistry analyzers.

16. Medicare and Medicaid considered presumptive testing to be medically necessary, and appropriately reimbursable, in the treatment of substance abuse disorder patients, provided the presumptive testing was used in the diagnosis and treatment of beneficiaries and members and the need for the testing was substantiated by documentation in the patient's medical record. Conversely, Medicare and Medicaid specifically excluded from coverage, and did not consider medically necessary, "blanket orders" or routine presumptive testing of substances.

17. Medicare and Medicaid considered definitive testing to be medically

necessary, and appropriately reimbursable, in the treatment of substance abuse disorder patients in more limited circumstances. For example, definitive testing to confirm a positive result from the presumptive test would be reasonable and necessary only where the initial result was inconsistent with the expected result, a patient's self-report, presentation, medical history, or current prescribed medication plan. Conversely, Medicare and Medicaid specifically excluded from coverage, and did not consider medically necessary, "blanket orders" or routine definitive testing of substances.

18. From January 1, 2016, and continuing through December 31, 2016, presumptive drug testing was reported with HCPCS codes G0477, G0478, and G0479. As of January 1, 2017, and continuing through the return of this Indictment, presumptive drug testing was renumbered and reported with CPT codes 80305, 80306, and 80307. These codes differed based on the level of complexity of the testing methodology, and were reimbursed at different rates. For instance, HCPCS code G0479, and later CPT code 80307, indicated that a higher complexity analyzer was used to perform the presumptive testing.

19. As of January 1, 2016, definitive drug testing was reported with HCPCS codes G0480, G0481, G0482, and G0483. These codes differed based on the number of drug classes, including metabolites, tested, and were reimbursed at different rates—the more drugs tested, the greater the reimbursement.

DEFENDANT AND RELEVANT ENTITIES

20. **EUGENE SISCO III** was a resident of Pike County, in the Eastern District of Kentucky, and the owner and operator of the health care providers described below.

21. Renew Addiction Treatment Clinic, LLC ("Renew"), was an outpatient substance abuse disorder clinic with locations in Pike County, Floyd County, and Harlan County, all in the Eastern District of Kentucky. At various times, Renew was also known as "Behavioral Health Professionals." At all relevant times, Renew was an enrolled provider in the Medicaid program, and its parent organization was Alcohol & Drug Abuse Prevention & Treatment Specialties, LLC (ADAPT), which was also owned and operated by **SISCO**.

22. During the relevant time period, **SISCO** also owned and operated ASAP Addiction Treatment, LLC, another outpatient substance abuse disorder clinic in Pike County; Alcohol & Substance Abuse Professionals, LLC; and RENEW Residential Treatment Services, LLC d/b/a Brookside, all of which were enrolled providers in the Medicaid program at all relevant times.

23. Toxperts, LLC, formerly known as ASAP Labs, LLC, was a urine drug testing laboratory located in Pike County, in the Eastern District of Kentucky. At all relevant times, Toxperts was an enrolled provider in the Medicare and Medicaid programs.

24. **SISCO** caused all patients seeking addiction treatment at Renew or ASAP Addiction Treatment to provide a urine sample for testing each time they visited one of the clinics.

25. **SISCO** caused all of those patient urine samples to be referred to Toxperts, LLC for urine drug testing.

26. Pursuant to blanket orders implemented by **SISCO** and not by the physicians treating the patients, each urine sample underwent presumptive testing by Toxperts, LLC

that was billed to the Medicaid and Medicare programs using HCPCS code G0479 or CPT code 80307.

27. Pursuant to blanket orders implemented by **SISCO** and not by the physicians treating the patients, each urine sample with a positive presumptive test result, including a positive test result for the prescribed buprenorphine, underwent definitive testing by Toxperts, LLC that was billed to the Medicaid and Medicare programs using HCPCS codes G0480 or G0481.

COUNT 1
Wire Fraud
(18 U.S.C. § 1343)

28. Paragraphs 1 through 27 of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

29. From on or about May 10, 2016, and continuing through on or about October 1, 2019, in Pike, Floyd, and Harlan Counties, in the Eastern District of Kentucky, and elsewhere,

EUGENE SISCO III

devised and intended to devise a scheme to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations and promises.

Purpose of the Scheme

30. It was a purpose of the scheme for **SISCO** to unlawfully enrich himself and the health care providers he operated by, among other things, submitting and causing the submission of false and fraudulent claims to the Medicaid program, and by making or

causing to be made material misrepresentations to ASAP Addiction Treatment and Renew patients to induce their payment of cash to those entities.

Manner and Means

31. The manner and means by which **SISCO** sought to accomplish the object of the scheme included, among others, the following:

a. Despite knowing that the Medicaid program prohibited MAT providers, such as ASAP Addiction Treatment and Renew, from charging patients cash for Medicaid covered services, and being warned by letter from Medicaid dated May 10, 2016 that such cash billing was considered an unacceptable practice and would subject his clinics to termination as Medicaid providers, **SISCO** charged patients cash for MAT services and also billed the Medicaid program for those MAT services;

b. **SISCO** caused ASAP Addiction Treatment and Renew to charge Medicaid members $200 to $300 cash per month for MAT services;

c. **SISCO** caused ASAP Addiction Treatment and Renew to bill the Medicaid program for MAT services, particularly physician examinations, provided to the same Medicaid members who had already paid cash for MAT services;

d. **SISCO** also caused Toxperts, LLC to bill the Medicaid program for the urine drug testing component of the MAT services provided to the same Medicaid members who had already paid cash for MAT services;

e. **SISCO** concealed from the Medicaid program the fact that ASAP Addiction Treatment and Renew were charging Medicaid members cash;

f. When Medicaid members questioned why they were paying $200 to

$300 per month and also having their insurance billed for the services, **SISCO** caused his employees to misrepresent that Medicaid would not pay for counseling services provided at ASAP Addiction Treatment and Renew;

g. When employees and contractors of ASAP Addiction Clinic and Renew questioned the legality of the cash charges to patients of those clinics, **SISCO** falsely stated that the cash charge covered counseling services or urine drug testing services that Medicaid would not pay for, even though he knew that Medicaid would pay for counseling services, and even though he knew that Toxperts, LLC, the lab he owned and operated, was receiving payment from Medicaid for the urine drug testing services;

h. **SISCO** required patients at Renew to sign a "Statement of Financial Responsibility" form falsely stating that counseling services were provided by a separate entity called Renew Behavioral Health that was not a medical provider and not eligible to bill Medicaid, and thus counseling would cost $225 per month, when in truth the counseling services at Renew were at all times provided by employees and contractors of Renew, and Renew Behavioral Health was at all times an Alcohol and Other Drug Entity licensed with the Medicaid program;

i. During the same time period, **SISCO** caused more than $3,000,000 in cash payments from patients to be deposited into bank accounts at Community Trust Bank that he controlled.

Execution of the Scheme

32. Between on or about May 10, 2016, and on or about October 1, 2019, in Pike, Harlan, and Floyd Counties, in the Eastern District of Kentucky and elsewhere,

EUGENE SISCO III,

for the purpose of executing the scheme described above, and in order to effect the objects thereof, knowingly caused to be transmitted by means of wire communication in interstate commerce certain writings, signs, signals, pictures, and sounds, that is, claims to the Medicaid program seeking payment for MAT services for which ASAP Addiction Clinic and Renew patients had also paid cash.

All in violation of 18 U.S.C. § 1343.

COUNT 2
Health Care Fraud
(18 U.S.C. § 1347)

33. Paragraphs 1 through 27 of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

34. From on or about an exact date unknown, but at least January 1, 2016, through at least on or about February 18, 2020, in Pike County in the Eastern District of Kentucky, and elsewhere,

EUGENE SISCO III

knowingly and willfully executed, and attempted to execute, a scheme and artifice to defraud health care benefit programs affecting commerce, as defined by Title 18, United States Code, Section 24(b), that is, Medicare, Medicaid, and other health care benefit programs, and to obtain money and property owned by, and under the custody of Medicare, Medicaid, and other health care benefit programs, in connection with the delivery of and payment for health care benefits, items, and services, by means of false

and fraudulent pretenses, to wit, causing claims for payment to be submitted for medically unnecessary urine drug testing performed at Toxperts, LLC, all in violation of 18 U.S.C. § 1347.

FORFEITURE ALLEGATIONS
18 U.S.C. § 982(a)(7)
18 U.S.C. § 981(a)(1)(C)
28 U.S.C. § 2461(c)

1. Upon conviction of the offenses set forth in this Indictment, the defendant, **EUGENE SISCO III**, shall forfeit to the United States pursuant to 18 U.S.C. § 982(a)(7), 18 U.S.C. § 981(a)(1)(C), and 28 U.S.C. § 2461(c), all property, real and personal, that constitutes or is derived, directly or indirectly, from gross proceeds of the violations, including but not limited to a sum of money equal to the amount of gross proceeds of the offenses.

2. The property to be forfeited includes, but is not limited to, the following:

MONEY JUDGMENT:

A sum representing the gross proceeds in aggregate obtained by the defendant as a result of the violations alleged in the Indictment.

3. If any of the above-described forfeitable property, as a result of any act or omission of the defendant:

a. cannot be located upon the exercise of due diligence;

b. has been transferred or sold to, or deposited with, a third party;

c. has been placed beyond the jurisdiction of the court;

d. has been substantially diminished in value; or

e. has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States, pursuant to 21 U.S.C. § 853(p), as incorporated by 18 U.S.C. § 982(b), to seek forfeiture of any other property of the defendant up to the value of the forfeitable property described above.

A TRUE BILL

[redacted]

FOREPERSON

ROBERT M. DUNCAN, JR.
UNITED STATES ATTORNEY

PENALTIES

COUNT 1: Not more than 20 years imprisonment, a fine of not more than $250,000 or the greater of twice the gross gain or twice the gross loss, and supervised release of not more than 3 years.

COUNT 2: Not more than 10 years imprisonment, a fine of not more than $250,000 or the greater of twice the gross gain or twice the gross loss, and supervised release of not more than 3 years.

PLUS: Mandatory special assessment of $100 per count.

PLUS: Restitution, if applicable.

PLUS: Forfeiture as listed.