

STATE OF WISCONSIN,

Plaintiff,

v.

Case No. 20-CF-

LORI M. KLEINHANS
N1579 STATE ROAD 28
ADELL, WI 53001
DOB: 10/06/1957

Defendant.

CRIMINAL COMPLAINT

The Wisconsin Department of Justice, pursuant to its jurisdiction under Wis. Stat. § 49.846(2), files this complaint against Lori M. Kleinhans.

Broadly speaking, the State of Wisconsin alleges that Kleinhans, a private-duty nurse, engaged in two different courses of criminal conduct which defrauded Medicaid. First, as a provider of Medicaid services, she billed Medicaid for services that she did not actually provide. Second, as a Medicaid recipient, she did not report her income—including the income she received from the State as a Medicaid provider—when she filled out an application to receive Medicaid benefits.

More specifically, Fraud Investigator Ken Folkers, being first duly sworn, states on information and belief that:

COUNT 1: MEDICAL ASSISTANCE FRAUD

On or about November 3, 2017, in the City of Madison, Dane County, Wisconsin, the defendant, Lori M. Kleinhans, did intentionally make or cause to be made a false statement

or representation of material fact in an application for a Medical Assistance benefit or payment, contrary to Wis. Stat. §§ 946.91(2)(a) and 939.50(3)(h).

Upon conviction for this offense, a Class H Felony, the defendant may be fined not more than \$25,000, or imprisoned not more than six years, or both.

COUNT 2: MEDICAL ASSISTANCE FRAUD

On or about August 3, 2018, in the City of Madison, Dane County, Wisconsin, the defendant, Lori M. Kleinhans, did intentionally make or cause to be made a false statement or representation of material fact in an application for a Medical Assistance benefit or payment, contrary to Wis. Stat. §§ 946.91(2)(a) and 939.50(3)(h).

Upon conviction for this offense, a Class H Felony, the defendant may be fined not more than \$25,000, or imprisoned not more than six years, or both.

COUNT 3: MEDICAL ASSISTANCE FRAUD

On or about February 21, 2018, in the City of Madison, Dane County, Wisconsin, the defendant, Lori M. Kleinhans, did intentionally make or cause to be made a false statement or representation of material fact for use in determining eligibility for a Medical Assistance benefit or payment, contrary to Wis. Stat. §§ 946.91(2)(b) and 939.50(3)(h).

Upon conviction for this offense, a Class H Felony, the defendant may be fined not more than \$25,000, or imprisoned not more than six years, or both.

Facts Constituting the Offenses Charged

I, the Complainant, am a Fraud Investigator with the Wisconsin Department of Justice's Medicaid Fraud Control and Elder Abuse Unit (MFCEAU). MFCEAU investigates and prosecutes civil and criminal offenses related to Medicaid. Accordingly, I conduct investigations and audits of Medicaid-funded programs, providers, and beneficiaries.

This investigation was primarily conducted by Russell Black, a former investigator with MFCEAU. I worked with Russell Black at MFCEAU, know him to be a skilled investigator, and consider him to be reliable.

This complaint contains a summary of facts necessary to establish probable cause; it does not contain all facts related to this investigation.

Based upon information and belief, I state:

Background

The Wisconsin Medical Assistance program, commonly referred to as Medicaid, is a joint federal and state program that provides coverage for numerous health services to Wisconsin residents. Many types of Medicaid programs exist, each with different rules regarding eligibility.

One such program is a Children's Health Insurance Program called BadgerCare Plus. BadgerCare Plus provides health care coverage for Wisconsin children from lower income households. BadgerCare Plus, in part, covers private-duty nursing (PDN) for children with medical conditions that require eight or more hours of skilled nursing in a twenty-four-hour period.

The Department of Health Services (DHS) administers BadgerCare Plus. Provider requests for payment are routed to DHS headquarters. Likewise, requests to receive Medicaid benefits are routed to DHS headquarters. DHS headquarters are in the City of Madison, Dane County, Wisconsin.

As to Counts 1 and 2:

In August 2017, Lori Kleinhans began providing private-duty nursing to D.L.B. (DOB: 12/29/15). D.L.B. had previously undergone a tracheostomy to install a breathing tube. D.L.B. also required a feeding tube. D.L.B.'s care plan authorized nursing care up to twelve hours per day, seven days a week.

In 2018, the MFCEAU was notified by the Milwaukee County District Attorney's Office that Kleinhans may be billing Medicaid for services not rendered due in large part to D.L.B.'s repeated failure to show up for medical appointments. During the time that D.L.B. was missing medical appointments, Kleinhans was ostensibly providing in-home care for D.L.B. as she was billing Medicaid about sixty hours per week. Accordingly, the MFCEAU opened an investigation.

During the investigation, the Department of Justice installed a pole camera that provided surveillance footage of D.L.B.'s residence for twenty-four hours a day from July 19, 2018, until August 7, 2018. The purpose was to obtain surveillance of the street and driveway of the residence. Billing records show that between July 19, 2018, and August 7, 2018, Kleinhans billed for 12 hours of service every day, excluding Saturdays and Sundays. During this time, however, Kleinhans' vehicle, identified by Wisconsin Department of Transportation records as a white 1999 Ford Explorer sport utility truck, was only seen via surveillance footage at D.L.B.'s residence on the following five dates, totaling 97 minutes of time:

1. On July 19, 2018, Kleinhans arrived at the residence at 4:45 p.m. and left at 4:55 p.m.
2. On July 24, 2018, Kleinhans arrived at the residence at 10:30 a.m. and left at 11:11 a.m.
3. On July 26, 2018, Kleinhans arrived at the residence at 10:13 a.m. and left at 10:33 a.m.
4. On August 1, 2018, Kleinhans arrived at the residence at 10:08 a.m. and left at 10:17 a.m., and returned to the residence at 4:21 p.m. and left at 4:26 p.m.
5. On August 3, 2018, Kleinhans arrived at the residence at 10:13 a.m. and left at 10:19 a.m., and returned to the residence at 2:31 p.m. and left at 2:37 p.m.

During the period of surveillance, Kleinhans' nursing logs state that she worked 12 hours a day. The logs further state that Kleinhans provided "constant supervision" of D.L.B.

Yet, during this time, D.L.B. missed doctors' appointments on July 19, July 20, and August 1, of 2018.

In total, Children's Hospital of Milwaukee records show D.L.B. missed twenty-five medical appointments. These missed appointments took place on October 10, 12, and 25, 2017; November 10, 17, 20, and 21, 2017; December 14 and 28, 2017; January 2, 2018; February 2, 6, 13, 14, and 16, 2018; March 15 and 22, 2018; April 5 and 16, 2018; June 8, 15, 22, and 26, 2018; July 20, 2018; and August 1, 2018.

Following the period of surveillance, MFCEAU Fraud Investigator Russell Black interviewed D.L.B.'s mother, D.M. (DOB: 11/03/1991). D.M. said, in part, that Kleinhans provides private-duty nursing care for D.L.B., that Kleinhans is at her home Monday through Friday each week from about 7 a.m. until 9 p.m., that Kleinhans has only missed one day of work since she started, and that Kleinhans always takes D.L.B. to D.L.B.'s weekly oncology appointments. D.M. said that any information indicating that Kleinhans was not providing care for D.L.B. is false, and D.M. denied receiving money from Kleinhans in exchange for not having to provide care to D.L.B.

On a later date, Investigator Black interviewed Kleinhans with her lawyer present. Kleinhans said she began providing care services for D.L.B. in August of 2017. Kleinhans, in part, also said that she provides care for D.L.B. Monday through Friday each week, from approximately 6:00 a.m. until 6:30 p.m., that most of the care is provided at D.M. and D.L.B.'s home, that D.L.B. has weekly appointments at Children's Hospital of Milwaukee, that she transports D.L.B. to the appointments in her vehicle (she also said that she owns a white Ford Explorer and a small red Ford), and that D.L.B. has missed only one medical appointment since she started providing private-duty nursing care. Kleinhans further said that she has missed three days of work since she started providing care for D.L.B.

Kleinhans said she submitted her work hours to Badgerland Billing, LLC, and that the company submitted the hours to DHS. Kleinhans stated she submitted her hours to Badgerland Billing, LLC, via telephone. Kleinhans stated after the hours were submitted, she received payment from DHS in the form of a check. Billing records from Badgerland indicate, in relevant part, that Kleinhans submitted hours on November 3, 2017 (for work from October 2, 2017 to October 27, 2017) and August 3, 2018 (for work from July 30, 2018 to August 3, 2018). Kleinhans said she never submitted billing hours in excess of the amount of time that she provided care to D.L.B.

However, Kleinhans' billing records show that she submitted 12 hours a day for October 9, 2017 through October 11, 2017, when she attended a jury trial in Milwaukee County Case No. 15-CV-8414. Wisconsin CCAP records state that the trial lasted three days and that Kleinhans, as the plaintiff, was present each day.

DHS paid Kleinhans \$6,276.48 for her submitted claims for work purportedly completed between July 19, 2018, and August 7, 2018. DHS paid Kleinhans \$1,176.84 for her submitted work claims from October 9, 2017, through October 11, 2017.

As to Count 3:

At some point before 2018, Kleinhans became not just a provider but a recipient of Medicaid benefits through BadgerCare Plus. In February 2018, Milwaukee Enrollment Services mailed Kleinhans a notice that she needed to fill out the requisite renewal forms so that she did not experience a gap in her benefits. On the renewal form, Kleinhans reported that no one in her home had a job and that no one in her home is self-employed. Kleinhans did not report any income. Kleinhans signed the renewal signature page on February 21, 2018, certifying the accuracy of the provided information. However, as of December 4, 2017, Kleinhans had been paid \$29,747.90 by DHS for her work as a Medicaid provider in 2017.

Conclusion

I, the Complainant, believe the information contained above is truthful and accurate and that there is probable cause that Kleinhans committed the above alleged offenses.

Dated this 17th day of September, 2020.



KEN FOLKERS
Fraud Investigator
Medicaid Fraud Control & Elder Abuse Unit
Wisconsin Department of Justice

State of Wisconsin
County of Dane
Subscribed and sworn to
before me and approved for filing
this 17th day of September, 2020.



Notary Public, State of Wisconsin
My commission is permanent.

