

United States Department of Justice

**For Immediate Release**

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**Central District of California**

## **Seventeenth Defendant Sentenced in \$15 Million Medicare Fraud Scheme Targeting Elderly, Mentally Ill**

SANTA ANA, CA—Concluding six years of litigation, the 17th and final defendant convicted in relation to a \$15 million health care fraud scheme that targeted the mentally ill and elderly was sentenced earlier this week to 30 months in federal prison.

Xinming Fu, 48, an Irvine physician, was sentenced Monday afternoon after previously pleading guilty to conspiracy to pay kickbacks and health care fraud, admitting that he was part of a scheme that bilked Medicare out of \$15 million for respiratory treatments that were unnecessary, not performed in accordance with Medicare rules, or not performed at all. Fu, who was one of six medical doctors convicted in the scheme, was also ordered to pay \$390,000 in restitution by United States District Judge James V. Selna.

The 17 defendants were named in a criminal information and three indictments returned by federal grand juries as far back as 2004. Three of the cases involved a scheme in which the owner of a respiratory treatment program, Herman Thomas, recruited Medicare patients who were housed at board-and-care facilities throughout Southern California. As part of the scheme, which operated from 2000 through 2006, Thomas and doctors that he recruited paid illegal kickbacks to marketers, who in turn paid illegal kickbacks to the owners and administrators of the board-and-care facilities, who provided access to mentally ill and elderly residents. On a monthly basis, the doctors ordered respiratory treatments, which typically were unnecessary and were performed by respiratory therapists on a daily or almost daily basis without any physician supervision, in violation of Medicare rules requiring that a physician be on-site when respiratory treatments are performed. The respiratory treatments also violated Medicare rules because the treatments should have been performed at a doctor's office or in a mobile medical unit, instead of at the board-and-care facilities, where treatments were often performed in the facilities' smoking rooms. The mentally ill and elderly residents of the board-and-care facilities were enticed to undergo the respiratory treatments with soda, candy, donuts and even cigarettes. Sometimes residents were not present at the board-and-care facilities because they were off-site receiving treatment at local hospitals, but Medicare was billed for respiratory treatments anyway.

The fourth case in this investigation arose from a respiratory therapist/marketer who previously worked for Thomas and recruited a doctor to run a separate, but similar respiratory program.

The defendants previously sentenced as a result of this investigation were:

1. Dr. Aziz Awad, 47, formerly of Anaheim and Pasadena, was sentenced to 15 years in prison and ordered to pay \$2,625,722 in restitution (see:

<http://www.justice.gov/usao/cac/pressroom/pr2006/126.html>);

2. Herman Thomas, 51, of Bellflower, who was convicted at trial with Awad, was sentenced to 88 months imprisonment and ordered to pay \$2,625,722 in restitution;
3. Dr. Paul Arnold Lessler, 71, of West Hills, was sentenced to two years in custody and ordered to pay nearly \$1.1 million in restitution after pleading guilty to conspiracy to commit health care fraud and health care fraud;
4. Dr. Gershon Walter Hepner, 72, of Los Angeles, was sentenced to 30 months in custody and ordered to pay \$422,400 in restitution after pleading guilty to conspiracy to commit health care fraud and pay kickbacks, and health care fraud;
5. Dr. Aginah M. DeBerry, 57, of Rancho Cucamonga, was sentenced to one year in prison and ordered to pay \$707,800 in restitution after pleading guilty to conspiracy to commit health care fraud and pay kickbacks;
6. Glen Garcia Madrid, 46, of Yorba Linda, a marketer, was sentenced to one year in prison and ordered to pay \$1,566,977 in restitution after pleading guilty to conspiracy to pay kickbacks and health care fraud;
7. Levi Raitchik, 49, of Los Angeles, a marketer, was sentenced to eight months in custody and ordered to pay \$395,100 in restitution after pleading guilty to conspiracy to pay kickbacks and health care fraud;
8. Schmucl B. Fogelman, 49, of Los Angeles, a marketer, was sentenced to one year in custody and ordered to pay \$693,000 in restitution after pleading guilty to conspiracy to pay kickbacks and health care fraud;
9. Barbara Sue Thrash, 60, of Corona, a board-and-care administrator, was sentenced to 15 months in custody and ordered to pay \$495,019.05 in restitution after pleading guilty to conspiracy to receive kickbacks and health care fraud;
10. Teresita Cagudala Bolong, 62, of Rancho Palos Verdes, a board-and-care owner and administrator, was sentenced to six months in prison, ordered to pay a \$17,000 fine, and ordered to pay \$108,000 in restitution after pleading guilty to receiving kickbacks;
11. Dr. David Todd Asher, 42, of Fullerton, was sentenced to probation and ordered to pay \$6,850 in restitution after pleading guilty to conspiracy to pay kickbacks;
12. Emilita Nunez Canenea, 50, of San Dimas, a board-and-care owner and administrator, was sentenced to probation, ordered to pay a \$20,000 fine, and ordered to pay \$18,000 in restitution after pleading guilty to receiving kickbacks;
13. Shahnaz Chadorbaf-Arastoo, 54, of Irvine, a board-and-care owner and administrator, was sentenced to probation, ordered to pay a \$5,000 fine, and ordered to pay \$4,000 in restitution after pleading guilty to receiving kickbacks;
14. Magdalena Gonzales, 57, of Denver, a board-and-care administrator, was sentenced to

probation and ordered to pay \$9,500 in restitution after pleading guilty to aiding and abetting a false claim

15. Hamid Rafizadeh, 54, of Escondido, a board-and-care administrator, was sentenced to probation, ordered to pay a \$5,000 fine, and ordered to pay \$8,500 in restitution after pleading guilty to receiving kickbacks; and

16. Alexander Tanciano Tagaro, 62, of Perris, a board-and-care administrator, was sentenced to probation and ordered to pay \$7,500 in restitution after pleading guilty to receiving kickbacks.

These cases were the product of a joint investigation by the Federal Bureau of Investigation, the United States Postal Inspection Service, and IRS-Criminal Investigation.