

STATE OF INDIANA)
) SS:
COUNTY OF PERRY)

IN THE PERRY CIRCUIT COURT
CAUSE NO:

STATE OF INDIANA)
)
VS.)
)
BETTY HANKS)

AFFIDAVIT OF PROBABLE CAUSE

I, Brian Goodwin, Investigator for the Indiana Attorney General Medicaid Fraud Control Unit, have good cause to believe that on or between May 1, 2015 and June 28th, 2017, Betty Hanks, in the County of Perry, State of Indiana, did committed the following crimes:

I.C. 35-43-4-2(a)(2), Theft – a Level 5 Felony

I.C. 35-43-5-3.5(a) Identity Deception- a Level 6 Felony

- 1) I am an investigator, having over four years of experience with the Indiana Medicaid Fraud Control Unit (“MFCU”), a division of the Indiana Office of the Attorney General. I earned an Associates of Science degree in Health Information Technology from Ivy Tech Community College. I am a certified Registered Health Information Technician (“RHIT”), through the American Health Information Management Association (“AHIMA”). I am a 2016 graduate of the Indiana Law Enforcement Academy Tier III Investigator training. I have also received specialized training in the investigation of Medicaid fraud, health care fraud, theft and related crimes, and in the diversion of controlled substances by medical practitioners.
- 2) I participated in the investigation of the offenses described within this affidavit. The statements contained in this affidavit are based in part on information provided by, conversations with, and written statements and information from current and former employees of Liberty Laboratory and health care workers who came into contact with Liberty Laboratory. I believe these witnesses to be truthful and credible.
- 3) Because this affidavit is being submitted for the purpose of finding probable cause I have not included each and every fact that has been revealed through the course of this investigation. I have set forth only the facts that are believed to be necessary to establish the required foundation for a finding of probable cause.
- 4) Liberty Laboratory is a company based in Perry County, Indiana that provides laboratory

services in Indiana and Kentucky. Liberty Laboratory is located at 132 13th St, Tell City, IN 47586. Betty Hanks (“Hanks”) was the sole owner and personally submitted claims to medical insurers for reimbursement for services the lab had allegedly performed.

- 5) On June 9th, 2017, I received a tip from Health and Human Services, Office of Inspector General Special Agent Jason K. Morgan. Through data mining, Morgan discovered an unusually high number of claims for CPT medical billing codes for Venipuncture (blood draw) and travel to conduct the blood draw. Shortly after I received the tip from Morgan, Morgan left HHS-OIG and Special Agent Connie Murray was assigned the case. Throughout the investigation, Murray and I reviewed Medicare and Medicaid claims data, interviewed patients of Liberty, interviewed current and former employees of Liberty, and interviewed local physicians whose patients used Liberty for lab services.
- 6) Claims for reimbursement from Medicare and Medicaid are submitted manually via a website portal or through a provider’s Electronic Health Record (EHR) system. The Medicare website portal is accessed via a unique username and password. According to several current and former employees, Betty Hanks was the only person that submitted claims to Medicare. Once logged into the Medicare portal, Hanks would enter information, such as the patient name and other identifiers, the date(s) of service, the procedure code(s) and/or the HCPCS code(s), a place of service code and other information necessary to complete the submission of the claim. Hanks did not allow anyone else in the office to bill Medicare and no one else in the office had a username or password that would allow them to do so. The Medicare claims data evidence corroborates their statements by showing that billing stopped on the day that Hanks was incarcerated on an unrelated charge on August 31, 2015 and aggressively resumed billing shortly after her release.
- 7) Current Procedural Terminology (CPT) is a set of medical procedure codes that is published annually by the American Medical Association. CPT codes are the industry standard for medical providers to code and document the services that are rendered to patients. CPT codes are also the industry standard used for billing the payer of health claims. Each CPT code is assigned a dollar amount by the payer that represents the usual and customary fee allowed for each covered instance that a medical provider renders a service to a patient, and submits a claim for reimbursement. Relevant to this investigation, CPT code 36415 is the “Collection of venous blood by venipuncture”. Healthcare Common Procedure Coding System (HCPCS), has

its own coding guidelines and works hand in hand with CPT. HCPCS includes three separate levels of codes: Level I codes consist of the AMA's CPT codes and is numeric. Level II codes are the HCPCS alphanumeric code set and primarily include non-physician products, supplies, and procedures not included in CPT. Relevant to this investigation, HCPCS code P9604 is "travel allowance one way in connection with medically necessary laboratory specimen collection drawn from a home bound or nursing home bound patient".

- 8) On November 14th, 2013, Liberty Laboratory lost its CLIA certification, which is required in order to perform and bill Medicaid and Medicare for certain testing. Of relevance to this investigation is the inability to perform the testing and bill for a PT/INR test.
- 9) PT/INR is a blood test. According to The Mayo Clinic website, a prothrombin time test measures how quickly your blood clots. Prothrombin is a protein produced by your liver. It is one of many factors in your blood that help it to clot appropriately. If you take a blood-thinning medication such as warfarin (Coumadin), your prothrombin time test results will be expressed as a ratio called the international normalized ratio (INR). This ratio allows a physician, nurse practitioner, etc. to make a decision to increase or decrease the dosage of warfarin based on the results of the PT/INR test.
- 10) During the time that the CLIA certification was revoked, Hanks only billed for venipuncture and the travel to conduct venipuncture. (Merriam-Webster defines venipuncture as "surgical puncture of a vein especially for the withdrawal of blood or for intravenous medication"). Both services were authorized to be billed without a CLIA certification. However, documentation from the laboratory shows that they were actually conducting PT/INR testing which they were not authorized to perform. The documentation is on Liberty Laboratory forms and is marked that a PT/INR is performed and has the result of the testing on the Liberty Laboratory report. Additionally, billing records indicate that Hanks billed correctly for PT/INR testing rather than for venipuncture, before the CLIA certification was revoked and only started billing for venipuncture instead once their claims for PT/INR were being denied once their CLIA revocation was logged into the billing system.
- 11) After the waiting period required following revocation, Liberty Laboratory was granted a CLIA waiver on June 28th, 2017 which then allowed them to perform some, but not all, of the previously unauthorized testing again, including the PT/INR test. At this time Hanks began billing for PT/INRs again and stopped billing for venipuncture and travel.

- 12) When cross comparing the billing documents for Medicare patients, this investigator noticed that Hanks billed for hundreds of venipunctures on patients but there were no corresponding lab tests billed by any outside, or third party laboratories. This indicates that Liberty Laboratory would have been drawing blood but never sending it anywhere for testing. In other words, if Hanks had been drawing blood samples, but not sending them out, Hanks would not be entitled to payment because the lab test is the medically necessary procedure, the venipuncture is just the means to obtain the blood sample. Without the test being performed, the venipuncture is unnecessary and not billable. There was no testing on blood that was authorized to be performed within Liberty Laboratory itself during this revocation period.
- 13) Documents from the time when the CLIA certification was revoked show that Hanks routinely billed for services not rendered. Hanks billed for venipuncture procedures, which was actually an unauthorized PT/INR finger prick test, and travel to that unauthorized testing. Hanks also billed for venipuncture procedures, which did not occur at all, and travel to that non-existent procedure. Hanks submitted false claims for venipuncture and travel which claimed to be performed after the patient was deceased.
- 14) On or between May 1, 2015 and June 28th, 2017, the total amount billed by Hanks which were found to be fraudulent is \$74,868.00. The total amount paid to Liberty Laboratory for these false claims was \$63,642.65. There is no record that Liberty Laboratory ever paid back any of this fraudulently obtained money to the Medicare and Medicaid Programs.
- 15) On or between 04/12/2016 and 05/10/2016, Betty Hanks submitted claims to Medicare alleging that her laboratory had traveled to, and conducted a venipuncture on, Patient LH, on at least 17 dates of service between 03/02/2016 and 05/10/2016. Each CPT code 36415 (venipuncture) would require the presence of the patient and a laboratory employee to draw a blood sample for which Hanks billed. Patient LH passed away on 02/10/2016. The initial claims filed by Hanks denied payment due the patient's status as deceased, but Hanks continued to submit forged claims for dates of service encompassing three months following LH's death, with the intent to defraud the government.
- 16) On or between 03/14/2016 and 04/26/2016, Betty Hanks submitted forged claims to Medicare alleging that her laboratory had traveled to and conducted a venipuncture on Patient RL on at least 10 dates of service between 03/14/2016 and 04/05/2016. Each CPT code 36415 (venipuncture) would require the presence of the patient and a laboratory employee to draw a

blood sample, for which Hanks billed. Patient RL passed away on 03/05/2016. The initial claims filed by Hanks denied payment due to the patient's status as deceased, but Hanks continued to submit forged claims for dates of service encompassing two months following RL's death.

- 17) On or between 04/29/2016 and 06/14/2016, Betty Hanks submitted forged claims to Medicare alleging that that her laboratory had traveled to and conducted a venipuncture on Patient JP on at least 4 dates of service between 04/10/2016 and 04/23/2016. Each CPT code 36415 (venipuncture) would require the presence of the patient and a laboratory employee, to draw a blood sample for which Hanks billed for. Patient JP passed away on 04/01/2016. The initial claims filed by Hanks denied payment due the patient's status as deceased, but Hanks continued to submit forged claims for dates of service following JP's death.
- 18) On or around 05/12/2016, Betty Hanks submitted forged claims to Medicare alleging that her laboratory had traveled to and conducted a venipuncture on Patient MM on at least 4 dates of service between 04/22/2016 and 05/10/2016. Each CPT code 36415 (venipuncture) would require the presence of the patient and a laboratory employee to draw a blood sample for which Hanks billed for. Patient MM passed away on 04/16/2016. Hanks filed these eight claim lines for dates of service approximately one month following MM's death.
- 19) On or around 11/16/2015, Betty Hanks submitted forged claims to Medicare alleging that her laboratory had traveled to and conducted a venipuncture on Patient AA on at least 2 dates of service between 11/10/2015 and 11/11/2015. Each CPT code 36415 (venipuncture) would require the presence of the patient and a laboratory employee to draw a blood sample for which Hanks billed. Patient AA passed away on 02/22/2014. Hanks filed these four claim lines for dates of service approximately twenty-one months following AA's death.

I swear, under the penalty for perjury as specified by I.C. 35-44.1-2-1 that the foregoing is true to the best of my information and belief.



Affiant, Brian Goodwin, Investigator
Indiana Office of the Attorney General
Medicaid Fraud Control Unit