UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT CHATTANOOGA

UNITED STATES OF AMERICA and THE STATE OF TENNESSEE, *ex rel.* DENNIS DODSON	)	
Plaintiffs/Relator,	)	Civil Action No. 1:11-CV-182
	)	MATTICE/CARTER
v.	)	
	)	JURY TRIAL DEMANDED
THE A.I.M. CENTER, INC.	)	
Defendant.	)	

FIRST AMENDED COMPLAINT
OF THE UNITED STATES OF AMERICA
AND THE STATE OF TENNESSEE

1. The United States of America ("United States") and the State of Tennessee file this Complaint in Intervention against Defendant The A.I.M. Center, Inc. ("AIM Center"), to recover damages and civil penalties under the Federal False Claims Act ("FCA" or "the Federal Act"), 31 U.S.C. § 3729 *et seq.*, and the Tennessee Medicaid False Claims Act ("TMFCA" or the "Tennessee Act"), Tenn. Code Ann. § 71-5-182 *et seq.*, and to recover damages and other monetary relief under the common law or equitable theories of payment under mistake of fact, unjust enrichment, conversion, and fraud.

JURISDICTION AND VENUE

2. This Court has jurisdiction under 31 U.S.C. §§ 3730 and 3732, 28 U.S.C. §§ 1331 and 1345, and supplemental jurisdiction to entertain the state and common law causes of action under 28 U.S.C. §1367(a).

3. The Court may exercise personal jurisdiction over the AIM Center under 31 U.S.C. § 3732(a), because the AIM Center is located in this District, it submitted claims for payment to the United States and the State of Tennessee from this District and it received payments from the United States and the State of Tennessee from this District.

4. Venue is proper in this District under 31 U.S.C. § 3732, 28 U.S.C. § 1391(b) and (c), and Tenn. Code Ann. § 71-5-185, because the AIM Center transacts business in this District and the events giving rise to the causes of action in this complaint occurred in this District.

PARTIES

5. Plaintiff United States brings this action on behalf of the Department of Health and Human Services ("HHS"), which includes the Centers for Medicare and Medicaid Services ("CMS").

6. Plaintiff State of Tennessee brings this action on behalf of its Medicaid program known as TennCare.

7. This action was commenced by relator Dennis Dodson, who filed a complaint under seal on or about July 8, 2011, pursuant to the *qui tam* provisions of the FCA, 31 U.S.C. § 3730(b), and the TMFCA, Tenn. Code Ann. § 71-5-183(b). On information and belief, Mr. Dodson, a resident of Hamilton County, Tennessee, is a former client/member of the AIM Center, and as such, visited the AIM Center facility located in Chattanooga, Tennessee on numerous occasions from 2008 through 2010.

8. Defendant AIM Center is a domestic not-for-profit corporation organized in and doing business under the laws of the State of Tennessee. At all times material to this action, the AIM Center operated (and continues to operate) a facility in Chattanooga, Hamilton County,

Tennessee, which offers psychosocial rehabilitation and other outpatient psychiatric rehabilitation services to certain residents of the Chattanooga, Hamilton County area.

LEGAL AND REGULATORY BACKGROUND

The Federal Agency and Program

9. The federal health care program involved in this action is Medicaid.

10. Title XIX of the Social Security Act (the "Medicaid Act") authorizes federal grants to the states for Medicaid programs to provide medical assistance to persons with limited income and resources. 42 U.S.C. § 1396 *et seq.*

11. Medicaid programs are administered by the states in accordance with federal statutes and regulations and pursuant to state plans which must be approved by the Secretary of HHS. 42 C.F.R. § 430.0.

12. CMS administers Medicaid on the federal level.

13. On the state level, Medicaid programs are administered by the states and are jointly financed by the federal and state governments. The federal portion of a state's Medicaid payments, known as the Federal Medical Assistance Percentage, is based on the state's per capita income compared to the national average. 42 U.S.C. § 1396(b). In Tennessee, the amount of the federal share of medical assistance expenditures during the relevant time period has been approximately 65 percent. In other words, for every dollar spent by Tennessee to fund its Medicaid program, the federal government provided the State approximately $.65.

14. Generally, state Medicaid agencies pay for services rendered to Medicaid beneficiaries from state funds combined with federal funds made available to them by the federal government for that purpose.

15. A state submits a CMS 64 Form (CMS 64) to CMS detailing its actual recorded Medicaid expenditures. 42 C.F.R. § 430.30(c). The amount of federal funding participation is determined in part on the basis of the CMS 64. 42 C.F.R. § 430.30(a)(2).

16. Each fiscal quarter, CMS makes available federal funds for reimbursement of Medicaid expenditures to a state based on that state's estimate of anticipated Medicaid expenditures. 42 C.F.R. § 430.30.

17. A state will periodically draw down those federal funds and use those funds to pay for services rendered to Medicaid enrollees.

The Tennessee Agency and Program

18. The State of Tennessee participates in the Medicaid program, pursuant to Tenn. Code Ann. §§ 71-5-101 to -199. In return for receipt of federal subsidies, the State of Tennessee is required to administer its Medicaid program in conformity with a state plan that satisfies the requirements of the Social Security Act and accompanying regulations. Tenn. Code Ann. § 71-5-102.

19. In Tennessee, the State of Tennessee Department of Finance & Administration administers the state Medicaid program, commonly known as TennCare, through the Bureau of TennCare. Tenn. Code Ann. § 71-5-104. TennCare operates as a special demonstration project authorized by the United States Secretary of Health and Human Services under the waiver authority conferred by 42 U.S.C. § 1315. The State of Tennessee Department of Finance & Administration supervises TennCare's administration of medical assistance for eligible recipients. Tenn. Code Ann. §§ 71-5-105 to -107. The State of Tennessee Department of Finance & Administration is authorized to promulgate rules and regulations to effectuate the purposes of TennCare. Tenn. Code Ann. §§ 71-5-124, 71-5-134.

20. TennCare contracts with private managed care contractors (known as Managed Care Organizations (MCOs)) through contracts, known as Contractor Risk Agreements (CRAs), which must follow the requirements of 42 U.S.C. § 1395mm, along with any related federal rules and regulations. Tenn. Code Ann. § 71-5-128.

21. The MCOs contract directly with providers to provide health care services to eligible TennCare enrollees. These contracts are known as Provider Agreements. Providers, including appropriately licensed facilities, who have entered into such an agreement with an MCO are known as Participating Providers. Tenn. Comp. R. & Regs. 1200-13-13.01(90) and (100). Pursuant to the CRAs, TennCare distributes the combined state and federal Medicaid funding to the MCOs, which then pay Participating Providers for treatment of TennCare enrollees.

22. TennCare-eligible persons seeking mental health assistance enroll in an MCO to receive behavioral health care services from a Participating Provider. Tenn. Comp. R. & Regs. 1200-13-13.03.

TennCare Reimbursement Requirements

23. The term "medical assistance" is defined at 42 U.S.C. § 1396d and Tenn. Code Ann. § 71-5-103(7) and includes payment for the cost of provision of medical services by qualified, licensed practitioners to an eligible person.

24. TennCare will only pay for services that are within the scope of the TennCare program and that are "medically necessary." A service is determined to be medically necessary if it satisfies each of the following criteria:

> (1) It must be required in order to diagnose or treat an enrollee's medical condition. . . . (2) It must be safe and effective. . . . (3) It must be the least costly alternative course of diagnosis or treatment that is adequate for the medical condition of the enrollee. . . . Where there are less costly alternative courses of

> diagnosis or treatment, including less costly alternative settings, that are adequate for the medical condition of the enrollee, more costly alternative courses of diagnosis or treatment are not medically necessary. An alternative course of diagnosis or treatment may include observation, lifestyle or behavioral changes or, where appropriate, no treatment at all; and (4)(A) It must not be experimental or investigational.

Tenn. Code Ann. §71-5-144(a).

25. In order to be reimbursed for medical services provided to TennCare enrollees, a Participating Provider must submit claims to the TennCare program using a standardized process that includes standard claims forms and standardized coding. Tenn. Code Ann. § 71-5-191.

26. To be eligible to bill and receive reimbursement for medical services provided to TennCare enrollees, a Participating Provider must possess a unique provider identification number. All claims for reimbursement must be submitted under a valid provider identification number for the identified provider.

27. Claims for reimbursement are submitted via paper or electronic versions of either a UB-04 or a CMS 1500 form. The UB-04 or the CMS 1500 form contains, *inter alia*, the patient's identifying information, the provider's unique identification number, and a description of the items and services provided, for which reimbursement is sought.

28. On either the UB-04 or the CMS 1500 form, a Participating Provider identifies the services for which reimbursement is sought using standard, uniform code numbers as set out in the Healthcare Common Procedure Coding System ("HCPCS"). The HCPCS provides standardized coding for describing the specific items and services provided in the delivery of health care. With the implementation of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), the use of the HCPCS for identifying services for which providers seek reimbursement became mandatory. 42 U.S.C. §1320d.

29. The HCPCS has three levels of codes – Level II codes are alphanumeric and include primarily non-physician services. Codes beginning with the letter "H" are used to describe Rehabilitative Services. The HCPCS codes involved in this action are H2017 -- psychosocial rehabilitation services, per 15 minutes; H2018 -- psychosocial rehabilitation services, *per diem*; and H2023 – supported employment, per 15 minutes.

30. A TennCare Participating Provider must submit a claim for payment or reimbursement for only those services actually performed. To be reimbursed for a service under any HCPCS code, the Participating Provider must properly document in the patient's medical record that the service billed was actually provided. 42 C.F.R. § 431.107(b)(1).

31. A TennCare Participating Provider that receives an overpayment – that is, any Medicaid/TennCare funds that the Participating Provider receives or retains to which the Provider, after applicable reconciliation, is not entitled – is required by law to report and return the overpayment within 60 days from the date that the overpayment was identified or by the date a corresponding cost report was due, whichever is later. 42 U.S.C. § 1320a-7k(d)(1), (2), (4). Any overpayment retained by a Participating Provider after the deadline for reporting and returning the overpayment is an "obligation" for purposes of the Federal False Claims Act ("FCA"). 42 U.S.C. § 1320a-7k(d)(3).

The Federal False Claims Act

32. The Federal False Claims Act ("FCA") at 31 U.S.C. § 3729 (2009) provides, in pertinent part, that:

> (a)(1) . . . any person who –
>
> > (A) knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval;
> >
> > (B) knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim; . . . or
> >
> > (G) knowingly makes, uses, or causes to be made or used, a false record or statement material to an obligation to pay or transmit money or property to the Government, or knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to the Government,
>
> is liable to the United States Government for a civil penalty of not less than $5,000 and not more than $10,000, as adjusted by the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note; Public Law 104-410), plus 3 times the amount of damages which the Government sustains because of the act of that person. . . .
>
> * * *
>
> (b) . . . For purposes of this section--
>
> > (1) the terms "knowing" and "knowingly" –
> >
> > > (A) mean that a person, with respect to information –
> > >
> > > > (i) has actual knowledge of the information;
> > > >
> > > > (ii) acts in deliberate ignorance of the truth or falsity of the information; or
> > > >
> > > > (iii) acts in reckless disregard of the truth or falsity of the information, and
> > >
> > > (B) require no proof of specific intent to defraud;
> >
> > (2) the term "claim" –
> >
> > > (A) means any request or demand, whether under a contract or otherwise, for money or property and whether or not the United States has title to the money or property, that –
> > >
> > > > (i) is presented to an officer, employee, or agent of the United States; or

> (ii) is made to a contractor, grantee, or other recipient, if the money or property is to be spent or used on the Government's behalf or to advance a Government program or interest, and if the United States Government –
>
> > (I) provides or has provided any portion of the money or property requested or demanded; or
> >
> > (II) will reimburse such contractor, grantee, or other recipient for any portion of the money or property which is requested or demanded; and
>
> * * *
>
> (3) the term "obligation" means an established duty, whether or not fixed, arising from an express or implied contractual, grantor-grantee, or licensor-licensee relationship, from a fee-based or similar relationship, from statute or regulation, or from the retention of any overpayment; . . . .

31 U.S.C. § 3729.

The Tennessee Medicaid False Claims Act

33. The Tennessee Medicaid False Claims Act (TMFCA), Tenn. Code Ann. §§ 71-5-182 to -185, provides in pertinent part that a person who:

> (A) Knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval under the medicaid program;
>
> (B) Knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim to get a false or fraudulent claim under the medicaid program paid for or approved;
>
> (C) Conspires to commit a violation of subdivision (a)(1)(A), (a)(1)(B), or (a)(1)(D); or
>
> (D) Knowingly makes, uses, or causes to be made or used, a false record or statement material to an obligation to pay or transmit money or property to the state, or knowingly conceals, or knowingly and improperly, avoids, or decreases an obligation to pay or transmit money or property to the state, relative to the medicaid program
>
> is liable to the state for a civil penalty of not less than five thousand dollars ($5,000) and not more than twenty-five thousand dollars ($25,000), adjusted by the Federal Civil Penalties Inflation Adjustment Act of 1990, compiled in 28 U.S.C. § 2461 note; Public Law 101-410, plus three (3) times the amount of damages which the state sustains because of the act of that person.

> * * *
>
> (b) For purposes of this section, "knowing" and "knowingly" mean that a person, with respect to information:
>
> (1) Has actual knowledge of the information;
>
> (2) Acts in deliberate ignorance of the truth or falsity of the information; or
>
> (3) Acts in reckless disregard of the truth or falsity of the information, and no proof of specific intent to defraud is required.
>
> * * *
>
> (c) "Claim" means any request or demand, whether under a contract or otherwise, for money or property and whether or not the state has title to the money or property, that is presented to any employee, officer, or agent of the state, or is made to any contractor, grantee, or other recipient, if the money or property is to be spent or used on the state's behalf or to advance a state program or interest, and if the state provides or has provided any portion of the money or property requested or demanded; or if the state will reimburse such contractor, grantee, or other recipient for any portion of the money or property which is requested or demanded; and does not include requests or demands for money or property that the state has paid to an individual as compensation for state employment or as an income subsidy with no restrictions on that individual's use of the money or property.

Tenn. Code Ann. § 71-5-182.

FACTUAL BACKGROUND

34. During all times relevant to this complaint, the AIM Center was a TennCare Participating Facility Provider under contract with two TennCare-authorized MCOs: UnitedHealthcare Community Plan (United); and Volunteer State Health Plan (VSHP), through ValueOptions of Tennessee, Inc. (ValueOptions).

35. During all times relevant to this complaint, the AIM Center facility was licensed by the Tennessee Department of Mental Health and Substance Abuse Services to provide mental health psychosocial rehabilitation services. Psychosocial rehabilitation services are services provided to adult service recipients through a consumer-centered program to enhance and

support the service recipients' process of recovery and successful community integration. Tenn. Comp. R. & Regs. 0940-5-29.01.

36. A service recipient's record for each service must contain a record of attendance at program services; a discharge summary, if appropriate; and written progress notes developed on a minimum weekly basis. Progress notes must be dated and include, at a minimum, the signature and title or degree of the person preparing the note. Tenn. Comp. R. & Regs. 0940-5-29.08.

37. Beginning no later than January 1, 2009, and continuing through the present, the AIM Center provided mental health psychosocial rehabilitation services to TennCare enrollees and submitted, or caused to be submitted, claims for, and received federal and state funds in payment for, providing these services.

The AIM Center billed TennCare for services that were more lengthy, involved, and expensive than the services actually provided or documented.

38. Beginning no later than January 1, 2009, and continuing through at least December 31, 2012, the AIM Center routinely engaged in upcoding, that is, submitting, or causing to be submitted, false claims to the TennCare program for services provided to TennCare enrollees that were more lengthy, involved, and expensive than the services the AIM Center actually provided or documented. On information and belief, this improper billing practice has continued up to the present.

39. Specifically, from at least June 1, 2009 to at least December 31, 2010, the AIM Center knowingly submitted, or caused to be submitted, false claims to the TennCare program by claiming *per diem* reimbursement for each and every member who visited the facility, regardless of the amount of time each member actually received psychosocial rehabilitation services at the facility. Significantly, under the terms of its facility provider agreement with ValueOptions, the

AIM Center was permitted to bill for psychosocial rehabilitation services using either HCPCS code H2017 (for which the AIM Center would receive reimbursement in the amount of $11.35 per 15 minutes) or HCPCS code H2018 (for which the AIM Center would receive reimbursement in the amount of $93.47 per day), as circumstances warranted. Accordingly, the use of HCPCS code H2018 to bill TennCare for psychosocial rehabilitation services on a *per diem* basis when the 15 minute unit HCPCS code H2017 is reimbursable is not supported or justified where facility members received psychosocial rehabilitation services of relatively short duration, up to and including two hours. On information and belief, this improper billing practice began as early as January 1, 2009, and has continued up to the present.

40. From at least June 1, 2009 to at least December 31, 2010, the AIM Center submitted, or caused to be submitted, claims to a TennCare MCO under HCPCS code H2018 for *per diem* psychosocial rehabilitation services that were not supported by the facility's documentation. During this time, the AIM Center submitted, or caused to be submitted, claims under HCPCS code H2018 (psychosocial rehabilitation services, per diem) for services provided to TennCare members enrolled with ValueOptions with actual knowledge, deliberate ignorance, or reckless disregard for the fact that those particular members received services for 15 minutes or less on the claimed dates of service. The AIM Center did not provide the *per diem* level of services claimed because, in fact, members received services for 15 minutes or less and the claims for those services should have been submitted under a single 15 minute unit HCPCS code H2017. On information and belief, this practice began as early as January 1, 2009, and has continued up through the present.

41. The following are some examples of the many false claims made by the AIM Center for TennCare enrollees who received psychosocial rehabilitation services for 15 minutes or less on particular dates. The claims identified below are false because they were submitted to TennCare for payment using a code (H2018) that was more expensive and represented a higher level of service than was actually provided.

Date	Member	Time at AIM Center	Claim Number	Date Claim(s) Paid
June 2, 2009	TP	10:15 a.m. – 10:20 a.m.	2409183033005	June 26, 2009
February 15, 2010	JM	1:30 p.m. – 1:45 p.m.	2310083017431	March 19, 2010
February 25, 2010	SS	2:15 p.m. – 2:30 p.m.	2410090168280	March 26, 2010
March 12, 2010	TW	8:00 a.m. – 8:15 a.m.	2410097192379	April 2, 2010
April 14, 2010	SD	9:00 a.m. – 9:15 a.m.	2410148045933	May 21, 2010
April 15, 2010	DF	11:00 a.m. – 11:15 a.m.	2410132177622	May 7, 2010
April 15, 2010	WR	11:45 a.m. – 12:00 p.m.	2410148033956	May 21, 2010
May 4, 2010	JH	10:45 a.m. – 11:00 p.m.	2410187027171	June 25, 2010
May 19, 2010	AD	1:30 p.m. – 1:45 p.m.	2410175112763	June 18, 2010
May 28,2010	JT	8:00 a.m. – 8:15 a.m.	2410182089451	June 25, 2010
May 28, 2010	KT	8:15 a.m. – 8:30 a.m.	2410187009296	June 25, 2010
June 28, 2010	JG	9:45 a.m. – 10:00 a.m.	2410216007015	July 30, 2010
July 23, 2010	SM	10:05 a.m. – 10:20 a.m.	2410232034037	August 13, 2010
August 2, 2010	SL	9:15 a.m. – 9:30 a.m.	2410252011178	September 3, 2010
August 25, 2010	EJ	3:30 p.m. – 3:45 p.m.	2410274080636	September 17, 2010
October 15, 2010	GN	11:30 a.m. – 11:45 a.m.	2410323091329	November 12, 2010
October 19, 2010	BH	9:50 a.m. – 10:05 a.m.	2410332160043	November 19, 2010
October 19, 2010	MS	11:45 a.m. – 12:00 p.m.	2410321083645	November 12, 2010
November 3, 2010	GB	12:45 p.m. – 1:00 p.m.	2410356162545	December 17, 2010
November 3, 2010	DH	10:00 a.m. – 10:15 a.m.	2410333024892	November 26, 2010

The AIM Center billed TennCare for services that were not the least costly alternative course of treatment.

42. Beginning prior to June 1, 2009, and continuing through at least December 31, 2010, the AIM Center routinely and knowingly engaged in billing for services that were not medically necessary, that is, submitting, or causing to be submitted, false claims for services that were not the least costly alternative course of treatment. On information and belief, this improper billing practice began as early as January 1, 2009, and has continued up to the present.

43. From at least June 1, 2009 to at least December 31, 2010, the AIM Center knowingly submitted, or caused to be submitted, false claims to the TennCare program. Specifically, the AIM Center claimed *per diem* reimbursement for members who visited the facility during this time period and received services for two hours or less at the facility on a particular date. The use of HCPCS code H2018 to bill TennCare for psychosocial rehabilitation services on a *per diem* basis when the 15 minute unit HCPCS code H2017 is reimbursable is not supported or justified when facility members received psychosocial rehabilitation services for two hours or less. On information and belief, this improper billing practice began as early as January 1, 2009, and has continued up to the present.

44. From at least June 1, 2009 to at least December 31, 2010, the AIM Center submitted, or caused to be submitted, claims to a TennCare MCO under HCPCS code H2018 for *per diem* psychosocial rehabilitation services that did not meet medical necessity requirements. During this time, the AIM Center knowingly submitted, or caused to be submitted, claims under HCPCS Code H2018 to a TennCare MCO for members who received services for two hours or less on a particular day at the AIM facility, when a less costly alternative was reimbursable. The reimbursement amounts for multiples of the 15 minute HCPCS code H2017 up to and including

two hours was the least costly alternative to the *per diem* HCPCS code H2018. On information and belief, this practice began as early as January 1, 2009, and has continued up to the present.

45. The AIM Center did not bill TennCare the least costly alternative for the provision of psychosocial rehabilitation services to those members who received services for two hours or less on a particular day, because, acting with actual knowledge, deliberate ignorance, or reckless disregard of the actual duration of services provided, the AIM Center billed the "per diem" HCPCS code H2018, rather than billing multiple units of the "per 15 minute" HCPCS code H2017 (for example, billing a 30 minute visit under two H2017 units, a one hour visit under four H2017 units, or for other times, under the number of multiples that correctly reflected the time of services provided). On information and belief, this practice began as early as January 1, 2009, and has continued up through the present.

46. The following are some examples of the many false claims made by the AIM Center for TennCare enrollees who received psychosocial rehabilitation services for durations of 16 minutes to 2 hours on particular dates. The claims identified below are false because the claims do not meet the requirements for medical necessity because they are not the least costly alternative course of treatment. These claims are also false because they were billed using a code (H2018) that was more expensive and represented a higher level of service than was actually provided.

Date	Member	Time at AIM Center	Duration of Services Provided	Claim Number	Date Claim(s) Paid
July 13, 2009	AD	10:00 a.m. – 12:00 a.m.	120 minutes	2409225097295	August 7 2009
August 13, 2009	KK	10:00 a.m. – 12:00 p.m.	60 minutes	2409280358892	October 2, 2009
October 28, 2009	KC	10:00 a.m. – 11:30 a.m.	90 minutes	2409336242714	November 27, 2009
November 30, 2009	KA	1:40 p.m. – 3:15 p.m.	45 minutes	2410013023240	January 8, 2010
December 18, 2009	AU	1:00 p.m. – 2:00 p.m.	60 minutes	2410019145800	January 15, 2010

Date	Member	Time at AIM Center	Duration of Services Provided	Claim Number	Date Claim(s) Paid
December 21, 2009	AB	10:00 a.m. – 11:00 a.m.	60 minutes	2410027156751	January 22, 2010
January 4, 2010	KC	10:00 a.m. – 11:48 a.m.	90 minutes	2410034116391	January 29, 2010
March 8, 2010	JH	1:55 p.m. – 2:40 p.m.	45 minutes	2410097212944	April 2, 2010
March 17, 2010	LP	12:00 p.m. – 2:00 p.m.	30 minutes	2410111041243	April 16, 2010
April 5, 2010	SD	8:15 a.m. – 10:00 a.m.	30 minutes	2410139065462	May 14, 2010
May 17, 2010	RW	12:00 p.m. – 1:00 p.m.	60 minutes	2410176093806	June 18, 2010
May 21, 2010	SD	10:15 a.m. – 11:00 a.m.	45 minutes	2410176061079	June 18, 2010
June 8, 2010	SJ	3:15 p.m. – 4:00 p.m.	45 minutes	2410194099263	July 2, 2010
June 18, 2010	WR	11:00 a.m. – 12:00 p.m.	60 minutes	2410203032103	July 16, 2010
July 12, 2010	KL	11:00 a.m. – 11:30 p.m.	30 minutes	2410224165214	August 6, 2010
August 4, 2010	SM	9:00 a.m. – 9:30 a.m.	30 minutes	2410252002910	September 3, 2010
August 6, 2010	DT	1:30 p.m. – 2:03 p.m.	30 minutes	2410252003002	September 3, 2010
September 10, 2010	SM	1:00 p.m. – 1:30 p.m.	30 minutes	2410292063899	October 8, 2010
October 5, 2010	TL	2:40 p.m. – 3:40 p.m.	60 minutes	2310308009122	October 29, 2010
November 5, 2010	MB	8:19 a.m. – 10:00 a.m.	30 minutes	2410357064315	December 17, 2010
November 8, 2010	PW	10:00 a.m. – 12:00 p.m.	120 minutes	2410355097280	December 17, 2010
December 23, 2010	JD	11:30 a.m. – 12:00 p.m.	30 minutes	2411046163877	February 11, 2011
December 31, 2010	AD	11:00 a.m. – 1:00 p.m.	120 minutes	2411046073486	February 11, 2011
December 31, 2010	JH	11:00 a.m. – 1:00 p.m.	120 minutes	2411046068900	February 11, 2011

The AIM Center billed TennCare for services that were not documented.

47. Beginning prior to June 1, 2009, and continuing through at least December 31, 2010, the AIM Center routinely and knowingly engaged in billing for services not rendered, that is, submitting false claims for services for which it did not have supporting documentation. On information and belief, this improper billing practice began as early as January 1, 2009, and has continued up to the present.

48. From at least June 1, 2009 to at least December 31, 2010, the AIM Center knowingly submitted, or caused to be submitted, claims to a TennCare MCO under HCPCS code H2018 for *per diem* psychosocial rehabilitation services that were not supported by the facility's documentation. During this time, the AIM Center submitted claims under HCPCS code H2018 to a TennCare MCO for services allegedly provided to members for which there was no documentation or insufficient documentation to support the provision of services the AIM Center claimed to have provided to certain members for which the AIM Center submitted claims for *per diem* psychosocial rehabilitation services. On information and belief, this practice began as early as January 1, 2009, and has continued up through the present.

49. The following are some examples of the many false claims made by the AIM Center for psychosocial rehabilitation services for which there is no documentation or insufficient documentation to support the services claimed on the dates indicated. The claims identified below are false because they were submitted to TennCare for payment for the provision of services on a particular date, when in fact the documentation does not exist or the documentation does not support that reimbursable services were provided to the enrollees on the date(s) of service claimed.

Claimed Date of Service	Member	Claim Number	Date Claim(s) Paid
June 3, 2009	YB	2409203028307	July 17, 2009

Claimed Date of Service	Member	Claim Number	Date Claim(s) Paid
August 4, 2009	TP	2409245088006	August 28, 2009
October 5, 2009	EJ	2409316211371	November 6, 2009
October 30, 2009	LL	2409336206216	November 27, 2009
December 3, 2009	JJ	2410013043888	January 8, 2010
January 4, 2010	SM	2410034092505	January 29, 2010
January 19, 2010	GM	2410048169597	February 12, 2010
February 9, 2010	AW	2410069113233	March 5, 2010
April 26, 2010	AD	2410175112708	June 18, 2010
May 13, 2010	CH	2410194143902	July 2, 2010
June 25, 2010	WD	2410211091621	July 23, 2010
September 3, 2010	EJ	2410287125060	September 24, 2010
September 13, 2010	MB	2410305029820	October 22, 2010
October 6, 2010	JH	2410307089607	October 29, 2010
October 12, 2010	AS	2410324011183	November 12, 2010
October 21, 2010	WR	2410332054724	November 19, 2010
November 5, 2010	TB	2410355111345	December 17, 2010
December 7, 2010	MS	2411005098147	December 31, 2010
December 17, 2010	KC	2411013096189	January 7, 2011
December 17, 2010	KK	2411027064246	January 21, 2011

The AIM Center knowingly concealed its obligation to return improperly retained overpayments.

50. Beginning about July 2011, and continuing through the present, the AIM Center has knowingly concealed or knowingly and improperly avoided an obligation to transmit money to the government, by retaining overpayments for improperly billed supported employment

services. On information and belief, this concealment and avoidance began as early as July 2011, and has continued up to the present.

51. On or about July 7, 2011, in response to a question from the AIM Center, a TennCare MCO instructed the AIM Center that it would be improper to submit claims for both psychosocial rehabilitation services, *per diem*, and supported employment for services provided to the same member on the same date of service because the *per diem* claim is inclusive of all services rendered.

52. Prior to July 2011, the AIM Center regularly submitted claims under both HCPCS codes H2018 (psychosocial rehabilitation services, *per diem*) and H2023 (supported employment, per 15 minutes) for services provided to the same member on the same date of service, effectively double billing for a portion of the services provided. This double billing practice began as early as January 1, 2009, and continued up to July 2011, when the AIM Center ceased billing both H2018 and H2023 for the same date of service.

53. Although the AIM Center corrected its practice of billing both H2018 and H2023 for the same members on the same dates of service after receiving the TennCare MCO's instruction, it did not report to the TennCare MCO that it had previously received payments on claims improperly billed using both codes. Instead, the AIM Center improperly retained those payments with actual knowledge, deliberate ignorance or reckless disregard for the fact that it had received overpayments that it was obligated to return. Upon information and belief, this concealment began as early as July 2011, and has continued up through the present.

54. The following are some examples of the many instances of double billing which resulted in overpayments retained by the AIM Center. The claims identified below indicate services that were double billed under both H2018 and H2023 which resulted in overpayments that AIM has knowingly concealed from TennCare.

Date	Member	HCPCS Codes	Claim Number	Date Claim(s) Paid
January 2, 2009	ED	H2018 & H2023	2409118011832	April 24, 2009
January 27, 2009	KJ	H2018 & H2023	2409070132565	March 6, 2009
February 24, 2009	BS	H2018 & H2023	2409147157212	May 22, 2009
February 18, 2009	GB	H2018 & H2023	2409084092347	March 20, 2009
March 2, 2009	BS	H2018 & H2023	2409147157222	May 22, 2009
March 16, 2009	AU	H2018 & H2023	2409111046581	April 17, 2009
April 6, 2009	SC	H2018 & H2023	2409133114030	May 8, 2009
April, 27, 2009	JC	H2018 & H2023	2409167159959	June 12, 2009
May 19, 2009	SB	H2018 & H2023	2409167188206	June 12, 2009
September 14, 2009	RD	H2018 & H2023	2409287119784	October 9, 2009
October 19, 2009	KA	H2018 & H2023	2409336070243	November 27, 2009
January 7, 2010	CB	H2018 & H2023	2410041121937	February 5, 2010
February 18, 2010	BS	H2018 & H2023	2410083237665	March 19, 2010
March 15, 2010	AH	H2018 & H2023	2410104168014	April 9, 2010
May 26, 2010	KL	H2018 & H2023	2410187030382	June 25, 2010
June 25, 2010	AH	H2018 & H2023	2410203113481	July 16, 2010
July 27, 2010	JH	H2018 & H2023	2410242025894	August 20, 2010
August 4, 2010	BH	H2018 & H2023	2410252007775	September 3, 2010
September 29, 2010	TK	H2018 & H2023	2410302076464	October 22, 2010
October 1, 2010	LP	H2018 & H2023	2410315000075	November 5, 2010
November 19, 2010	BH	H2018 & H2023	2411013080007	January 7, 2011
December 30, 2010	KL	H2018 & H2023	2411027085809	January 21, 2011
January 7, 2011	JC	H2018 & H2023	2411053056922	February 18, 2011
February 18, 2011	BH	H2018 & H2023	2411089153761	March 25, 2011

Date	Member	HCPCS Codes	Claim Number	Date Claim(s) Paid
March 4, 2011	BH	H2018 & H2023	2411103139452	April 8, 2011
June 9, 2011	BS	H2018 & H2023	2411187118794	July 1, 2011
June 24, 2011	SA	H2018 & H2023	2411201102239	July 15, 2011

COUNT I

FEDERAL FALSE CLAIMS ACT, 31 U.S.C. § 3729(a)(1)(A) (Presentation of False Claims to TennCare/Medicaid Program)

55. The United States realleges and incorporates by reference paragraphs 1 through 54 as if fully set forth herein.

56. Beginning prior to June 2009 and continuing up through the present, Defendant knowingly presented, or caused to be presented, false or fraudulent claims for payment to the TennCare/Medicaid program in violation of 31 U.S.C. § 3729(a)(1)(A).

57. As a result of the false or fraudulent claims presented, or caused to be presented, by the Defendant, the United States has suffered damages and is entitled to and requests treble damages under the Federal False Claims Act plus a civil monetary penalty for each false claim, in an amount to be determined at trial.

COUNT II

FEDERAL FALSE CLAIMS ACT, 31 U.S.C. § 3729(a)(1)(B) (Making or Using False Statements Material to False Claims)

58. The United States realleges and incorporates by reference paragraphs 1 through 54 as if fully set forth herein.

59. Beginning prior to June 2009 and continuing up through the present, Defendant knowingly made, used, or caused to be made or used, false records or statements material to the

payment of false or fraudulent claim under the TennCare/Medicaid program in violation of 31 U.S.C. § 3729(a)(1)(B).

60. As a result of the false records or statements made, used, or caused to be made or used by Defendant, the United States has suffered damages and is entitled to and requests treble damages under the Federal False Claims Act plus a civil monetary penalty for each false claim, in an amount to be determined at trial.

COUNT III

FEDERAL FALSE CLAIMS ACT, 31 U.S.C. § 3729(a)(1)(B)
(Concealing and Avoiding an Obligation to Pay or Transmit Money to the TennCare/Medicaid Program)

61. The United States realleges and incorporates by reference paragraphs 1 through 54 as if fully set forth herein.

62. Beginning about July 2011 and continuing up through the present, Defendant knowingly concealed and knowingly and improperly avoided an obligation to pay or transmit money to the TennCare/Medicaid program in violation of 31 U.S.C. § 3729(a)(1)(G).

63. As a result of the concealment and avoidance by the Defendant, the United States has suffered damages and is entitled to and requests treble damages under the Federal False Claims Act plus a civil monetary penalty for each false claim, in an amount to be determined at trial.

COUNT IV

Unjust Enrichment

64. The United States realleges and incorporates by reference paragraphs 1 through 54 as if fully set forth herein.

65. By falsely inflating the psychosocial rehabilitation services Defendant provided to TennCare/Medicaid enrollees, Defendant received payments of federal monies to which it was not entitled.

66. Defendant has been unjustly enriched by retaining the use and enjoyment of the retained money that was the property of the TennCare/Medicaid program and to which Defendant was not entitled.

67. Because of these mistakes of fact, the Defendant received monies to which it was not entitled.

COUNT V

Conversion

68. The United States realleges and incorporates by reference paragraphs 1 through 54 as if fully set forth herein.

69. By virtue of the acts described in this Complaint, and specifically by submitting claims and obtaining payment for psychosocial rehabilitation services that were upcoded, unsupported, or otherwise failed to meet TennCare/Medicaid criteria for coverage and payment, Defendant has appropriated the United States' property to its own use and benefit, and has exercised dominion of such property in defiance of the United States' rights.

70. Defendant is, therefore, liable to the United States for actual damages in an amount to be determined at trial.

COUNT VI

TENNESSEE MEDICAID FALSE CLAIMS ACT, Tenn. Code Ann. § 71-5-182(a)(1)(A) (Presentation of False Claims to TennCare/Medicaid Program)

71. The State of Tennessee realleges and incorporates by reference paragraphs 1 through 54 as if set forth fully herein.

72. Beginning prior to June 2009 and continuing up through the present, Defendant knowingly presented, or caused to be presented, false or fraudulent claims for payment or approval under the TennCare/Medicaid program in violation of the Tennessee Medicaid False Claims Act. Tenn. Code Ann. § 71-5-182(a)(1)(A).

73. As a result of the false or fraudulent 8claims that Defendant presented, or caused to be presented, the State has suffered damages and is entitled to and requests treble damages under the Tennessee Medicaid False Claims Act, in an amount to be determined at trial, plus a civil penalty of $5,000 to $25,000 for each violation.

COUNT VII

TENNESSEE MEDICAID FALSE CLAIMS ACT, Tenn. Code Ann. § 71-5-182(a)(1)(B) (Making or Using a False Statement to Get False Claims Paid by the TennCare/Medicaid Program)

74. The State of Tennessee realleges and incorporates by reference paragraphs 1 through 54 as if set forth herein.

75. Beginning prior to June 2009 and continuing up through the present, Defendant knowingly made, used, or caused to be made or used, false records or statements material to the payment or approval of a false or fraudulent claim under the TennCare/Medicaid program, in violation of the Tennessee Medicare False Claims Act. Tenn. Code Ann. § 71-5-182(a)(1)(B).

76. As a result of the false records or statements Defendant made, used, or caused to be made or used, the State has suffered damages and is entitled to and requests treble damages

under the Tennessee Medicaid False Claims Act, in an amount to be determined at trial, plus a civil penalty of $5,000 to $25,000 for each violation.

COUNT VIII

Payment Under Mistake of Fact

77. The State of Tennessee realleges and incorporates by reference paragraphs 1 through 54 as if set forth herein.

78. As a result of the conduct described in this Complaint, the State of Tennessee paid claims submitted by the Defendant under the erroneous belief that such claims for payment were based upon representations that were factually accurate and represented reimbursable services.

79. At the time such payments were made, the State of Tennessee was unaware of the wrongful conduct of the Defendant. Had the State known that the Defendant was not entitled to receive reimbursement or payment, the State would not have paid such claims.

80. The State's erroneous belief was material to the payments made by the State through the TennCare/Medicaid program to the Defendant.

81. Because of these mistakes of fact, the Defendant received monies to which it was not entitled.

82. By reason of the payments described above, the State of Tennessee is entitled to and requests damages in an amount to be determined at trial exclusive of interest and costs.

COUNT IX

Unjust Enrichment

83. The State of Tennessee realleges and incorporates by reference paragraphs 1 through 54 as if set forth fully herein.

84. As a result of the conduct described in this Complaint, Defendant has been unjustly enriched with monies which in good conscience it should not be allowed to retain.

85. The Defendant has been unjustly enriched to the detriment of the State of Tennessee.

86. By reason of the payments described above, the State of Tennessee is entitled to and requests damages in an amount to be determined at trial exclusive of interest and costs.

COUNT X

Common Law Fraud

87. The State of Tennessee realleges and incorporates by reference paragraphs 1 through 54 as if fully set forth herein.

88. Beginning prior to June 2009 and continuing up through the present, the Defendant engaged in a pattern and practice whereby it improperly upcoded psychosocial rehabilitation services. Defendant submitted claims to the TennCare/Medicaid program when it knew, or should have known, that the claims submitted were false.

89. The State of Tennessee paid these false or fraudulent TennCare/Medicaid claims because of the acts of the Defendant.

90. By reason of these payments, the State of Tennessee has been damaged in an amount to be established at trial, exclusive of interest and costs.

COUNT XI

Conversion

91. The State of Tennessee realleges and incorporates by reference paragraphs 1 through 54 as if fully set forth herein.

92. By virtue of the acts described in this Complaint, and specifically by submitting claims and obtaining payment for psychosocial rehabilitation services that were upcoded, unsupported, or otherwise failed to meet TennCare/Medicaid criteria for coverage and payment, Defendant has appropriated the State of Tennessee's property to its own use and benefit, and has exercised dominion of such property in defiance of the rights of the State of Tennessee.

93. Defendant is, therefore, liable to the State of Tennessee for actual damages in an amount to be determined at trial.

REQUESTS FOR RELIEF

The United States of America respectfully requests judgment be entered in its favor against Defendant as follows:

1) On Counts I, II, and III (under the Federal False Claims Act), judgment for the United States and against Defendant for the amount of damages sustained by the TennCare/Medicaid program, trebled as required by law, such civil penalties as are required by law, together with costs of this action and such other and further relief as may be just and proper; and

2) On Counts IV and V (under Unjust Enrichment and Conversion), judgment for the United States and against Defendant for the amount of the loss sustained by the TennCare/Medicaid program, plus pre-judgment interest.

The State of Tennessee respectfully requests judgment be entered in its favor against Defendant as follows:

3) On Counts VI and VII (under the Tennessee Medicaid False Claims Act), judgment for the State of Tennessee and against Defendant for the amount of damages sustained by the TennCare/Medicaid program, trebled as required by law, such civil penalties as are

required by law, together with costs of this action and such further relief as may be just and proper.

4) On Counts VIII, IX, X, and XI (under Payment Under Mistake of Fact, Unjust Enrichment, Common Law Fraud, and Conversion), judgment for the State of Tennessee and against Defendant for the loss sustained by the TennCare/Medicaid program, in an amount to be determined at trial, plus pre-judgment and post-judgment interest, costs, and other proper relief.

Respectfully submitted,

WILLIAM C. KILLIAN
UNITED STATES ATTORNEY

By: *s/ Mary Elizabeth McCullohs*
Mary Elizabeth McCullohs (BPR #026467)
Special Assistant U.S. Attorney
Robert C. McConkey, III, (BPR #018118)
Assistant U.S. Attorney
Office of the United States Attorney
800 Market Street, Suite 211
Knoxville, TN 37902
(865) 545-4167
mary.mccullohs@ag.tn.gov
robert.mcconkey@usdoj.gov

ROBERT E. COOPER, JR.
ATTORNEY GENERAL AND REPORTER

By: *s/ Mary Elizabeth McCullohs*
Mary Elizabeth McCullohs (BPR #026467)
Assistant Attorney General
Tennessee Attorney General's Office
425 Fifth Avenue North
Nashville, Tennessee 37243-3400
(615) 741-8126
mary.mccullohs@ag.tn.gov

CERTIFICATE OF SERVICE

I hereby certify that on the 23rd day of May, 2013, a copy of the foregoing was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. In addition, I certify that on the 23rd day of May, 2013, a copy of the foregoing has been served by regular U.S. Mail to the following:

Leah M. Gerbitz
Richard C. Rose
Miller & Martin PLLC
Suite 1000 Volunteer Building
832 Georgia Avenue
Chattanooga, TN 37402

Attorneys for Defendant,
The A.I.M. Center, Inc.

Parties may access this filing through the Court's electronic filing system.

sMary Elizabeth McCullohs
Mary Elizabeth McCullohs
Special Assistant U.S. Attorney
Assistant Tennessee Attorney General