



Judge Imposes Draconian Sentences in Medicare Fraud Scheme

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On Sept. 16, 2011, [a federal judge in Miami sentenced Lawrence Duran to 50 years in prison](#), the longest sentence ever imposed in a Medicare fraud case, for his role in a massive fraud scheme that resulted in more than \$205 million in losses. Duran was also ordered to pay \$87 million in restitution.

Duran was co-owner of American Therapeutic Corporation with Marianella Valera, his girlfriend. Both of them pleaded guilty in April to fraud, money laundering, and conspiracy charges after being arrested in October 2010. In their pleas, Duran and Valera admitted that they executed the scheme from 2002 until their arrest in 2010. A total of 34 people, including employees of American Therapeutic, doctors, and nurses were arrested in connection with the scheme.

Prosecutors said that Duran and his co-defendants billed Medicare for hundreds of millions of dollars in mental-health services that were either unnecessary or never provided. Prosecutors also said that Duran forged patient files for mentally ill people to make them seem eligible for sleep studies that they would not actually participate in, while American Therapeutic would pay kickbacks to recruiters to supply patients suffering from Alzheimer's disease and similar conditions. Duran admitted that the patients could not have benefited from the company's services.

Prosecutors also took note of the fact [that Duran set up an advocacy group, the National Association for Behavior Health](#), to lobby in Washington to make it easier for mental health centers such as the one he ran to receive federal funding.

After a three-day sentencing hearing, a federal judge accepted the government's recommendation of a very high sentence for Duran, who had pleaded guilty to 38 felonies. The judge said there is a "critical need for deterrence against health care fraud" in Florida, where Medicare corruption is a significant issue for law enforcement.

Marianella Valera pleaded guilty to 21 felonies and was sentenced to 35 years in prison. The 35-year sentence is the second longest ever for Medicare fraud. The indictment alleged that Valera manipulated records so patients would have to stay longer at the facility, thus accumulating more expensive Medicare bills.

"[The] sentencing demonstrates to those who defraud taxpayers of millions of dollars through health care fraud schemes that the FBI and our partners remain committed to investigating and prosecuting such fraud to the fullest extent of the law," said FBI Miami Division acting Special Agent in Charge Xanthie Mangum in a statement.



Although the government said it was trying to send a clear signal to defendants that Medicare fraud will be taken seriously, and there is no doubt that Duran and Valera committed serious crimes, this sentence is excessive. The dollar amounts of loss here do not approach the loss amounts for other defendants who have committed major financial fraud. Additionally, these defendants pleaded guilty and admitted their acts in the plea agreement, whereas many of the perpetrators of significantly larger fraud who took their cases to trial received much more lenient sentences.

The sentencing guideline range for both defendants, it is true, allowed for a life sentence, but that has never been imposed in a Medicare fraud case. It will be interesting to see whether, on appeal, the U.S. Court of Appeals for the 11th Circuit rules that this sentence is substantively unreasonable because of its length.

Crime in the Suites is authored by the [Ifrah Law Firm](#), a Washington DC-based law firm specializing in the defense of government investigations and litigation. Our client base spans many regulated industries, particularly e-business, e-commerce, government contracts, gaming and healthcare.

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