



Department of Justice

James T. Jacks
United States Attorney
Northern District of Texas

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MEDIA INQUIRIES: KATHY COLVIN
PHONE: (214) 659-8600

FEDERAL JURY CONVICTS LUBBOCK MASSEUSE
IN HEALTH CARE FRAUD CASE

LUBBOCK, Texas — Following a two-day trial before U.S. District Judge Sam R. Cummings, a jury has found Kawai Ary-Berry guilty on all 10 counts of an indictment charging offenses related to a health care fraud scheme she ran, announced U.S. Attorney James T. Jacks of the Northern District of Texas. Ary-Berry, 38, of Lubbock, is a licensed massage therapist.

Specifically, Ary-Berry was convicted on one count of making a false statement involving a health care matter and nine counts of health care fraud. The false statement count carries a maximum statutory sentence of five years in prison and a \$250,000 fine. Each of the health care fraud counts carries a maximum statutory sentence of 10 years in prison and a \$250,000 fine. She will be sentenced at a later date, pending the completion of the Court's pre-sentence investigation. She will be allowed to remain on bond until she is sentenced.

Immediately following the jury verdict, the government sought a money judgment for \$1.8 million and the forfeiture of certain of Ary-Berry's assets to satisfy the judgment. Judge Cummings entered a preliminary order of forfeiture, ordering that \$1.6 million be forfeited to the federal government, allowing an offset for massage services that were actually rendered to the three patients. After hearing evidence that the Ary-Berry no longer had the money in her accounts of record and that no additional funds could be located, the Court ordered that certain property, such as Ary-Berry's personal vehicles, farm equipment, all-terrain vehicles and two mobile homes be forfeited to the government to satisfy the money judgment.

Although Ary-Berry was a licensed massage therapist, she enrolled in the federal worker's compensation program to provide therapy to injured workers as a physical therapist. Over the course of four years, she billed the federal government's worker's compensation program using physical therapy and other billing codes, purporting to have provided physical therapy and other services to three patients.

Evidence presented during trial showed that on some dates, Ary-Berry billed in excess of 24 hours for services that were not rendered, and on other dates, billed for services provided during periods when she was out of town. The evidence also showed that Ary-Berry continued billing for

two patients after they had discontinued their treatment with her. In addition, Ary-Berry provided two of her patients with hot tubs and one of her patients a dry sauna, all of which were billed to the government program as “rentals,” using codes for a physician office visits and educational materials. Witnesses from the federal Office of Worker’s Compensation Programs, as well as the three former patients, provided testimony against Ary-Berry.

Federal authorities began investigating the case in early 2008, when they received a referral from a nurse examiner employed by the federal government who believed the claims coming in from Ary-Berry appeared excessive. Federal agents began an intensive review of Ary-Berry’s billing records and conducted surveillance on her office. The agents discovered that the federal government had been billed for services on days when no patients were seen coming or going from Ary-Berry’s business, PTMT The Pain Relief Center, located on 50th Street in Lubbock.

On April 29, 2008, federal agents executed search warrants on PTMT The Pain Relief Center and on Ary-Berry’s residence, located in a rural area between Lubbock and New Deal, Texas. Officers found evidence that Ary-Berry had completed and mailed billing forms before services had been rendered and found evidence that she was billing the dry sauna and hot tubs to the government using codes that disguised the true nature of the goods being provided.

The case was jointly investigated by the U.S. Postal Service - Office of the Inspector General and the U.S. Department Labor- Office of the Inspector General. The case was prosecuted by Assistant U.S. Attorney Amy Burch and Assistant U.S. Attorney Steve Sucsy. Assistant U.S. Attorney Walt Junker pursued the asset forfeiture.

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