



# Department of Justice

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**KILGORE PLEADS GUILTY TO THREE COUNTS  
OF CONSPIRACY TO COMMIT HEALTH CARE FRAUD**

***AGREEMENT INCLUDES A 60-MONTH FEDERAL PRISON SENTENCE***

SALT LAKE CITY – Jacob J. Kilgore, a former owner of a Salt Lake City durable medical equipment company, pleaded guilty in U.S. District Court late Monday afternoon to three counts of conspiracy to commit health care fraud as a part of Medicare fraud scheme involving power wheelchairs. The plea agreement includes a stipulated sentence of 60 months in federal prison, subject to acceptance by the court.

U.S. Attorney John W. Huber of the District of Utah, FBI Special Agent in Charge Eric K. Barnhart of the FBI's Salt Lake City Field Office, Special Agent in Charge Gerald Roy of the U.S. Department of Health and Human Services Office of Inspector General; and Special Agent in Charge Janice M. Flores of the Defense Criminal Investigative Service's (DCIS) Southwest Field Office announced the plea agreement.

Kilgore pleaded guilty to a three-count Felony Information filed Monday afternoon.

Kilgore, 36, of Fruit Heights, was the co-owner of and employed as the vice president, and later, president of Orbit Medical, a Utah- and Indiana-based national supplier of durable medical equipment that specialized in power wheelchairs. Orbit maintained three Utah offices in the Salt Lake City area. Kilgore acted as sales manager for Orbit's western region sales territory which included offices in Utah, Arizona, Nevada, Idaho, Washington, and Oregon.

"In the United States Attorney's Office, we take our professional obligations seriously and will not trade our integrity for any case. While upholding the highest ethical standards, my office will aggressively root out white collar fraud and hold law breakers accountable for the damage caused by their greed-driven actions," United States Attorney John W. Huber said today.

"Less than a month after the court rejected his motions claiming prosecutorial misconduct, Mr. Kilgore has accepted responsibility for a multi-million-dollar fraud scheme. On

October 8, 2015, Chief Judge David Nuffer denied the defense motion to dismiss and to disqualify the prosecution team, finding that the prosecution had not deliberately intruded into privileged attorney-client communications. Today, the defendant has voluntarily agreed to a five-year prison sentence for his criminal conduct and has chosen to abandon any further challenge to the court's ruling against him. This development speaks volumes as to the denied claims that federal prosecutors were acting outside their ethical obligations," Huber said.

As a part of the plea agreement, Kilgore admitted that he knew that Medicare required the company to maintain supporting medical record documentation, including the prescription from the treating physician, which supported the medical necessity of the power wheelchair supplied to the beneficiary and billed to Medicare. He admitted knowing that Medicare could request the supporting medical record documentation of a claim submitted by Orbit for review, and, if the documentation did not meet Medicare's requirements, the claim could be denied.

Kilgore admitted that while at Orbit, he instructed inside and outside sales representatives in taking paperwork received from physicians and making changes to the paperwork – including revising, altering, modifying or replacing – in order to make it appear that beneficiaries qualified for Medicare coverage of a power wheelchair under false and fraudulent pretenses. This process was referred to at times as "chiseling." Kilgore admitted that while he was at Orbit, he had computer software installed on computers used by sales representatives. That software enabled sales representatives to electronically "chisel" documents received from physician offices to make it appear that Medicare requirements were met. This process caused the submission of false and fraudulent claims to Medicare. Throughout the conspiracy, Kilgore admitted he enforced a sales quota of 10 power wheelchairs per month and at times, terminated sales representatives for failing to meet the quota.

As a part of his plea to three counts of conspiracy to commit health care fraud, Kilgore admitted that he and three individuals identified as unindicted co-conspirators 1, 2, and 3 submitted false claims to Medicare for power wheelchairs. He admitted that from April 2008 to around July 2010, he and UC1 submitted claims under fraudulent pretenses from Orbit to Medicare for more than \$500,000. From around October 2006 to around June 2011, he and UC2 caused Orbit to submit fraudulent claims to Medicare resulting in reimbursements from Medicare of more than \$679,909. From around 2009 to around August 2010, Kilgore and UC3 caused Orbit to submit fraudulent claims to Medicare resulting in reimbursements of more than \$200,000. From around October 2006 to around June 2011, Kilgore and other sales reps caused Orbit to submit claims to Medicare for power wheelchairs under false and fraudulent pretenses resulting in reimbursements to Orbit.

"This guilty plea is the result of the diligent work and collaborative efforts of several agencies. We will continue to work with our law enforcement partners to investigate those who attempt to cheat the federal health care programs," said Gerald Roy, Special Agent in Charge of Health and Human Services Office of Inspector General.

"This plea highlights the commitment of the Defense Criminal Investigative Service (DCIS) and its law enforcement partners to protect the integrity of federal health care programs, including the Department of Defense health care program known as TRICARE," said Special

Agent in Charge Janice M. Flores of the DCIS Southwest Field Office. "DCIS aggressively investigates health care providers that defraud the DoD to preserve American taxpayer dollars intended to care for our warfighters, their family members and military retirees."

As a part of the plea agreement, Kilgore agreed to pay restitution in the case, including for victims of relevant conduct. Parties to the criminal case will try to resolve the amount of restitution through a stipulated agreement. If an agreement is not reached, a restitution hearing will be scheduled. He also agreed to a forfeiture money judgment in an amount to be determined by the court at sentencing. Sentencing is set for Jan. 27, 2016, at 2 p.m.

Additionally, former Orbit sales representatives Morgan Workman of Farmington, Utah; David Evans of South Jordan, Utah; and Hunter Hartman of Ladera Ranch, Calif., have each pleaded guilty to conspiring to commit health care fraud, based on the same alleged scheme to defraud Medicare. Sentencing for the three will be in February.

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