

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

BENJAMIN MONATO,

Defendant-Appellant.

UNPUBLISHED

January 27, 1998

No. 191849

Ingham Circuit Court

LC No. 93-066384-FH

Before: Gribbs, P.J., and Murphy and Gage, JJ.

PER CURIAM.

Defendant appeals by right from his conviction of violating the Health Care False Claims Act, MCL 400.607; MSA 16.614(7) (“Medicaid fraud”). He was sentenced to sixty months’ probation and ordered to pay restitution in the amount of \$42.48 to the State of Michigan Medicaid Program and \$23,232.10 to the State of Michigan. We affirm.

Defendant first argues that the trial court erred in denying his motion for a directed verdict. He maintains that the prosecution failed to prove that he “knowingly” submitted a Medicaid claim form bearing his signature that was false or fictitious beyond a reasonable doubt. We disagree. As was explained in *People v American Medical Centers, Ltd*, 118 Mich App 135; 324 NW2d 782 (1982), the intent element of Medicaid fraud is satisfied upon the showing that the defendant knowingly submitted a false claim form. *Id.* at 144, 149. Upon such a showing, and in the absence of contrary evidence, it is presumed that the defendant knowingly submitted the false or fictitious forms. MCL 400.608(2); MSA 16.614(8) provides:

It shall be a rebuttable presumption that a person knowingly made a claim for a medicaid benefit if the person’s actual, facsimile, stamped, typewritten, or similar signature is used on the form required for the making of a claim for a medicaid benefit.

In the present case, the prosecution presented evidence that defendant sent claim forms bearing his signature, which indicated that he provided services he did not actually perform, to a Medicaid disbursement office. In addition, the prosecution presented testimony that defendant submitted sworn statements that he had treated Priscilla Washington and James Williams at Libbs Manor on four

separate occasions between September and December 1992. The testimony, however, also indicated that neither Washington nor Williams were residing at Libbs Manor at that time. Viewing this evidence in a light most favorable to the prosecution, the trier of fact could have found that the prosecution proved beyond a reasonable doubt that defendant knowingly submitted false claims to Medicaid administrators. *People v Peebles*, 216 Mich App 661, 664; 550 NW2d 589 (1996).

Defendant next argues that the trial court erred in denying his motion for a new trial since the verdict was against the great weight of the evidence. Our review of the lower court record indicates that defendant stipulated to an order dismissing this motion. Therefore, this issue is not preserved for appellate review.

Finally, defendant argues that the trial court erred by providing the jury with instructions that were “erroneous, confusing, and misleading.” He maintains that the instructions failed to convey to the jury that Medicaid fraud is a specific intent crime and effectively allowed the jury to convict for simple mistakes in billing practices. We disagree. In *American Medical Centers*, *supra*, we held that while Medicaid fraud is a specific intent crime, the trial court’s reading to the jury of the statutory definition of “knowingly” was sufficient to convey that the crime was a specific intent crime. *Id.* at 153-154. That definition required the jury to determine that the defendant “was aware of his conduct and that his conduct was substantially certain to cause the intended result.” *Id.* In that decision, we stated that “when read as a whole the jury instructions informed the jury of the intent necessary to convict defendant.” *Id.* Here, defendant did not request an instruction on specific intent, and the trial court provided the same instructions used in *American Medical Centers*. We again find that these instructions properly apprised the jury of the requisite intent. Accordingly, we find no error.

Affirmed.

/s/ Roman S. Gibbs
/s/ William B. Murphy
/s/ Hilda R. Gage