

1 release you to the bailiff.

2 (Off the record.)

3 THE COURT: Ms. Vollman, you may call your  
4 next witness.

5 MS. VOLLMAN: Carol Klunck.

6 THE COURT: You may proceed.

7 CAROL KLUNCK,

8 having first been duly sworn, testified as followed:

9 DIRECT EXAMINATION

10 BY MS. VOLLMAN:

11 Q. Could you please give your full name please and  
12 where you work?

13 A. My name is Carol Klunk, spelled K-L-U-N-C-K. I  
14 work for the State of Texas. I'm currently employed with  
15 Aging and Disability Services. I work for the Hospice  
16 Program and I do reviews for medical assessing for hospice  
17 and to ensure they maintained the required documentation  
18 and the record.

19 Q. Do you have, also, at times, review DME files?

20 A. Yes. I was employed by the Health and Human  
21 Service Inspector General from 1999 to 2011, and I worked  
22 for Medicaid Provider Integrity; and in that capacity, I  
23 was a nurse analyst and I analyzed Medicaid billing  
24 claims.

25 Q. Can you give us a brief description of your

1 background and all your work that qualifies you to do the  
2 type of work you were doing for the State when you were  
3 working for the Medicaid Provider Integrity?

4 A. I've been a registered nurse since 1976. For 14  
5 years, I worked at the bedside doing patient care. After  
6 I left bedside nursing, I went to utilization review,  
7 which is reviewing hospitalization for medical necessity  
8 where I reviewed hospital records to ensure that  
9 documentation was meeting the requirements; and anything  
10 that didn't, I would report it in the computer tracking  
11 system.

12 I worked with discharge planning.  
13 Discharging patients to the appropriate setting. And in  
14 1999, I went to work for the State; and at that time, I  
15 did reviews on nursing home patients, on their charts to  
16 ensure that the right payment rate was being charged and  
17 also for inpatient hospitalizations.

18 We looked at DRGs, and that was to  
19 ensure that the patient's correct diagnosis was being  
20 claimed upon discharged so that the hospital would be  
21 reimbursed appropriately.

22 Q. At some point in time, did you become involved in  
23 an investigation involving several DME companies their  
24 were billing for incontinent supplies?

25 A. Well, I was employed by MBI. I was involved with

1 many DME supplier cases. I also generated a lot of those  
2 investigations from my own analyst of the paid claim.

3 Q. How did that come about? How did you come about  
4 doing that? What were you looking for?

5 A. Well, NOIG on a monthly basis, we had a data  
6 load, anything that had been billed for previous month.  
7 And we had recognized in NPI in about 2004, 2005 there  
8 were some specific amount of incontinent supplies and the  
9 volume started increase.

10 Q. And what did you notice? Just generically --  
11 we'll talk about the specific companies in a minute; but  
12 just generically, what were you seeing?

13 A. There were suppliers that on every client they  
14 would bill the maximum quantity that were by the policy on  
15 a monthly basis and that they also would bill the largest  
16 size of under garments, because we felt that it was  
17 because the largest size is paid the most or reimbursed  
18 the most amount of money.

19 Q. Okay. So when you started seeing these large  
20 supplies in companies, what was the first thing that you  
21 were able -- what was the first thing that you chose to  
22 do?

23 A. Well, what I did was, I would run a report on a  
24 certain company once billing patterns and then I would  
25 kind of break down the report and look at it from

1 different angles what Mike going on and to see if I should  
2 open up an investigation, which I have the capability of  
3 doing.

4 Q. Okay. So you don't really go out and interview  
5 witnesses? You're strictly from the research standpoint,  
6 correct?

7 A. Exactly. All of my work was done from my work,  
8 but I had access to all the data that I needed. I also  
9 frequently picked up the phone and called recipients when  
10 something didn't smell right or looked right to me and  
11 just saying I was checking on some of the Medicaid  
12 billings that had appeared for them.

13 Q. And as a Medicaid Provider Integrity, that's what  
14 your job is supposed to do?

15 A. Yes.

16 Q. Did you do any research regarding the billing  
17 practices of the following companies, C&M Medical  
18 Equipment, Anointed Medical Supply, Briscoe Medical  
19 Supply, First American Medical Supplies, Resource  
20 Solutions Medical Supply, Wickware Medical Services,  
21 Dreammaker's Medical Supply and Perkins Mobility?

22 A. Yes. I did extensive research on seven of the  
23 eight. On Anointed, I just had a little bit of  
24 involvement in that case.

25 Q. And who would have done the research that you did

1 on these other seven companies for Anointed?

2 A. I believe that was Tracy Mosher who worked in our  
3 Intake Division at the time.

4 Q. Now, you talked about when you started analyzing  
5 those seven companies. Did you notice any suspicious  
6 practices involved in them?

7 A. Well, the main thing that popped out like I said  
8 before, all the maximum quantities of supplies were being  
9 billed to these clients; and also, it was always extra  
10 large pull ons, which reimbursed the highest as an  
11 undergarment.

12 It did not matter if the clients were 2  
13 years old or 92 years old. Everybody was being billed for  
14 300 extra large pull ons every month.

15 Q. And this was a consistent pattern through all of  
16 them or all seven of those companies?

17 A. Yes. However, there were a few of them, as I  
18 recall, where it was a very different pattern where it  
19 wasn't every month that the clients were being billed; but  
20 all of a sudden on a couple of companies, the client would  
21 only be billed for one month.

22 And you look back at their pattern and  
23 that was the only month the claim had ever been billed for  
24 incontinent supplies. And all of a sudden, the DME  
25 company did not bill for them anymore. But they then

1 begin billing for another set of clients, which when I did  
2 pick up the phone -- and just because it was a different  
3 type of pattern that I had seen, so I picked up the phone  
4 and called a couple of clients randomly.

5 I believe they were minors. So I did  
6 talk to parents and just asked, you know, if their child  
7 had a need for incontinent supplies and every --

8 MR. MARTIN: Objection as to hearsay.

9 THE COURT: Sustained.

10 Q. (BY MS. VOLLMAN) Don't say what they said, but  
11 it's more of what you did. So you made the phone calls;  
12 and based on those conversations, you continued  
13 investigating?

14 A. Yes.

15 Q. Let's talk about the companies individually.  
16 Let's talk about C&M. Do you have your report?

17 A. No.

18 Q. Do you need it?

19 A. I didn't bring those up with me. I probably  
20 should if we're going to go over the details.

21 Q. Do you need a copy?

22 A. That would be great.

23 MS. VOLLMAN: Judge, may I approach the  
24 witness?

25 THE COURT: Yes, you may.

1 Q. (BY MS. VOLLMAN) Let's go with C&M first.

2 A. Okay. I think that's the one that you brought me  
3 out there. I don't know if that one is here.

4 Q. It should be there. Okay. When did you look --  
5 when did you start looking at C&M Medical Equipment?

6 A. Check the dates here. I don't want to give you a  
7 wrong date. It was in late 2005; and the report I ran  
8 from, which I wrote this analysis, was December 15th of  
9 2005.

10 Q. What was the provider number for C&M Medical  
11 Equipment?

12 A. Provider number was 1602708.

13 Q. Okay. When you looked at CM Medical Equipment,  
14 what did you notice about the company too? How many  
15 suffixes? Can you please explain what that mean?

16 A. That have a suffix 01 and 02.

17 Q. What does that mean?

18 A. Sometimes it can mean that there is a different  
19 address for each suffix. Sometimes a separate suffice  
20 will be issued when they're going to bill a different  
21 program.

22 And what we found with DME suppliers,  
23 routinely, they would bill their Medicare claim on one  
24 suffix and Medicaid claims on the other.

25 Q. Do you know if these locations were identified by

1 the Medicaid program? What addresses did they give?

2 A. It's going to take me a minute to find this.  
3 It's been a while. I'm sure it's in here somewhere. I'm  
4 just not seeing it right now.

5 Q. Does 3702 Thunderbird sound right?

6 A. Yes, it does.

7 Q. Do you have the other one?

8 A. 9894 Bissonnet, Suite 908.

9 Q. When you started looking at this company, what  
10 other data bases do you have access to that you go to find  
11 out information about the particular company?

12 A. Well, we have the data base at OIG, which is  
13 called the Medicaid and Fraud and Abuse Detection System.  
14 Secretary of State, where I went to see who the owners of  
15 the company were listed there as compared in the  
16 enrollment application for Medicaid.

17 Q. And what is the -- what's the significance of  
18 looking at the unfads computer, I guess, what is the  
19 benefit for looking at that? What are you trying to find?

20 A. Any unfads we're looking for, where they're  
21 located, the company is located, basically how much money  
22 they had billed to Medicaid because it's roll-up total  
23 month to month just to get a general idea of what size of  
24 a provider we're dealing with.

25 Q. When you looked at C&M, did you notice who their



1 billing agents were?

2 A. They had listed that their billing agent was E  
3 Capital Healthcare Consulting, and Maria Bibbs was listed  
4 as the billing agent.

5 Q. Now, as far as the billers that you were looking  
6 at, did they have E Capital and Maria Bibbs or...

7 A. This was the only one listed, as I recall, that  
8 had E Capital.

9 Q. In researching C&M Medical Equipment, what did  
10 you learn about Suffix 1? What was it enrolled as?

11 A. Hyperalimentation is a way of feeding a client  
12 who doesn't have the ability to take in oral nourishment  
13 nor through a tubing in their stomach.

14 So they put it through like one of the  
15 large veins in your body. It's very expensive, and it's a  
16 very unique of feeding somebody.

17 Q. If somebody's who's in that type of business, are  
18 they going to need to have some type of nursing license,  
19 medical or medical license before they can inject  
20 somebody, not a relative?

21 A. Well, they wouldn't need a license, per se; but  
22 you normally will see this with the home health agency who  
23 is licensed; and they would have registered nurses who  
24 would go out and administer the hyperalimentation  
25 medication. They also have a very close relationship with

1 a pharmacy because these bags of solutions must be mixed.

2 Q. Does it sound weird to have that type of  
3 speciality in one of these DME companies?

4 A. It's unusual.

5 Q. Okay. Now, did you notice any of the billing --  
6 did you notice any of the billing associated with Suffix  
7 1?

8 A. It only totaled \$4796.02. So there was very  
9 minimal billing under that Suffix.

10 Q. What was the billing for?

11 A. It was for Medicare cross-over claims and for  
12 five powered wheelchairs.

13 Q. Was there any billing from September 2004?

14 A. Now, there was a whole year where there was no  
15 billing at all.

16 Q. What happened in September of 2004?

17 A. Well, at that time, they started billing Medicaid  
18 again; but this time, was strictly for incontinent  
19 supplies for straight Medicaid clients.

20 Q. Can you tell us how much was billed for 2004?

21 A. \$21,298.48.

22 Q. So that's kind of the range of the type of work  
23 they were doing in 2004, right?

24 A. Yes.

25 Q. How much did they bill in 2005?

1           A.    Well, when I -- as of November 8th, 2005 when I  
2 ran the report for that period of time, they had already  
3 billed \$1,512,008.44; and all of that billing had been  
4 under their 02 Suffix.

5           Q.    Let me ask you, what billing practices -- what do  
6 you look at when you're determining the billing?

7           A.    There is a computer program we had called  
8 Business Objects; and it basically took all of the claims,  
9 the paid claims we had in Impads, put them into a program  
10 where we could run a report for a defined period of time  
11 and we could take that report and look at it in all  
12 different ways.

13          Q.    Okay.  Is that also -- another phrase for that is  
14 the BOR?

15          A.    Yes, business object report, right.

16          Q.    When you revised the BOR, what did you learn as  
17 far as the time frame for that million-five billing?  What  
18 was the time frame?

19          A.    It was from 2004 to 2005.

20          Q.    Okay.  If you were going to break down the yearly  
21 totals of a typical DME business, what would you expect to  
22 see from year to year?

23                   MR. MARTIN:  Objection.  Speculation.

24                   THE COURT:  You can answer if you have  
25 knowledge about it.

1 A. It would be hard to say.

2 Q. (BY MS. VOLLMAN) Would you see that kind of  
3 disparity between 21,000 and 1.5?

4 A. This was a great disparity.

5 Q. When you saw the 1.5 being billed in that one  
6 year for 2005, is that considered a red flag?

7 A. It definitely was a red flag.

8 Q. And why is that?

9 A. It was a large volume of money for a year's time;  
10 and to only be incontinent supplies, that was very unusual  
11 also.

12 Q. Why was it unusual if they were only billing for  
13 incontinent supplies?

14 A. They are not high-dollar items. Let's say  
15 powered wheel chairs, which we can reimburse, five, \$8,000  
16 apiece for; but the incontinent supplies, it takes a lot  
17 of to be billed to add up to a lot of money.

18 Q. What else did you find when you were doing your  
19 research regarding that? What percentage of their  
20 billings were incontinent supplies?

21 A. 99 percent.

22 Q. And that's awfully high for a DME company, isn't  
23 it?

24 A. Yes, it is. Some of them can mainly do  
25 incontinent supplies and then do other types of DME

1 equipment or whatever on the side; but this one was pretty  
2 much strictly incontinent supplies.

3 Q. Did you find anything in your research, the type  
4 diagnostic codes they were using actually for that, that  
5 you found suspicious?

6 A. I have here that 98.63 percent of the services  
7 had the same diagnosis of 78830 urinary incontinence "not  
8 otherwise specified" as the reason for why they needed the  
9 incontinent supplies.

10 Q. What, if anything, did you find about the actual  
11 products? Was there anything unusual about that?

12 A. Well, yes. 24 extra large were under garments  
13 that were being billed to everybody, no matter what their  
14 age. They were being billed there quantity of 300 a month  
15 for every client that were billed.

16 The disposal liners and shields was  
17 being billed in a large quantity and 84554 just was for  
18 Under pads were being billed at a rate of 150 per month  
19 for every client that was billed.

20 Q. Is that unusual?

21 A. It is unusual.

22 Q. Did you also do any research regarding the number  
23 of clients that C&M had, plus the age of the clients and  
24 what they were being billed for? Did you do any analysis  
25 on that?

1           A.    There were 435 clients who were receiving  
2 incontinent supplies.  233 clients were under the age of  
3 21, and 204 clients were age 21 to 100.

4           Q.    What did their bills total between those two  
5 groups?

6           A.    Clients under age 21 was \$870,881.14; and clients  
7 age 21 to 100, their billings were \$668,522.30.

8           Q.    Did you take a look or do any specific research  
9 on any of the clients in this particular company when you  
10 were doing this research?

11          A.    I did.  I had noticed that there were an  
12 unusually large numbers of supplies.  So I randomly picked  
13 20 clients that were ages 10 through 15 and looked at all  
14 the billings they had for each clients in the past two  
15 years.

16          Q.    What did you find?

17          A.    I found that the clients had not been billed  
18 before they were being billed by C&M, and I also found  
19 that most of diagnosed with some type of behavior disorder  
20 or MMHMR.

21          Q.    Is that unusual?  Did you find that unusual?

22          A.    I did find that unusual.

23          Q.    What else did you note?

24          A.    None of the 20 clients that I looked at had any  
25 kind of medical diagnosis from previous providers, whether

1 they be physicians or any type of counselors or whatever,  
2 that would make me believe that incontinent supplies were  
3 medically necessary.

4 Q. When you completed your review, what did you do  
5 next?

6 A. I generated what we call a Complainant form. So  
7 I opened up a case within MPI for one of our contractors  
8 be assigned to investigate the case further. And I also  
9 made a referral to the Texas Attorney General's Medicaid  
10 Fraud Control Unit for possible fraudulent billing.

11 Q. Is that the normal procedure that you will take  
12 when you find something that really needs to be  
13 investigated further?

14 A. Yes, it is.

15 Q. Now, let's talk about another, Resource Solutions  
16 Medical Supply.

17 A. Okay.

18 Q. Are you familiar with that DME company?

19 A. Yes, I am.

20 Q. How did you become familiar with Resource  
21 Solutions Medical Supply?

22 A. I ran a business object report on November 2,  
23 2006. I was looking specifically for suspicious billing  
24 of incontinent supplies, and I identified this company as  
25 having suspicious billing practice.

1 Q. And what did you find when you looked at them  
2 closer? Did you go about looking at the BOR?

3 MR. MARTIN: Objection, Judge, leading.

4 THE COURT: Overruled.

5 A. I ran the business objects report and I actually  
6 ran it five days later on November 7th, 2006; and once  
7 again, I started looking at the report and the data it had  
8 brought back in all different ways.

9 Q. (BY MS. VOLLMAN) And what did you find?

10 A. Well, I found that the claims returned in the  
11 report were very recent, that they were from June 7th,  
12 2006 through October 13th, 2006; and all of the billing  
13 had been strictly for incontinent supplies and it was  
14 strictly for three products, which is the adult sized pull  
15 ons, extra large, 84554, which is the disposable under  
16 pads always billed in a quantity of 150 per month and  
17 84335, which is the wipes, which was billed in two boxes  
18 per month.

19 Q. Okay. And did you also -- does the business  
20 object report allow you to find out how many clients they  
21 were billing for, how many relationships they were  
22 supposedly be billing for?

23 A. One of the things that I did in my analysis is I  
24 always look at the age range and the number of clients in  
25 this one, I was very surprised that a very new DME



1 supplier already had 1236 clients since they enrolled and  
2 they had just enrolled on May 25th, 2006.

3 Q. That's pretty good for a start-up business?

4 MR. MARTIN: Objection to the side bar.

5 THE COURT: Sustained.

6 Q. (BY MS. VOLLMAN) Is that ordinary for a start-up  
7 business to be able to obtain that many clients or  
8 recipients?

9 A. This is very unusual. I think this is the most  
10 that I have ever seen in that short period of time.

11 Q. Okay. What else did you note?

12 A. We had paid Resource \$424,240.82 up until  
13 November of that year and they had just enrolled at the  
14 end of May. I also noticed something very different with  
15 this company; and that was that they only billed clients  
16 for a one-month period of time.

17 Whereas the other DME companies, once  
18 you get a client on your rolls, they would be your client  
19 and you would bill them their needed supplies every  
20 month; but with this company, there would be just one  
21 month of billing for each client and the next month a  
22 whole set of clients.

23 Q. And why is -- as a nurse who has been in the  
24 business, why is that unusual that somebody, if they're  
25 older than, you know, a child, they're an elder person and

1 they need 300 pull ups needing them every single month?

2 A. Well, they supposedly have some type of medical  
3 condition that they have a great need for incontinent  
4 supplies, that they can't control their urine or their  
5 bowels.

6 And 300 a month to change this under  
7 garment ten times a day in order to use all of those  
8 supplies and a need like that wouldn't just go away. It  
9 would be something that would be ongoing.

10 Q. Did you also notice anything about the  
11 relationship numbers when they were eligible, you know,  
12 when those particular recipients became eligible to even  
13 get Medicaid?

14 A. They were very recent enrollments in Medicaid.  
15 Most of them had enrolled since 2006. So they were  
16 clients who previously either had no insurance or had  
17 previous independent health insurance.

18 Q. So they were probably what, new to the program  
19 itself?

20 A. New to the program.

21 Q. Okay. Was there anything else that you noticed  
22 about this particular company?

23 A. Nothing that stands out right now.

24 Q. With that information, what did you do?

25 A. I opened a case within our department and sent it

1 over to our investigators for investigation, and I also  
2 made a referral to the Texas Medicaid Fraud Control Unit  
3 for possible criminal investigation.

4 Q. Do you remember when that referral was made?

5 A. The referral to the AG's Office was made on  
6 November 14, 2006.

7 Q. Okay. Let's talk about another DME company by  
8 the name of Wickware Medical Services. Are you familiar  
9 with that company?

10 A. Yes, I am.

11 Q. And how did you become familiar with Wickware  
12 Medical Services?

13 A. Basically the same way as the previous one. I  
14 ran a business object's report on November 2, 2006 and  
15 this was another company that I recognized as being new to  
16 the program that already had a fair number of, fair amount  
17 of dollars that were reimbursed but also a large number of  
18 clients.

19 Q. When you looked at them, can you tell us what it  
20 is you found, if anything, suspicious about their billing  
21 practices.

22 A. They had just start billing Medicaid in July of  
23 2006, very similar to the one we just discussed,  
24 Resource. They were billing for only these three  
25 incontinent supplies and the largest quantities allowed by

1 policy per month without having to obtain authorization.  
2 So everybody was getting 300 extra large pull ons, 150  
3 under pads and two boxes of wipes.

4 Q. Let me ask you this, were they all straight  
5 Medicaid clients, or was Medicare involved?

6 A. Medicare was not involved. These were straight  
7 Medicaid.

8 Q. Okay. Can you also -- did you also look at the  
9 ages of the recipients that was for this particular  
10 company?

11 A. I may have, but I don't see it on here right  
12 now. Here it is billed for clients ages 0 through 97, so  
13 the full gamete.

14 Q. Would you expect that with 0 to 97 to have  
15 everybody being billed for adult extra large pull ons?

16 A. Not everybody would have the need for the same  
17 quantity of supplies; and obviously, they're not for the  
18 same size of under garments.

19 Q. Did you notice anything suspicious about the  
20 diagnostic code that this particular company was using on  
21 these submitted claims?

22 A. All claims had been submitted with the exact same  
23 diagnosis, which is 77834, which is incontinence without  
24 sensory awareness.

25 Q. What is that?

1           A.    It just means that they have no control over  
2 their bladder or bowels and they're not aware of when they  
3 need to eliminate.

4           Q.    Okay.  How many recipients was he billing for  
5 when you looked at this business objects report?

6           A.    942 since the enrollment on July 18th, 2006.

7           Q.    And when are you looking at this?

8           A.    On November 2nd.  So it's basically to the end of  
9 October that they had claims in the system.

10          Q.    So we're talking July, August, September,  
11 October, four months?

12          A.    At the most.

13          Q.    Okay.  Did you see whether or not he was billing  
14 for more than one month supply per recipient?

15          A.    This -- again, in this particular case, they were  
16 only billing for one month worth of supplies for everybody  
17 and then you look at the next month and those claims had  
18 dropped off; and there were a totally new set of clients  
19 that were being billed.

20          Q.    You noticed from the other company that we had  
21 just looked at, that there were recent eligibility.  Did  
22 you notice anything about that for this company?

23          A.    Yes.  Again, I noticed that the majority of the  
24 relationship numbers indicated that they had just a recent  
25 Medicaid enrollment in 2006.

1 Q. Okay. And according to the BOR that was run, how  
2 much money did Medicaid pay Wickware as of the time you're  
3 looking at this company?

4 A. \$322,631.44.

5 Q. That was at your time, and did the money  
6 increase?

7 A. Well, I looked in another system that we have  
8 called Phoenix, which shows check writes to providers than  
9 a more recent date; and that revealed he had been paid  
10 \$375,941.12 as of their check write out.

11 Q. Is that a lot of money for a start-up business?

12 A. It is.

13 Q. With that information, what did you do?

14 A. I opened an investigation within our department  
15 and sent it to our investigator, and I also made a  
16 referral to Attorney General Medicaid Fraud Control Unit.

17 Q. And do you remember what the date of that  
18 referral was?

19 A. It was November 14, 2006.

20 Q. Okay. Same date as the other one?

21 A. It is. And in both of these referrals, both for  
22 Resource Solutions and Wickware, normally my referrals to  
23 the AG's Office are just very generic. We've identified  
24 the provider that has suspicious billing patterns. We  
25 wanted them to be aware that we've opened an investigation

1 in case you would like to also.

2 But in addition to that in these two --  
3 because I just, I had a feeling that something just wasn't  
4 right because of the very large number of clients in the  
5 very short period of time.

6 I pointed out to them that, I was  
7 suspicious that these two providers obtained Medicaid  
8 recipient numbers due to a high volume of recipients that  
9 had been billed. And I just wanted them to be aware of  
10 that so they might look at that angle.

11 Q. And do you know whether they do or don't after  
12 that? I mean, do you necessarily are in the loop to get  
13 information on what happened to your referrals?

14 A. No. All they do is they write back a letter that  
15 says, "Thank you for your referrals. We've opened up a  
16 case."

17 Q. Let's talk about Perkins Mobility. Are you  
18 familiar with that DME company?

19 A. Yes, I am.

20 Q. And did you have an opportunity to look at the  
21 BOR for that particular company?

22 A. I did.

23 Q. And can you tell us what you noted?

24 A. I ran the report on November 8th, 2006. All the  
25 dates of billing are from June 21st, 2006 to October 7,

1 2006. They were all straight Medicaid claims. All under  
2 garments, again, were billed in adult sized extra large  
3 pull ons. The code is 24528.

4           Everybody was billed for under pads in  
5 the same quantity, which was 150; and everybody received  
6 two boxes of wipes and the recipient's ages were 0 to 97.

7       Q. The same as the other company?

8       A. Yes.

9       Q. What else did you notice? How many relationships  
10 did they have?

11       A. They had 1015 Medicaid recipients and they had  
12 just enrolled on June 20th, 2006.

13       Q. So again, a high number?

14       A. In a short period of time.

15       Q. What was the diagnosis as far as the underlying  
16 medical condition that required them to get these  
17 incontinent supplies?

18       A. Once again, it was "incontinence without sensory  
19 awareness."

20       Q. And that was for everybody?

21       A. Everybody had the same diagnosis.

22       Q. Did you notice anything about the billing pattern  
23 as far as for one particular recipient, did they get  
24 multiple months or just one month?

25       A. This was another case and then the next month a



1 whole new set of recipients.

2 Q. Did you notice anything about the recipient  
3 numbers on when they became eligible?

4 A. Most of them are very recent in 2006.

5 Q. Did you also notice on this particular company  
6 whether the recipients were residing in Harris County or  
7 surrounding counties?

8 A. Yes. On this particular company -- because I had  
9 seen a couple very recently, I looked at the report a  
10 little bit different just to see where the clients were  
11 located because I was wondering just in the Houston area  
12 could be picked up by these new suppliers.

13 And in this case, I found that these  
14 clients were located all over the State of Texas. They  
15 were in Dallas, San Antonio, Austin, Brownsville; and that  
16 was very unusual.

17 Q. And according to the BOR, can you tell us how  
18 much money did Medicaid Perkins when you had a chance to  
19 look at it?

20 A. \$344,408.70.

21 Q. And as you looked at the check write for Phoenix,  
22 what did you notice?

23 A. It was \$380,020.37.

24 Q. When you completed your research on this company,  
25 what did you do?

1           A.    I generated a case with the NCI and later a  
2 referral to the Attorney General's Medicaid Fraud Control  
3 Unit.

4           Q.    When was that referral made?

5           A.    November 15th, 2006.

6           Q.    Okay. Right after you completed the day before  
7 with the other two companies?

8           A.    Yes. I had a list that I was working. So just  
9 as I was able to do my research and generate the  
10 referrals, I did them.

11          Q.    Let's talk about First American. Are you  
12 familiar with that DME company?

13          A.    I am.

14          Q.    And did you become familiar with that doing the  
15 same type of research that you were doing for all the  
16 other companies?

17          A.    Yes.

18          Q.    What did you notice, if anything, about the owner  
19 of this company?

20          A.    The owner?

21          Q.    Uh-huh. When you were looking at this, did you  
22 look at the application as to how he answered various  
23 questions on that?

24          A.    Yes. I also looked at the Medicaid enrollment  
25 application.

1 Q. And did you do anything to verify whether or not  
2 there was anything unusual about him?

3 A. Just that Robert Christopher Turner was listed as  
4 the sole owner of First American, and he had noted that he  
5 would not be using a billing agent to submit his Medicaid  
6 claims.

7 Q. Okay. When you looked at his company and you  
8 looked at the BOR, what did you notice?

9 A. This was another recently enrolled DME supplier  
10 claims in the report, the first claim was dated May 18th,  
11 2006. The last one was October 22nd, 2006. All of the  
12 claims were straight Medicaid claims.

13 Once again, the incontinent supplies  
14 were billed as adult extra large pull on, quantity of 300  
15 every month. Although this particular provider started  
16 billing pediatric in a quantity of 300 per month.

17 Q. And did you see any of the other products that  
18 they were getting?

19 A. Again, disposal under pads which were billed in  
20 quantity of 150 per month and then the wipes billed as two  
21 boxes per month.

22 Q. How much did you see for this company?

23 A. 512-, at the time I wrote the report.

24 Q. And that's less than the other company how this  
25 company was billing their recipients?

1           A.    It was a little different because normally a  
2 claim is submitted for a monthly, a month's worth of  
3 supplies; and for this particular company on one claim,  
4 they would bill three months worth of supplies on a claim,  
5 which you can do; but it's just different but it's a  
6 normal billing of what we would see.

7                        So for 512 clients, there were only 531  
8 claims submitted; but that was for a period that covered  
9 four to five months.

10          Q.    What did you notice about the eligibility date of  
11 the recipients who were clients of First American?

12          A.    Once again, fairly recent.  They were either in  
13 late 2005 or in 2006.

14          Q.    Okay.  Did you notice the age range on this  
15 particular company?

16          A.    It's not standing out.

17          Q.    Okay.  Did you do any research to find out  
18 whether these random clients had any type of history of  
19 incontinent supplies or incontinence diagnoses?

20          A.    Yes, I did.  On some clients, I just ran a report  
21 on the client themselves just to see what providers had  
22 billed for them previously and what kind of services they  
23 had received before.

24                        And I did notice that there were a large  
25 number of clients who had been previously provided

1 incontinent supplies by another DME company that we had an  
2 open investigation on.

3 Q. And which company was that?

4 A. That was Anointed Medical Supply.

5 Q. Okay. Did you do a comparison between those two  
6 companies of how many common clients were between  
7 Anointed?

8 A. There were 149 that where in common between the  
9 two.

10 Q. Is that unusual?

11 A. It is. We've seen it before through our  
12 investigation, had found out that providers were sharing  
13 client numbers.

14 Q. So somewhere in those businesses, would it be  
15 they have a common player?

16 A. A common player, unbeknownst to me.

17 Q. When was that referral made?

18 A. November 16 of 2006.

19 Q. Okay. And was that referred in the same way as  
20 the other companies were?

21 A. Yes, it was referred to the AG's Office.

22 Q. Let's talk about another DME company called  
23 Briscoe Medical Supply. Are you familiar with that  
24 company?

25 A. Yes, I am.

1 Q. And did you become involved in that company in  
2 the same way that you did these other companies and doing  
3 research on them?

4 A. Yes.

5 Q. And okay. When you looked at the BOR, what did  
6 you note on Briscoe Medical Supply?

7 A. The claims, they were new providers to Medicaid.  
8 The first claim that they had billed us was August 10th of  
9 2006, which was just three months prior to my looking at  
10 them. All of the claims were just for straight Medicaid,  
11 no Medicare.

12 The same three incontinent supplies were  
13 being billed for all clients in the maximum quantity for  
14 month. They billed extra large regardless of the child's  
15 age, and the clients in this report were age 0 to 98.

16 Q. And with that diverse of ages, you would expect  
17 they would need different sizes?

18 A. Definitely. And we do have pediatric pull ons  
19 which are available to be billed for children.

20 Q. And did you notice, again, as to which one was  
21 being used for these clients?

22 A. Strictly the diagnosis of "incontinence without  
23 sensory awareness."

24 Q. How many recipients did this particular company  
25 have if they just started in August?



1 would enroll was in West Texas. The next client that was  
2 processed would be in the Panhandle, which I had never  
3 seen before.

4 Q. What does that tell you as someone who's looked  
5 at a lot of these BOR from different areas and it's one  
6 right after the other going to one company?

7 MR. MARTIN: Objection. Speculation.

8 THE COURT: Sustained.

9 Q. (BY MS. VOLLMAN) In your experience, how many  
10 BORs have you reviewed?

11 A. Hundreds, maybe a couple of thousand over the  
12 years.

13 Q. And do you look for patterns and whether -- just  
14 looking for suspicious patterns to show that there's  
15 something wrong with the way this business is conducting  
16 their business based on the BOR and the information that  
17 you get from the BOR?

18 A. Yes, definitely could justify it. I look for  
19 past medical diagnoses to see if maybe that could justify  
20 why this client needed incontinent supplies now. I look  
21 for past testing that they have done.

22 I look for anything I can think to give  
23 the provider the benefit of the doubt when I'm looking at  
24 this, because I don't want to open up an investigation  
25 needlessly because our caseload is so big. So I want to



1 make sure that I'm not just pulling a needle out of a  
2 haystack. I really have some meat.

3 Q. When you see recipients, you know, in your  
4 experience, does Medicaid issue numbers in orders? In  
5 other words, you've got ten people that apply today. They  
6 get a number like one. The next one gets two. The next  
7 one gets three.

8 And I know the number is longer than  
9 that; but is that generally how those unique Medicaid  
10 numbers are assigned?

11 A. Yes. But they're providing enrollment to  
12 Medicaid recipients all over state. So all of these are  
13 coming into the system from everywhere throughout the  
14 state.

15 So the subsequent wouldn't necessarily  
16 be issued to Houston clients; but you could have one there  
17 from the Panhandle, from the Valley.

18 Q. And so that part would be very unusual to have  
19 those folks in a number applying to a DME company in  
20 Houston?

21 A. Most definitely.

22 Q. Okay. How much money did you see that was being  
23 paid to Briscoe from there date Impad and then at the  
24 Phoenix system?

25 A. I picked Briscoe and their billing it was

1 \$106,425.48 at the time I looked at them.

2 Q. Which was a lot lower than the other company?

3 A. It was a lot lower, but then when I went to  
4 Phoenix to look at what their next check write was, it was  
5 already up to \$147,614.63.

6 Q. And that was in what span of time?

7 A. That was in the three months from August 2006 to  
8 November, beginning of November 2006.

9 Q. Is that a healthy check for a DME owner?

10 MR. MARTIN: objection. Calls for  
11 speculation.

12 THE COURT: Overruled.

13 A. Just for incontinent supplies, yes.

14 Q. (BY MS. VOLLMAN) Now, with all that information  
15 that you had, did you refer this case also?

16 A. Yes. It was also referred to the Attorney  
17 General's Office.

18 Q. Do you remember the date that you referred this?

19 A. January 4, 2006.

20 Q. Okay. Let's talk about -- I think the last  
21 company is Dreammaker's Medical Supply.

22 A. Yes.

23 Q. Are you familiar with that company?

24 A. I am.

25 Q. Is this another one of the companies you're

1 looking at who were having suspicious billing patterns?

2 A. Yes. This one came along just a little bit  
3 later. This was March of 2007.

4 Q. And when you took a look at this, what did you  
5 notice?

6 A. I ran the business object report on March 7,  
7 2007. They had enrolled on January 29th of 2007. So it  
8 was just a little over a month, like a month and a half,  
9 they had furnished supplies to just 23 clients at the  
10 time.

11 Q. Okay.

12 A. And --

13 Q. Did you later go back and see -- okay. Go  
14 ahead.

15 A. I later went back to see how many claims they  
16 submit for the next month, and we were up to 263 clients  
17 from the 23.

18 Q. So one month, they had 23; and the next month,  
19 they had 263?

20 A. Yes.

21 Q. Is that unusual?

22 MR. MARTIN: Objection. Calls for  
23 speculation.

24 THE COURT: Overruled. You may answer the  
25 question.

1 A. It was a large number of clients for one month.

2 Q. (BY MS. VOLLMAN) How many claims had been paid  
3 with those services for those 263?

4 A. 771. They were all submitted with the same  
5 diagnosis, "incontinence without sensory awareness." All  
6 263 were billed again for the exact same three incontinent  
7 supplies. The adult size pull ons extra, large quantity  
8 disposable quantity 150 and the wipes, two boxes.

9 Q. And what were the age of these clients?

10 A. 11 to 81.

11 Q. Okay. How much money had Medicaid paid  
12 Dreammaker's at the time you were looking at it?

13 A. According to business objects, it was \$85,521.44;  
14 and I went to Phoenix to see what their next check write  
15 was; and the total they would have been reimbursed was  
16 \$177,070.40, as of their check write on March 23rd, 2007.

17 Q. Would that have been just a month later?

18 A. Yes.

19 Q. Did you have any information about the  
20 eligibility of these particular clients?

21 A. I don't think I looked at that for this  
22 particular provider.

23 Q. Okay. Did this business handle their business  
24 exactly or very similar to the way these other did?

25 A. Well, it appeared it was a large volume of

1 clients being added on month to month. It was the exact  
2 same diagnosis being used for everybody, the exact same  
3 products being billed for everybody, same quantity, same  
4 size.

5 Q. And did you handle this the same way you referred  
6 it?

7 A. I did.

8 Q. And do you remember when you made this referral  
9 for Dreammaker's Medical Supply?

10 A. This was on March 21st, 2007.

11 MS. VOLLMAN: Pass the witness, Judge.

12 THE COURT: Mr. Martin, you may proceed.

13 MR. MARTIN: Thank you, Judge.

14 CROSS-EXAMINATION

15 BY MR. MARTIN:

16 Q. Good afternoon, ma'am.

17 A. Good afternoon.

18 Q. You have provided information on seven  
19 companies. I've got a lot of the same questions on all of  
20 them, but first some unique questions. You mentioned that  
21 as part of your investigation at the very beginning in  
22 your background that you run a report, you do suspicious  
23 pattern analysis research only, correct? You remember  
24 that testimony?

25 A. Yes.

1 Q. And on direct examination, you said you don't  
2 conduct interviews, correct?

3 A. No field interviews. I only do interviews over  
4 the phone.

5 Q. And that's with selected patients out of your  
6 sample sides; is that correct?

7 A. If I have something more, you know, a question in  
8 the back of my mind and I'm trying to figure something  
9 out, I make phone calls.

10 Q. Okay. And is it safe to say you had no interview  
11 with Mr. Jefferson, correct?

12 A. I did not. I never knew who Mr. Jefferson was.

13 Q. Now, you also mentioned that you found it unusual  
14 that some companies have billings for multiple months for  
15 the same patient versus other companies just have billings  
16 for one month for that patient and then the next month  
17 they have billings for -- I'm paraphrasing here -- a  
18 entirely new group of patients?

19 A. Yes.

20 Q. Did I paraphrase you correctly?

21 A. Yes.

22 Q. One -- nothing illegal about that, is there?

23 A. No, there is not.

24 Q. And given that Medicaid is a patient-driven  
25 system -- 'cause the patient is the one who makes the

1 choice as to which products they want to use; is that  
2 correct?

3 A. Yes, sir.

4 Q. And so if the patient changes the service  
5 provider, that service provider will no longer be able to  
6 legitimately bill for those products, correct?

7 A. You're correct, and that does frequently happen.  
8 However, the client would have the same needs no matter  
9 who their provider is. So you would expect them the next  
10 month to have a provider billing for the incontinent  
11 supplies.

12 Q. That provider in the same system?

13 A. Yes.

14 Q. Okay. But if they were arranging their product  
15 supplies elsewhere, you would not have access to that  
16 information, would you?

17 A. Since they're Medicaid clients, the only way they  
18 could get their supplies paid for without paying out of  
19 pocket would be to get them through a Medicaid provider.

20 Q. Now, I go to the questions for each one of the  
21 companies. And you had seven out of the eight  
22 companies; is that correct?

23 A. Yes, sir.

24 Q. In every document that you reviewed for all seven  
25 companies, Mr. Jefferson's name does not appear on any of

1 the documents; isn't that correct?

2 A. No, sir.

3 Q. No, sir, you're agreeing with me or disagreeing  
4 with me?

5 A. I'm agreeing with you, his name does not appear.  
6 I have never seen Mr. Jefferson's name anywhere.

7 Q. On any of the seven companies that you've done  
8 your research?

9 A. Correct.

10 MR. MARTIN: Pass.

11 THE COURT: Anything further?

12 MS. VOLLMAN: Nothing further, Judge. May  
13 this witness step down and be excused?

14 THE COURT: You may.

15 THE WITNESS: Thank you.

16 THE COURT: May I see the lawyers.

17 (Brief discussion at the Bench.)

18 THE COURT: Ladies and gentlemen, the lawyers  
19 have assured me that this witness would be relatively  
20 brief, despite the fact that it is nearing 5:00. So with  
21 that promise, call your next witness.

22 MS. LEWIS: Your Honor, I call Tracy Mosher.

23 THE COURT: You may proceed.

24 MS. LEWIS: Thank you, Your Honor.

25 TRACY MOSHER,