

1 THE COURT: You may be seated. You may
2 proceed.

3 MS. VOLLMAN: Thank you, Judge.

4 SHARON THOMPSON,
5 having first been duly sworn, testified as followed:

6 DIRECT EXAMINATION

7 BY MS. VOLLMAN:

8 Q. Could you please tell the ladies and gentlemen of
9 the jury your name?

10 A. Sharon Thompson.

11 Q. Where do you work?

12 A. I work for Texas Health and Human Services
13 Commission.

14 Q. How long have you worked for them?

15 A. For the Commission, since 1993.

16 Q. And have you been employed with the State in
17 other capacities?

18 A. Yes.

19 Q. Can you tell us how -- how long you've been
20 employed by the State?

21 A. For 42 years.

22 Q. Have you worked in a different division since you
23 started working for the State?

24 A. I have.

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

1 educational background, training, expertise, places you
2 have worked since going to work for the State that
3 qualifies you to do the type of job that you do?

4 A. I have 41 years of experience with the Medicaid
5 program. Of those 41 years, 28 of those also included
6 fraud and abuse in Medicaid; and of those 28, 22 of those
7 were as Director of Medicaid Program Integrity for the
8 Office of Inspector General. And I have a Bachelor's of
9 Administration Degree.

10 Q. What else -- the year of the 42, where did you
11 work for that extra year?

12 A. For the Health and Human Services Commission.
13 It's little confusing. I'm sorry. At that point, it was
14 Department of Public Welfare. It's a little confusing
15 because the experience that I just provided you actually
16 transcends over three different agencies, because they
17 kept moving the function from one agency to another; but
18 the function was always the same regardless of what agency
19 we were in.

20 Q. Okay. So you've worked for the State for 42
21 years?

22 A. Yes.

23 Q. Now, can you give us an idea about what is
24 Medicaid Program Integrity?

25 A. Medicaid Program Integrity is really looking at

1 potential providers that are defrauding and abusing the
2 Medicaid programs. We do an investigation; and if we
3 determine that a provider has abused the program, we will
4 make a criminal referral to the Attorney General's
5 Medicaid Fraud Control Unit.

6 And in addition to that, the Agency may
7 also sanction administratively that particular provider.

8 Q. Can you tell us what your current title is?

9 A. Current title is Senior Policy Advisor with the
10 Medicaid Endship Program.

11 Q. Can you tell us what your current duties are?

12 A. Yes. I interpret -- develop and interpret
13 Medicaid policy. I also am the liaison with the Medicaid
14 CHIP Division for all fraud and abuse matters and the
15 liaison with the Attorney General Medicaid Fraud Control
16 Unit.

17 And involved in that would be assisting
18 them if they have questions on what to look for, for a
19 particular provider type.

20 Q. What does Health and Human Services do?

21 A. The Commission is the umbrella agency over about
22 four or five different agencies responsible for all of the
23 Health and Human Services program in the State.

24 Q. Can you give us an idea about what some of those
25 programs are, what are some other ones?

1 A. CHIP would be the Children's Health Insurance
2 Program, and then there is the Medicaid program and the
3 then Medicaid Ministerial Program. Those are the big
4 three.

5 Q. Is the Health and Human Services Commission
6 responsible for the Medicaid money that is involved in the
7 program?

8 A. Yes.

9 Q. And are you here testifying as the representative
10 of Health and Human Services Commission?

11 A. Yes.

12 Q. All right. Let's talk about the Medicaid
13 program. It also known as the Texas Medicaid Program?

14 A. It is.

15 Q. What is that program?

16 A. The Medicaid program is a program that provides
17 health insurance and health benefits for indigents, which
18 are those people with the lowest level of income and
19 resources and assets in our state -- the people that are
20 less fortunate than a lot of us.

21 Q. What is the HHSC's role related to the program
22 itself?

23 A. We are designated by the federal government as
24 the single state agency for the administration of the
25 Medicaid program of the State of Texas.

1 And that basically means that we're
2 responsible for the appropriate administration of the
3 program, but we do have the authority to deligate certain
4 of those responsibilities to other agencies and
5 companies.

6 And if we do that delegation, we still
7 have to remain ultimately responsible for the
8 administration of the Medicaid program.

9 Q. And as, in fact, contracted with other companies
10 to handle some of the functions that HHSC is responsible
11 for?

12 A. Yes.

13 Q. Can you give us an idea about what type of
14 companies those are involved in?

15 A. Yes. One of the companies was National Heritage
16 Insurance Company, commonly referred to as NHIC. They
17 held the contract for certain functions up through the
18 year 2003; and then we contracted with a different
19 company, Texas Medicaid and Healthcare Partnership,
20 commonly referred to as TMHP, for those same functions
21 beginning January 1 of 2004.

22 And we've also contracted with a company
23 called Maximus for other duties, not what either of the
24 other two have done.

25 Q. Let's talk about TMHP. Can you give an example

1 for the types of services HHSC is contracted with TMHP to
2 perform?

3 A. Yes. We have contracted with them to do several
4 different things. An example of the major things that
5 we've contracted with them to do would be to pay and
6 process Medicaid claims submitted by providers, to enroll
7 Medicaid providers into the Medicaid program, and to also
8 do provider relations with Medicaid providers.

9 Q. Okay. When you say HHSC has contracted with TMHP
10 to perform enrollment services, what does that mean?

11 A. Enrollment services, you said? Basically what
12 that means is, that if someone wants to be a provider
13 under the Medicaid program, they will give them the
14 enrollment package. They will have the potential provider
15 complete that, return it back to them.

16 They will review it for certain criteria
17 to determine whether or not that provider will be enrolled
18 in the program, assuming they will be enrolled. Then they
19 will actually enroll that provider and give that provider
20 a provider number.

21 Q. And we'll talk about that a little bit later
22 about the numbers, but what do you mean by provider
23 relations?

24 A. Provider relations is a group within the company
25 that we ask to be available and have different ways to

1 educate Medicaid providers and to also be available or
2 have people in the -- spread out throughout the State so
3 that if you're a provider in the Valley, say you have a
4 particular person that you know you can talk to all the
5 time. That's one person that's assigned to your area; and
6 they can come out, look at any problems or issues that
7 you're having with claims' payment or whatever, give you
8 policy interpretation or whatever you need, meet with you
9 and your staff.

10 Also, they provide workshops throughout
11 the State all year long for different provider types so
12 that they can educate themselves or be educated; and then
13 they maintain a 1-800 too-free line for anyone who calls
14 in and needs information and also help people through the
15 internet.

16 Q. All right. Let's talk about Maximus. What is
17 Maximus, Inc.?

18 A. Maximus is a company that we contract with as an
19 enrollment broker; and basically what that means is, we
20 have them enrolled, new Medicaid eligible recipient, into
21 an individual plan with the managed care programs. The
22 medical --

23 Q. I'm curious. What is managed care?

24 A. Managed care is where you have the recipient
25 assigned to one particular plan; and within that plan,

1 they can choose an individual doctor. And that doctor
2 then is the person that will see them, will provide to
3 them all referrals to other medical specialities that they
4 need to go to.

5 Q. Is it pretty much like an HMO?

6 A. Yes.

7 Q. Okay. Now, how does Maximus accomplish their
8 brokerage responsibilities?

9 A. They --

10 MR. MARTIN: Objection, Judge, unless it's
11 based on personal knowledge.

12 THE COURT: She can answer if she knows.

13 A. Our agency contracts with Maximus; and so, I am
14 familiar with that. Basically what they do is, we will
15 send them a daily electronic file of new Medicaid eligible
16 recipients.

17 They will take that file and it's an
18 electronic document, if you will. They will take that and
19 they will send an enrollment packet out to each of those
20 recipients on that list, and they are basically asking to
21 declare which of the managed care plans they prefer to be
22 a part of.

23 If the recipient has not submitted their
24 information back, then there's a second notice or contact
25 that they will make with the recipient; and then that

1 recipient has a chance to declare a second time. If they
2 don't declare then, then Maximus will just enroll them in
3 a default ministerial care plan.

4 Q. When you're talking about the types of
5 information that HHSC provides Maximus so they can do
6 their job, can you give us an idea about what type of
7 information is contained on that electronic document?

8 A. Yes. It is present recipient information. So
9 we're talking about things like the recipient's name, the
10 recipient's address, the recipient's Medicaid number, the
11 Social Security number, the date of birth, the date of
12 eligibility for Medicaid and many, many other things, all
13 of which are personal, restricted information.

14 Q. Now, you talked about that it being electronic.
15 How is that data information provided to the contractors
16 that HHSC uses like Maximus?

17 A. We provide that electronically to them on a daily
18 basis.

19 Q. Is it on a secure server, do you know?

20 A. I don't know. I would assume it has to be.

21 MS. VOLLMAN: Don't assume.

22 MR. MARTIN: Objection. Basis on assumption
23 and speculation.

24 THE COURT: Sustained.

25 Q. (BY MS. VOLLMAN) The information that's involved

1 on the electronic document, whose data is it?

2 A. The data belongs to the Health and Human Services
3 Commission, my agency.

4 Q. So your electronic document that is sent from you
5 to Maximus, is your information and your documents,
6 correct?

7 A. Yes.

8 Q. All right. Is there an agreement between HHSC
9 and Maximus as to how those documents and data are to be
10 handled?

11 A. Yes.

12 Q. Does the agreement include confidentiality
13 provision for protecting that client's recipient
14 information?

15 A. Yes, it does.

16 Q. Is it fair to say that you do not want recipient
17 information and their identifiers to be improperly handled
18 by Maximus?

19 MR. MARTIN: Objection. Leading.

20 THE COURT: Sustained.

21 Q. (BY MS. VOLLMAN) Can you tell us, is it or is it
22 not a concern of HHSC as to how their subcontractors
23 handle HHSC Medicaid information?

24 MR. MARTIN: Objection. Same objection.

25 THE COURT: Overruled.

1 A. We are concerned about confidentiality of the
2 information, because we're required by law, both state and
3 federal law and by federal regulation to maintain that
4 confidentiality; and the law is very specific that we also
5 have to make sure that if we have contractors, that we
6 make that same requirement up on any of our contractors.

7 MR. MARTIN: Objection. Judge, it calls for
8 a legal conclusion as to the terms and conditions of the
9 alleged confidentiality agreement.

10 THE COURT: Overruled.

11 Q. (BY MS. VOLLMAN) Okay. And are you familiar
12 with how HHSC make sure or what steps they take to make
13 sure that their contractors like Maximus know that they
14 too are to keep the confidentiality of that information?

15 A. We have a contract with Maximus, our agency does;
16 and in that contract, there is a confidentiality provision
17 such that we require them to maintain confidentiality and
18 to use that information any confidentiality information
19 that we provide them that's confidential by law, which is
20 recipient information, that they use that only as they
21 need to, to fulfill the contracted duties that we've asked
22 them to perform them. They can't use it for any other
23 reason.

24 MR. MARTIN: Judge, we object to the
25 preceding answer based on hearsay. The contract will

1 speak for itself.

2 THE COURT: Overruled.

3 Q. (BY MS. VOLLMAN) Why is it that HHSC requires
4 that that recipient information remain confidential, in
5 addition to the federal, state regulatory rules? Why
6 else -- if it is at all, why is it that HSC is concerned
7 about the confidentiality of that information?

8 A. Medicaid recipients have a right to privacy.
9 It's really no one's business whether they're a Medicaid
10 recipient or not. In addition to that, we're talking
11 about personal, confidential information, identifying
12 information like date of birth, like Social Security
13 number, none of us would want anyone to be aware of our
14 personal identifying information -- our name, our address,
15 altogether, our Social Security number, our date of birth
16 because of identity theft and any other number of reasons
17 that someone would take that information, misuse it and
18 harm the recipient.

19 Q. Would failing to maintain the confidentiality of
20 the Medicaid recipient information expose HHSC to a
21 substantial risk of loss of federal or state Medicaid
22 money?

23 A. Yes.

24 MR. MARTIN: Objection. Calls for
25 speculation, unless it's based on personal knowledge.

1 THE COURT: She can testify to that if she
2 knows the answer.

3 A. The answer is yes.

4 Q. (BY MS. VOLLMAN) And why is that?

5 A. One of the -- or some of the information on the
6 document, the electronic document that we give them is
7 information that is required for a Medicaid provider to
8 bill a Medicaid claim for a recipient.

9 So if that information ends up in the
10 hands of any Medicaid provider, than that provider can
11 take that information and just start billing willy nilly
12 Medicaid claims on any or all of those recipients that
13 they have the information on.

14 And you know, whether they supply the
15 services or not, they can just start billing; and they can
16 do it forever, unless they happen to get caught.

17 Q. Does HHSC consider Maximus and their other
18 contractors as fiduciary of the information that you give
19 them?

20 A. Yes, we do.

21 MR. MARTIN: Objection, Judge. That calls
22 for a legal conclusion.

23 THE COURT: Overrule.

24 Q. (BY MS. VOLLMAN) Can you tell us what is a
25 fiduciary?

1 A. It means a person or an entity that's entrusted
2 with either money or property or power for the benefit of
3 another.

4 Q. Can you tell us whether, as far as Maximus, if
5 they have employees that provide HHSC's data, electronic
6 data document information recipient to an employee, is
7 that person -- as far as HHSC, consider that person also a
8 person who's taken on fiduciary responsibility?

9 MR. MARTIN: Objection, Judge. She doesn't
10 know what Maximus does unless it's based on personal
11 knowledge.

12 THE COURT: She can answer it if it's based
13 on personal knowledge only.

14 A. Would you repeat your question, please?

15 Q. (BY MS. VOLLMAN) HHSC that has that electronic
16 information that is theirs, if they provide that
17 electronic data on documents in the form of electronic
18 data to Maximus, Maximus is the fiduciary, as you
19 testified before, correct?

20 A. Yes.

21 Q. Does that responsibility to HHSC to maintain the
22 confidentiality extend to the employees that Maximus
23 chooses to also share that information with?

24 A. Yes, it does.

25 MR. MARTIN: Same objection, Judge.

1 THE COURT: Overruled.

2 Q. (BY MS. VOLLMAN) If that recipient data and the
3 document it's printed on is mishandled by the theme given
4 to people who are not entitled by law or agreement to have
5 access to it, could that expose HHSC to a substantial risk
6 of loss?

7 MR. MARTIN: Objection. Speculation.

8 THE COURT: Overruled.

9 A. Yes.

10 Q. (BY MS. VOLLMAN) How is that?

11 A. The Medicaid, as I explained a minute ago, the
12 provider, once they get a recipient number, as well as
13 other identifying recipient information, can then just
14 start billing the Medicaid program, whether they provide a
15 service or not; and the Medicaid program pays the Medicaid
16 bills. And so as those claims are coming in, then we are
17 paying for all of those bills.

18 Q. I want to talk a little bit about recipient
19 marketing. In addition to confidentiality provisions, are
20 there provisions related to recipient marketing?

21 A. Yes.

22 Q. And what is recipient marketing?

23 A. It's basically taking the recipients' names and
24 numbers and supplying them to other individuals where
25 people -- the other individuals would potentially benefit

1 from having that information.

2 Q. Does the contract between HHSC and Maximus
3 specially prohibit marketing to recipients other than
4 outside the scope of their responsibilities?

5 MR. MARTIN: Objection. Speculation, unless
6 it's based on personal knowledge.

7 THE COURT: Counsel, this question "as with
8 others," please clarify whether or not it's of personal
9 knowledge. Objection is overruled.

10 MS. VOLLMAN: Okay.

11 Q. (BY MS. VOLLMAN) First off, in the contract with
12 HHSC and Maximus, are you familiar with the provisions
13 regarding recipient marking whether they can do it or not?

14 A. I'm not familiar with those provisions. There is
15 a provision for confidentiality, which means that you
16 can't market the recipient information because it's
17 confidential.

18 And so whether there is a specific
19 provision in there for marketing, I don't know; but it's a
20 violation because it's confidential.

21 MR. MARTIN: Objection. Judge, she answered
22 the question that she does not know.

23 THE COURT: Overruled.

24 Q. (BY MS. VOLLMAN) Let's talk about the Medicaid
25 program itself. Who benefits from Medicaid?

1 A. The recipients benefit from Medicaid.

2 Q. Where does the funding from Medicaid come from?

3 A. It comes from state and federal taxpayer
4 dollars.

5 Q. In Texas, where does that money that goes to
6 Medicaid come from? What's the mechanics to getting HHSC
7 to administer to Medicaid recipients?

8 A. Every two years, our legislators meet; and they
9 have a pot of taxpayer money, if you will, and they have
10 to distribute that money to varying priorities, if you
11 will; and the Medicaid program is one of those.

12 And so we will get a portion of that
13 taxpayer money to operate on.

14 Q. Is the amount of money that goes to the overall
15 Medicaid program unlimited?

16 A. No.

17 Q. What does that mean?

18 A. It's not unlimited because we're talking about
19 taxpayer money. Taxpayer money is very limited, if you
20 watch the papers recently; and, in fact, there's a huge
21 Medicaid shortfall right now, which is a major issue and
22 will be in this next legislative session.

23 MR. MARTIN: Objection. Nonresponsive.

24 THE COURT: I'm sorry. Overruled.

25 Q. (BY MS. VOLLMAN) If the money is misapplied or

1 stolen, does the legislator just write Medicaid, HHSC
2 another check for the amount stolen?

3 A. No. We can request that they give us the money,
4 but there's no guarantee they'll have the money to give;
5 and if they do, there's no guarantee that they'll give it
6 to us.

7 Q. If it's lost for that particular year due to
8 fraud, it's just lost?

9 A. Correct.

10 Q. And who loses out if there's not enough Medicaid
11 money to go to the people that it's entitled to?

12 A. The recipients lose out, because if we don't have
13 sufficient funding for benefit payments, then we can't
14 give them all the services that they necessarily need; and
15 also, the taxpayers lose out because they're the ones
16 that's paid for the Medicaid program in the first place.

17 Q. Can you tell us, what is the percentage of money
18 allocated for the federal and state government?

19 MR. MARTIN: Objection. Relevance.

20 THE COURT: Overruled.

21 A. It is 60 percent. We always say 60 percent
22 federal, 40 percent state. It actually changes on an
23 annual basis, and it's always a little different every
24 year; but it runs around two percent each point, somewhere
25 outside the 60/40 split -- 40 state, 60 federal.

1 Q. (BY MS. VOLLMAN) Let's talk about how a person
2 becomes a Medicaid recipient. How does a person become a
3 Medicaid recipient?

4 A. They make an application and then there's an
5 eligibility review that's done based upon their assets and
6 their resources and income and then they're determined
7 eligible if they meet those requirements.

8 Q. Does Medicaid give a recipient anything that
9 identifies that recipient as a Medicaid recipient?

10 A. Yes.

11 Q. What do they give them?

12 A. A unique Medicaid recipient number, unique only
13 to them.

14 Q. Once a recipient has a Medicaid number, how does
15 the recipient use the number to obtain production or
16 services they may need?

17 A. They will make an appointment with a medical
18 professional. They will go to the medical professional,
19 receive a service, give the medical professional their
20 recipient number and some identifying information; and the
21 medical professional then will bill the Medicaid program.

22 Q. Does that Medicaid professional also have to be
23 enrolled in the Medicaid program as a provider in order to
24 bill Medicaid for Medicaid services?

25 A. Yes, they do.

1 Q. Now, does medical provides a medical professional
2 with anything they must have in order to bill Medicaid?

3 A. Yes, we do.

4 Q. What does Medicaid, the program give to people
5 that are professionals that are going to be providing
6 services?

7 A. We will give them a unique Medicaid provider
8 number that is unique only to them that they have to use
9 when billing the Medicaid program for services provided to
10 a recipient.

11 Q. So even if a Medicaid provider has a provider
12 number, can they obtain Medicaid number without a
13 recipient's Medicaid number?

14 A. They cannot.

15 Q. What type of programs or services does Medicaid
16 offer its recipient?

17 A. It pretty much run the gamete of what you
18 typically think of. In private insurance, we provide
19 durable medical equipment, home health, eyeglass, dental,
20 therapies, counseling. It pretty much runs the gamete.

21 Q. Let's talk about durable medical supplies. Can
22 you give us some examples of the types of durable medical
23 supplies that Medicaid pays for?

24 A. We would pay for things like diabetic equipment,
25 supplies and equipment needed for blood pressure,

1 incontinent supplies. We pay for ambulatory equipment
2 like canes, crutches, wheelchairs, those kinds of things,
3 and hospital beds, any number of things that someone needs
4 to be able to get around or to fulfill a function of their
5 medical condition.

6 Q. Is a DME product such as incontinent supplies
7 part of what Medicaid would pay for?

8 A. Yes.

9 Q. Can you give us an idea of what constitutes
10 incontinent supplies?

11 A. It would be things like diapers, pull ups, diaper
12 wipes, bedpans, urinals, things of that nature.

13 Q. What is the purpose of Medicaid providing
14 recipients with these type of medical supplies?

15 A. The medical supplies are there to meet a
16 recipient's condition; and in the case of incontinent
17 supplies, the person has to have a chronic incontinent
18 condition in order to receive those supplies.

19 Q. Okay. Do you have experience with Medicaid DME
20 providers?

21 A. I do.

22 Q. Can you describe that experience?

23 A. Yes. I have met with DME providers to assist
24 them with any of their claims' payments' issues. I have
25 done workshops for DME providers. I have done fraud and

1 abuse investigations or directed fraud and abuse
2 investigations on DME providers. I've sanctioned DME
3 providers; and I guess, that's probably about it.

4 Q. In your experience with Medicaid DME providers,
5 is it unusual for a particular provider to limit him or
6 herself to selling only one product line?

7 A. It's very unusual if it's a legitimate business.

8 Q. Why is that?

9 A. In the business world, if you have one product
10 and one product only, you have competition; and if the
11 competition is eating you up on your one product, you're
12 going to go out of business.

13 You can't make money. You need to
14 expand your product line; and so if you walk into a
15 durable medical equipment company, if you've done that,
16 you will see they have all kinds of durable medical
17 equipment products.

18 And they do that, because number one,
19 they need to provide a service to the people who needs
20 those kinds of products; but two, they're spreading their
21 risk by having more and more products in order to be able
22 to make a profit and stay in business.

23 Q. Can you tell us, does Medicaid place any type of
24 limitation of what they would pay for?

25 A. We do.

1 Q. Can you explain that?

2 A. In the -- are you talking about in the
3 incontinent supplies?

4 Q. Yes.

5 A. In incontinent supplies, we have limitations,
6 where the person has to be four years of age or older to
7 receive the supplies or be eligible for them.

8 In addition to that, if the -- if the
9 recipient needs diapers or pull ups or liners, then we
10 have a maximum limitation of 300 a month in the
11 combination of those three.

12 And then for diaper wipes, we have a
13 limitation of two boxes per month; and then for under
14 pads, we have a limitation of 150 under pads a month.

15 Q. Now, how would a provider who wants to go into
16 that business know what is allowed by Medicaid and what
17 needs prior authorization?

18 A. When a provider is enrolled in the Medicaid
19 program, we provide them with access to the website for
20 TMHP or NHIC if it were back in the earlier years; and
21 that has policy on the website. Our provider manual is on
22 the website.

23 Also, we, upon request, will mail out
24 the complete manual, a hard copy to any provider who
25 chooses to have a hard copy.

1 Q. And -- okay. And are you familiar with those
2 provider manuals that were in effect from 2005, '06, and
3 '07?

4 A. I am.

5 MS. VOLLMAN: Judge, may I approach?

6 THE COURT: You may.

7 Q. (BY MS. VOLLMAN) Let me show you what's been
8 marked as State's Exhibit 70A, 70B and 70C. Can you tell
9 us what those are?

10 A. These are the Medicaid providers' procedure
11 manual that I was just speaking of that we give the
12 Medicaid provider a copy of when they enroll and then on
13 -- annually. It may be updated to some extent and we give
14 them the information annually as well.

15 Q. Are all these public, books public publications?

16 A. Yes.

17 Q. And now, let me show you -- now these manuals are
18 pretty thick, are they not?

19 A. They are.

20 Q. Now, is this just the -- what is this for the
21 providers?

22 A. It's the manual that they would go to, to see
23 what the policies are, in other words, what we pay for and
24 claims' payment procedures, how to contact the -- either
25 TMHP where everyone had contracted at the time.

1 It also has forms in there. It also
2 has -- it has some initial sections like the first three
3 or four sections in the manual that apply to every single
4 provider; and one of those is enrollment.

5 Another is how to file claims. Another
6 is provider responsibilities, which also has in the
7 provider responsibilities section a fraud and abuse
8 section. So it gives them a list of violations that tells
9 them, "If you commit these violations, you could be
10 sanction or referred to the Medicaid Fraud Control Unit
11 for fraud investigation."

12 And then one other section in the rest
13 of the manual is the section that would apply to any
14 particular provider type.

15 Q. If somebody wanted to go into the business of DME
16 provider of incontinent supplies, would these manual for
17 each respective year have their instructions and what they
18 need to have in order to do that type of business?

19 A. Yes.

20 Q. Let me show you what's been marked as State's
21 Exhibit 71A and 72A. Can you tell us what those two -- or
22 first, 71A?

23 A. 71A is a copy of excerpts out of the 2005
24 Medicaid Provider Procedure Manual that has to do with
25 durable medical equipment.

1 Q. Okay. Now, is the excerpt out of the 2005,
2 similar to the instructions regarding it also has the --
3 what other years?

4 A. It has 2006 and 2007.

5 Q. Okay. And those are the excerpts for the
6 instructions for the durable medical supplies for
7 incontinent supplies, correct?

8 A. Correct.

9 Q. So what is contained in State's Exhibit No. 72A?

10 A. 72A are excerpts out of the 2005, 2006, 2007
11 manuals that are the forms that a Medicaid provider in the
12 DME business would have to complete in order to be paid
13 for a Medicaid service; and the forms in here are commonly
14 referred to as title --

15 MR. MARTIN: Objection, Judge, to that line
16 of testimony. She's testifying from exhibits that have
17 not yet been offered.

18 THE COURT: Overruled.

19 MS. VOLLMAN: We offered them. We offer
20 State's Exhibit 72A and 71A.

21 (State's Exhibit Nos. 71A and 72A were
22 offered into evidence.)

23 MR. MARTIN: Judge, no objection to 71A or
24 72A.

25 THE COURT: 71A and 72A are admitted.

1 signed and dated by the client/caregiver," and the second
2 bullet is, "A dated carrier tracking document which ship
3 studies, which must be attached to the delivery slip or
4 invoice."

5 Q. Okay. Can you tell us why is it -- why it is
6 important that that documentation be in every file that a
7 provider provides services to recipient for?

8 A. When a provider bills the Medicaid program, he
9 only submits the claim and the claim alone. The
10 documentation that he must maintain in his office, which
11 we just read, it has to be maintained, because if for some
12 reason we're going out to review the client's billings and
13 see whether or not they were medically appropriate and
14 medically necessary and whether or not they should have
15 been billed or whether or not they were legitimate or
16 whether we were doing a fraud and abuse investigation,
17 then we need for those forms to be there so we can make
18 that determination to see if they should, in fact, be
19 paid.

20 Q. Now, can you read us this highlighted portion and
21 explain to us why it's important that the records be
22 maintained for a certain amount of time?

23 A. "Important, these records and claims must be
24 retained for a minimum of five years from the date of
25 service or until audit questions, appeals, hearings,

1 investigations or court cases are resolved. Use of these
2 services is subject to retrospective review."

3 MS. VOLLMAN: Judge, may I approach?

4 THE COURT: Yes, you may.

5 A. And the reason it's important, again, this talks
6 about the services are subject to retrospective review;
7 and in my last response, I mentioned we do fraud and abuse
8 investigations. And sometimes it takes us a while to
9 identify a fraudulent provider.

10 And as a result, we need to make sure
11 that that provider retains those claims and billings so
12 that when we do go out to check to see if everything is
13 legitimate, they would be there.

14 Q. (BY MS. VOLLMAN) Okay. Let's go to the top of
15 that second column. You'll see there the highlighted
16 portion, can you tell us what that is?

17 A. Read it or --

18 Q. Yeah.

19 A. "Some medical supplies may be obtained without
20 prior authorization; however, the provider must retain a
21 completed POC or a home health services Title 19 DME
22 medical supplies, physician order form in the client's
23 file. For medical supplies not requiring prior
24 authorization, a completed Title 19 form may be valid for
25 a maximum of six months, unless the physician indicates

1 the duration of need is less. If the physician indicates
2 the duration of need is less than six months, then a new
3 Title 19 for is required at the end of the duration of
4 need."

5 Q. Okay. Take a look at the next portion that's
6 highlighted. It says the list of DME medical supplies
7 that may be provided without medical authorization and it
8 refers to a particular section for incontinent supplies,
9 correct?

10 A. It does.

11 Q. Let's go to the second page of that exhibit. In
12 the portion that's highlighted, specifically 23.59, can
13 you tell us what that says?

14 A. "Incontinent supplies and DME are disposal such
15 as diapers, briefs, liners, wipes, under pads or durable
16 medical equipment such as the bedside commode used by a
17 client who has a medical condition or results in an
18 impairment of urination and/or stooling or refers them" --
19 I'm sorry, "renders them unable to ambulate safely to the
20 bathroom with or without mobility aids."

21 Q. Go down a will little bit further.

22 A. -- "do not require prior authorization up to
23 their allowed maximum limitation."

24 Q. And that next part that's highlighted?

25 A. "The quantity of incontinent supplies billed for

1 a one-month period, should be based on the frequency
2 ordered by the physician on the Title 19 form."

3 Q. Now, when you're talking about it does not
4 require authorization, what does that mean?

5 A. Most of our durable medical equipment and
6 supplies have to be prior authorized. Which means, that
7 before we're going to allow a Medicaid provider to even
8 provide the service to a recipient, we're going to look at
9 the medical necessity of that service to make sure that we
10 agree that it is medically necessary; and we would have to
11 approve that for the provide to be able to bill to provide
12 the service to bill for it.

13 Q. And it's not required?

14 A. And it's not required. If it means that we
15 have -- we have made the decision that we're not going to
16 require prior authorization on certain of the medical
17 supplies; but typically, we will put limitations on those
18 when we do that.

19 Q. Okay. And are there limitations on incontinent
20 supplies?

21 A. Yes.

22 Q. All right. Can you go to the next highlighted
23 portion.

24 A. We're down to diapers. "Diapers are defined as
25 incontinence items attached with tabs. Briefs are defined

1 as incontinence items that do not attach with tabs and are
2 slip-on items such as pull ups."

3 Q. Let me ask you this: Can you read this one and
4 then explain that?

5 A. "Diapers, briefs, liners may be considered for
6 reimbursement without prior authorization for clients four
7 years of age or older and who have a medical condition
8 that results in chronic incontinent. A combination of
9 diapers, briefs, liners may be considered for
10 reimbursement. A total accumulation of one or more of the
11 following products are limited to a maximum of 300 per
12 month. Diapers, briefs, liners beyond 300 per month
13 require prior authorization. Reusable diapers are not a
14 benefit of Texas Medicaid Title 19 Home Health."

15 Q. Let me ask you this: Why is it that it has,
16 without prior authorization, it's for four years old and
17 older?

18 A. It's just a date that we -- I mean, an age where
19 you're passed the baby stage where most children -- it's
20 just a normal incontinent function of children and babies
21 than we're beyond that period. So we rarely have a
22 condition that would be chronic.

23 Q. And that's the reason for over four years old,
24 you don't need the prior authorization to get, for
25 example, 300 per a month?

1 A. Correct.

2 Q. All right.

3 A. Well, a maximum of 300 per month. It's not that
4 people should necessarily bill 300 per month when it's not
5 medically necessary.

6 Q. Who makes that determination?

7 A. The physician who is going to be filling out the
8 Title 19 will be the person who makes the determination of
9 medical necessity.

10 Q. Okay. Let's go down to the second portion that's
11 highlighted in that exhibit, and can you read that for us?

12 A. "Diaper, wipes may be considered for
13 reimbursement without prior authorization for clients four
14 years of age and older to also receive diapers, briefs.
15 Diaper wipes are limited to a maximum of two boxes per
16 month."

17 Q. And what about under pads?

18 A. "Under pads may be considered were reimbursement
19 without prior authorization for clients who also receive
20 diapers through urine collection devices or valid
21 management supplies. Under pads are limited to a maximum
22 of 150 per month without prior authorization. Reusable
23 under pads are not a benefit of the Texas Medicaid Title
24 19."

25 Q. Let me ask you this: If you have a Medicaid

1 provider that routinely max out every client of 300
2 diapers or pull ups, 150 per month of the under pads and
3 two diaper wipes, they would not have to seek prior
4 approval from Medicaid. They would just be paid for it,
5 correct?

6 A. That's correct.

7 Q. And would you expect to see a DME provider
8 billing every single client 300, 150 and 2?

9 A. No.

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

12 THE COURT: Sustained.

13 Q. (BY MS. VOLLMAN) Now, let me ask you in your
14 experience, you told us before that you were investigating
15 DME provider for fraud and abuse?

16 A. That's correct.

17 Q. And how long in your experience in that
18 particular area, looking at that particular fraud?

19 A. 28 years, but I have 33 years of experience with
20 DME providers.

21 Q. And in that experience, have you had an
22 opportunity to review claims that were filed by providers
23 of fraudulent claims?

24 A. Yes.

25 Q. And can you tell us what -- is it a red flag that

1 a DME provider bills every recipient it has for the
2 maximum of 300 pull ons or diapers, 150 under pads and 2
3 boxes of wipes?

4 MR. MARTIN: Objection. Relevance.

5 THE COURT: Overruled.

6 A. It is a red flag and it's not even logical that
7 every single person that walked in the door would need the
8 maximum limitation and especially when the maximum
9 limitation is just up to the point that a provider, if he
10 bills one more, has to do a prior authorization. It's a
11 major red flag.

12 And you know, people's incontinence
13 problem are like anything else. They are varying degrees
14 of incontinent problem. You have some that there's some,
15 somewhat incontinent, but it's not a whole lot. There are
16 others that are kind of the mid-range; and you know,
17 they're going to need fewer supplies but more than the
18 first group.

19 And then there are those that, you know,
20 that need more than the other two groups. So to see a
21 provider billing maximums across the line is just not
22 logical; and it's typically from all the evidence when we
23 identify it --

24 MR. MARTIN: Objection. Again, relevance to
25 this case.

1 THE COURT: Overruled.

2 Q. (BY MS. VOLLMAN) Okay. Let me go to -- if you
3 can go to 23.17. Now, can you explain to us what is
4 23.5.9.3?

5 A. This is a section that has to do with
6 incontinence procedure codes, and it includes the maximum
7 limitation for each of the procedure codes.

8 Q. Can you explain to us what's the need and the
9 relevance of a procedure code when you're talking about
10 billing these particular Medicaid supplies?

11 A. When a -- when a Medicaid provider performs a
12 service for a recipient, each of those procedures or those
13 services will have an identifying procedure code and
14 that's really just a descriptor of the service that was
15 rendered, every single provider, regardless of whether
16 it's Medicaid or Medicare or private insurance to identify
17 those services.

18 So it's something they're familiar with
19 routinely, regardless of which insurance they're billing.

20 Q. So let's take a look at the top portion of that
21 page. The procedure code for incontinent supply. What's
22 the procedure code number?

23 A. It is 9-A 433A.

24 Q. And the description is just a generic
25 incontinence supply, correct?

1 A. Yes.

2 Q. And it has maximum limitation?

3 A. Yes. Of two per month.

4 Q. Okay. And the next page?

5 A. There's three that are highlighted, yes.

6 Q. And can you tell us what those procedure codes
7 are and what they're for?

8 A. The 9-A 4524 is for adult size diapers, extra
9 large each; and there's a maximum limitation of 300 per
10 month.

11 And then of 9-A4528, adult size brief
12 extra large each, 300 per month is a maximum limitation;
13 and then disposable under pads, there's a maximum
14 limitation of 150 per month.

15 Q. Now, let me ask you, before we leave that page,
16 so basically, if a person needs a particular supply,
17 especially, for example, diapers or briefs, they're all in
18 varying sizes, correct?

19 A. Yes.

20 Q. Is there any reason that you would see only an
21 extra large being billed on every client regardless of
22 age?

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

25 THE COURT: Overruled.

1 A. That would be another red flag. Obviously, we
2 have all different shapes and sizes of individuals. We've
3 got, you know, really small people. We've got medium
4 sized people. We have large people, and we have really
5 large people.

6 And the diaper has to be sized to the
7 individual. If you see someone billing 100 percent extra
8 large --

9 MR. MARTIN: Judge, objection at this point.
10 It's nonresponsive to the immediate question.

11 THE COURT: Overruled.

12 A. If you see them billing an extra large all the
13 time, you know that's not logical. So it is a major red
14 flag. When we see that, we're always identifying fraud in
15 cases like that.

16 And the reason that will be bill that
17 way is for a provider who commits fraud, we pay a smaller
18 amount for a small because it's less material. We pay a
19 little bit more for a medium. We pay a little bit more
20 for a large, and we pay the most for an extra large.

21 Q. (BY MS. VOLLMAN) Okay.

22 THE COURT: This is a good time for us to
23 have our mid-morning break. I'm going to let you-all go
24 with the bailiff who will take you to the jury room. We
25 will take a 15 or 20 minutes, how ever long you need.

1 If you'd like to, you can go to the
2 second floor where there's a cafeteria if you want to get
3 a snack. I don't know if any of you are smokers, but
4 you're welcomed to go outside the building, get coffee,
5 stretch, get some fresh air. We will resume in
6 approximately 20 minutes.

7 (Off the record.)

8 Q. (BY MS. VOLLMAN) Ms. Thompson, you're the same
9 Ms. Thompson that's been testifying before the break,
10 correct?

11 A. Yes.

12 Q. All right. We are talking about the limitations
13 and the instructions for the 2005 Medicaid providers.
14 Also attached to State's Exhibit No. 71A is the 2006
15 manual.

16 Did you have a chance to look at both
17 the 2006 and 2007 instructions, and can you tell us
18 whether they are the same as the 2005 that we just gone
19 over?

20 A. They are the same.

21 Q. All right. Let's turn then to State's Exhibit
22 72A. Can you tell us what these are?

23 A. These are the Title 1 forms for 2005, 2006 and
24 2007.

25 Q. Okay. What's another name for a Title 19 that we

1 would be all familiar with?

2 A. The Title 19 is basically the physician order or
3 the script, if you will.

4 Q. The prescription?

5 A. Of the prescription. If you go to the pharmacy,
6 you take your prescription with you that the doctor
7 ordered your medication. The doctor with the Title 19
8 form is ordering the durable medical equipment and
9 supplies, via that document.

10 Q. Is it necessary for the Medicaid system for any
11 type of DME supply that's been submitted or that's been
12 given to a recipient that Medicaid is going to pay for, do
13 they have to have a Title 19 prescription?

14 A. Yes.

15 Q. All right.

16 MS. VOLLMAN: Can we go, Mike to the --

17 Q. (BY MS. VOLLMAN) Can you just walk us through
18 what this Title 19 is on the first page?

19 A. Yes. The first page is the instructions for the
20 physician order form and for the Title 19. So this is
21 just telling them how to complete the Title 19.

22 Q. Okay. And what's the next portion down?

23 A. The next portion is giving them examples of the
24 prescription -- examples of the procedure codes and how to
25 bill those; and then in Section B, this is the physician's

1 section telling the physician how to fill out the form and
2 their section.

3 Q. Okay. And what about the next page?

4 A. The next page is the actual form itself, the
5 Title 19 form; and in the Section A is where you would
6 have just under where it says Section, the client's name
7 and the client's Medicaid number and their date of birth;
8 and then it would have the supplier information.

9 So the name of the durable medical
10 equipment company and their Medicaid provider number where
11 it says Medicaid TPI and then other identifying
12 information and then it goes on down to have a signature
13 from the DME medical supply company and then they fill out
14 what they think the recipient needs in terms of the
15 procedure code and a written description of those supplies
16 and then the quantity and then the price.

17 Then in Section B, it -- this is again
18 the section that the physician will fill out. This is the
19 physician order portion and they would put a description
20 of what they're ordering and the quantity and then the
21 recipient's diagnosis and their medical justification for
22 why the equipment is needed in the first place, plus the
23 justification for the quantity.

24 They would also put the duration that
25 the recipient would need that. Now, we have some maximums

1 in there. So it might be the maximum or something less
2 than that, that they would put in there.

3 Q. Does it get to be at a certain point of time,
4 length there has to be a new Title 19?

5 A. Yes. If the recipient is going to need the
6 supplies beyond six months, we have a maximum limit of six
7 months. So we have to have a new Title 19 every six
8 months, and the physician would have to fill this out
9 again and create a new order.

10 If the physician says they only need it
11 for something less than six months like three months, than
12 at the end of three months, that might be it. Or if the
13 physician sees the patient is not coming along quite as
14 fast as "I anticipated. I'm going to do it for another
15 month or two, deem appropriate."

16 Q. And then that last part?

17 A. The last part has to do with identifying the
18 qualifying information for the recipient, whether they can
19 safely use it in their home or whether they're under age
20 21 or over age 21, than the physician signs it and that
21 has to be there for the order to actually be valid.

22 Q. Now, the next one, just a generic for this one
23 addendum, do they need those, for what purpose?

24 A. The addendum is only if you have -- did not have
25 enough room on the first page of the Title 19, then you

1 put any additional information on the addendum.

2 Q. And did you have a chance to look at the 2006 and
3 2007? Are they substantially similar or different than
4 the previous forms?

5 A. They have basically the same information on them,
6 but the form is a little different.

7 Q. Let me ask you this: If a provider has a
8 business such as incontinent supplies, would you expect
9 every provider to have a file on every person they billed
10 for, especially with this Title 19 in that file?

11 A. The provider is required to keep the Title 19, as
12 well as the delivery slip or invoice where the merchandise
13 was delivered to prove that it was, in fact, delivered and
14 the recipient's signature and any other information deemed
15 pertinent to justify the medical necessity and maintain
16 that for each recipient for each service in the file for
17 five years.

18 Q. Okay. Does Medicaid have anything in place to
19 catch some of these red flags, for example the 300, 150, 2
20 on every client billed? Are there any inherent ways to
21 catch providers that are doing that?

22 A. We do have front-end audits and edits that are
23 built into the electronic claims payment process. So the
24 claims will go through, and some will be denied initially
25 based upon those electronic audits in there. Others will

1 go through and be processed and paid.

2 Q. Okay. Now, to sell these supplies to be a DME
3 Medicaid provider, does the person have to have a license?

4 A. Yes. They have to have a distribution license.

5 Q. And is that different than what a doctor would
6 have as far as a medical license or a dentist would have
7 that shows they have an ability to perform that function?
8 Is the distributor license different?

9 A. The distributor license is basically just saying,
10 "I've set up a business. I want to be a DME provider and
11 I want for you to tell me that I can go out; and
12 distribute these products."

13 And so there are no medical requirements
14 that someone, or prerequisites that someone must meet in
15 order to get a distributor license. Any one of us can go
16 in to put in an application. You know, unless there's
17 something in our past that is an issue, we would be able
18 to get a distributor license.

19 Q. How does a seller or DME supplier become a
20 provider of these supplies in the Medicaid program?

21 A. I'm sorry?

22 Q. How does a seller, provider of DME supplies and
23 equipment become a provider of those supplies in the
24 Medicaid program?

25 A. A person who wanted to be a provider of DME would

1 come to NHIC at the time, or TMHP, later when they got the
2 contract, and request enrollment. They will fill out an
3 enrollment packet and then submit that back to TMHP or
4 NHIC, who then would review that and make a determination
5 about whether they can enroll the provider; and if so,
6 they would enroll the provider in the Medicaid program.

7 Q. Does a Medicaid provider also need to have a
8 Medicare DME provider license?

9 A. Yes. It's a prerequisite to be a Medicaid
10 provider.

11 Q. Can you explain to us -- 'cause they are two
12 different programs, correct?

13 A. Yes.

14 Q. And they're administered in two different ways,
15 correct?

16 A. Correct.

17 Q. Why is it that a Medicaid provider of DMEs
18 supplies have to have a Medicare license to do the same
19 thing?

20 A. A lot of the durable medical equipment recipients
21 receiving durable medical equipment are older individuals
22 or disabled individuals. As a result, we have people that
23 are both eligible for Medicaid and Medicare; and we want
24 to make sure that the provider is enrolled in Medicare.

25 So if you have one of those individuals,

1 they can go get their service and have Medicare and
2 Medicaid pay their individual shares on that claim so the
3 recipient isn't stuck with the bill.

4 Q. Can you tell us why it is so easy to become a
5 Medicaid DME provider?

6 A. Well, because there's nothing that really
7 requires any medical expertise to be able to be one. You
8 know, that's the first hurdle, is they don't have to meet
9 any of these qualifications.

10 In other words to that, there's just
11 nothing else we can put in to require that they would have
12 to meet that would be logical.

13 Q. Is it fair to say that if you got a physician
14 giving the medical DME provider, it should spell out what
15 the doctor's ordering; and that's what you are to deliver
16 to the Medicaid recipient, right?

17 A. Exactly. That's no medical judgment or medical
18 requirement there, because we do have the physician doing
19 the physician order.

20 Q. Have you learned that several individuals on
21 behalf of their companies who've applied to Medicaid and
22 become Medicaid providers and are relevant to this case?

23 A. Yes.

24 Q. Before we talk about those individuals who
25 applied on behalf of their companies, did you review those

1 applications?

2 A. I did.

3 Q. Did you review the eight Medicaid applications
4 that are relevant to this particular case?

5 A. Yes.

6 MS. VOLLMAN: Judge, may I approach the
7 witness again?

8 THE COURT: You may.

9 MS. VOLLMAN: Let me show you State's Exhibit
10 No. 5A.

11 Q. (BY MS. VOLLMAN) Can you tell us what that is?

12 A. This is one of the pages of the provider
13 enrollment packet, the application.

14 Q. Who's the name of the company?

15 A. It is for C & M Medical Equipment.

16 MS. VOLLMAN: Judge, may we publish this?

17 THE COURT: Yes.

18 MS. VOLLMAN: Judge, may I publish this the
19 old fashion way?

20 THE COURT: Yes, you may.

21 Q. (BY MS. VOLLMAN) Now, on State's Exhibit 5A, it
22 has the name of the company, correct?

23 A. Yes, it does.

24 Q. And does it also say how it's been offered?

25 MS. VOLLMAN: You can take that off, Mike.

1 Q. (BY MS. VOLLMAN) Does it also say what the
2 applicant is enrolled as? An individual or --

3 A. An individual.

4 Q. And what other information does it have on it?

5 A. It could include identifying information like
6 phone numbers; and then it also has their Medicare
7 intermediary, which is the company that does durable
8 medical equipment for their area. That's who they would
9 submit their DME bills to for Medicare. It also has the
10 physical.

11 Q. So you're talking about Pal Metto GBA?

12 A. Yes.

13 Q. So Pal Metto GBA, it provides Medicare services?

14 A. Yes.

15 Q. And then you've got the name of the person. Who
16 is the name of the person doing business as?

17 A. Broderick Carter doing business as C&M Medical
18 Supply.

19 Q. And what does he say is the primary speciality
20 that he's going to be doing?

21 A. Durable medical equipment.

22 Q. And you've got his Medicare number, correct?

23 A. Yes.

24 Q. Does it also show what address he has listed as
25 the physical address where he wants information to be

1 sent?

2 A. Yes.

3 Q. Now, what is a DBA?

4 A. It stand for doing business as.

5 MS. VOLLMAN: Judge, at this time, we would
6 offer State's Exhibit 73 and 73A.

7 (State's Exhibit Nos. 73 and 73A were offered
8 into evidence.)

9 MR. MARTIN: No objection, Judge.

10 THE COURT: They're admitted.

11 (State's Exhibit Nos. 73 and 73A were
12 admitted into evidence.)

13 Q. (BY MS. VOLLMAN) Now, on State's Exhibit No. 73,
14 the portion of the C&M Medical Equipment, at the top part,
15 is the business address the same on the DBA as it is on
16 the application?

17 A. Yes.

18 Q. And does it also list, as far as who are the
19 owners of that company?

20 A. It does.

21 Q. And do you see two specific names of owners?
22 You've got Broderick Jermaine Carter and Willie Terrance
23 Mitchell, correct?

24 A. Yes.

25 Q. Let me show you what's been marked as State's

1 Exhibit 73A, and does it say that the name of the
2 business, "being abandoned." Do you see that?

3 A. I do.

4 Q. And it has, once again, the name of C&M Medical
5 Equipment; and it has a business address?

6 A. Correct, yes.

7 Q. And go down to the name of owners. Who is the
8 owner?

9 A. The owner is --

10 Q. Hang on. Do you see which of the named donor is
11 being abandoned as the owner?

12 A. Yes.

13 Q. Who is it?

14 A. Willie Terrance Mitchell.

15 Q. And do you have a date on this right towards the
16 bottom?

17 A. September 12, 2002.

18 Q. So that's September 12 of 2002?

19 A. Correct.

20 Q. Now, let me also show you State's Exhibit No.
21 74. Can you tell us what that is?

22 A. This is articles of incorporation of C&M Medical
23 Equipment, Inc.

24 Q. And that says C&M Medical Equipment.

25 MS. VOLLMAN: Judge, we would offer State's

1 Exhibit No. 74.

2 (State's Exhibit No. 74 was offered into
3 evidence.)

4 MR. MARTIN: No objection, Judge.

5 THE COURT: 74 is admitted.

6 (State's Exhibit No. 74 was admitted into
7 evidence.)

8 Q. (BY MS. VOLLMAN) And let me turn your attention
9 to Article 7; and do you see the names, as far as who are
10 the board of directors for the corporation?

11 A. Yes.

12 Q. Can you tell us who they are?

13 A. Mitch Carter, Uraina Cox and Maria Bibbs.

14 Q. And does it have the address of 3702 Thunderbird
15 Street, Missouri City, Texas, as one on the DBA and as on
16 the abandonment document?

17 A. Yes.

18 Q. It does not on the abandonment. All right, let
19 me show you also State's Exhibit Nos. 75 and 76; and can
20 you tell us -- take a look at the names and the address.
21 And can you tell us whether that's the same as on the DBA?

22 A. It is the same.

23 MS. VOLLMAN: Judge, we would offer State's
24 Exhibit Nos. 74, 75 and 76, which are certified copies of
25 jail records on Broderick Carter.

1 (State's Exhibit Nos. 74, 75 and 76 were
2 offered into evidence.)

3 MR. MARTIN: No objections, Judge.

4 THE COURT: 75 and 76 are admitted.

5 (State's Exhibit Nos. 75 and 76 were admitted
6 into evidence.)

7 Q. (BY MS. VOLLMAN) And the addresses are the same,
8 correct?

9 A. Yes.

10 Q. All right. Let's take a look at State's Exhibit
11 No. 54B. Can you tell us was the document signed?

12 A. Is it 54B or 5B?

13 Q. No, I'm sorry, 5B.

14 A. Yes, it was signed.

15 Q. Go down to bottom box. Now, as part of the
16 Medicaid application, is the owner or the person making
17 the application supposed to require that the information
18 is accurate?

19 A. Yes.

20 Q. And is that what is depicted on State's Exhibit
21 No. 5B?

22 A. It is.

23 Q. And can you read that particular part for us?

24 A. Yes. "To the best of my knowledge, the
25 information supplied on the document is accurate and

1 complete and is hereby release the National Heritage
2 Insurance Company and the Texas Department of Health for
3 the purpose of issuing a Medicaid provider number."

4 Q. And it's signed Broderick Carter; and it's dated
5 in 2003, correct?

6 A. Correct.

7 Q. And he signs as what title?

8 A. Administrator.

9 Q. Let me show you what's been marked as State's
10 Exhibit No. 5C; and can you tell us, is that also part of
11 the application?

12 A. It is.

13 Q. Can you tell us what it is?

14 A. Yes. This is a copy of the medical device
15 distributor license issued by the Texas Department of
16 Health to Broderick Carter, C&M Medical Equipment, at 3702
17 Thunderbird, Missouri City, Texas.

18 Q. And that's the license that they need to have,
19 correct?

20 A. Yes, it is.

21 Q. Let me show you what's been marked as State's
22 Exhibit No. 5D. Let me show you 5D, 5E, 5F, 5G, 5H, 5I,
23 can you tell us what those particular documents
24 represents?

25 A. These are all part of the enrollment packet that

1 I was speaking of earlier; and within that packet, is the
2 provider agreement that the provider then would read and
3 sign. So it is part of the enrollment packet.

4 Q. So for the top portion, the top page -- again,
5 the name of the provider, who's doing business as, the
6 physical address and the mailing address, correct?

7 A. Correct.

8 Q. And then it talks about right underneath as a
9 provider under the Texas Medical Assistance Program, the
10 provider must agree and comply with the following terms
11 and conditions, correct?

12 A. Correct.

13 Q. Let's take a look at those provisions. The first
14 one is 1.1. Can you read that for us?

15 A. "A copy of the current Texas Medicaid Provider
16 Procedures Manual, provider manual has been or will be
17 furnished to the provider, the provider manual. All
18 provisions made to the provider manual through the
19 bi-monthly update entitled Texas Medicaid Bulletin and
20 referenced notices are incorporated into this agreement by
21 reference. The provider has a duty to become familiar
22 with the contents and procedures contained in the provider
23 manual. The provider agrees to comply with all of the
24 requirements of the provider manual as well as all state
25 and federal laws and amendments governing or regulating

1 Medicaid. Provider's responsible for ensuring that
2 employees or agents acting on behalf of the comply with
3 all of the requirements of the provider manual and all
4 state and federal laws and amendments governing and
5 regulating Medicaid."

6 Q. Okay. And the regulations and the rules that are
7 available to the provider are found where?

8 A. They're found in the provider manual. They are
9 also found in State and federal statutes, and they are
10 also found in agency rules.

11 Q. Let's go to 1.2.2. We're going to skip some of
12 the other ones, but they're available. All right. If you
13 could, read us that highlighted portion?

14 A. "A provider agrees to disclose information on
15 ownership and control information related to business
16 transactions and information on persons convicted of
17 crimes in accordance with 43CFR, Part 455, Subpart B and
18 provide such information on request to TDH, the Texas
19 Health and Human Commission, the Texas Department of Human
20 Services, the Texas Attorney General's Medicaid Fraud
21 Control Unit and/or the United States Department of Health
22 and Human Services. The provider agrees to keep its
23 application for participation in the Medicaid program
24 current by informing TDH or its agent in writing of any
25 changes to the information contained in its application,

1 including but not limited to changes in ownership or
2 control, federal tax identification number or provider
3 business addresses at least ten business days prior to
4 making such changes."

5 Q. And go down to the next paragraph which is
6 1.2.4.

7 A. "This agreement is subject to all state and
8 regulations relating to fraud and abuse in health care and
9 the Medicaid program. Provider agrees to keep any and all
10 records necessary to dispose the expense services provided
11 by the provider to individuals in the Medicaid program and
12 any information relating to payments claimed by the
13 provider for furnishing Medicaid services. The provider
14 also agrees to provide, upon request, access to records
15 required to be maintained under 42 CFR and copies of those
16 records free of charge to TDH, TDH's agency and, the Texas
17 Health and Human Services Commission, the Texas Attorney
18 General's Medicaid Fraud Control Unit and/or the United
19 States Department of Health and Human Services. The
20 records must be retained in the form in which they are
21 regularly kept by the provider for five years from the
22 date of service or until all audit or audit exceptions are
23 resolved, whichever period is longest. The provider must
24 cooperate with and assist TDH in any state or federal
25 agency charged with the duty of identifying, investigating

1 sanctions or prosecuting suspected fraud abuse. Provider
2 must also allow these agencies and/or their agents access
3 to its premises."

4 Q. And then let's go to the next page and look at
5 the highlighted paragraph which is 1.3.1 talking about
6 claims and encounter data.

7 A. "Provider agrees to submit claims for payment in
8 accordance with billing guidelines and procedures
9 promulgated by TDH or other appropriate payer, including
10 electronic claims. Provider certifies that information
11 submitted regarding claims and encounter data will be true
12 and accurate, complete and that such information can be
13 verified by source document from which data entry is made
14 by the provider. Further, provider understands that any
15 falsification or concealment of a material fact may be
16 prosecuted under state and federal laws."

17 Q. And that next line on 1.3.3.

18 A. "All claims or encounters submitted by provider
19 must be for services actually rendered by provider."

20 Q. Let me ask you this: Say, for example, if I'm a
21 DME provider and I say, "Well, I'm going to deliver it at
22 some point in time," do I have the authorization to file a
23 claim for what I'm going to do in the future? Or does it
24 have to be already rendered, the supplies have to already
25 be delivered to the recipient before I can claim money for

1 it?

2 A. The service has to already be rendered. They
3 can't bill for something they haven't provided.

4 Q. And that's what the provider's agreeing to,
5 correct?

6 A. Correct.

7 Q. Let's go down to 1.3.7.

8 A. "Provider has an affirmative duty to verify the
9 claims and encounters received by TDH or its agent and
10 implement an effective method to track submitted claims
11 against payments made by TDH."

12 Q. And what does that mean?

13 A. It basically means that when we tell the
14 provider -- we give him a document and when we send him
15 the document and show him what we've paid him for, which
16 will be based upon the claims that he submitted requesting
17 payment for, we would -- we're telling him that you need
18 to have a tracking record and check what we paid you for
19 to make sure that you are entitled to that payment.

20 Q. Let me ask you this: So as far as the mechanics
21 of actually getting the claim, if I have a recipient
22 number and I have a provider number and I have the data or
23 software to bill Medicaid, do I have any contact
24 whatsoever with Medicaid person to person?

25 A. No.

1 Q. If I, say for example, everybody in the
2 courtroom, if they were Medicaid recipients and had
3 Medicaid recipient numbers and I have a provider number,
4 could I, under this system, type in and provide electronic
5 claims regardless of whether I provided any services or
6 products at all?

7 A. You could.

8 Q. Is that a good system?

9 A. Well --

10 MR. MARTIN: Objection, Judge, to the side
11 bar.

12 THE COURT: Sustained.

13 Q. (BY MS. VOLLMAN) I mean, is that a really good
14 system?

15 MR. MARTIN: Objection, Judge, to personal
16 comments by the attorney.

17 THE COURT: Overruled.

18 A. The problem with the Medicaid program and
19 actually any insurance program is that we --

20 MR. MARTIN: Judge, we object on the basis of
21 relevance to this case at this time.

22 THE COURT: Overruled.

23 A. We only have limited funding for the
24 administration of the program; and as a result, you have
25 to make your money go where you can. And obviously, we

1 have to have most of that money for, to pay claims, to pay
2 for benefits.

3 There are approximately 50 different
4 provider types, and each of those individual provider
5 types has a lot of procedure codes to choose from that
6 they could potentially bill. We could never build the
7 system. We can't afford to build a system. We couldn't
8 afford the staff.

9 We couldn't afford the system to be able
10 to capture and shut down on the front end every single
11 procedure code with a diagnosis, relationship and every
12 other way you would have to do it to be able to make sure
13 you pay no false claims on the front end.

14 But even if you have that, if a clean
15 claim comes through the system and on its face it's clean
16 and it doesn't hit any of the audits and edits, then that
17 particular claim will sail through the system and get
18 paid; but if someone didn't actually provide the service,
19 you can't tell that from the face of the claim. There's
20 no way that you can tell that.

21 You can't tell that the documents that
22 needed to be retained weren't there. You can't tell that
23 a Title 19, which was a prescription, wasn't there. You
24 can't see the client. So you can't tell if the medical
25 necessity of the patient was actually --

1 MR. MARTIN: Judge, we object on
2 nonresponsive. It's calling for a narrative.

3 THE COURT: Please keep it in question and
4 answer. Sustained.

5 MR. MARTIN: Motion to strike the previous
6 answer.

7 THE COURT: Overruled.

8 Q. (BY MS. VOLLMAN) So basically, you have a system
9 where the reliance on the honesty or integrity is at the
10 provider level, correct?

11 A. Yes.

12 Q. On State's Exhibit No. 5G, when it talks about
13 1.3.8, the electronic submission of claims, could you read
14 that for us?

15 A. "Provider may subscribe to the TDH system, which
16 allows the provider the ability to electronically submit
17 claims, claims appeals, verify recipient eligibility and
18 receive electronic claims status inquires, remittance and
19 status reports and transfer of funds into the provider
20 account."

21 Q. I want to stop you real quickly right there.
22 Remittance and status reports are what?

23 A. Those are the reports that we send to the
24 provider on a weekly basis and it would include all of the
25 claims that had been received from the provider for that

1 week or processed for the provider for that week.

2 And it will basically tell him what is
3 still pending in our system and it will tell him what has
4 been paid on a line-by-line basis and a lot of other
5 information about how much has been paid and things like
6 that on a line-by-line basis.

7 Q. Is that a way to -- that the provider has a way
8 to verify that what they billed, Medicaid is paying for
9 and nothing else?

10 A. Correct.

11 Q. So if there's an error, if something's wrong,
12 they can call Medicaid and say, "You didn't pay me enough,
13 or you paid me too much?"

14 A. That's correct.

15 Q. But they would have the proof in their hands to
16 be able to verify whether or not the amount is billed and
17 paid is true?

18 A. Yes. And that is a requirement of the contract
19 or the provider agreement which we just read a few minutes
20 ago.

21 Q. And let's pick up again at "provider understands
22 and acknowledges" --

23 A. "Provider understands and acknowledges that
24 independent registration is required to receive the
25 electronic funds or electronic remittance report.

1 Provider agrees to comply with the provisions of the
2 provider manual and the state licensing agreement
3 regarding the transmission and receipt of electronic
4 claims and eligibility verification data. Provider must
5 verify that all claims submitted to TDH or its agent are
6 received and accepted. Provider is responsible for
7 tracking claims submissions against claims payment and
8 detecting and correcting all claims' errors. A provider
9 contracts with third parties provide claims and/or
10 eligibility verification data from THD, the provider
11 remains responsible for verifying and validating all
12 transactions and claims and ensuring that the third party
13 adheres to all client confidentiality requirements."

14 Q. Would that be legitimate contractors that the
15 provider has?

16 A. Yes.

17 Q. Okay. Go ahead. 54, let me show you that
18 portion and you can go to the highlighted portion?

19 A. Section 4.2, "The recipient must have the right
20 to choose providers unless that right has been restricted
21 by TDH or by waiver of this requirement from HTFA. The
22 recipient's acceptance of any service must be voluntary."

23 Q. And let me direct your attention specifically to
24 4.1 right above the highlighted portion. Can you tell us
25 what that is?

1 A. "Provider must maintain the recipient's state and
2 federal right of privacy and confidentiality to the
3 medical and personal information contained in provider's
4 records."

5 Q. Okay. And 5I.

6 A. "This agreement will be effective from the date
7 finally executed until the date the agreement is
8 terminated by either party. Either party may terminate
9 this agreement by providing the other party with 30 days
10 notice of intent to terminate. THD may immediately
11 terminate the agreement for cause if the provider is
12 excluded from the Medicaid or Medicare program for any
13 reason, loses its licenses or certificate of becomes
14 ineligible for participation in the medical programs,
15 fails to comply with the provisions of this agreement or
16 if the provider is or may be placing the health and safety
17 of the recipient at risk. TDH may terminate this
18 agreement without notice if the provider has not submitted
19 a claim to the Medicaid program for 12 months."

20 Q. And it has the provider's signature, correct?

21 A. Yes.

22 Q. The date it was signed?

23 A. Correct.

24 Q. And then it has printed underneath it with the
25 title of Administrator, correct?

1 A. Correct.

2 Q. Let me show you what's been marked as State's
3 Exhibit No. 5J; and specifically, the highlighted
4 portion. And can you tell us what that document is and
5 what the person is certifying to?

6 A. This is a certification form that is part of the
7 enrollment packet that the provider has to complete,
8 having to do with declaring whether he's ever been
9 debarred or suspended or ineligible and had voluntary
10 exclusion for any of his covered contracts previously.

11 Q. And the highlighted portion says?

12 A. The highlighted portion has, "Do you have or do
13 you anticipate having subcontractors under this proposed
14 contract?"

15 And the response is, "No."

16 Q. If a person was getting a -- was going to hire a
17 biller or allowing another party to bill on behalf of him
18 that's not employed by him, would that be a subcontractor?

19 A. Yes.

20 Q. And if he was going to use one and did not, is
21 that a truthful statement?

22 A. No.

23 Q. And if it was truthful at the time he made it and
24 changed his mind, was he required by the contract to
25 submit that to Medicaid to say, "I am now going to have a

1 subcontractor"?

2 A. Yes, within ten business days prior to the time
3 he makes the changes.

4 Q. And go down to the last part of that. And then
5 you have the name of the provider, his signature, his
6 social security card and his name printed out, correct?

7 A. Correct.

8 Q. Let me show you State's Exhibit No. 5K. Can you
9 tell us what that document is?

10 A. This is a provider information form asking for
11 personal information regarding the provider.

12 Q. Okay. Now, further on in that -- let me show you
13 State's Exhibit 5L where it specifically ask this
14 particular client whether he's going to be using a
15 biller. What does that say?

16 A. It says -- I can't see the first word. "Do you
17 plan on using a billing agent to submit your Medicaid
18 claims?"

19 The response is, "Yes."

20 "And if yes, provide the following
21 information about the billing agent." Billing agent name
22 is listed as Capital Healthcare --

23 Q. E Capital Healthcare?

24 A. Yes, I'm sorry. E Capital Healthcare Consulting.

25 Q. And does it have an address?

1 A. It is 10103 Fondren Houston.

2 Q. Let me show you really briefly State's Exhibit
3 No. 74, were the Office of Secretary of State; and
4 specifically, Article 7, do you notice any similarity and
5 names between the directors and who's going to be doing
6 the billing?

7 A. Yes. The contact name on State's Exhibit 5L,
8 which is part of the enrollment package, is Maria B.
9 Bibbs. And on the Article of Incorporation, Ms. Bibbs is
10 also listed.

11 Q. Now, go down to the last portion of 5L. And can
12 you tell us what question is being asked there.

13 A. "Have you ever been convicted of a crime?"

14 The response is "no." And then it gives
15 a definition of conviction. You want me to read all
16 that?

17 Q. No. But pretty much, any type of crime -- a
18 deferred, a probation or any type of like pretrial
19 program, correct?

20 A. Right.

21 MR. MARTIN: Objection. Leading the witness.

22 THE COURT: Sustained.

23 Q. (BY MS. VOLLMAN) Okay. You can read it.

24 A. "Conviction or convicted is a judgment of
25 conviction of deferred adjudication has been entered

1 against a person by a state or federal court without
2 regard to the pendency of an appeal or referral to any
3 special post-proceeding. B, a person who has been found
4 guilty by a federal state or local court. C, a person has
5 entered a plea of guilty or nolo contendere that has been
6 received by federal state or local court or D, a person
7 has entered a first offender or other program and judgment
8 of conviction has been withheld. If yes, please fully
9 explain the details, including dates, the state where the
10 incident occurred and any adverse action against your
11 license."

12 Q. Okay. And then State's Exhibit No. 5M, just the
13 top part, and what is asking for there?

14 A. This is asking -- this is the provider
15 information form that is made part of the enrollment
16 packet and it's asking for personal information on
17 officers, directors and corporate owners.

18 Q. And at the top, is?

19 A. It's listed as -- the name is listed as Terry
20 Mitchell.

21 Q. With a 3702 Thunderbird address, correct?

22 A. Correct.

23 Q. And then the two boxes below that, that are
24 highlighted. In this particular section, do you have
25 identifiers?

1 A. Yes.

2 Q. Okay. State's Exhibit No. 5N, which is another
3 page, is basically asking whether -- is what? Whether the
4 officers are involved in the same questions as the owners?

5 A. Correct.

6 Q. And go down to the last part.

7 A. The last part is, "Have you ever been convicted
8 of a crime?"

9 The response is, "No."

10 Q. And that would be in reference to the officers of
11 E Capital, correct?

12 A. It would be.

13 Q. Now, at the end on 50, in that particular
14 section, does it also, again, require a signature and an
15 affirmation or a certification?

16 A. Yes.

17 Q. And what does it say?

18 A. "I certify that the above constitutes true and
19 correct information. I agree to inform TDH or its
20 designee in writing of any changes or if additional
21 information becomes available."

22 Q. So if the biller changes from E Capital to
23 another billing company, he was required to notify
24 Medicaid that it, in fact, changed?

25 A. That's correct.

1 Q. Let me show you what's been marked as State's
2 Exhibit 5P. And once again, as far as the disclosure of
3 ownership and control and interest, why is Medicaid asking
4 for the disclosure of ownership of a company and/or who
5 has controlling interest?

6 A. We want to know who the owner is and who controls
7 the company, because if you get to the point where you
8 have to do a fraud and abuse investigation, you need to
9 know who the potential people that might be committing
10 fraud are; and you need to know who to investigate.

11 These aren't the only people that you
12 investigate; but a lot of times, you follow the money and
13 the officers, the directors, the owners, those are the
14 people, the people who control the activities of the
15 company or the people who are making decisions a lot of
16 times on fraud.

17 They may be involved with schemes with
18 other people, but those are certainly people that you want
19 on your list to be able to investigate.

20 Q. And further down on that page, it's asking what
21 type of entity; and it's listed as partnership, correct?

22 A. Yes.

23 Q. And then further down, requires a notification,
24 correct, or the certification and a signature?

25 A. Yes.

1 Q. Now, let me show you State's Exhibit No. 5K, and
2 can you tell us what it's asking for as far as the
3 questions towards the middle?

4 A. This is asking for them to disclose any of the
5 owners, and there's an "N/A" in there.

6 Q. Okay.

7 A. And it's also asking about "whether you've
8 changed ownership within the last year or whatever."

9 Q. Okay. And does it also -- at the bottom, also
10 state a certification to Medicaid?

11 A. Yes.

12 Q. Can you read that for us?

13 A. "Whoever knowingly and willfully makes or causes
14 to be made a false statement or representation of this
15 statement may be prosecuted under applicable federal or
16 state laws. In addition, knowingly and willfully failing
17 to fully and accurately disclose the information requested
18 may result in denial of a request to participate or where
19 the entity already participates. Termination of its
20 agreement or contract with the state agency or the
21 secretary, as appropriate."

22 Q. Okay. Let me show you State's Exhibit No. 5R.
23 Can you tell what you say that is?

24 A. This is requests for taxpayer identification
25 number. It's part of the enrollment packet. It's just

1 asking them to declare their tax ID number.

2 Q. Okay. And let me show you State's Exhibit No.
3 5S.

4 A. The electronic funds transfer information sheet
5 gives providers information on electronic funds transfers
6 and in case they want to participate in that. And you
7 want me to read this?

8 Q. Yes.

9 A. "Electronic funds transfer, EFT, is a payment
10 method to deposit funds for claims approved for payment
11 directly into a provider's bank account. These funds can
12 be credited to either checking or savings account,
13 provided the bank accepts automated clearinghouse ACH
14 transactions. EFT also avoids the risk associated with
15 mailing and handling paper checks and ensuring funds are
16 directly deposited into the specified account."

17 Q. Okay. Let me ask you this. If I'm a DM provider
18 and I got the recipient number and I type both of those
19 numbers in and the claim is submitted to Medicaid and it
20 is single on its face and you have one of these
21 authorization to have the money sent directly by wire,
22 where does the money go after I've submitted this facially
23 valid claim?

24 A. The money will go directly into the provider's
25 account, to his bank and to the specific bank account

1 within that bank that the provider has given us and
2 directed us to send the money. We don't tell him where to
3 send it. He tells us.

4 Q. So State's Exhibit No. 5T, did Broderick Carter
5 elect to have the money that he was billing Medicaid for
6 claims be sent directly to his bank?

7 A. Yes.

8 Q. All right. Now, if a provider doesn't want to do
9 it that way, do you still do hard checks?

10 A. Yes.

11 Q. Let me show you what's been marked as 5U; and
12 does the provider also have the opportunity to get those
13 remittance and status reports to show this is what you
14 billed and this is what we paid for, those in electronic
15 funds?

16 A. Yes.

17 Q. And did Broderick Carter request that to be
18 done?

19 A. He did.

20 Q. Now, State's Exhibit No. 5V just shows what bank
21 account he'd like it to go?

22 A. Yes.

23 Q. All right. Why do you ask who is going to be the
24 billing agent? Why is that important for Medicaid to
25 know?

1 A. When you're doing a fraud and abuse
2 investigation, you want to know everyone who touched the
3 claim and anyone who was involved in that service, because
4 those are people that could potentially have been the
5 person that committed fraud.

6 And the billing company is a person that
7 is filling out a claim; and you know, typically, if it
8 works the right way, they're putting what the provider
9 tells them on the claim. They're not creating their own
10 stuff on it.

11 But when you're starting an
12 investigation, you don't know who's done what, if
13 anything. So you got to look at all avenues; and being
14 able to know who the billing company is, is extremely
15 important.

16 In addition to, sometimes billing
17 companies have the service records, the patient files
18 in -- or at least a portion of it, in their office; and we
19 need to be able to know where we're going to have to find
20 all the files to be able to validate what's in the patient
21 file.

22 Q. Do you consider that the billing information as
23 to who's going to be the biller and whether they're going
24 to use the billing company as material to the contract you
25 are entering into with the Medicaid provider?

1 A. Yes.

2 Q. If a provider says no to that question, yet
3 intends or decides later to use a billing company, that is
4 supposed to be updated, correct, with the name of that
5 billing company?

6 A. Yes, within the ten-day period.

7 Q. Did Broderick Carter ever reflect that he was
8 using another billing company by the name of Fraizer
9 Medical Marketing?

10 A. He did not.

11 Q. Is that failure to update the application
12 important and material to Medicaid?

13 A. Yes.

14 Q. Now, after the application is submitted, does
15 Medicaid let the provider know that he's been either
16 accepted or rejected into the program?

17 A. I'm sorry. Repeat your question.

18 Q. After a provider submits an application, at some
19 point, does the Medicaid program -- does it notify the
20 provider that, "Yes, your application has been accepted"?

21 A. Yes, we do.

22 Q. And at that time, what is provided to the
23 provider once they're accepted?

24 A. We will send them a letter and let them know that
25 they've been approved; and within that letter, we will

1 give the provider his unique provider -- Medicaid provider
2 number that he has to have to be able to bill for
3 services.

4 And we also advise him that either we'll
5 be sending him a Medicaid manual or he would be receiving
6 or he has received one or will be sending one and we also
7 give him a 1-800 number to be able to call just to make
8 sure that if he has any question about the application
9 process or his new number or what he will do now or how to
10 file claims, anything. He can call that number and get
11 his questions answered.

12 Q. So was Broderick Carter given a Medicaid provider
13 number?

14 A. Yes.

15 Q. By virtue of his relationship with Medicaid, did
16 Broderick Carter come into possession, custody and control
17 of Medicaid money?

18 A. Yes.

19 Q. Now, you talked a little bit about a facially
20 valid claim. Can you walk the jury through the
21 enrollment, the claims billing and claims payment process,
22 real briefly?

23 A. Sure. A provider -- or an individual decides
24 that they want to be a provider. So they will go to NHIC
25 or TMHP and get the application. The application will be

1 completed by them, submitted to the -- to NHIC or it will
2 be approved, assuming it's approved.

3 And the provider will be notified of all
4 the pertinent information that it needs to be able to file
5 claim. He then will start seeing patients; and once he's
6 seen patients, then he can bill for those services either
7 in a mail format or electronically through his computer
8 and plug in the claim.

9 After he has completed that, at the end
10 of each week, he will receive a remittance and status
11 advice, which will tell him what we have paid and that is
12 after the payment hits the claim's payment system and goes
13 through process of audits and edits and the claim is
14 determined to have been paid.

15 And then at the end of that week, the
16 remittance's status report will have everything that
17 occurred; and then there is either a check for the amount
18 that we owe him for that week that we'll send out to him
19 or we will electronically deposit the money into his
20 account.

21 Q. Does fraud occur in the Medicaid system?

22 A. Yes.

23 Q. Is the Medicaid system designed to make a
24 Medicaid provider rich?

25 A. No, it's not.

1 Q. Why isn't it designed that way?

2 A. Remember, this is taxpayer money, limited funds;
3 and our effort has to be on making sure there are
4 sufficient funds to provide services to Medicaid
5 recipients and to make sure that they get good quality of
6 care.

7 And because of that, the recipients are
8 our main priorities and the taxpayers as best we can with
9 limited funding, because they're the people that fund the
10 program.

11 Q. If someone decides to steal from the program, who
12 loses?

13 A. Taxpayers and recipients.

14 Q. Do you in your position as representative of HHSC
15 have care, custody and control of the Medicaid money?

16 A. Yes.

17 Q. Did Medicaid money come into Broderick Carter's
18 possession by virtue of his contractual relationship with
19 Medicaid?

20 A. Yes.

21 Q. Had you known that Broderick Carter and his
22 company had billed DME supplies that were never delivered,
23 would you have put a stop to him receiving Medicaid money?

24 A. Yes.

25 Q. If Broderick Carter was working in combination

1 with other individuals such as Tajuana and Dyain Jefferson
2 to falsely bill the Medicaid program for supplies that
3 were never delivered, would you have put a stop to him and
4 them receiving Medicaid money?

5 A. Yes.

6 Q. Had you known that Broderick Carter and the
7 Fraizer's were falsely requesting payment from the
8 Medicaid programs, would you have paid Robert or allowed
9 the money to be funneled to the Fraizers?

10 A. No.

11 Q. Had you known that the Fraizers were using
12 recipient numbers provided to them by Marcus Jefferson
13 improperly, would you have put a stop to them receiving
14 Medicaid money?

15 MR. MARTIN: Objection. Assumes facts not in
16 evidence.

17 MS. VOLLMAN: Judge, it's the effective
18 consent question of the owner.

19 THE COURT: Overruled.

20 A. Yes.

21 Q. (BY MS. VOLLMAN) You would have put a stop to
22 it?

23 A. Yes.

24 Q. If they were doing that, would you, on behalf of
25 HHSC and the Texas Medicaid program, consider them

1 stealing money?

2 A. Yes.

3 MS. VOLLMAN: Let's take a look at a
4 different company real quick. We're going to go through
5 the next ones real quick.

6 THE COURT: Let me see the lawyers at the
7 bench, please.

8 (Brief discussion at the Bench.)

9 THE COURT: Ladies and gentlemen, the
10 Prosecutor has let me know that this next portion is going
11 to talk about an hour. So I think this will be a good
12 time for us to break for lunch and we can come back and do
13 this next hour-long portion.

14 I'm going to let you go with the
15 bailiff. She is prepared to take you to a restaurant for
16 lunch.

17 (Off the record.)

18 THE COURT: Ms. Vollman, you may proceed.

19 MS. VOLLMAN: Thanks, Judge.

20 Request to be able to stand up here.

21 THE COURT: Request is granted.

22 MS. VOLLMAN: Thank you.

23 Q. (BY MS. VOLLMAN) Ms. Thompson, again, you're the
24 same Ms. Thompson that was testifying previously?

25 A. Yes.

1 Q. Now, let's talk about a second DME company called
2 Anointed Medical Supply. Let me show you State's Exhibit
3 1A, 1B, 1C, 1D, 1E, 1F, 1G, 1H, 1I, 1J, 1K. Take a look
4 at those real quick, and I'm going to ask you if you
5 recognize those?

6 A. Yes.

7 Q. Are those part of the Anointed Medical Supply
8 records that you previously reviewed as coming from
9 State's Exhibit 1?

10 A. Yes.

11 Q. Just very quickly on the first one, can you tell
12 us when the -- what type of traditional services this
13 particular provider was wanting to do?

14 A. Durable medical equipment.

15 Q. And State's Exhibit 1B, can you tell us what is
16 the highlighted provisions?

17 A. They are enrolling as a facility. The name is
18 under Anointed Medical Supply. They do not want to be a
19 limited provider. Their primary speciality is DME.

20 Q. What does it mean by the limited provider? What
21 does that mean?

22 A. It really has nothing to do with DME.

23 Q. Okay. That's great.

24 A. The physical address is 6420 Richmond, No. 463,
25 Houston, Texas.

1 Q. And again, pall is listed as the Medicare group,
2 correct?

3 A. Yes.

4 Q. And State's Exhibit No. 1C, is it signed by the
5 owner; and can you read that owner's name?

6 A. It's Demetria Boston.

7 Q. And what's the date?

8 A. July 16, 2003.

9 Q. On State's Exhibit No. 1D, we get to the
10 provision that talks about the provider agreement. And
11 are we looking at the same type -- we're looking at the
12 same, the provision again as far as their agreement and
13 documents constituting the agreement, correct?

14 A. Yes, it's exactly the same.

15 Q. Okay. And on State's Exhibit No. 1E?

16 A. It's the same.

17 Q. Okay. And as we're looking at that provision --

18 MS. VOLLMAN: Judge, we would offer State's
19 Exhibit No. 77 and 78, which are the assumed business
20 record of Anointed Medical Supply and the DBA also
21 abandoning one of its owner. Both are public records and
22 have the seal on it.

23 (State's Exhibit Nos. 77 and 78 were offered
24 into evidence.)

25 THE COURT: That was 77 and 78. Any

1 objection?

2 MR. MARTIN: No objection, Judge, to either
3 77 or 78.

4 THE COURT: They're admitted.

5 (State's Exhibit Nos. 77 and 78 were admitted
6 into evidence.)

7 Q. (BY MS. VOLLMAN) And on State's Exhibit No. 77,
8 could you highlight the top portion? So it's Anointed
9 Medical Supplies with the same address that we saw in the
10 provider agreement, correct?

11 A. Yes.

12 Q. And then, take a look at who are the owners? Who
13 are listed?

14 A. Demetria Boston and Lamisha Johnson.

15 Q. And let's take a look at 78. Can you tell us
16 what that is?

17 A. This is a notice of abandoned business for
18 Anointed Medical Supplies.

19 Q. And go to the next portion, please, that talks
20 about who is abandoning the business.

21 A. Would be Lamisha Johnson.

22 Q. And let's take a look down at the date.

23 A. The date is January 11, 2002.

24 Q. Okay. Now, take a look at State's Exhibit No. 79
25 and 80.

1 MS. VOLLMAN: Judge, we would offer State's
2 Exhibit 79 and 80, which are certified copies.

3 (State's Exhibit Nos. 79 and 80 were offered
4 into evidence.)

5 MR. MARTIN: No objection, Judge, to 79 or
6 80.

7 THE COURT: They're admitted.

8 (State's Exhibit Nos. 79 and 80 were admitted
9 into evidence.)

10 Q. (BY MS. VOLLMAN) Take a look at Demetria Boston,
11 the name on the provider agreement?

12 A. Yes.

13 Q. Same name?

14 A. Yes.

15 Q. And let's take a look at State's Exhibit No. 1E.
16 Again, are those the same provisions that we saw on the
17 previous contract?

18 A. Yes.

19 Q. And that's regarding ownership and the laws that
20 are governing in reference to fraud?

21 A. Yes.

22 Q. Let's take a look at State's Exhibit No. 1F and
23 the top provisions. Can you tell us what those are, real
24 quick?

25 A. Those are saying that all the claims and

1 information has to be true, accurate and complete and that
2 any falsification or concealment of material fact may be
3 prosecuted under federal and state law.

4 Q. Okay. And the last provision?

5 A. Well, we missed the 1.33, which is, service is
6 actually rendered. They are the only ones that can be
7 billed.

8 Q. And the last part?

9 A. Says that the provider has to check his statement
10 to make sure that he got paid correctly.

11 Q. Let's go to State's Exhibit No. 1G. Which
12 provision is this?

13 A. This is for the electronic claims submission and
14 have to do with the provider being responsible for
15 tracking the claims, making sure its payments are correct.

16 Q. State's Exhibit No. 1H?

17 A. This is signed by Demetria Boston on July 16, '03
18 and she signed as owner.

19 Q. State's Exhibit No. 1I and let's highlight this
20 provision. "Do you plan on using a billing agent to
21 submit your Medicaid claims?" And what is Demetria
22 Boston's answer?

23 A. She said no.

24 Q. State's Exhibit No. 1J?

25 A. This is the provider information form and it is

1 that form for officers, directors and corporate owners;
2 and Demetria Boston is the person whose information is
3 contained on here.

4 Q. And that's the only one, correct?

5 A. Yes.

6 Q. And then 1K?

7 A. This is certification saying that everything is
8 true and correct on the information provided prior to that
9 and signed by Demetria Boston and is notarized that she
10 was, in fact, the one that signed it.

11 Q. State's Exhibit No. 1L?

12 A. This is the disclosure and ownership form for
13 Anointed; and it is showing the same address that was seen
14 before, 6420 Richmond, No. 463. And it's showing that the
15 person having direct ownership is Demetria Boston, and
16 it's signed by her on July 31, '03.

17 Q. Did Demetria Boston ever update her application
18 to reflect that she was using another billing company by
19 the name of Fraizer Medical Billing?

20 A. No.

21 Q. Is the failure to update that application by
22 Demetria Boston important and material to Medicaid?

23 A. Yes.

24 Q. And is it for the same reason that you told us
25 before?

1 A. It is.

2 Q. Did Demetria Boston's company, Anointed Medical
3 Supply, enroll in the Medicaid program?

4 A. Yes.

5 Q. And by virtue as a Medicaid provider, did she
6 become a governmental contractor?

7 A. Yes.

8 Q. And was there a contractual relationship between
9 her and Medicaid?

10 A. Yes.

11 Q. Now, was she accepted into the program as a
12 Medicaid provider?

13 A. Yes.

14 Q. Was she also given a unique Medicaid number?

15 A. Yes.

16 Q. Was she also notified the same way that Broderick
17 Carter was with a mailing, a letter?

18 A. Yes.

19 Q. And now, did Medicaid money come into Demetria
20 Boston's possession by virtue of her contractual
21 relationship with Medicaid?

22 A. It did.

23 Q. And had you known that Demetria Boston and her
24 company were billing for DME supplies that were never
25 delivered, would you have put a stop to her receiving

1 Medicaid money?

2 A. Yes.

3 Q. If Demetria Boston, working in combination with
4 other individuals such as Tajuana and Dyain Fraizer to
5 falsely bill the Medicaid for supplies that were never
6 delivered, would you have put a stop to them receiving
7 Medicaid money?

8 A. Yes.

9 Q. Had you known that Demetria Boston and the
10 Fraizers were falsely requesting payment from the Medicaid
11 program, would you have paid Demetria Boston or allowed
12 the money to be funneled to the Fraizers?

13 A. No.

14 Q. Had you known that the Fraizers were using
15 recipient numbers provided to them by Marcus Jefferson,
16 would you have put a stop to them receiving Medicaid
17 money?

18 A. Yes.

19 Q. If they were doing that, would you, on behalf of
20 HHSC and the Medicaid program, consider them stealing
21 money?

22 A. Yes.

23 Q. Now, let's talk about Jaqueline Briscoe. Let me
24 show you State's Exhibit No. 21A, 21B, 21C, 21D, 21E, 21F,
25 21G, 21H, 21I, 21J, 21K, 21L, 21M, 21N and 21O. Can you

1 take a look at these briefly and tell me if these are the
2 same exhibits, documents that you viewed and referred to
3 in State's Exhibit No. 21?

4 A. Yes.

5 Q. And 21P?

6 A. Yes.

7 Q. Very briefly, 21A, what does Jaqueline Briscoe
8 say she's going to be operating?

9 A. Durable medical equipment.

10 Q. Let's go to 21B. Now, is the form changed a
11 little bit since --

12 A. Yes.

13 Q. All right. Same information is being requested,
14 correct?

15 A. Yes.

16 Q. So she's listing herself as a company?

17 A. Yes.

18 Q. And she is going to be a limited provider?

19 A. Correct.

20 Q. And she also has her Medicare license, correct?

21 A. Correct.

22 Q. Let me show you State's Exhibit 21C. And is that
23 the same information talking about what will be contained
24 as part of the agreement?

25 A. Yes, it is.

1 Q. Let me show you 21D. And is it still requesting
2 information concerning ownership and control?

3 A. Yes.

4 Q. And saying this agreement will be subject to
5 state and federal laws and regulations regarding fraud and
6 abuse?

7 A. Yes.

8 Q. On state's Exhibit No. 21E, and is it still going
9 to be that the providers agree to submit claims for
10 payment in accordance with the guidelines?

11 A. Yes.

12 Q. And must all claims or encounter submitted by
13 provider be for services actually rendered by the
14 provider?

15 A. Yes.

16 Q. So it's not allowed to be in the future? They
17 already should have done it?

18 A. Correct.

19 Q. State's Exhibit No. 21F, now here, it's a little
20 bit different, correct? 1.3.6, can you tell us briefly
21 what that is?

22 A. Yes. This is basically saying the provider has
23 agreed to submit encounters that are true and correct and
24 claims that are true and correct and implement a method
25 and make sure what they've submitted is, in fact, what

1 they deserve to be paid for.

2 Q. And 1.3.7, there's actually now an affirmative
3 duty to verify that the payments received are for actual
4 services rendered and medically necessary. That's new,
5 isn't it?

6 A. Yes.

7 Q. Then 1.3.8 is the same as the claimed
8 submission?

9 A. Yes, it is.

10 Q. And the last portion that's highlighted there,
11 provider is responsible for tracking the claim as the same
12 as before, correct?

13 A. Yes.

14 Q. And 1.3.9 is a little different, isn't it?

15 A. Yes, it is.

16 Q. Can you tell us what that is?

17 A. This is telling providers that they need to train
18 employees on frauds and abuse and the need to report the
19 fraud and abuse.

20 Q. And that's part of the provider's agreement now,
21 right?

22 A. Yes, it is.

23 Q. Let's go to 21G, that last highlighted portion.
24 Can you tell us, is that new?

25 A. Yes, it is.

1 Q. And what is it? You don't have to read it all,
2 but what is it specifically getting to as far as the
3 provider and what they're supposed to be doing regarding a
4 biller?

5 A. The third-party billing provider, it's saying
6 that they need to have a contract with a third-party
7 billing provider and make sure that the biller is billing
8 correctly.

9 Q. In other words, they're responsible for what
10 their biller does?

11 A. Right.

12 Q. And they can be criminally convicted and subject
13 to recruitment of over payments?

14 A. Yes.

15 Q. Imposed as penalties?

16 A. Yes.

17 Q. All right. Let's take a look at 21H. "Do you
18 plan to use a billing agent to submit your Medicaid
19 claims?"

20 And what is the answer?

21 A. The answer is no.

22 Q. And that's what Jaqueline Briscoe represents to
23 Medicaid?

24 A. Yes.

25 Q. Let's go to 121I. And can you tell us what

1 information is there?

2 A. This is the principle information form for
3 someone who's principal of the company and it is in
4 relation to the personal information on Jaqueline Briscoe.

5 MS. VOLLMAN: And Judge, at this time, we
6 would offer State's Exhibit 81, 82 and 83, which are doing
7 business as and the certified copies of Texas Driver's
8 License information on Jaqueline Briscoe.

9 (State's Exhibit Nos. 81-83 were offered into
10 evidence.)

11 MR. MARTIN: Judge, no objection to State's
12 81, 82, 83.

13 THE COURT: They're admitted.

14 (State's Exhibit Nos. 81-83 were admitted
15 into evidence.)

16 Q. (BY MS. VOLLMAN) Is that the same address on
17 State's Exhibit 81 as it is on 21I?

18 A. Yes. They are both 1206 --

19 Q. 1046?

20 A. 12046.

21 Q. Let me ask you real quick, too. Is it unusual to
22 have a person have a business out of their residential
23 house?

24 A. It's quite unusual. It's another red flag.

25 MR. MARTIN: Objection, Judge, speculation

1 and relevance to this case.

2 THE COURT: Overruled.

3 A. And especially for a DME business. I mean, you
4 have people coming in all the time if you have a
5 legitimate business. So you need a store front. A DME
6 business is not going to be run out of a house.

7 Q. (BY MS. VOLLMAN) Let me show you State's Exhibit
8 21J. This is a new portion of the form, correct, when
9 Medicaid is actually asking for details from the
10 provider. "Your duties and relationship to provider
11 organization," and what is referenced there?

12 A. I'm sorry. I kind of missed the question.

13 Q. Your duty and relationship is what?

14 A. Is indicating that she is the owner of the
15 company.

16 Q. And what where her duties?

17 A. Her duties are "to oversee the daily operation of
18 Briscoe Medical Supply, to ensure clients receive medical
19 supply in a timely and professional manner."

20 Q. And that's what she's representing to Medicaid on
21 her application, correct?

22 A. As her duties, correct.

23 Q. Let's go to 21K. And again, this is a
24 certification. Has this been enhanced?

25 A. It has.

1 Q. In this application?

2 A. Yes.

3 Q. The duties and responsibilities for doing it
4 right are still here?

5 A. Yes. And the fraud, felony provisions are there.

6 Q. State's Exhibit No. 21L, disclosure of
7 ownership -- different form but the same information,
8 correct?

9 A. Yes.

10 Q. State's Exhibit No. 21M is what?

11 A. The W-9 form where she's just indicating what her
12 Tax ID is.

13 Q. Just like the other form in the other company?

14 A. Yes.

15 Q. Now, the electronic funds transfer, telling
16 Medicaid that she wants her money sent electronically, is
17 that what's depicted in 21N?

18 A. Yes. It is directly to the bank account she
19 specified.

20 Q. And 21O is pretty much the same information,
21 correct?

22 A. Yes, it is.

23 Q. And there's a change; but it's a different
24 account?

25 A. Right.

1 Q. State's Exhibit 21P, now this is something a
2 little different we haven't seen before yet. Can you tell
3 us what is it that she's doing in this particular form?

4 A. She's changing -- it's a change of provider
5 status; and her comments are, "I am voluntarily
6 terminating my Medicaid supplier billing number. I will no
7 longer be participating in the Medicaid program."

8 Q. Have you heard of the term Super Biller before?

9 A. Well, there's a Super bill.

10 Q. I think that's Supplier Biller, right?

11 A. Oh, yes, Supplier.

12 Q. So can you tell us what the date is at the
13 bottom?

14 A. December 18, 2006.

15 Q. All right. So she's asking that her business be
16 terminated 12-18-2006?

17 A. Yes.

18 Q. Let me show you State's Exhibit 13A, 13B, 13C,
19 13D, 13E, 13F, 13G, 13H, 13I, 13J, 13K, 13L, 13M, 13N.
20 Can you take a look at this and --

21 MS. VOLLMAN: Judge at this time, we would
22 offer State's Exhibit 84, 85 and 86, which are certified
23 copies of a DBA and two driver's license information
24 forms.

25 (State's Exhibit Nos. 84-86 were offered into

1 evidence.)

2 THE COURT. Any objection?

3 MR. MARTIN: No objections to State's
4 Exhibits 84, 85 or 86, Judge.

5 THE COURT: That they are admitted.

6 (State's Exhibit Nos. 84-86 were admitted
7 into evidence.)

8 Q. (BY MS. VOLLMAN) And have you had an opportunity
9 to look at those Exhibits?

10 A. I have.

11 Q. And are they the same pages from State's Exhibit
12 No. 13?

13 A. Yes.

14 Q. All right. Number 13A -- and the person who is
15 filling out this form is saying the same thing again,
16 correct? They're going to start a durable medical
17 equipment business?

18 A. Correct.

19 Q. State's Exhibit No. 13B?

20 A. The packet is for First American Medical Supplies
21 and they're listing their addresses, 3014 Quail Run Drive,
22 Humble, Texas.

23 Q. So we don't have a name of the owner yet, but the
24 business is going to be called First American Medical
25 Supplies, correct?

1 A. Yes.

2 Q. State's Exhibit No. 13C?

3 A. This is the certification saying that everything
4 on the form is true and correct. It's the same
5 certification for the felony provisions and fines and
6 imprisonment and signed by Robert C. Turner, dated April
7 the 25th of 2006.

8 Q. Okay. So --

9 A. And it is notarized.

10 Q. And it is -- Robert C. Turner is the owner,
11 correct?

12 A. Yes.

13 Q. Let's take a look at State's Exhibit No. 13D.
14 Now, the address for his business is what address?

15 A. Physical address is 3014 Quail Run Drive.

16 Q. As far as you know, as far as driver's licenses,
17 does DPS use a home address or business address on the
18 driver's license?

19 A. A home address.

20 Q. All right. As far as State's Exhibit No. 13D,
21 does it, again, have the same provision regarding the
22 agreement and what will be included as the other one?

23 A. Yes.

24 Q. State's Exhibit No. 13E?

25 A. Same provision as in the last one we saw.

1 Q. And that is talking about third-party billing
2 vendors and what is now required?

3 A. Yes.

4 Q. Can you say -- does Medicaid expand their rules
5 when certain things become needed in the agreements and
6 the contracts.

7 A. Yes, we do.

8 Q. And is that part of what a senior policy advisor
9 does?

10 A. Yes.

11 Q. State's Exhibit No. 13F?

12 A. This is showing that they're indicating there is
13 no subcontractor, which would be saying they don't plan on
14 using a biller; and it's signed by Robert C. Turner on
15 April 24th, 2006.

16 Q. Okay. State's Exhibit No. 13G.

17 A. This is a provider information form and it has
18 the personal information for Robert Turner and it's
19 showing the same address, the 3014 Quail Run Drive in
20 Humble.

21 Q. State's Exhibit No. 13H?

22 A. This is the provider information form and it is a
23 second page, it's showing the Medicare provider number,
24 the driver's license number and issuer, the driver's
25 license expiration date, the same address; and it's also

1 saying that the person does not plan on using a biller.

2 Q. Okay. State's Exhibit No. 13I?

3 A. This is the last page, which is the certification
4 page that has all of the information about fraud and abuse
5 and prosecution and falsification of the document; and
6 it's signed by Robert Turner.

7 Q. Let's take a look at 13K? Now, as far as 13K,
8 you have Mr. Turner identifying himself as the owner,
9 correct?

10 A. Correct.

11 Q. And he is saying, again, what his duties are.
12 What is he saying?

13 A. He's saying to provide medical supplies in a
14 timely and professional manner.

15 Q. All right. And State's Exhibit No. 13M and N
16 are, again, authorizing electronic funds and the IRS W-9
17 form, correct?

18 A. Yes.

19 Q. And State's Exhibit No. 13L is talking about the
20 disclosure of ownership and control.

21 A. And it's showing Mr. Turner as the owner.

22 Q. Was -- and he, just like Jaqueline Briscoe, was
23 given unique Medicaid provider numbers, correct?

24 A. Correct.

25 Q. They both had contractual relationships with

1 Medicaid, correct?

2 A. Correct.

3 Q. Had you known that Jaqueline Briscoe and Robert
4 Turner and their respective companies were billing for DME
5 supplies that were never delivered, would you have put a
6 stop to them receiving Medicaid money?

7 A. Yes.

8 Q. And if Jaqueline Briscoe and Robert Turner,
9 individually, were working in combination with other
10 individuals such as Tajuana and Dyain Fraizer to falsely
11 bill the Medicaid for supplies that were never delivered,
12 would you have put a stop to them receiving money?

13 A. Yes.

14 Q. Had you known that Jaqueline Briscoe and the
15 Fraizers were falsely representing payments for the
16 Medicaid program, would you have paid Jacqueline Briscoe
17 and/or Robert Turner or allowed money to be funneled to
18 the Fraizers?

19 A. No.

20 Q. Had you known that the Fraizer's were using
21 Medicaid recipient numbers misapplied by Marcus Jefferson,
22 would you have put a stop to them receiving Medicaid
23 money?

24 A. Yes.

25 Q. All right. Let's talk about the next company,

1 which is Resource Solutions, State's Exhibit No. 19A and
2 B, start looking at those please, 19C, D, E, F, G, H, I,
3 J, K, L, M, N, O, P, Q, R, S, take a look at those.

4 A. Okay.

5 Q. Are those pages from Exhibit 19 --

6 A. Yes.

7 Q. -- that's already in evidence? Number 19A,
8 again, representing they're going to be a durable medical
9 equipment supplier?

10 A. Yes.

11 Q. Take a look at 19B, and does it have the name of
12 the company going to be Resource Solutions Medical Supply?

13 A. Yes.

14 Q. Do they have a Medicare license?

15 A. They do.

16 Q. And is their address going to be on Westpark?

17 A. Yes.

18 Q. Okay. And taking a look at State's Exhibit 19C,
19 do you have a name at the bottom of that provision that's
20 signing the contract as the owner of the company?

21 A. Yes.

22 Q. And who's that?

23 A. Christopher Williams.

24 Q. Okay.

25 A. And he signed as owner.

1 Q. Let me show you State's Exhibit No. 19D and the
2 top portion.

3 A. The provider name is Resource Solutions Medical
4 Supply. The address 9950 Westpark, Suite 434.

5 Q. And does the provision also incorporate all the
6 agreement in the manuals that will be part of that
7 agreement like in the other contracts?

8 A. Yes.

9 Q. Take a look at State's Exhibit No. 19E; and is
10 it, again, subjecting it to the fraud provisions in state
11 and federal laws?

12 A. Yes, it is.

13 Q. At the very top of that?

14 A. It's talking about the ownership and control.

15 Q. Okay. And then in State's Exhibit No. 19F, what
16 provisions are those referring to, the highlighted ones?

17 A. That providers will submit claims that are true
18 and accurate and complete and that they won't bill for
19 services not rendered.

20 Q. The same as all the other contracts, right?

21 A. Yes.

22 Q. State's Exhibit No. 19G is the owner of Resource
23 Solutions, again, representing to Medicaid that they will
24 have an affirmative duty to make sure that the claims they
25 encounter submitted for payment are correct?

1 A. Yes.

2 Q. And the other two provisions are the same as the
3 other contracts?

4 A. They are.

5 Q. State's Exhibit No. 19H?

6 A. Is the third-party billing provider that we've
7 already seen in the other contract and signed by
8 Christopher Williams.

9 Q. And what is the date that he's submitting his
10 application?

11 A. March 6, 2006.

12 Q. Okay. State's Exhibit No. 19I, that's asking
13 about a billing company?

14 A. Yes.

15 Q. And can you tell what Christopher Williams is
16 representing to Medicaid?

17 A. He said "no billing company."

18 Q. Okay. Take a look at State's Exhibit No. 19J and
19 that is doing the same certification regarding false
20 entries?

21 A. Yes.

22 Q. Now --

23 A. Signed by Mr. Williams.

24 Q. Let's take a look at State's Exhibit No. 19K.
25 Can you tell us what that is?

1 A. This is a copy of the provider information form,
2 and it's the back page of that showing the certification
3 and it's signed by Jaie Brown.

4 Q. Okay. So another partial owner with Jaie Brown?

5 A. Right.

6 Q. 19L?

7 A. This has to do with the principal information
8 form showing Christopher Williams as a principal in the
9 company.

10 Q. What identifiers are listed?

11 A. The physical address of the business, he says, is
12 12850 Winestien.

13 Q. Okay. Now, notice the address on the --

14 MS. VOLLMAN: Judge, at this time, we would
15 offer State's Exhibit 95, 96, 105 and 97 and 98.

16 (State's Exhibit Nos. 95, 96, 105, 97 and 98
17 were offered into evidence.)

18 MR. MARTIN: No objection, Judge.

19 THE COURT: They're admitted.

20 (State's Exhibit Nos. 95, 96, 105, 97 and 98
21 were admitted into evidence.)

22 Q. (BY MS. VOLLMAN) Take a look at State's Exhibit
23 No. 105, which is the DBA for that company. Is it the
24 same company name?

25 A. Yes.

1 Q. And do you see who the two owners are?

2 A. Christopher Williams and Jaie Brown.

3 Q. And do you see that Uvalde address?

4 A. Yes, listed for Jaie Brown.

5 Q. Let me show you State's Exhibit No. 97 and 98,
6 and is that the Uvalde address?

7 A. Yes, it is.

8 Q. And that's the same as on the DBA?

9 A. Yes.

10 Q. And the name Christopher C. Williams -- let me
11 show you what's been marked as State's Exhibit 95 and 96.
12 Is that the same name as the owner of that company,
13 Christopher C. Williams?

14 A. The address is different.

15 Q. I'm just talking about the name.

16 A. The name is the same, yes.

17 Q. Okay. Let me show you, then, State's Exhibit No.
18 19L. It's that the same?

19 A. Yes.

20 Q. Principal and information, correct?

21 A. Yes.

22 Q. Take a look at State's Exhibit No. 19M; and he's
23 listed as the owner, correct?

24 A. Yes, he is.

25 Q. And that's the gentleman that's signed

1 Christopher Williams?

2 A. And his duties as listed as owner as well.

3 Q. And 19N?

4 A. This is the same certification statement we've
5 seen on the provider information form previously signed by
6 Christopher Williams, and it's notarized.

7 Q. Okay. And then, again, State's Exhibit No. 19O?

8 A. Is a principal information form with Jaie Brown's
9 information on it.

10 Q. And 19B?

11 A. Is the second page of that showing her as an
12 owner and then other duties as owner.

13 Q. Which she does not put anything in there as duty,
14 right?

15 A. She just says owner.

16 Q. And 19Q?

17 A. The same principal information form certification
18 statement we've seen before signed by Jaie Brown.

19 Q. State's Exhibit No. 19R?

20 A. Is the ownership and disclosure statement for
21 Resource Solution Medical Supply showing it as a
22 partnership with the address of 9950 Westpark.

23 Q. Okay. And State's Exhibit No. 19S?

24 A. Ownership and disclosure interest statement with
25 the certification statement on the last page signed by

1 Christopher Williams and using his title as owner, dated
2 March 6, 2006.

3 Q. If Christopher Williams and Jaie Brown say no to
4 a question regarding the billing and later obtained
5 Fraizer Market Medical to do their billing, were they
6 required by the contract to list them as their biller?

7 A. Yes.

8 Q. Had you known that Christopher Williams and Jaie
9 Brown -- now, they were giving a unique Medicaid provider
10 number, were they not?

11 A. They were.

12 Q. And they became providers that were able to give
13 DME services like the other providers, correct?

14 A. Yes.

15 Q. Had you known that Christopher Williams and Jaie
16 Brown and their companies were billing DME supplies that
17 were never delivered, would you have put a stop to them
18 receiving Medicaid money?

19 A. Yes.

20 Q. If Christopher Williams and Jaie Brown were
21 working in combination with other individuals such as the
22 Fraizers to falsely bill the Medicaid program for supplies
23 that were never delivered, would you have put a stop to
24 them receiving Medicaid money?

25 A. Yes.

1 Q. And had you known they were getting their numbers
2 through Marcus Jefferson, misapplying those numbers and
3 giving them to the Fraizers, would you have stopped them
4 from receiving any money?

5 A. Yes.

6 Q. All right. We're almost there, 9A, 9B, 9C, 9D,
7 9E, 9F, 9G, 9H, 9I, 9J, 9K, 9L, 9M, 9N, can you take a
8 look at those; and can you tell us whether they are all
9 from Exhibit No. 9 and have you had an opportunity prior
10 to today to review them?

11 A. They are part of Exhibit 9, and I have previously
12 reviewed them.

13 Q. All right. Let's go to 9A.

14 A. That is showing this new provider as wanting to
15 be a durable medical equipment provider.

16 Q. In the next page, do we find out who the owner of
17 the new Medicaid company is?

18 A. It is Wickware Medical Services.

19 Q. And does it have an address as to where the
20 business is going to be?

21 A. [440E] when 2040 suite in Houston.

22 Q. Let me show you what's been marked as State's
23 Exhibit No. 106. Can you tell us whether the name for
24 that particular business is what?

25 A. Wickware Medical Services.

1 MS. VOLLMAN: Judge, we would offer State's
2 Exhibit No. 106, which is a DBA, a certified copy from
3 public record.

4 (State's Exhibit No. 106 was offered into
5 evidence.)

6 THE COURT: Any objection?

7 MR. MARTIN: No objections, Judge.

8 THE COURT: 106 is admitted.

9 (State's Exhibit No. 106 was admitted into
10 evidence.)

11 MS. VOLLMAN: Thank you the, Judge.

12 Q. (BY MS. VOLLMAN) Wickware Medical Services, do
13 you notice the address on that exhibit?

14 A. Yes. It's the same as the one on the provider
15 application.

16 Q. It's the name on the top of the exhibit. Okay.
17 And with that same [Benmar] address, correct?

18 A. Yes.

19 Q. And as far as the address of the owner, could you
20 go to that part? So Lourdes address -- let me show you
21 what's been marked as State's Exhibit 101 and 102. Do you
22 recognize the name and the address as it is compared to
23 State's Exhibit No. 106?

24 A. Yes. The addresses are all the same listed for
25 Charles Wickware.

1 MS. VOLLMAN: Judge, I would offer 101 and
2 102.

3 (State's Exhibit Nos. 101 and 102 were
4 offered into evidence.)

5 THE COURT: Any objection?

6 MR. MARTIN: No objection, Judge.

7 THE COURT: They're admitted.

8 (State's Exhibit Nos. 101 and 102 were
9 admitted into evidence.)

10 Q. (BY MS. VOLLMAN) State's Exhibit No. 9C, is that
11 the same provider agreement that we have seen in all the
12 other companies?

13 A. Yes.

14 Q. State's Exhibit 9D, is it the same billing
15 information and requirement of the owner just like we've
16 seen before?

17 A. Yes.

18 Q. State's Exhibit No. 9E, does that give the
19 information regarding the owner of Wickware Medical
20 Services.

21 A. Yes, it does.

22 Q. State's Exhibit No. 9F, does Mr. Wickware tell
23 Medicaid whether or not they're going to be using a
24 biller?

25 A. Yes. He says that he's not going to be using a

1 biller.

2 Q. Okay. State's Exhibit No. 9G, can you tell us
3 what is represented there?

4 A. This is the certification form that goes along
5 with the provider information form signed by Charles
6 Wickware and is notarized.

7 Q. Okay. State's Exhibit No. 9H?

8 A. This is the principal form, his address is 14603
9 Lourdes in Houston; and it lists his social security
10 number.

11 Q. Okay. State's Exhibit No. 9I?

12 A. Principal information form. It's showing his
13 driver's license number, date of birth, driver's license,
14 expiration date.

15 Q. Does it also represent that he's the owner?

16 A. Yes.

17 Q. Does he spell out for Medicaid what his duties
18 and relationship to the organization is going to be?

19 A. He says, "oversees daily operation to ensure
20 patients receive medical supply in a timely and
21 professional manner."

22 Q. Have you seen that medical professional manner
23 before?

24 A. Yes, on several of these.

25 Q. Okay. State's Exhibit No. 9J, is that the same

1 form regarding the certification that we've seen on the
2 other application?

3 A. Yes.

4 Q. State's Exhibit No. 9K, is that, again, the
5 information regarding Wickware Medical Services; and does
6 he also represent that he's going to be a sole proprietor?

7 A. Yes, he does.

8 Q. State's Exhibit No. 9L, is he, once again, making
9 the representation to Medicaid that he is not going to be
10 making false statements and that he could be prosecuted if
11 he does so under federal or state law?

12 A. Yes.

13 Q. State's Exhibit No. 9M, is that him basically
14 asking Medicaid to send any monies he receives directly to
15 his bank?

16 A. Yes.

17 Q. State's Exhibit No. 9N, is that the IRS W-9 form
18 that he's required to fill out?

19 A. Yes, it is.

20 Q. All right. The same question I've been asking on
21 all the other companies, as far as, did Charles Wickware,
22 on behalf of his company, join the Medicaid group as a
23 provider?

24 A. Yes.

25 Q. And by virtue of him being a provider, did he get

1 a unique Medicaid number as a provider?

2 A. Yes.

3 Q. If Charles Wickware was working in combination
4 with other individuals such as Tajuana and Dyain Fraizer
5 to falsely bill the Medicaid programs for supplies, would
6 you have put a stop to him receiving money?

7 A. Yes.

8 Q. Had you known that Charles Wickware and the
9 Fraizers were falsely requesting payment that the Medicaid
10 program paid Charles Wickware or allowed the money to be
11 funneled -- would you have paid Charles Wickware or
12 allowed to money to be funneled to the Fraizers?

13 Did I lose you on that?

14 A. Yes, I got lost.

15 Q. Had you known that Charles Wickware and the
16 Fraizers were falsely requesting payment from the Medicaid
17 program, would you have paid Charles Wickware or allowed
18 the money to be funneled to the Fraizers?

19 A. No.

20 Q. Had you known that the Fraizers, Wickware and his
21 company were using recipient numbers provided to them by
22 Marcus Jefferson improperly, would you have put a stop to
23 him receiving Medicaid money?

24 A. Yes.

25 Q. Let's go -- I think this is close to two more.

1 Let me show you what's been marked as State's Exhibit No.
2 28A, 28B, 28C, 28D, 28E, 28F, 28G, 28H, 28I, 28J, 28K,
3 28L, 28M, 28N, 28O and 28P.

4 A. Okay.

5 Q. Do you recognize those?

6 A. Yes.

7 Q. And do you recognize those as coming from State's
8 Exhibit No. 28?

9 A. Yes.

10 Q. Take a look at the first one, 28A. And can you
11 tell us what is the name of the company?

12 A. Dreammaker's Medical Supply.

13 Q. And notice the address, 505 North Sam Houston
14 Parkway?

15 A. Yes.

16 Q. Have you seen that address before?

17 A. Yes.

18 Q. Is that one of the other providers but a
19 different suite number?

20 A. It is.

21 Q. Let me show you State's Exhibit No. 28B. Can you
22 tell us who is the represented company owner of
23 Dreammaker's Medical Supply?

24 A. Vincent A. Walker, and he's listed as sole owner.

25 Q. And is there another certification on that page?

1 A. There is.

2 Q. Now, on this one, what is the date on State's
3 Exhibit 28B?

4 A. It is October 24, 2006.

5 Q. A little bit later than the other ones, correct?

6 A. Yes.

7 Q. State's Exhibit No. 28C?

8 A. This is the first page of the provider agreement
9 for Dreammaker's Medical Supply.

10 Q. And does it also have the agreement that it's
11 going to be -- that the owner is going to be complying
12 with the regulations and the manual and with state law?

13 A. Yes.

14 Q. State's Exhibit No. 28D, the state law one, okay,
15 and he's also saying that he understands there are fraud
16 abuse provisions that he is going to be complying with?

17 A. Yes.

18 Q. It also talks about the records must be
19 maintained and regularly kept at the provider's office,
20 correct?

21 A. Yes.

22 Q. And he must keep them for five years?

23 A. Correct.

24 Q. State's Exhibit No. 28E, are those the same
25 provisions that we've seen on the other contract?

1 A. Yes.

2 Q. And that he's going to provide services that are
3 actually rendered by him?

4 A. And true and correct and accurate.

5 Q. State's Exhibit No. 28F, and it is the same
6 requirements for reporting waste abuse and fraud and the
7 electronic claims submission forms?

8 A. It is.

9 Q. State's Exhibit No. 28G, is Vincent Walker also
10 stating that he understands the provisions regarding
11 third-party biller?

12 A. Yes.

13 Q. State's Exhibit No. 28H, briefly, what is that?

14 A. This is the provider information form and it's
15 for the company itself, Dreammaker's Medical Supply,
16 listing the address as 505 North Sam Houston Parkway.

17 Q. State's Exhibit No. 28I?

18 A. This is showing that the provider is not planning
19 on having a billing agent.

20 Q. And if Mr. Walker used Fraizer Medical Marketing,
21 would he have been required to change that portion of his
22 application?

23 A. Yes.

24 Q. State's Exhibit No. 28J?

25 A. This is the certification statement on the back

1 of the provider information form signed by Vincent Walker
2 and notarized.

3 Q. State's Exhibit No. 28K?

4 A. This is the principal information form for the
5 individual Vincent Walker, showing his address as 14951
6 Billow Fall Lane, No. 816 in Humble.

7 Q. And let me show you State's Exhibit No. 107. Do
8 you recognize the name and address in comparison to 28K?

9 A. Yes, they're the same.

10 MS. VOLLMAN: Judge, at this time, we would
11 offer State's Exhibit No. 107, which is a certified copy
12 of the DBA for Dreammaker's Medical Supply.

13 (State's Exhibit No. 107 was offered into
14 evidence.)

15 THE COURT: Any objection?

16 MR. MARTIN: No objections, Judge.

17 THE COURT: 107 is admitted.

18 (State's Exhibit No. 107 was admitted into
19 evidence.)

20 MS. VOLLMAN: We would also offer, at this
21 time, State's Exhibit No. 103 and 104.

22 (State's Exhibit Nos. 103 and 104 was offered
23 into evidence.)

24 MR. MARTIN: No objection to 103 and 104.

25 THE COURT: They're admitted.

1 (State's Exhibit Nos. 103 and 104 were
2 admitted into evidence.)

3 Q. (BY MS. VOLLMAN) And just on 107, the owners,
4 there's just one owner, correct, and it is?

5 A. That's correct.

6 Q. State's Exhibit 28L, does it say what position
7 he's going to hold with the company?

8 A. Sole owner.

9 Q. And does it say how he's going to handle his
10 business?

11 A. Yes. He list his duties as, "to be the best
12 provider I can be to the beneficiaries in a timely and
13 professional manner."

14 Q. Number 28M, can you tell us what that is?

15 A. This is the certification on the principal
16 information form signed by Vincent Walker, and it's
17 notarized.

18 Q. State's Exhibit No. 29N?

19 A. This is the ownership showing the same address,
20 the 505 North Sam Houston Parkway and showing that the --
21 he's showing as an owner, Dreammaker's Medical Supply.

22 Q. Okay. State's Exhibit 28O, is that just the IRS
23 form required to be filled out?

24 A. It is.

25 Q. State's Exhibit 28P, is that the electronic

1 transfer form that needs to be filled out?

2 A. Yes.

3 Q. Saying that he wants Medicaid money to go
4 directly to his bank account?

5 A. Yes.

6 Q. Same questions I've asked you before, was Vincent
7 Walker accepted into the Medicaid provider program?

8 A. Yes.

9 Q. Was he given a unique provider number?

10 A. Yes.

11 Q. Had you known that Vincent Walker and his company
12 was billing for DME supplies that were never delivered,
13 would you have put a stop to him receiving Medicaid money?

14 A. Yes.

15 Q. If Vincent Walker was working in combination with
16 other individuals such as Tajuana and Dyain Fraizer to
17 falsely bill the Medicaid program for supplies that were
18 never delivered, would you have put a stop to him
19 receiving the Medicaid money?

20 A. Yes.

21 Q. Had you known that they were requesting, falsely,
22 payments from the Medicaid program, would you have stopped
23 the payment to Vincent Walker and not allow the money to
24 be funneled to the Fraizers?

25 A. Yes.

1 Q. Had you know that the Fraizers, Vincent Walker
2 and his company were using recipient numbers provided to
3 them by Marcus Jefferson, a Medicaid insider improperly,
4 would you have put a stop to him receiving Medicaid money?

5 A. Yes.

6 Q. Can you tell us briefly what is State's Exhibit
7 No. 30A?

8 A. This is the R&S statement that the provider gets
9 weekly and has all the claims listed where -- showing what
10 we have paid him for.

11 Q. And how many pages is State's Exhibit No. 38?

12 MS. VOLLMAN: Judge, which we would offer.

13 THE COURT: 30 is in.

14 Q. (BY MS. VOLLMAN) How many pages can these R&S
15 statements be?

16 A. They could be a hundred and something.

17 Q. It just depends on how much they bill, correct?

18 A. Yes.

19 Q. But that's what they would look like. Is there a
20 lot of information on these forms that provides
21 information to the provider?

22 A. Yes.

23 Q. And that's what we're seeing -- stop right
24 there. And that's what they're providing in the beginning
25 part of this form?

1 A. The beginning part of the form is new policy
2 alert or clarification alert or whatever they think the
3 provider needs to know and it sends them to the work spot.

4 Q. Can you just explain, very briefly, what we see
5 in State's Exhibit 38, part of that exhibit?

6 A. Patient name and patient account number and the
7 client number, the medical record number; and up at the
8 top, let me do the billed amount. It has the quantity and
9 the charge and the allowed amount, the quantity and the
10 charge.

11 Q. What does that mean, billed amount versus allowed
12 amount?

13 A. If the provider may bill say \$100 for a procedure
14 and it may be that we paid him for \$100; but in some
15 procedures, we may pay less. And so if sometimes it will
16 say 100 billed, 100 allowed. Other times it will say 100
17 billed and maybe we only allowed 80.

18 Q. So then when it list right below that where you
19 see the date and then you see the procedure codes?

20 A. Yes.

21 Q. The procedures codes, are those numbers correct,?

22 A. Yes.

23 Q. And it's saying in this particular R&S, that they
24 billed the max for everything for that particular client,
25 right?

1 A. It is.

2 Q. In fact, they billed the same amount for the
3 client below it, the client behind -- right underneath it?

4 A. So far, everything has been the maximum quantity
5 on every single claim.

6 Q. Same thing on those two clients?

7 A. Yes.

8 Q. So as far as this RNS, every one of these folks
9 that were billed for Medicaid were being charged for the
10 max of everything, correct?

11 A. That's correct.

12 Q. Okay. Now, let me show you what's been marked as
13 State's Exhibit No. 25A, 25B, 25C, 25D, 25E, 25F, 25G,
14 25H, 25I, 25J, 25K, 25L, 25M, 25N. Can you take a look at
15 State's Exhibit No. 25A?

16 A. Okay.

17 Q. And what is the company that they want to start?

18 A. A durable medical equipment company.

19 Q. Okay. And then 25B?

20 A. Is a -- the name of this new company is Perkins
21 Mobility; and their address is 9030 North Freeway, Suite
22 No. 203 in Houston.

23 Q. Okay. And the next one, 25C?

24 A. Is the same.

25 Q. Same name of the company and it's the same

1 agreement, paragraph, like all the other contracts where
2 they're agreeing to comply with the manuals and the rules
3 and regulations of the program?

4 A. Correct. You said this a lot better than I did.

5 Q. Let's take a look at 25D. And again, is those
6 the same provisions that we've seen in the other
7 contracts?

8 A. Yes.

9 Q. State's Exhibit No. 25E?

10 A. Same provisions.

11 Q. Let's take a look at them. Okay. State's
12 Exhibit No. 25F?

13 A. Same provisions.

14 Q. 25G?

15 A. The same provisions.

16 Q. Okay. And who's signing on behalf of Perkins
17 Mobility?

18 A. Wilma Gibson.

19 Q. Okay. And that's the same biller provision.
20 Take a look at 25H?

21 A. This is a provider information form for Perkins
22 Mobility, and it lists the same physical address as 9030
23 North Freeway, No. 203.

24 Q. State's Exhibit No. 25I?

25 A. Another page of the provider information form

1 where they're declaring they will not be using a billing
2 company.

3 Q. State's Exhibit No. 25J?

4 A. This is the certification on the last page of the
5 provider information form signed by Wilma Gibson.

6 Q. 25K?

7 A. It's notarized. This is the principal
8 information form for Ms. Gibson; and she's listing herself
9 as owner and her duties and relationship to the company,
10 "oversee daily operations."

11 Q. Okay. And let me show you what's been marked as
12 State's Exhibit 108; and I'm going to ask you whether you
13 can take a look at the name of the company and compare
14 that to -- and the address for the owner?

15 A. It's the same.

16 Q. And let me --

17 MS. VOLLMAN: Judge, at this time, we would
18 offer State's Exhibit 108.

19 (State's Exhibit No. 108 was offered into
20 evidence.)

21 THE COURT: Any objection?

22 MR. MARTIN: No objections, Judge.

23 THE COURT: 108 is admitted.

24 (State's Exhibit No. 108 was admitted into
25 evidence.)

1 MS. VOLLMAN: We would also offer State's
2 Exhibit No. 99 and 100.

3 (State's Exhibit Nos. 99 and 100 were offered
4 into evidence.)

5 Q. (BY MS. VOLLMAN) And is that the same Kuykendahl
6 address that is on the DBA for the owner?

7 A. Yes, it is.

8 THE COURT: 99 and 100 are admitted.

9 (State's Exhibit Nos. 99 and 100 were
10 admitted into evidence.)

11 Q. (BY MS. VOLLMAN) State's Exhibit No. 25L?

12 A. This is the ownership and control statement for
13 Perkins Mobility showing the same address, the 9030 North
14 Freeway, and they're showing it as a sole proprietorship
15 and signed by Wilma Gibson.

16 Q. And State's Exhibit No. 29M?

17 A. One name.

18 Q. The electronic funds transfer form saying where
19 they're directing us to send the money electronically?

20 MS. VOLLMAN: Judge, at this time, we would
21 offer State's Exhibit No. 109.

22 (State's Exhibit No. 109 was offered into
23 evidence.)

24 THE COURT: Any objection.

25 MR. MARTIN: No objection, Judge.

1 THE COURT: It's admitted.

2 (State's Exhibit No. 109 was admitted into
3 evidence.)

4 Q. (BY MS. VOLLMAN) So those are pretty much all
5 the folks that were involved in the agreements; and all of
6 those folks become Medicaid providers, correct?

7 A. Yes.

8 Q. And I'm going to ask you the same questions
9 regarding Wilma Gibson as I asked with the other ones,
10 when she -- after you -- after she submitted her
11 application, she too became a Medicaid provider, correct?

12 A. Yes.

13 Q. She was give an unique Medicaid provider number?

14 A. She was.

15 Q. And by virtue of her relationship with Medicaid,
16 she came into possession, custody and control of every
17 single one of those of Medicaid money, correct?

18 A. Yes.

19 Q. Had you known that Wilma Gibson and her company
20 were billing for DME supplies that were never delivered,
21 would you have put a stop to her receiving Medicaid money?

22 A. Yes.

23 Q. If she was working in combination with other
24 individual such as Tajuana and Dyain Fraizer to falsely
25 bill the Medicaid program for supplies that were never

1 delivered, would you have put a stop to her receiving the
2 money?

3 A. Yes.

4 Q. Had you known that Wilma Gibson and the Fraizers
5 were falsely requesting payment from the Medicaid program,
6 would you have paid Wilma Gibson or allowed the money to
7 be funneled to the Fraizers?

8 A. No.

9 Q. Had you known that the Fraizers, Wilma Gibson and
10 her company were using Medicaid recipient numbers provided
11 to them by Marcus Jefferson improperly, would you have put
12 a stop to them receiving Medicaid money?

13 A. Yes.

14 Q. If Marcus Jefferson provided recipient numbers
15 from his obtaining possession and control of those
16 Medicaid numbers from HHSC through his companies, would he
17 have misapplied those numbers?

18 A. Yes.

19 MS. VOLLMAN: Can I just a minute, Judge?

20 THE COURT: Yes, you may.

21 Q. (BY MS. VOLLMAN) In your experience as a
22 Medicaid Provider Integrity Director, are you aware of a
23 legitimate reason for giving Medicaid information away?

24 A. Not at all.

25 Q. Why is that?

1 A. If you give confidential information that's
2 confidential by law, if you give that away, you run the
3 risk, number one, of losing your job. You run the risk of
4 being prosecuted criminally, and it's hard to imagine that
5 anyone would do that without getting something back in
6 return.

7 MR. MARTIN: Objection. Calls for
8 speculation.

9 THE COURT: Sustained.

10 MS. VOLLMAN: Pass the witness, Judge.

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

12 MR. MARTIN: Thank you, Judge.

13 CROSS-EXAMINATION

14 BY MR. MARTIN:

15 Q. Good afternoon, Ms. Thompson?

16 A. Good afternoon.

17 Q. Ms. Thompson, you testified quite extensively as
18 to your knowledge of Maximus. You're not a Maximus
19 employee?

20 A. No.

21 Q. You're not an officer of the company?

22 A. No.

23 Q. You're not a director of the company?

24 A. No.

25 Q. Did you prepare the contract between your state

1 agency that you are an employee of at Maximus?

2 A. No.

3 Q. Did you sign the contract on behalf of the state
4 agency and Maximus?

5 A. No.

6 Q. Did you negotiate any part of the contract with
7 Maximus?

8 A. No.

9 Q. Do you have any personal direct knowledge as to
10 the content of that contract?

11 A. I'm familiar with the confidentiality provisions
12 of the contract.

13 Q. And that's after the contract was entered into
14 and executed by folks other than yourself, correct?

15 A. That's correct.

16 Q. And I'm not asking you what's based off any
17 hearsay what somebody told you; but you don't know what
18 negotiations went into that contract, do you?

19 A. I do not.

20 Q. And since you're not an officer or director or
21 manager of Maximus, do you know of any particular
22 agreement that Maximus may have had with Marcus Jefferson?

23 A. I do not.

24 Q. Do you know of any particular agreement that they
25 may have had with Marcus Jefferson regarding his -- this

1 confidentiality clause that y'all been chatting about?

2 A. I do know that Maximus requires all of their
3 employees to sign a confidentiality agreement, which would
4 make sure that the confidentiality requirement extends
5 down through the employee.

6 Q. And ma'am, is that based on what you say or heard
7 outside of this courtroom?

8 A. It's based upon my review of the contract.

9 Q. So that's based on hearsay.

10 MR. MARTIN: Judge, we object to that
11 comment. Move to strike her answer.

12 THE COURT: Sustained.

13 Q. (BY MR. MARTIN) Now, you mentioned that Maximus
14 is considered by HHSC as a fiduciary. You remember that
15 testimony?

16 A. I do.

17 Q. You have no direct personal knowledge as to
18 whether Maximus considers Marcus Jefferson a fiduciary, do
19 you?

20 A. I can't say what Maximus considers or not.

21 Q. You mentioned in your direct testimony that it
22 was unusual for a company to only have one product line.
23 You remember that testimony?

24 A. I do.

25 Q. It's not illegal, under the Medicaid rules and

1 regulations, just to have one product line, is it?

2 A. No.

3 Q. I didn't you talk about that earlier?

4 A. Pardon?

5 Q. I didn't see or hear you talking about that
6 earlier. It's not illegal to have just one product line?

7 A. It's not illegal.

8 Q. Okay. You talked about these Title 19 forms that
9 are -- using a layman's term, basically a prescription?

10 A. I do.

11 Q. Marcus Jefferson never signed any Title 19 forms
12 fraudulently, did he?

13 A. I don't know if Marcus Jefferson ever signed a
14 Title 19 form or not.

15 Q. Have you ever reviewed Title 19 forms that have
16 his name on it?

17 A. No.

18 Q. And did -- to your knowledge, did Marcus
19 Jefferson ever provide any fraudulent DME orders to
20 secure -- to a service provider form?

21 A. I don't know if he did or not.

22 Q. Now, you went through eight companies and
23 provided information on eight companies. Do you remember
24 that?

25 A. I do.

1 MR. MARTIN: Ms. Vollman, may I please ask
2 your assistant to please put up No. 109? Is that okay?

3 MS. VOLLMAN: Uh-huh.

4 MR. MARTIN: Thank you. Judge, may I stand
5 up and approach the witness?

6 THE COURT: You may.

7 MR. MARTIN: Thank you, Judge.

8 Q. (BY MR. MARTIN) Ms. Thompson, I have basically
9 the same question on each one of those folks, okay?

10 A. Okay.

11 Q. I've got to go through -- since they're eight of
12 them, I've got to go through each one; but they're
13 basically the same question on each one. So let's take
14 the first one which is Broderick Carter, C&M Medical
15 Equipment. Remember your testimony on Mr. Carter's
16 company?

17 A. I do.

18 Q. And nowhere in the documents you reviewed is
19 Mr. Jefferson's name; is that correct?

20 A. That's correct.

21 Q. Mr. Jefferson never signed anything purported to
22 be an officer or director or an owner of C&M Medical, did
23 he?

24 A. He did not.

25 Q. And if Broderick Carter broke his agreement with

1 Medicaid regarding failing to propose a -- excuse me,
2 failing to nominate and have a billing company, that's not
3 on Mr. Jefferson, is it?

4 A. If they were in a scheme, a fraud scheme
5 together, then it would be.

6 Q. If they were?

7 A. If they were.

8 Q. But there's no indication from the documents that
9 you saw that had Mr. Jefferson tied to C&M Medical
10 Equipment, did it?

11 A. There was no tie in the enrollment documents that
12 we just go through reviewing.

13 Q. Anointed Medical Supply or Supplies, again,
14 Mr. Jefferson's name does not appear on any of those
15 documents as an owner, officer or director, do they?

16 A. No.

17 Q. Jaqueline Briscoe, Briscoe Medical Supply,
18 Mr. Jefferson's name, again, does not appear as an owner,
19 an officer or director on any of those documents, does
20 it?

21 A. No.

22 Q. Robert Turner, First American Medical Supply, his
23 name does not appear as an owner, officer or director,
24 does it?

25 A. No.

1 Q. Christopher Williams, Resource Solutions, his
2 name does not appear as an owner or officer or director,
3 does it?

4 A. No.

5 Q. Charles Wickware, Wickware Medical Services, Mr.
6 Jefferson's name does not appear as an owner, officer or
7 director, does it?

8 A. No.

9 Q. Vincent Walker, Dreammaker's Medical Supply,
10 Mr. Jefferson's name does not appear as an owner, officer
11 or director, does it?

12 A. No.

13 Q. And Wilma Gibson as Perkins Mobility, lastly,
14 Mr. Jefferson's name does not appear as an owner or
15 officer or director in connection with Perkins Mobility,
16 does it?

17 A. No.

18 MR. MARTIN: Pass.

19 THE COURT: Ms. Vollman.

20 MS. VOLLMAN: Judge, that's all we have.

21 THE COURT: May this witness be excused?

22 MS. VOLLMAN: Yes, please.

23 THE COURT: Ma'am, you may step down. Ladies
24 and gentlemen, we're going to take our afternoon break.
25 I'll give you a chance to get coffee or a snack. I will