

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 (State's Exhibit Nos. 71A and 72A were  
2 admitted into evidence.)

3 Q. (BY MS. VOLLMAN) All right. Let's take a look.

4 MS. VOLLMAN: Judge, may we publish these  
5 now?

6 THE COURT: You may.

7 MS. VOLLMAN: Let's take a look at 71A. Can  
8 you bring out the highlighted portion at the top?

9 A. Medical supplies are covered benefits if they  
10 meet the following criteria.

11 Q. (BY MS. VOLLMAN) And then let's go down for a  
12 little bit further. Do you see that the -- regarding the  
13 Title 19? Could you read that top part, please?

14 A. Where it's yellowed, you mean?

15 Q. (BY MS. VOLLMAN) Yes, please.

16 A. "The provider must keep all home healthcare  
17 services, Title 19, DME medical supplies, physician order  
18 forms and addendum to home health services, Title 19, DME,  
19 medical supplies, physician order forms on file.  
20 Providers must retain delivery slips or invoices  
21 documenting dates of delivery for all supplies provided to  
22 a client and must disclose them to HHSC or its designee on  
23 request. Documentation of delivery must include one of  
24 the following."

25 First is, "Delivery slip or invoice

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

1 release you to the bailiff.

2 (Off the record.)

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

5 MS. VOLLMAN: Carol Klunck.

6 THE COURT: You may proceed.

7 CAROL KLUNCK,

8 having first been duly sworn, testified as followed:

9 DIRECT EXAMINATION

10 BY MS. VOLLMAN:

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

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

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

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

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