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TARIQ ABDULAZIZ, *

CLAIMANT, *

V. * FILE NO. 24260

STATE OF CONNECTICUT *

DEPARTMENT OF SOCIAL SERVICES, *

RESPONDENT. *

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DEPOSITION OF JOHN F. MCCORMICK

Taken before Frances Teti Prentice, Licensed Shorthand Reporter 076 and Notary Public within and for the State of Connecticut, at the Office of the Attorney General, 55 Elm Street, Hartford, Connecticut, on July 20, 2016, commencing at 10:00 a.m.

APPEARANCES:

FOR THE CLAIMANT:

LAW OFFICE OF MICHAEL T. KOGUT
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FOR THE RESPONDENT:

STATE OF CONNECTICUT
OFFICE OF THE ATTORNEY GENERAL
Hugh Barber, Asst. Attorney General
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Hartford, Connecticut 06141-0120
(860) 808-5210

ALSO PRESENT:

Tariq Abdulaziz

STIPULATIONS

IT IS STIPULATED by counsel for the parties that each party reserves the right to make specific objections in open Court to each and every question asked and the answers given thereto by the witness, reserving the right to move to strike out where applicable, except as to such objections as are directed to the form of the question.

IT IS STIPULATED by counsel for the parties that the proof of the authority of the Notary Public before whom this deposition is taken is waived.

IT IS STIPULATED AND AGREED by counsel for the parties that any defects in the Notice are waived.

IT IS FURTHER STIPULATED by counsel for the parties that the reading and signing of the deposition are not waived.

JOHN F. MCCORMICK,
of 29 Smallwood Road, West Hartford,
Connecticut 06107, date of birth 5/8/57,
having first been duly sworn, was
examined and testified as follows:

DIRECT EXAMINATION

BY MR. KOGUT:

Q. Good morning, Mr. McCormick.

A. Good morning.

Q. Mr. McCormick, you're here today pursuant to a deposition subpoena --

A. Correct.

Q. -- that you were served at your office, I believe?

A. Correct.

Q. And are you familiar with the matter for which you've been subpoenaed here to testify?

A. Yes, I am.

Q. Okay. And have you been deposed before?

A. Yes, I have.

Q. Okay. I know you've testified under oath before, but if you have any questions of me along the way, if you don't understand a question or you want me to repeat it or rephrase it, I will be happy to do that.

And just make sure we try to keep her in good stead also by not speaking at the same time and making it more difficult for her.

Could you identify your employment and your position and your responsibilities?

A. I'm currently the Director of the Office of Quality Assurance at the Connecticut Department of Social Services, and my responsibility as director is kind of overseeing the program integrity functions of the department.

Currently we have five divisions in Quality Assurance. One is the Audit Division. The second one is the Quality Control Division. Third is Special Investigations. Fourth is Third-Party Liability. And the fifth is Resources and Investigations.

Q. How many employees do you oversee?

A. I think currently probably 135 right now, ballpark.

Q. How long have you been in this position?

A. Since January of 2010.

Q. What was your position prior to that?

A. I was Director of Internal Audit.

Q. For how long a period of time did you do that roughly?

A. Roughly five years.

MR. KOGUT: I would like the record to reflect that Dr. Abdulaziz is seated here also.

BY MR. KOGUT:

Q. Could you describe just briefly -- you said there was an audit department?

A. Sure, Audit Division.

Q. Audit Division. Would you describe what the duties and responsibilities of the Audit Division are?

A. They perform audits on Medicaid-enrolled providers.

Q. How do they perform those? Is it strictly on paper or do they do interviews with providers? What's the standard?

A. Well, the audit process is outlined in Connecticut General Statute 17b-99. We're required to give a 30-day notice notifying the provider that we're going to initiate an audit. Prior to that notice, we select a universe of paid claims usually over a two-year period of time.

From that universe of paid claims, we select a random sample. That random sample is then used to go out and obtain the audit, the records from the provider to support those claims. Those claims are reviewed. The documentation is reviewed to see if they're in

compliance with the applicable regulations for the provider type, type of services rendered.

From that point, a draft audit is issued. Providers are given an opportunity to respond to the draft audit report. An exit conference is then held and then, following that, a final audit report is issued.

Q. And would you define what you refer to as a Medicaid-enrolled provider.

A. Sure. Well, it's a provider who is enrolled in the Connecticut medical assistance programs. It's not just Medicaid. Medicaid is one of the programs.

So the Department has an enrollment process where providers have to apply to be enrolled. They have to submit an application. The application gets reviewed by HPE which is our fiscal intermediary.

Once all the requirements of the application are met, and that is based upon a matrix that is set up for them, whether there's a license required or whatever, everything is sent over to us for final review.

Q. Okay. And do you -- does your department also conduct desk reviews or records reviews?

A. We do.

Q. Are those interchangeable or are they two different terms?

A. Desk reviews?

Q. And a record review.

A. We call them integrity reviews.

Q. Can you describe that process?

A. Sure. It's a review based -- it not an audit. It's based upon -- most likely has been initiated by a complaint or it is based upon just analytical analysis that we performed and we want to look at specific coding to see how providers are complying.

Q. And who makes the decision of whether you're going to conduct an integrity review or an actual audit?

A. Most likely Frank LaRosa.

Q. Who is he?

A. He's the Director of the Audit Division.

Q. Are there certain standards or certain reasons why you would choose one over the other?

A. Well, like I said, in most cases, complaints are followed up by a review, an integrity review, and sometimes an integrity review identifies that an audit is justified and a memo can be sent saying that we should be auditing this provider.

So we have two groups of people that do these types of reviews. The Special Investigations Division performs them, but Frank also has some analysts that work for him as well and they'll do those as well.

Q. Are there providers who are audited that have not been subjected to an integrity review?

A. Sure.

Q. What are the standards or reasons why a provider would be audited?

A. There's no specific standards. We select them based upon different criteria. One of them certainly can be the amount that we paid them. Hospitals, for example, we've tried to audit hospitals on an 18-month cycle.

We've been doing a lot of dental providers lately, and that's been in response to the change in the dental rates. Several years ago, the State of Connecticut was sued when we raised the rates to the highest in the nation, and we've had an influx of dental providers, so we've stepped up the audits of the dental providers. But it takes a little while for the auditors to get up to speed as far as the provider types, so once we start doing some, we'll do it for a while.

Q. Can you give me an estimate of roughly how many audits your department conducts on an annual basis?

A. You know, I'll use 100, sometimes less, sometimes a lot more.

Q. Roughly how many integrity reviews in a 12-month cycle?

A. I don't have that number off the top of my head. It's less than the audits.

Q. It would be fewer than the audits?

A. Yeah, I believe so.

Q. You're familiar with your department's ABI Waiver Program?

A. Yes.

Q. Okay. Could you describe that program?

A. The program? Well, it's a waiver program which waivers when we seek Medicaid coverage for services that are not in the core of services offered by the Medicare program. So we seek a waiver from the federal government to provide services, and I believe the ABI program is one of those. So we off -- we pay for services for people that have received acquired brain injuries and try to help with their development and getting back to a normal life.

Q. And do you know how long your department, the Department of Social Services, has been involved with that waiver program?

A. Well, I know it's pre April 2013 when the regulations were initiated. I don't know how far back.

Q. And were you involved in making a decision to apply for a waiver to conduct that program?

A. No.

Q. Who would that have been or what department would that have been?

A. It would have been our Division of Health Services.

Q. Anyone in particular --

A. Well, Kate --

Q. -- that would have that responsibility?

A. Kate McEvoy is currently the director.

Q. Do you know if she was there in 2013?

A. I'm not sure. Could have been. Prior to Kate McEvoy was Mark Shafer.

Q. Could you spell Miss McEvoy's name?

A. Kate? She just uses Kate, K-A-T-E, McEvoy, M-C, capital E, V-O-Y.

Q. Could you explain the process by which providers in the ABI Waiver Program file claims for payment and how those claims are paid?

A. I can only do it in general. We have a contractor --

Q. Let me interrupt you. That's fine. General is fine because what I'm going to ask you, and you might want to think about this, is if you can describe the difference between that process in an enrolled provider filing claims getting paid.

A. Sure. We have a contractor called Allied

Resources who is a fiscal intermediary. And, you know, I'm not certain on this, but as far as -- I believe that the claims get reviewed by them and submitted through Allied but I'm not sure.

Q. Do you know the extent of the program in terms of, on an annual basis, how much money is paid for the ABI Waiver Program to --

A. No --

Q. -- providers?

A. -- I don't.

MR. BARBER: Please, you've got to wait until the question is completed. You're anticipating a little bit.

THE WITNESS: Okay.

MR. BARBER: Just try to wait until counsel has completed his question.

BY MR. KOGUT:

Q. Is there a separate division or department that oversees the ABI Waiver Program?

A. Yes, there is.

Q. And what is that?

A. It is -- I'm not sure of the title. It could be Community-Based Services Division.

Q. But that's within DSS?

A. It's in with DSS in the Division of Health

Services.

Q. Do you know whether your department has conducted any audits or integrity reviews of ABI waiver providers in the last 24 months?

A. You know, I'm not sure in the last 24 months. I know we've done them.

Q. Do you know how those are initiated or for what reason they're initiated?

A. We have a contractor named HMS -- Health Management Services, I believe -- and they're our RAC contractor. RAC is short for recovery audit contractor. We were required to hire a RAC contractor so they're a RAC contractor and we gave them some work to do and they did some ABI audits for us.

Q. Why were you required to do that?

A. Under the Affordable Care Act. The Affordable Care Act expanded the requirements for RAC contractors. A RAC contractor historically has been a Medicare auditor, and the Affordable Care Act expanded it to the Medicaid program. Medicaid programs were required to hire RAC contractors to enhance their audit functions.

Q. And is that true of other providers or that was just the ABI waiver providers?

A. No, it's not specific to a provider.

Q. Do you know roughly how many ABI waiver

providers there are in the state of Connecticut?

A. No, I do not.

Q. Who would have that information?

A. Anybody in -- I mean, Kathy Bruni is the head of that division. She would have that information.

Q. Who would be the person most knowledgeable -- I understand your position. I understand your obligations to oversee various divisions and various employees, so I wouldn't expect you, frankly, to have a lot of the minutia and detail. But who would that person be that would be able to address those questions?

A. Kathy Bruni.

MR. BARBER: Questions, those questions -- I object to the form because it's ambiguous.

MR. KOGUT: That's fine.

MR. BARBER: If you could explain what you mean by "those questions."

BY MR. KOGUT:

Q. Did you understand the question before you answered it?

A. I just -- I thought that you meant when you asked me how many ABI providers there were and I didn't know the answer and then you followed up with who would know that answer, and my answer is that Kathy Bruni would know that answer.

Q. And would she be the person most knowledgeable about the ABI Waiver Program generally?

A. She's responsible for the program. I don't know if other people have more knowledge of it or not in that department but she -- that's her responsibility.

Q. Is that her sole responsibility, or does she have other providers or other areas that she's responsible for?

A. She has other areas as well.

Q. Okay. Can you explain for me how an ABI waiver provider initially enters the system for seeing clients, filing claims and getting reimbursed?

A. Well, now they have --

Q. We're going to get to what happened this year. But prior to June 15th of 2016, what was the process?

A. I just have a general overview. I believe they apply to become a provider with Allied Resources and Allied Resources reviewed their application and determined if they would be enrolled.

Q. Do you know what factors are used for that determination?

A. No, I don't.

Q. Other than Allied, is there anybody at the Department of Social Services that has further responsibility for approving or not approving an ABI

waiver provider?

A. I'm not sure.

Q. Would Kathy Bruni know that?

A. She would know that answer.

Q. Okay. Why don't we at least try to mark this and see where we go.

(Exhibit No. 1, ABI waiver provider application, 2004, two-page document, marked for identification.)

BY MR. KOGUT:

Q. Mr. McCormick, take a few minutes to review that document which has been marked as Exhibit No. 1.

(Handing.)

A. Okay.

Q. Have you ever seen a document like this before?

A. I have.

Q. Okay. And for what reason or in what capacity have you had a chance to see these ABI Waiver Provider Registry Applications?

A. I've seen this application.

Q. And why do you have a memory of seeing this particular application?

A. Why do I have a memory?

Q. Under what circumstance? Was it another

matter?

A. No. It was reviewing documentation for this deposition.

Q. I see. What else, if anything, did you review for the deposition?

A. I looked back at the fraud referral that we did.

Q. Anything else?

A. General correspondence.

Q. Is there a general correspondence file for this particular provider?

A. No.

Q. So where did you locate the general correspondence?

A. I have an electronic file.

Q. For this particular provider or all providers?

A. For this particular provider.

Q. Anything else?

A. Well, there's multiple e-mails. Your FOI requests was part of it. I looked at the one that you sent recently. I looked at e-mails.

Q. And were these all internal e-mails within the Department of Social Services, or were there e-mails also with outside parties?

A. Well, you being one of the outside parties.

Dr. Abdulaziz is another outside party.

Q. Any contractors or --

A. Contractors? You know, I'm not sure if -- who else it would be. I don't have a recollection of that.

Q. Okay. Do you recall when you began maintaining a file for this particular provider?

A. The first documents I have in that file are the fraud referral documents back in October of 2014.

Q. And can you tell us -- can you describe the fraud referral and what you did in response to that?

A. Yeah. So the Department of Social Services has a Memorandum of Understanding with three different agencies. One of them is the Attorney General's Office. The second one is the office of HHS, OIG, Office of Investigations, and the third is the Connecticut Chief State's Attorney's Medicaid Fraud Control Unit. That Memorandum of Understanding requires us to refer all suspected cases of Medicaid fraud to those three agencies.

Q. And this referral went to all three agencies?

A. Correct.

Q. From you?

A. It was sent by a person who works for me.

Q. Was it initiated by you?

A. I signed off on the referral.

Q. Do you know how the -- how it initially began?
A. It began as a complaint.
Q. Do you recall -- I'm not asking who the complaining party was, but do you recall what type of person? Was it another provider? Was it a client; do you recall?
A. I do recall.
Q. Could you tell us who that -- what type of person that was?
A. It was an agency.
Q. A state agency?
A. A contractor.
Q. Can you tell us which one?
A. Allied.
Q. Do you remember how that complaint came to your office?
A. No, I don't specifically.
Q. Do you recall what either the allegations or the suspected Medicaid fraud activities were that they were complaining of?
A. Allegations were there appeared to be excessive services being billed.
Q. Anything else?
A. That was the allegation, I believe.
Q. And do you recall in what form that came to

you?

A. Came to me?

Q. Or to your department.

A. I'm not sure how it came to the Department.

Q. Had Allied in the past made such complaints to your department?

A. Not that I recall.

Q. So was this rather unusual for you?

A. No. I'll back up on that. We have a PCA, which stands for personal care assistance, program and we get several allegations of fraud regarding the PCA program from Allied.

Q. How about specifically for the ABI Waiver Program?

A. We have had complaints on the program, but I'm not sure if they've come from Allied.

Q. Other than referring this complaint to the Attorney General, to HHS and to the Chief State's Attorney, what, if anything, else did your department do?

A. After the referral?

Q. Yes.

A. Nothing.

Q. Have you heard or received any information back from any of those agencies about this particular

provider?

A. I believe the OIG did not accept the case. The Attorney General's Office closed their case in March of 2016, and it remains an open investigation with the Chief State's Attorney's Office.

Q. Do you know any particular inspector that may be assigned to that investigation?

A. No, I can't recall. The contacts from the referrals go back to most likely through Janet Bacon, and she would be involved in the coordination of communications.

Q. But you personally have not had any contact?

A. With who?

Q. The Chief State's Attorney's Office.

A. I've had contact with them.

Q. But you don't recall with whom?

A. Well, we have a quarterly meeting where we discuss open cases, and that is an open case that is discussed during the quarterly meetings.

Q. Is Mr. Godialis still the director?

A. He is.

Q. Have you had discussions with him about this other than at the quarterly meetings?

A. Not that I recall.

Q. Do you know how often the ABI waiver providers

were required to sign a provider agreement with Allied?

A. No, I do not.

Q. Would you expect it to be yearly?

A. I wouldn't have any expectation.

Q. How about other Medicaid providers, not ABI waiver providers; you have provider agreements with them?

A. Correct.

Q. How often do you have those agreements renewed?

A. It varies. It varies on provider type. I don't have the specifics but some are as often as two years and some are as infrequently as five years.

(Exhibit No. 2,
2014 Allied document, five pages,
marked for identification.)

BY MR. KOGUT:

Q. Mr. McCormick, if you take a look at what's been marked as Exhibit 2, take some time just to review that, okay?

A. Yes.

Q. Have you seen that document before?

A. Not to my recollection.

Q. Okay. When you reviewed Exhibit No. 1, did you notice that that waiver program provider application was signed in the year 2004? It might be a little obscure.

A. Yeah, I can't -- I can't read the date.

Q. Okay. Can you see the indication up here where there is a January 2004 date? (Indicating.)

A. January 15, '04, yep.

Q. When you reviewed documents in your office to prepare for the deposition, did you happen to see any of these applications?

A. I know I saw this one. Like I said, I don't have a recollection of this one. (Indicating.)

Q. Do you see how the differences in at least the format between Exhibit 1 and Exhibit 2 are?

A. I do see that.

Q. Are these something that over the course of your work as director would review any of these, or is this something that's probably certainly beyond your realm of responsibility?

A. I don't believe I was asked to have any input into the development of this document.

MR. BARBER: By "this document," you're referring to Exhibit 2 just so the record is clear?

THE WITNESS: Correct.

BY MR. KOGUT:

Q. Do you recall whether or not any of the agencies you made a referral to requested a copy of

these provider applications?

A. There were documents attached to the referral. I'm not sure if this was one of them or not.

Q. Okay. And I would assume that you don't know whether or not there was another provider application between 2004 and 2014?

A. You know, I thought there were two of these on different dates but I could be wrong.

Q. What is your memory as to what date it may have been between '04 and '14?

A. I don't have a memory of the dates other than this handwriting is very difficult to read.

Q. Based on your work with non ABI waiver providers, would you be surprised to see a 10-year lapse or 10-year difference between provider applications assuming --

A. Could you repeat that question?

Q. Assuming for our discussion here today that there is not another provider application between '04 and '14, does that surprise you knowing that you, at least for other providers, have renewals are provider agreements ranging between two years and five years?

A. No, that does not surprise me.

Q. Why not?

A. This program here, it's been my contention for

a lot of years that all providers that should have signed the same Provider Enrollment Agreement and that goes back many years. And I didn't know what the frequency was on this until you told me today, but I'm not surprised that it was ten years.

Q. Okay. Other than counsel, which I don't want to know anything about, did you discuss this particular provider with anyone before you came for a deposition here?

A. Yes.

Q. Who was that?

A. It was Wally Grautteun.

Q. Who is Wally Grautteun?

A. He's an investigator for the Medicaid Fraud Control Unit.

Q. When did you talk to him?

A. I saw him in the lobby downstairs.

Q. As you were entering today?

A. Yes.

Q. Okay. Did that refresh your memory as to which inspector was assigned to this case?

A. No, it did not.

Q. Other than your belief or your opinion that all providers should sign the same provider agreement, did you have other reasons that concerned you about the ABI

Waiver Program?

A. I think you're going to have to be more specific.

Q. Based on the work and your experience as a director and overseer of these various divisions within the Department, did you have concerns about quality of care being provided by ABI waiver providers?

A. Until we got this referral, I don't believe there was a referral prior to this. So my knowledge of the ABI program wasn't comprehensive enough to know that there was concern on the providers.

Q. And that would also be true for any concern about billing and reimbursement?

A. Correct.

(Exhibit No. 3,
2015 Allied document, three pages,
marked for identification.)

BY MR. KOGUT:

Q. Mr. McCormick, if you could, just take a few minutes to look at what's been marked as Exhibit 3.

(Handing.)

A. All set.

Q. Okay. Have you seen this document before?

A. I'm not sure if I have.

Q. Okay. You see that at least it appears on the

second page that it was signed in 2015?

A. Correct.

Q. Okay. So at least for the purposes of what I've shown you, we have one provider application in '04, one in 2014 and one in 2015, correct?

A. Correct.

Q. And when you -- strike that.

When you testified earlier that you had some concerns at least to the degree that you believed that all providers should sign the same provider agreement, did you review any of the ABI waiver provider agreements that were in force at the time?

A. I'm not sure if I did, but I knew that they did not sign our standard Provider Enrollment Agreement and that is a concern to me.

Q. For how long a period of time did that concern you?

A. It goes back several years. I don't know the date.

Q. Okay. What attempts did you make over time prior to June 15th of this year to change that?

A. There were internal discussions in which I said we need to get all providers signing the same Provider Enrollment Agreement.

Q. And were those formal discussions or informal

discussions in the office?

A. What do you mean by "formal" versus "informal"?

Q. Did you actually have scheduled meetings with certain members of either your department or other Department of Social Services employees to specifically discuss this issue?

A. I imagine it was during a scheduled meeting.

Q. Just an agenda item?

A. I wouldn't say it would be an agenda item. I don't know the answer.

Q. Do you have a memory today of any of those discussions?

A. I remember years ago, prior to Pam Giannini retiring, I had a conversation with her regarding my concern for their providers, whoever they were, not signing the Provider Enrollment Agreement.

Q. If you know, are there other providers who had over time not signed your standard provider agreement other than ABI waiver?

A. I can't recall.

Q. Okay. Is there any particular reason that you remember why, despite your long-standing concerns, the change wasn't made earlier?

A. Well, I don't have -- I have no idea what the reason would be, other than I know that the change was

made and it took a while, but it was made and that's fine with me.

(Exhibit No. 4, sample Provider Enrollment Agreement, marked for identification.)

BY MR. KOGUT:

Q. Take a moment, Mr. McCormick, to take a look at what's been marked as Exhibit No. 4. (Handing.)

A. Reviewed.

Q. Thank you. You're familiar with that document?

A. I'm familiar that I just looked at it right now.

Q. You've never seen it before?

A. I may have seen it before.

Q. You're aware that the ABI waiver providers, as of June 15th, were required to submit provider enrollment applications and provider agreements like other providers, correct?

A. Correct.

Q. No longer through Allied, correct?

A. I believe that's correct.

Q. And did you have any role or play any role at all in having this come about, the new requirement as of June 15th of 2016?

A. I believe I did.

Q. Could you just describe that?

A. I think we've just described it. I had been expressing concern to the department that all providers are not being treated equally and signing the same Provider Enrollment Agreement.

Q. Did you direct someone to create this sample application?

A. No. This is most likely created by HPE.

Q. And the contract that the State has with HPE, do you know what functions they serve?

A. They serve many functions. The majority, the vast majority of their functions are the processing of claims. And in relation to this, they also do the provider enrollment function where they have the online applications and they receive all the applications and screen them. And when they deem them to be complete, they send a list of them over to us for review.

Q. And were all providers in a state required to complete this enrollment application?

A. What is the time frame you're talking about?

Q. Prior to June 15th of 2016.

A. All other providers other than ABI providers?

Q. Correct.

A. I don't know the answer.

Q. Okay. So would it be correct to state that

this provider enrollment application only applied to ABI waiver providers?

A. This provider enrollment application?

Q. Yes, this, it says, sample. And then to complete the one online, was that only required by ABI waiver providers?

A. All providers who are required to enroll in this process are required to follow this process.

Q. Wouldn't it be fair to say that most of the other providers, non ABI waiver providers, are already enrolled and this was a new process for ABI waiver providers?

A. Was it a new process?

Q. New process; they no longer were going to have enrollment applications with Allied; they were going to do what you wanted for years, to have the same provider agreement as other providers?

A. Correct.

Q. And once that happened on June 15th of 2016, do you know how many ABI waiver providers completed the application?

A. I do not.

Q. And this sample was not shown to you prior to this being disseminated to ABI waiver providers?

A. I don't recall.

Q. Would you be in a position as director to have seen this first or would somebody else be responsible for that?

A. No, I may have seen it but I don't recall.

Q. Do you know the status after June 15th of 2016 with the Department and Allied?

A. What do you mean by "status"?

Q. Well, have things changed now that you have your own provider -- the department has its own provider agreement with the ABI waiver providers?

A. I don't understand what you mean. I don't understand what you mean.

Q. Has Allied's relationship with the Department changed since June 15th of 2016?

A. When you say "relationship," do you mean their contract?

Q. Contract, responsibilities, billing, reimbursement.

A. Well, obviously they're no longer required to do the enrollment process, so I think that would be the change.

Q. The only change?

A. As far as I know.

Q. So they're still responsible for claims and reimbursement?

A. I don't know the answer to that.

Q. The various providers who get reimbursed through the Medicaid program, do each of those disciplines have provider manuals?

A. I believe most of them do.

Q. Do they differ from specialty to specialty or discipline to discipline, or is there one general manual?

A. I believe that the majority of the manual is similar for every single provider. There may be some sections that are different, specific to specific provider types.

Q. Do you know when the ABI waiver providers were required to complete the application and sign a provider agreement by June 15th of 2016 whether there had been a provider manual provided to the ABI waiver providers?

A. I don't have an answer. I don't know.

Q. You're not someone who had been involved in reviewing or creating that if there had been a provider manual?

A. Correct.

Q. Would you expect there to be for these newly-enrolled ABI waiver providers?

A. I don't know what was in place before.

Q. But as of June 15th of 2016?

A. As of June 15th?
Q. Yes.
A. I don't know the answer to that.
Q. Would you expect there to be a provider manual for them?
A. I don't have the answer to that.
MR. KOGUT: Can we just take a few minutes?
MR. BARBER: Yes.
(Whereupon a recess was taken from 10:44 a.m. to 10:49 a.m.)
BY MR. KOGUT:
Q. Mr. McCormick, if you can go back and refer to Exhibit No. 4, this is the sample and attached to the sample are the forms for electronic signatures and the enrollment agreement, the actual agreement, correct?
A. Correct.
Q. And I believe you testified that you had no role or no dealing with Hewlett Packard in preparing this?
A. I didn't testify to that.
Q. Okay. Did you have involvement?
A. When you say "prepare," what --
Q. These documents that are included in Exhibit No. 4.

A. These documents that are included in Exhibit No. 4 are not new documents, and I did have input in the development of them; in particular, the Provider Enrollment Agreement which has the audits and recoupment section, has a fraud and abuse section.

The application itself we reviewed way back when as far as information that should be captured on that, controlling interests, the questions that are specific -- I don't have the page number on this. It looks like it would be 11. Those were developed by me and other people many years ago to enhance the provider enrollment application. So as far as the document goes, I've had input over the creation of this over the years.

Q. And does the attached Provider Enrollment Agreement, is that consistent with other Provider Enrollment Agreements for other providers?

A. What providers are you talking about?

Q. All providers.

A. What do you mean?

Q. Is this enrollment agreement that's in Exhibit No. 4, the actual Provider Enrollment Agreement, is this different from other provider agreements with other providers, or is it specific to ABI waiver providers?

A. No. This is our general provider enrollment --

Q. Okay. It's a standard agreement?

A. Correct.

Q. There's nothing additional in here that applies necessarily strictly to ABI waiver providers?

A. That's correct.

Q. Okay. You mentioned that the ABI Waiver Program was part of, was it, Community-Based Services?

A. I should know the answer to this. I believe it's the Home and Community-Based Services Division. I'm not sure. The name has changed. But it's Kathy Bruni's division.

Q. How do you spell her name again?

A. B-R-U-N-I. Kathy with a "K."

Q. And do you know whether or not other community-based -- for the sake of our discussion, community-based service providers other than the ABI waiver providers are not required to apply for enrollment and sign an agreement?

A. Well, all providers have to apply for enrollment. I believe that the homemaker and companion providers that used to be contracted through the access agencies signed an abbreviated agreement. I'm not sure if they're still doing that or if they're signing the full agreement now, but they used to have an abbreviated -- I think it was just a contract with the access agencies. But, you know, it's been several years since

I've followed up on that, so I don't know the answer.

Q. But just based on what you know or remember, would those agreements be similar to what the Allied agreements looked like?

A. I have no idea.

Q. You testified about the referral to your department or your office in October of 2014, the fact that you referred it to the three other agencies. Did you conduct any investigation yourself or assign anyone in your department on your staff to do that before you referred it?

A. I believe that it was assigned by Lynwood Patrick who was the Director of Internal Audit at the time, and the Investigations Unit reported to him. He would have assigned it.

Q. Do you recall seeing any documents or any reports which memorialized that investigation?

A. Yes, I do.

Q. What would that have been?

A. It was a complaint summary.

Q. Is that what was referred to those agencies?

A. It was part of the referral, I believe.

Q. Who specifically made the referral to the OIG, the State's Attorney and the AG?

A. It was transmitted by Jun Liu, L-I-U, Jun,

J-U-N.

Q. What is her title?

A. She's a forensic fraud investigator.

Q. Who does she report to?

A. She works in the Special Investigations Division, and both her and Janet Bacon are both forensic fraud investigators. Janet has informal responsibilities for supervision, but they both report directly to me now.

Q. When you say "now," did something change?

A. Well, Lynwood Patrick was terminated.

Q. When was that?

A. He was arrested in May of 2015.

Q. And what was his title?

A. Director of -- no. It was -- I was wrong on that answer before.

Q. On the date?

A. It was like Director of Program Review and Oversight, similar to that. I'd have to follow up for the actual answer.

Q. Who did he report to?

A. He reported to me directly.

Q. Did you hire him?

A. I did.

Q. How long was he employed by the Department?

A. He was employed twice. I hired him as a trainee maybe 15 years ago. He left the agency to go to the Department of Mental Health and Addiction Services. When we had an opening for two managers, he applied for one of them, and I hired him to be a manager and I assigned him the Fraud Division.

Q. What year was that as best you remember?

A. Probably five years ago, ballpark. Five, six years ago probably.

Q. And can you tell me what he was arrested for?

A. Wire fraud.

Q. Do you know the circumstances -- strike that.

Did it have anything to do with his capacity as an employee at the Department of Social Services?

A. It involved his capacity in that he used State equipment to perpetrate the wire fraud.

Q. Is that matter still pending?

A. No.

Q. Do you know the disposition?

A. He pled guilty. He was sentenced to six months' home confinement.

Q. Was that a federal or state prosecution?

A. Federal.

Q. Did you conduct an internal investigation?

A. I was involved in the initial internal

investigation shortly after his arrest.

Q. But there was no knowledge within the Department, your department, prior to the arrest?

A. There was.

Q. For how long a period of time?

A. I don't recall.

Q. Do you know what it was specifically that brought it to your attention?

A. We received an anonymous complaint that was distributed to multiple agencies, and it really talked about -- I think it keyed in on income tax fraud. And so I discussed it with the Deputy Commissioner, and we agreed that there was no direct relationship to his function and that we would let the investigations by the other agencies play out.

Q. And do you recall roughly how long after this matter was referred to those state agencies that he was terminated?

A. He was terminated the day he was arrested.

Q. Right. I'm just trying to --

A. Put on administrative leave.

Q. I'm just trying to get a time frame for when he was arrested and terminated versus how long prior to that did he make the referral to HHS, OIG and --

A. Well, the referral was made in October of 2014.

He was arrested in May of 2015.

Q. Thank you.

MR. BARBER: You're done?

MR. KOGUT: Yes.

MR. BARBER: No questions.

COURT REPORTER: Attorney Barber, would you like to purchase a copy of the transcript?

MR. BARBER: I would.

COURT REPORTER: Digital, paper or both?

MR. BARBER: Paper.

(Whereupon the deposition concluded at 11 o'clock a.m. and the witness was excused.)

CERTIFICATE OF REPORTER

I, Frances Teti Prentice, Connecticut Licensed Shorthand Reporter, License No. 076, and Notary Public duly commissioned and qualified in and for the State of Connecticut, do hereby certify that there came before me on July 20, 2016 the following named person, to wit: JOHN F. MCCORMICK, who was by me duly sworn to testify to the truth and nothing but the truth; that he was thereupon carefully examined upon his oath and his examination reduced to writing under my supervision; that this deposition is a true record of the testimony given by the witness.

I further certify that I am neither attorney nor counsel for nor related to nor employed by any of the parties to the action in which this deposition is taken and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially interested in the action.

IN WITNESS THEREOF, I have hereunto set my hand and affixed my seal this 29th day of July 2016.

s/s Frances Teti Prentice, LSR 76

Frances Teti Prentice, Notary Public

My Commission Expires: 3/31/2019

License expires: 12/2016

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- EXAMINATION CONCLUDED -

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1 16
ABI waiver provider application, 2004, two-page document

2 22
2014 Allied document, five pages

3 26
2015 Allied document, three pages

4 29
Sample Provider Enrollment Agreement

- END OF EXHIBITS -

- ORIGINALS RETAINED BY MR. KOGUT -

ERRATA SHEET

I, JOHN F. MCCORMICK, do hereby certify that the following corrections and additions are true and accurate to the best of my knowledge and belief:

PAGE	LINE	CORRECTION	REASON

(SEE ATTACHED SHEETS [ ] YES [ ] NO)

_____ _____

DATE JOHN F. MCCORMICK

At _____ in said County of _____, this ___ day of _____ 2016, personally appeared, JOHN F. MCCORMICK, and he made oath to the truth of the foregoing corrections by him subscribed.

Before me, _____, Notary Public.

My commission expires: _____

CERTIFICATION OF DEPONENT

I, JOHN F. MCCORMICK, do hereby certify that the foregoing testimony taken on July 20, 2016 is true and accurate, with any corrections listed on the Errata Sheet, if applicable, to the best of my knowledge and belief.

_____ _____

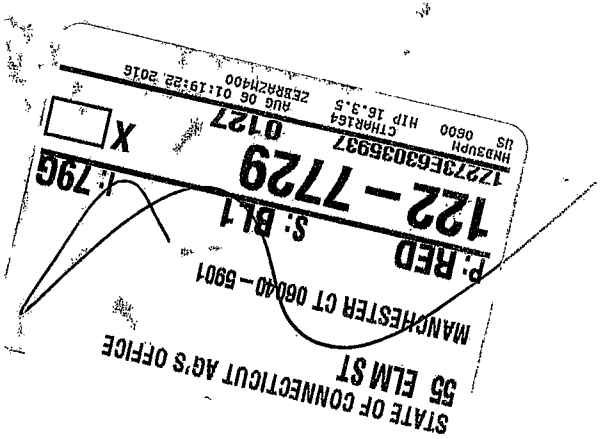
DATE JOHN F. MCCORMICK

At _____ in said County of _____, this ____ day of _____ 2016, personally appeared, JOHN F. MCCORMICK, and he made oath to the truth of the foregoing answers by him subscribed.

Before me, _____, Notary Public.

My commission expires: _____

ftp July 20, 2016



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