

COMMONWEALTH OF PENNSYLVANIA

HOUSE OF REPRESENTATIVES

HOUSE EDUCATION & HEALTH COMMITTEES

140 MAIN CAPITOL

HARRISBURG, PENNSYLVANIA

MAY 7, 2014

9:10 A.M.

PRESENTATION ON

SCHOOL-BASED ACCESS PROGRAM

BEFORE:

HON. PAUL CLYMER, EDUCATION MAJORITY CHAIRMAN
HON. JAMES ROEBUCK, EDUCATION MINORITY CHAIRMAN
HON. MATTHEW BAKER, HEALTH MAJORITY CHAIRMAN
HON. FLORINDO FABRIZIO, HEALTH MINORITY CHAIRMAN
HON. RYAN AUMENT
HON. HAL ENGLISH
HON. MIKE FLECK
HON. MARK GILLEN
HON. SETH GROVE
HON. BERNIE O'NEILL
HON. KATHY RAPP
HON. MIKE REESE
HON. WILL TALLMAN
HON. DAN TRUITT
HON. MIKE CARROLL
HON. JAMES CLAY
HON. SCOTT CONKLIN
HON. PATRICK HARKINS
HON. MARK LONGIETTI
HON. ERIN MOLCHANY

1 BEFORE: (Continued)

2 HON. BECKY CORBIN
3 HON. JOHN LAWRENCE
4 HON. MARCY TOEPEL
5 HON. TARA TOOHIL
6 HON. VANESSA BROWN
7 HON. MARY JO DALEY
8 HON. PAM DeLISSIO

9 COMMITTEE STAFF PRESENT:

10 DAVID TRANSUE
11 KAREN SEIVARD
12 JUDY M.D. SMITH
13 JONATHAN BERGER
14 ELIZABETH MURPHY
15 EILEEN KRICK
16 MICHAEL BIACCHI
17 CHRIS WAKELEY
18 TRACEY McLAUGHLIN

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1 P R O C E E D I N G S

2 ---oOo---

3 MAJORITY CHAIRMAN BAKER: I'm the Chairman of
4 the Health Committee. My good friend, Chairman of the
5 Education Committee, Paul Clymer is here with me, also
6 Majority Chairman Flo Fabrizio is here.

7 MINORITY CHAIRMAN FABRIZIO: Oh. Good.

8 MAJORITY CHAIRMAN BAKER: Minority Chair. He
9 is a Majority Chair in waiting, right? Hopeful, but we
10 don't think that is going to happen.

11 Anyway, thank you very much. This is an
12 extremely important issue, a funding issue. Most of us
13 have been hearing about this throughout the Commonwealth
14 and our districts and it is a vital funding stream to
15 our school districts.

16 Before we get started, could we just go around
17 the room and have the Members introduce themselves?

18 (Introduction of Members.)

19 MAJORITY CHAIRMAN BAKER: We have an
20 outstanding turnout in attendance by Members of both
21 Committees.

22 I would like to turn the mike over now to
23 Education Chairman Paul Clymer for a few remarks.

24 MAJORITY CHAIRMAN CLYMER: Thank you, Chairman
25 Baker.

1 And again, good morning, everyone. The problem
2 that we have before us is an important one and involves
3 funding, monies that the School-Based ACCESS Program has
4 been involved with and deals with the vendor -- vendor,
5 the PCG Group that has not been, apparently, getting the
6 money from the federal government on programs,
7 educational programs that have been satisfied; and
8 therein lies a problem.

9 If the federal government is not providing the
10 money to the school districts, you can see that that is
11 a serious problem.

12 So we are here this morning to try to sort
13 these things out. The testifiers who have come before
14 us are very knowledgeable about the issue. And so we
15 look forward to hearing your testimony.

16 And I'll turn it back to Chairman Baker.

17 MAJORITY CHAIRMAN BAKER: Thank you, Chairman
18 Clymer.

19 As most people know, this is predominantly a
20 third-party liability issue with respect to the
21 School-Based ACCESS Program.

22 The school districts and the IUs are eligible
23 to receive partial federal reimbursement for
24 school-based medical services provided to special
25 education students that are Medicaid-eligible.

1 The medical services provided to these students
2 are mandated through each students' IEP; and there have
3 been, unfortunately, some significant delays in the
4 payment process.

5 And we are hoping -- we are hoping to hear some
6 good news that the process is improving and will be
7 resolved in the not too distant future, and that it will
8 not reoccur going forward.

9 I have had many conversations with my
10 Intermediate Unit and a lot of school officials. I
11 think this is a fairly significant issue with the
12 Members and I think there has been a lot of
13 correspondence and conversations with the Members on
14 both sides of the aisle.

15 We are hoping for some very promising
16 resolution to this problem, that funding is desperately
17 needed and the delays are unacceptable. So we are
18 hoping to see some substantive improvements with respect
19 to that.

20 Chairman Fabrizio, any comments? Concerns?
21 Opening remarks?

22 MINORITY CHAIRMAN FABRIZIO: No. Welcome,
23 everybody. Thank you for being here.

24 MAJORITY CHAIRMAN BAKER: Okay. First up is
25 presenting on behalf of the Pennsylvania Association of

1 School Business Officials, PASBO, is Hannah Barrick,
2 Director of Advocacy.

3 We also have Jeffrey Firmstone, Business
4 Manager of Wayne Highlands School District.

5 We also have the Pennsylvania Association of
6 Intermediate Units, Tom Gluck, Executive Director;
7 Sherry Zubeck, Department Director, Lancaster-Lebanon
8 Intermediate Unit 13.

9 And you may proceed when you are ready.

10 MR. GLUCK: Thank you, Chairman Baker.

11 Good morning, Chairman Clymer, Chairman Baker,
12 Chairman Fabrizio. Again, my name is Tom Gluck. I am
13 the Executive Director of the Pennsylvania Association
14 of Intermediate Units.

15 On behalf of the members of the PAIU and the
16 Pennsylvania Association of School Business Officials,
17 we appreciate the opportunity to testify before you and
18 all of the Committee Members today on the critical issue
19 of the School-Based ACCESS Program.

20 We thank you for scheduling the hearing to
21 discuss the impact, as Chairman Baker said, that
22 third-party liability issues are having on the federal
23 reimbursements our districts and Intermediate Units
24 depend on for the provision of school-based medical
25 services to the Medical Assistance-eligible students.

1 Fortunately, since the hearing was originally
2 scheduled, some significant progress has been made on
3 bringing a third-party liability issue to resolution.

4 Given this very encouraging development, which
5 we would be happy to describe, our goal this morning is
6 to provide you with important background information on
7 the School-Based ACCESS Program, a description of the
8 recent changes to the program, and their impact on the
9 services provided by districts and IUs, and an
10 explanation of the third-party liability issue that has
11 been impacting federal reimbursement.

12 Again, as Chairman Baker said, with us to
13 deliver on the testimony today, I would like to
14 introduce Sherry Zubeck to my left, who is the Director
15 of Early Childhood and Special Education Services at the
16 Lancaster-Lebanon IU No. 13; Hannah Barrick, who is the
17 Director of Advocacy with the Pennsylvania Association
18 of School Business Officials, and Jeff Firmstone, who is
19 the Business Manager with the Wayne Highlands School
20 District.

21 We're going to share the testimony this morning
22 and I would like to turn it over to the Hannah.

23 MS. BARRICK: Okay. Thank you very much.

24 My name is Hannah Barrick. I'm the Director of
25 Advocacy with PASBO; and before we get into the

1 third-party liability issue, which is the crux of the
2 issue we are discussing today, I'm just going to give
3 everybody an overview of the School-Based ACCESS Program
4 to make sure everybody understands exactly how the
5 program works.

6 And the School-Based ACCESS Program merely
7 provides a mechanism for partial federal reimbursement
8 for the medical services provided to Medicaid-eligible,
9 or in Pennsylvania, Medical Assistance-eligible, special
10 education students; and these services are provided by
11 school districts, Intermediate Units, charter schools,
12 approved private schools, and state-owned schools.

13 And school districts and Intermediate Units
14 across the state really rely on this federal
15 reimbursement to ensure that they can continue providing
16 the special education programs to students and really
17 also to make sure that they can balance their budgets
18 appropriately.

19 So just to -- sort of back to sort of the most
20 basics of this program and talk about special education,
21 the Federal Individuals with Disabilities in Education
22 Act is what requires school districts and IUs to
23 identify students that are eligible for special
24 education services.

25 Those students are sort of evaluated; and if

1 necessary, for the student to sort of benefit from the
2 regular education program, an Individualized Education
3 Plan, an IEP, is put into place for that student and the
4 IEP is -- sort of outlines the educational plan for that
5 student and sort of mandatory that the school district
6 or Intermediate Unit provides those services to that
7 student.

8 These requirements of the IEP can be very minor
9 accommodations. It can be as simple as sort of
10 preferential seating in the classroom or additional
11 instructional time with the teacher.

12 It can be something more significant, like an
13 outplacement or even a residential placement for those
14 students.

15 Many IEPs require the provision of medical
16 services to students. And these medical services
17 include audiology services, speech and language therapy,
18 nursing services, psychiatric services. There is a
19 whole list, but these medical services are provided in
20 this sort of school environment.

21 So all of this kind of gets back into the
22 Medicaid/Medical Assistance arena, because back in 1988
23 Congress passed the Medicare Catastrophic Coverage Act
24 and that required Federal Medicaid funds to be made
25 available to provide reimbursement for a portion of

1 these school-based medical services that were provided
2 to these eligible special education students.

3 So, following the passage of that Federal Act,
4 Pennsylvania developed their Medical Access Program in
5 the early '90s. And this program sort of works by -- it
6 is administered by a third-party vendor that is under
7 contract with the Commonwealth. PDE holds that
8 contract.

9 The centers for Medicaid and Medicare services,
10 the federal government, they determine which services
11 are eligible for reimbursement.

12 DPW, Department of Public Welfare, and the
13 state really sort of determine the eligibility criteria
14 for which students are eligible for Medical Assistance.
15 And PDE, obviously, they are the holder of the contract;
16 and they play a role in the process as well.

17 So participating school districts and IUs and
18 other LEAs that work through this program are reimbursed
19 for a set percentage of their medical services cost that
20 are provided to these students. They are rated every
21 year. For 2014, the reimbursement rate is 53.52
22 percent.

23 So sort of the actual process of getting the
24 payment -- sort of providing the service to getting the
25 payment is a little bit complex and there are a lot of

1 parties involved.

2 You just want to be able to walk through that
3 so everybody understands how the process works. So
4 basically, school districts and Intermediate Units and
5 other LEAs provide the medical service to students as
6 required as mandated in the student's IEP and they have
7 to document all of the services. There is a lot of it.
8 It is sort of an administrative burden that goes along
9 with this.

10 Those sort of claims for those individual
11 students are then submitted by the vendor, that we
12 talked about before, the vendor submits those claims to
13 the DPW, DPW sort of does a check to see if they can
14 approve or, you know, pay those claims and that sort of
15 generally is the student eligible for Medical
16 Assistance? Are these services actually reimbursable?

17 Once DPW determines that, yes, these students
18 are eligible, we can pay for these, then it is sort of
19 sent on to the federal government for payment.

20 The federal dollars then flow back to DPW. DPW
21 then authorizes a transfer of funds to PDE and then the
22 money flows from PDE to the school districts.

23 This whole process can take a little while, it
24 is sort of not an instantaneous process. It takes a
25 couple of weeks, so a month or two, I think, if

1 everything is working smoothly from start to finish.

2 So again, the school districts are providing
3 the services up front and takes a little while for the
4 reimbursement to actually happen.

5 And in Pennsylvania, there are really two
6 programs that are receiving this federal revenue. There
7 is the Early Intervention program, as well as the
8 School-Aged Special Education program.

9 The Early Intervention program is for students
10 who have not entered school yet. That is for three- to
11 five-year-old students and is primarily run by the
12 Intermediate Units.

13 Basically, they sort of try to identify
14 students that are at risk for some type of developmental
15 disability, try to get those students -- get to those
16 students as early as possible with special education
17 services so that, by the time they enter school, they
18 will be, you know, ready to go.

19 Once that student does then enter school, once
20 they become school age, that is when the School-Aged
21 Special Education services kick in and that is what I
22 think everybody knows.

23 But an IEP can be developed in both of those
24 cases and medical services can be part of that; and as a
25 result, this federal reimbursement can flow for both --

1 under both the Early Intervention program, as well as
2 the School-Aged Special Education program.

3 I'm going to turn it back to Tom and he is
4 going to sort of walk through some of the changes, the
5 relatively recent changes that have happened in
6 Pennsylvania's the ACCESS program.

7 MR. GLUCK: Thanks, Hannah.

8 So over the past two years, Pennsylvania has
9 experienced a confluence of events that have impacted
10 Pennsylvania's School-Based ACCESS Program.

11 We have found it useful, and I hope it will be
12 useful to you to sort of parse out those three notable
13 changes and understand the challenges attributed to each
14 that will help us sort of divide out the issues and be
15 able to address solutions in each area.

16 The three events were in the first instance a
17 change in the vendor, the Commonwealth's vendor who
18 manages the School-Based ACCESS Program, policy changes
19 that the Commonwealth implemented for the ACCESS Program
20 as a result of a federal management review of
21 Pennsylvania's ACCESS Program, and then these challenges
22 in processing and improving ACCESS claims that have
23 third-party liability issues associated with them.

24 So let's start in the first instance with the
25 vendor change, which occurred in July 2012. The

1 Commonwealth contracted with the Public Consultant
2 Group, PCG. For many years prior to that, the
3 Commonwealth contracted with Leader Services.

4 So school districts and IUs, we have worked
5 very cooperatively with PCG, with PDE, with DPW to
6 manage what is always -- can be a bumpy road in the
7 transition of a vendor running a program that is as
8 complex and big as the School-Based ACCESS Program.

9 That work together has, in fact, resulted in
10 some improvements in communication issues and some
11 improvement in system issues that the new vendor was
12 attempting to implement.

13 But we can say that after two years of
14 transition in the ACCESS Program to PCG, there do remain
15 a number of unacceptable delays in claims processing and
16 payment, questions about the quality of data and
17 information provided, and the administrative processes
18 that create enormous and costly administrative burdens
19 at the district and IU level. So vendor change was the
20 first challenge that created issues.

21 The second is the CMS Management review.
22 Again, CMS is the federal agency that oversees the
23 Medical Assistance Program and, in this case,
24 School-Based ACCESS.

25 In 2011, CMS began a management review of our

1 ACCESS Program, the outcome of which was identifying a
2 number of services that were previously eligible for
3 ACCESS reimbursement, which were now deemed no longer
4 eligible for reimbursement; things like the development
5 of IEPs, services that a provider did before a direct
6 service to a child, and then afterwards, some of the
7 planning and recording.

8 These were things that IUs and school districts
9 were able to submit for reimbursement and receive
10 reimbursement that were now no longer going to be
11 reimbursable by the federal government. So that was the
12 second notable change, was the loss of those funds.

13 It is difficult to quantify the losses due to
14 that change partly because we are still reconciling cost
15 for 2012-13, which is the first year of those new policy
16 changes that went into effect.

17 Jeff, you want to talk a little bit about some
18 of those losses and the impact on school districts.

19 MR. FIRMSTONE: Since 2009-10, school districts
20 across the Commonwealth have collected over \$255 million
21 in reimbursement from the program.

22 While the federal reimbursement to districts
23 has climbed from approximately 75 in 09-10 to
24 approximately 99 in 11-12, the policy changes are
25 expected to reduce that. So the CMS audit has affected

1 how we have previously done things.

2 All right. So we know that that is out there.
3 As Tom said, it is hard for us to quantify it yet
4 because of all of the other problems with processing the
5 claims.

6 At my school district, Wayne Highlands School
7 District is, I guess you would say, a medium-sized
8 district. It is about 2,900 students.

9 We typically would reap the harvest of between
10 275 and \$300,000 a year from the program. So for all of
11 the services, for speech therapy, for physical therapy,
12 for any of the services that are mandated by the IEP for
13 that student, we would get some money back, between 275
14 and \$300,000 on an annual basis.

15 Since the new vendor took over, they started in
16 July of 2012. We will refer back to the attachments at
17 the end; but to date, we have only been able to reap
18 \$185,000 out of the program.

19 So that is almost two years' worth where we
20 have only been able to gain 185,000, where previously we
21 were doing about 300,000 in a year.

22 Some of that certainly can be attributed to the
23 changes in the regulation as a result of the CMS audit.
24 How much of that, again, is very hard to quantify at
25 this point.

1 Bigger districts, it is a bigger problem.
2 Smaller districts maybe not quite as big a chunk but
3 have a smaller budget to begin with and have a harder
4 time absorbing those loss of revenues at that point.

5 Familiar refrain to everybody here in the
6 Capitol, I'm sure, is when we get reductions in these
7 types of things, well, what are the school districts
8 going to do?

9 Well, we are mandated to provide the IEPs.
10 That is a legal document that we can be sued over, if we
11 don't provide the services. Okay?

12 So those services are going to happen no matter
13 what. We go back to the local taxpayers, and it is part
14 of the continuing problem of funding special education
15 in the school districts. So it is all intertwined,
16 certainly.

17 It is a big problem. The reporting and things,
18 we will talk a little bit as we get through the report
19 -- as we get through the rest of our presentation but it
20 has been an uphill battle.

21 Our district has been one that we have been
22 very proactive and we assigned a person to the new
23 program when it started. So we stayed on top of it.

24 We haven't missed any of the conferences. We
25 haven't missed any of the web conferences. We have done

1 the best we can. That is partially why we are here
2 today.

3 MS. ZUBECK: Good morning. Again, I'm Sherry
4 Zubeck. I'm the Director of the Early Childhood and
5 Special Education Services Department IU 13 and I'm here
6 to talk to you a little bit about how this impacts
7 Intermediate Units across the Commonwealth.

8 The effect of the audit was even more
9 significant in regards to the impact of Pennsylvania's
10 Early Childhood program serving students with
11 disabilities from ages three to five.

12 Just like school districts, we have the legal
13 obligation to child-find and locate those children who
14 would be in need of services at the preschool age.

15 The program across the Commonwealth known as
16 Early Intervention is administered by the Bureau of
17 Early Intervention and the Office of Child Development
18 and Early Learning, known as OCDEL.

19 OCDEL contracts with regional agencies known as
20 MAWA holders to operate the Early Intervention programs
21 across the state. Most MAWA holders are Intermediate
22 Units and most Intermediate Units are MAWA holders.

23 EI providers, like the school districts, again,
24 are legally responsible for a free, appropriate public
25 education for students with disabilities. As such, we

1 cannot reduce our services to students when funding
2 targets are not realized.

3 However, unlike school districts, EI providers
4 are unable to increase funding through the local tax
5 base.

6 We are wholly dependent on State Funds and
7 federal funds and whatever budgets we may have available
8 to us through other pieces of the Intermediate Unit
9 budget. But again, we cannot assess the local community
10 for those shortfalls in budget.

11 Over the past six years, OCDEL has required IUs
12 operating these programs to generate reimbursements as
13 part of our total revenues.

14 OCDEL sets the targets for us and, putting
15 aside whether or not that is a reasonable requirement,
16 because even in the best of circumstances, it is
17 sometimes difficult to get those parents to sign that
18 paperwork and it is not always within our control to hit
19 those targets.

20 I would like to give you a couple of examples
21 of the changes that have occurred since the -- since the
22 CMS audit.

23 We'll start with my Intermediate Unit at IU 13.
24 IU 13 serves Lancaster and Lebanon Counties. During the
25 2011 and '12 school year, we were given a target to

1 generate 1.3 million dollars in MA reimbursements.

2 OCDEL approved our budget. We serve about
3 2,600 students. We were allocated those dollars minus
4 -- our budget dollars minus the 1.3 million that we were
5 expected to raise in that year.

6 The good news is that, in that year 2011 and
7 '12, we were successful in meeting the target of 1.3
8 million dollars in MA reimbursements.

9 The bad news is that the very next year in
10 2012-13, after those CMS audit changes took place, our
11 IU only generated \$176,000 in EI reimbursements.

12 Again, since those services are mandated by
13 law, IU 13 had no recourse other than to request
14 additional state subsidy to cover core programs expenses
15 in that year.

16 We are not unique in this scenario; and OCDEL,
17 please know, has done what it can do in terms of its own
18 budget limitations to respond to the IU's federal fund
19 shortfall.

20 But our IU and many others across Pennsylvania
21 were forced to absorb most of that loss within their own
22 IU budgets.

23 By way of example, I would like to share with
24 you some other IUs and their financial impacts, given
25 the MA concerns.

1 IU 5, which serves Erie, Crawford, and Warren
2 Counties, in the 11-12 school year, they were successful
3 in meeting their target of \$382,500. The following
4 year, in 12-13, they drew down \$30,000 in ACCESS monies.

5 IU 17 serving Bradford, Lycoming, Sullivan, and
6 Tioga Counties, again, 11-12, their target was \$325,000.
7 They successfully met that. In 12-13, they were able to
8 only able generate 25,000.

9 In IU 22 serving Bucks County, the 11-12 school
10 year, their target was 1.4 million dollars in ACCESS
11 reimbursements. The following year, they generated only
12 \$318,000 to date for that year.

13 So again, these loss of these reimbursement
14 monies from Medical ACCESS not only creates a tremendous
15 fiscal challenge for our Intermediate Units, we are
16 committed to sustaining the quality of services to
17 children; but also truly creates a fiscal burden to the
18 Commonwealth.

19 In fact, recognizing this, Governor Corbett has
20 proposed a supplemental appropriation for EI intended at
21 least in part to respond to those loss of MA monies.

22 MR. GLUCK: So we talked about two of the three
23 issues that have impacted the ACCESS Program; the change
24 in vendor and the transition issues associated with that
25 that we continue to work through, and then the policy

1 changes resulting from the federal CMS audit or
2 management review that have resulted in what we
3 recognize to be a permanent loss of federal dollars,
4 services that are no longer eligible for federal
5 reimbursement.

6 So while school districts and IUs have done the
7 best they could to anticipate and prepare for that
8 permanent reduction in federal reimbursement, school
9 districts and IUs faced unanticipated reductions in
10 federal reimbursements due to the third-party liability
11 issue that began in July 2012.

12 Although completely unassociated with the CMS
13 management review, school districts and IUs stood to
14 lose millions of dollar due to a DPW interpretation of
15 federal CMS regulations.

16 So when a Medical Assistance eligible special
17 education student is also covered by a third-party
18 insurer, CMS regulations require that states generate
19 evidence that there is no third-party liability for the
20 medical services provided to the individual students.

21 Plainly said, Medicaid is the payer of last
22 resort. So if a third party covers the medical service,
23 the third party must pay for that service.

24 CMS requires states to take reasonable measures
25 to determine whether third-party coverage for medical

1 services exists.

2 States have significant flexibility in how to
3 make that determination. CMS must ultimately approve on
4 the procedure used by a state in determining whether the
5 third-party liability exists.

6 It is important to note that to our knowledge,
7 third-party insurers, in fact, do not cover school-based
8 medical services either in Pennsylvania or in any other
9 state.

10 We have looked; and to our understanding, it
11 doesn't exist. And CMS even seems to acknowledge that.
12 In their guidance, they note that many services covered
13 under state Medicaid programs are not covered by
14 third-party insurers.

15 Last week, we learned that Pennsylvania has
16 agreed to adopt an approach to determine whether
17 third-party liability exists that we believe is a good
18 and reasonable approach and should allow previously
19 denied ACCESS claims to now be paid.

20 Prior to last week's decision, Pennsylvania had
21 chosen to interpret the CMS regulations in a manner that
22 requires the state to obtain a blanket denial letter
23 from each third-party insurer offering a policy in the
24 Commonwealth; that letter stating that they do not cover
25 any school-based medical service.

1 Until a blanket denial letter was obtained, a
2 claim for school-based medical services provided to a
3 student with a third-party insurer was being denied for
4 payment.

5 It became plainly evident that the blanket
6 denial letter process was unworkable. With 136
7 third-party insurers covering Medicaid eligible special
8 education students in Pennsylvania, just over 50
9 third-party insurers had submitted blanket denial
10 letters since PCG began operating the program in July of
11 2012.

12 This means that 30 percent of the total claims
13 for school-based medical services would continue to be
14 denied for lack of a blanket denial letter.

15 MS. BARRICK: So as Tom said, there was an
16 announcement last week. It went out to school districts
17 and IUs and other participants of the ACCESS Program
18 announcing that there had been an agreement basically
19 reached between DPW and PDE to address a third-party
20 liability issue going forward.

21 And we certainly hope that this process will
22 work much better in the future and really eliminate the
23 delay in reimbursement that we have seen, especially for
24 the 12-13 claims.

25 Our understanding of this agreement is that,

1 going forward, Pennsylvania will meet its obligations
2 with respect to third-party liability by sort of sending
3 the same letters out to the third-party insurers out
4 there in Pennsylvania, sort of requesting that they deny
5 that they would cover any of these services.

6 But instead of waiting and sort of requiring
7 the return of that letter, if after several attempts and
8 reasonable efforts were made to obtain those blanket
9 denials, if nothing is returned, then that would sort of
10 suffice and the third-party insurer will basically have
11 been deemed to be denying coverage for any of those
12 school-based medical services.

13 In the announcement that went out and the
14 announcement came out from the vendor, PCG, it was made
15 clear that as a result of this potential new plan, going
16 forward, claims for medical services that are currently
17 denied and have been denied as a result of the
18 third-party liability issue would be resubmitted and
19 processed for payment.

20 The announcement was very specific to the
21 claims for 12-13, and for 13-14, and did ensure or did
22 indicate that within a few weeks, this money would begin
23 to flow to school districts and IUs.

24 I think PASBO and PAIU are very cautiously
25 optimistic that this modification will sort of mean that

1 regardless of whether you -- a school district or an IU
2 has students that are covered by either one of those
3 third-party insurers that has already submitted the
4 blanket denial letter or if you have a student covered
5 by a third-party insurer that is among the 80 or so that
6 have not that they still will be able to capture the
7 federal reimbursement that is on the table for 12-13 and
8 13-14.

9 We are very hopeful, although the announcement
10 that went out did not specifically state what will
11 happen in the future beyond 13-14 claims, that this new
12 process will continue for those so we don't end up in
13 the same situation where we have this ridiculous delay
14 going forward.

15 I want to make it clear that school districts
16 and other IUs and other LEAs will really only know
17 whether this third-party liability problem has been
18 resolved once they actually receive the outstanding
19 payment for those claims and the services already
20 provided.

21 We want to be very clear as well that, you
22 know, some blanket denial letters, those 55 that have
23 already been submitted, there are school districts and
24 IUs with students covered by those third-party insurers
25 that still have yet to receive federal reimbursement for

1 those claims.

2 And part of this -- and Jeff alluded to this
3 earlier -- it is very difficult for school districts and
4 Intermediate Units to really determine what claims have
5 been paid and which have not because the data they are
6 receiving from PCG on this whole issue sort of lacks
7 some of the detail and ends up creating some additional
8 questions.

9 So I'm going to let Jeff discuss and walk
10 through some of those problems with you just to make
11 clear that, while we may have crossed one hurdle, we
12 still have a couple of other issues on the table.

13 MAJORITY CHAIRMAN BAKER: If I can just
14 interrupt, how long is the third-party vendor contract?
15 What is the expiration on the third-party vendor
16 contract that you folks are having difficulties with?

17 MR. GLUCK: Our understanding is it runs
18 through June 2015.

19 MAJORITY CHAIRMAN BAKER: Okay. Thanks.

20 MR. FIRMSTONE: I guess maybe now would be an
21 opportune time to look towards the attachments that we
22 provided.

23 There are samples of the reports that PCG
24 supplies, there should be at the back of it. PCG
25 provides what they call Monthly Management Reports.

1 There should be one in your packet titled Pennsylvania
2 School-Based ACCESS Program Claim Status Report by
3 Service Date.

4 I have highlighted the important columns that
5 are giving me more grey hair. When you look at -- and
6 referring back to what Hannah said, denied claims for
7 our school district and pending claims for our school
8 district.

9 Okay. On the left-hand column, the first
10 column is the date of service, so the date that we
11 provided service to the student.

12 Okay. The denied claims and the pending
13 claims, as you can see, when you look at the totals
14 between the two of them, are over \$260,000 in gross
15 claims for Wayne Highlands School District that have
16 been denied.

17 Okay. So perhaps Wayne Highlands School
18 District doesn't know what we are doing, and we are not
19 submitting the information correctly or there is some
20 mistakes on how we do it.

21 That has been a continual effort on our part
22 and PASBO's part to ask PCG why are these claims denied.
23 Okay. They say, well, it is third-party liability
24 without providing any detail .

25 We thought we were seeing light at the end of

1 the tunnel with PCG on the reporting of the reasons for
2 denials and pending claims and that is the other
3 attachment that is there.

4 Okay. And it is a several-page report. I
5 whited out student information on yours. That is what
6 is made available for the first time on April 28th to
7 the school districts.

8 It is woefully incomplete. That report totals
9 -- when I total the charges, I ran the calculator on it,
10 only totals \$19,417.

11 So there is reporting problems that are -- are
12 deeply engrained in how we are operating right now. So
13 to be able to put a -- to an understanding to what is
14 happening as far as the third-party liability issue, we
15 can't even find out right now how many of our claims
16 have been denied because of third-party liability. We
17 get generalizations and things of that nature.

18 So it has been a major problem and a major
19 stumbling block working with PCG. Quite honestly, under
20 previous regimes, pre-CMS audit and pre-PCG contract, I
21 don't know that we were getting that information either,
22 but it wasn't a problem at that point . The claims were
23 flowing.

24 It wasn't like a business manager sat down and
25 said, well, where did my revenue go from the ACCESS

1 Program and started to wonder because the numbers were
2 consistent month to month. You knew how many claims you
3 submitted and what dollar amount they were. Typically,
4 that turned around in about a month or a month and a
5 half.

6 As you can see on these things, I have -- Wayne
7 Highlands has service dates dating back to 2012,
8 November and December with pending claims, what they
9 categorize as pending claims that total in the
10 neighborhood of 5, 6, \$7,000 that I have tried and tried
11 and tried to get information about why are they pended.
12 Why are they hung up? Is it third-party liability? Did
13 we do something wrong? Is it an ineligible student
14 charged, etc., etc., which all of these things are
15 possibilities, but they haven't been able to provide
16 that information.

17 And at this point, trusting that the
18 third-party liability issue has been solved, this is
19 going to be where our headaches lie next.

20 At that point, I'll turn it back over to Hannah
21 to close for us.

22 MS. BARRICK: So with the issues that Jeff just
23 discussed, there clearly are several additional hurdles
24 that really need to be overcome before school districts
25 and IUs and other LEAs participating in the program

1 really can feel comfortable going forward with the new
2 vendor and with the new -- with the changes in policy
3 that have been made to the School-Based ACCESS Program.

4 It does appear, however, that at least the one
5 critical hurdle of the third-party liability has
6 potentially been addressed, still sort of remains to be
7 seen; but we are hopeful that that will prevent
8 additional permanent loss of federal dollars.

9 But we do, because there are certain additional
10 issues on the table, we certainly encourage both
11 Committees to continue to check in with your school
12 districts and Intermediate Units and continue oversight
13 of this program to make sure these payments for 12-13,
14 13-14 claims are actually made and to ensure that, in
15 the future going forward, there is no additional or no
16 return to the third-party liability issues that we have
17 been dealing with for the past almost two years.

18 Certainly, thank both Committees for holding
19 this hearing today. We really think that that helped to
20 accelerate the result that we have -- that sort of came
21 about last week. We are certainly very grateful for
22 that.

23 And also thank you to all Members of the
24 General Assembly who have worked with the school
25 districts and helped in the advocacy effort to deal with

1 issue.

2 It has been a very long process, but it seems
3 like we are finally making some progress. And we are
4 certainly happy to answer any questions that you have
5 today. Thanks.

6 MAJORITY CHAIRMAN BAKER: Thank you very much.
7 In addition to the detailed -- lack of detailed
8 reporting provided to districts and IUs, it is my
9 understanding with respect to the DPW's third-party
10 vendor that there is also some burdensome and changing
11 reporting requirements, as well as poor customer
12 service. So I know there is going to be an effort to
13 deal with all of those issues.

14 I have had several conversations with the
15 Governor's office on this issue. It is a priority issue
16 to the Governor's office to try to resolve this. I have
17 had several telephone calls with the staff there, as
18 well as DPW.

19 Just for the Member's information, some may be
20 wondering why is the Committee on Health involved in
21 this, we do have oversight over the Medicaid program
22 within DPW, so that is why my good friend and the Health
23 Committee have joined together to try to address this
24 concern because it does impact all of us across the
25 Commonwealth.

1 Chairman Clymer?

2 MAJORITY CHAIRMAN CLYMER: Thank you, Chairman
3 Baker.

4 I would like to introduce Chairman Jim Roebuck,
5 who has joined us to my right. Jim, thanks for joining
6 us.

7 MINORITY CHAIRMAN ROEBUCK: Good morning.

8 MAJORITY CHAIRMAN CLYMER: I have a few
9 questions dealing with the issues. Does this impact on
10 the charter schools as well since they are public
11 schools?

12 MS. BARRICK: Yeah. I mean, charter schools
13 are eligible to participate in the ACCESS Program. So
14 yes, likely, they are dealing with the same issues.

15 MAJORITY CHAIRMAN CLYMER: Are they
16 significantly impacted as a traditional public school
17 is?

18 You mentioned some of the IUs and some of the
19 school districts. Is there a way that we can kind of
20 separate the charters from our traditional public
21 schools?

22 MS. BARRICK: I honestly don't know the impact
23 on school districts -- or on the charter schools and
24 what they are receiving in ACCESS funds. We can
25 certainly see if we can take a look at that.

1 MAJORITY CHAIRMAN CLYMER: Can you briefly tell
2 us some of the services that are provided to the
3 students, some of the medical students?

4 I think Members and myself included would just
5 like to have that background so we can -- so we can move
6 forward.

7 MS. ZUBECK: Sure. We provide services that
8 are reimbursable, such as nursing services, audiological
9 services, speech and language services, occupational
10 therapy services, physical therapy, psychiatric
11 services, all of which would be personal care assistance
12 as well; if they are working with a child who might need
13 medical assistance with toileting and feeding. Those
14 would be services reimbursable as well.

15 MAJORITY CHAIRMAN CLYMER: Okay. And I noticed
16 that in looking at the list, one of the school
17 districts, the largest school district in Pennsylvania
18 was not mentioned, Philadelphia School District. Is
19 there a reason?

20 I mean, I would think that they would have
21 problems; and being the largest school district, as far
22 as reimbursement, that that would total millions of
23 dollars. So I think that is significant. And could you
24 maybe make comment on that? Someone, I mean, is there
25 --

1 MR. GLUCK: Certainly. You know, the extent to
2 which for their School-Aged Special Education program,
3 the school district has been persuing federal ACCESS
4 reimbursement, they would be encountering the same
5 challenges, whether it is a loss of revenue as a result
6 of the CMS review or at the least delayed payments due
7 to third-party liability. That is School-Aged.

8 On the Early Intervention side, the Elwyn
9 Institute is the MAWA holder for the Philadelphia School
10 District; and again, they would be encountering the same
11 issues on the Early Intervention side that others would
12 be.

13 MAJORITY CHAIRMAN CLYMER: At this time, the
14 Chair recognizes Representative Longietti.

15 REPRESENTATIVE LONGIETTI: Thank you,
16 Mr. Chairman.

17 And thank you all for what I thought was a very
18 well-organized presentation, very informative. I
19 appreciate that.

20 I just want to clarify because my district is
21 served by Intermediate Unit 4; and naturally, they have
22 expressed concern about the issue that is being
23 discussed today.

24 I just want to make sure that I understood
25 correctly, one of the concerns that they raised was at

1 the time they passed a resolution indicating that as of
2 May 10th, which is this weekend, there was an indication
3 that claims that have not been processed would be
4 permanently dismissed.

5 I just want to make sure, has the Department
6 backed off on that and are those claims going to be
7 processed?

8 MR. GLUCK: Sure. Well, we hope so. Let me
9 try to give a little back story on that and folks will
10 correct or add.

11 There is a process in the School-Based ACCESS
12 Program now called Cost Settlement. Basically, it is a
13 reconciliation process at the end of the year that PCG,
14 DPW, and the providers would all go through.

15 Prior to the announcement last week, the
16 concern was the 12-13 -- 2012-13 claims that had been
17 denied for third-party liability reasons, which hadn't
18 been resolved because we had not received a blanket
19 denial letter from the insurer would be permanently
20 lost. They would no longer be eligible for
21 reimbursement unless that blanket denial letter came in
22 before Cost Settlement started.

23 Again, PDE, DPW, the Governor's Office has been
24 responsive on this. They were willing to continue to
25 move that timeline back to give more time; but now with

1 this change last week, knowing that sort of all claims
2 for 12-13 third party are resolved one -- we have every
3 reason to believe that there won't be any permanent loss
4 now. That should fix that issue.

5 But there is a Cost Settlement process.
6 Everything has to be in or you run the risk of permanent
7 loss, but I think we are going to be okay.

8 MS. BARRICK: And the Cost Settlement process,
9 the sort of deadline for that is June 30th. So
10 everything has to be submitted to CMS by June 30th of
11 this year.

12 So I think that the May 10th deadline was to
13 make sure there was enough time to process all of that
14 information for submission by June 30th.

15 MR. FIRMSTONE: Representative, but, again, it
16 goes back to the problem of not knowing how many of your
17 claims, what the dollar amounts and what the claims are
18 that are hung up on third-party liability.

19 So quite honestly, they can tell us whatever
20 they want at this point and we don't know what will end
21 up in that settlement without being able to get the
22 detail from a Business Manager and an Accountant's
23 perspective of it. It is still quite problematic.

24 We are hopeful, I agree completely, that we
25 think we turned the corner with it; but as far as being

1 able to quantify it, to do budgeting for a school
2 district at this time of year, it is at the very least
3 still problematic.

4 REPRESENTATIVE LONGIETTI: So as I understand
5 it, the issues that remain are, No. 1, this new process
6 in regard to third-party blanket denials that will
7 actually work in practice.

8 Number two is that, if it does work in
9 practice, that it will not only apply to 12-13 and 13-14
10 but that it will be applied moving forward.

11 And then No. 3 is that the information that is
12 flowing from Public Consulting Group needs to be more
13 detailed so that you can understand is this a
14 third-party issue, is this a student eligibility issue,
15 is this an issue that the school district or
16 Intermediate Unit didn't supply the information. What
17 is the issue?

18 That is perhaps -- you are indicating perhaps
19 the most concerning outstanding issue that there is
20 right now, is we need to know what is going on with what
21 -- which claims and how much money is involved.

22 MR. FIRMSTONE: Yeah. Taking everything else
23 at face value and what we have been told from the
24 Governor's Office, you know, which is without question a
25 positive step in this process, the most positive step in

1 two years; but we still have to at this point require a
2 blind faith that PCG is treating us right.

3 REPRESENTATIVE LONGIETTI: Thank you.

4 MAJORITY CHAIRMAN BAKER: We will shortly be
5 hearing from a couple of Cabinet Secretaries, and I
6 think they will be -- they will be able to annunciate
7 further clarification on some of these issues.

8 The Chair recognizes Representative DeLissio.

9 REPRESENTATIVE DeLISSIO: Thank you,
10 Mr. Chairman.

11 In no particular order, do you know if that
12 ruling by CMS was ever appealed by the Department or by
13 Pennsylvania?

14 MR. GLUCK: I don't know the answer to that.
15 Perhaps Secretary Mackereth will address it. I don't
16 know.

17 REPRESENTATIVE DeLISSIO: Okay. Then I know a
18 few years back before my time here, there was a, correct
19 me if I am wrong, piece of legislation passed that
20 permitted schools to be reimbursed for medical services
21 delivered to students with diagnoses of autism and it
22 was up to like \$36,000 per year. Is that caught up in
23 any of this?

24 Because I know, at the time, I was hearing when
25 I came into office, there were problems about people

1 getting reimbursed by insurance for that. I just want
2 to know whether that is a separate issue entirely.

3 MR. FIRMSTONE: As far as the ACCESS Program
4 goes, it is a related service. So if an autistic child
5 is receiving speech therapy services, then that would be
6 reimbursable under the program.

7 So the diagnosis of autism would then have
8 treatments underneath it, okay, related to any of the
9 specialists that are employed by school districts,
10 including social services, including personal care
11 assistance and those type of things.

12 So as those services are provided to an
13 autistic child, the ACCESS Program would then be able to
14 be charged out and reimbursed back to the school
15 district.

16 REPRESENTATIVE DeLISSIO: But wasn't there also
17 something that allowed schools and maybe it was just a
18 particular category of schools to bill directly to a
19 private insurer?

20 MR. GLUCK: Again, this is not my area of
21 expertise, although I think there was some action
22 related to mental health services and we will have to
23 track it down to get back to you.

24 MS. ZUBECK: My understanding just briefly is
25 that those allowances, if you will, for children who are

1 on the spectrum with autism, were relayed to force a
2 hand, the private insurance brokers to acknowledge
3 autism for a diagnosis for which they would make a
4 reimbursement if a child had needs relating to having
5 that diagnosis.

6 It was less about the school districts and the
7 Intermediate Units and being able to do direct billing.
8 It was more about what was allowable under reimbursement
9 for the private insurance providers across the
10 Commonwealth. It had nothing to do with schools
11 directly.

12 REPRESENTATIVE DeLISSIO: Thank you very much.

13 Thank you, Mr. Chairman.

14 MAJORITY CHAIRMAN CLYMER: At this time, the
15 chair recognizes Representative Carroll.

16 REPRESENTATIVE CARROLL: Thank you,
17 Mr. Chairman.

18 Thank you folks for your testimony.

19 Hannah, I listened intently when I heard you
20 say within a few weeks that money would flow. Can you
21 be a little more precise with what the districts and the
22 IUs expect with respect to the money flowing?

23 MS. BARRICK: I will say that we understand,
24 when the process is working smoothly, I think it takes
25 somewhere between four to six weeks from sort of initial

1 submission until the payment is -- can be sort of
2 obtained by the school district.

3 The notice that went out to participants at the
4 program just indicated, I think, in a couple of weeks
5 that these will be resubmitted and payment will then
6 follow.

7 So we don't really have a lot of details about
8 how long this process might take; and again, I will say
9 that there are school districts out there who have
10 students that are covered by third parties who have
11 already submitted the blanket denial letters and they
12 have been waiting at least four to six weeks at this
13 point and have yet to see payment for those services.

14 So I think that is another potential grey area
15 that is out there, but everything working smoothly, four
16 to six weeks is our understanding of how long it should
17 take.

18 MS. ZUBECK: I would add that I believe there
19 is some healthy concern out there around that deadline
20 since it being released a week ago, some school district
21 administrators understandably reached out to say, well,
22 can you give me a date? Can you give us something to
23 work from?

24 And we have already gotten a bit of
25 redefinition or redefining of that to say, well, we

1 don't have a plan.

2 The initial communication was there is a plan
3 in place and that they were going to be released --
4 claims will be released for payment. They are saying,
5 we are working on developing a plan, and that may take a
6 few weeks and so stay tuned.

7 We are a bit hesitant, as Jeff mentioned, that
8 the data reports coming out of PCG monthly, our
9 experience at our Intermediate Unit is they don't often
10 tie. Figures that we have received one month show up in
11 a report later in a different amount.

12 We asked on behalf of the Pennsylvania
13 Association of Intermediate Units, back in November, we
14 met with the leaders at PCG and asked for some of those
15 reports that would better define for us how many of our
16 losses were directly related to the third-party
17 liability issue and we have yet to get those reports and
18 it has been six months.

19 So we are hopeful. We are optimistic. We
20 certainly want to embrace this as good news, but there
21 is some healthy skepticism out there in terms of how
22 soon will the dollars be realized.

23 REPRESENTATIVE CARROLL: And for the Wayne
24 Highlands, the Business Manager, I looked at your chart
25 and just a few quick questions that shouldn't take long

1 to get through.

2 The denied claims, what was the experience of
3 the school district prior to PCG with respect to denied
4 claims?

5 MR. FIRMSTONE: They were minor, I guess, would
6 be the best way to say it. There is always an issue
7 with the program and there was pre- PCG and pre- CMS
8 audits related to eligibility.

9 Children would be eligible for part of the
10 school year, not part of the school year, back, come on,
11 eligibility.

12 So there would be times when you would lose
13 some claims that you thought were perfectly good but for
14 whatever reason they lost eligibility for the time that
15 those claims were serviced. Okay.

16 But not in the -- certainly, not in the tens of
17 thousands of dollars, okay, in the thousands of dollars
18 for a whole year.

19 As you know, again referring to their report
20 and the problems with the management reports, back to
21 your first question, in ours, there is a column that is
22 Resubmitted Paid Claims, so I assume that that is claims
23 that were related to the third-party liability issue
24 that they have resubmitted.

25 So out of my pending and denied that totals

1 260,000, they have resubmitted just under \$7,000. So I
2 mean, it is creeping, you know, it is not boom and it is
3 there, you know. So it is -- skepticism is certainly
4 the rule of the day as far as the business
5 administrators go.

6 REPRESENTATIVE CARROLL: So when you hear the
7 phrase money flowing, does that refer to the \$6,500 or
8 whatever that figure is in that column that I can't read
9 with these glasses on? Or when you hear money flowing,
10 which column is the money going to flow from?

11 MR. FIRMSTONE: I assume -- I don't know for
12 sure. Again, going back to not having the detail of
13 what the denied impending claims are, I would assume
14 that it is related to the denied claims column but I
15 don't know that.

16 REPRESENTATIVE CARROLL: All right. Then
17 finally, the pending claims, do you have any concern
18 that the pending claims will become denied claims?

19 MR. FIRMSTONE: Most definitely, again, without
20 having the detail to what those claims actually are. So
21 down to who the student is, why it is in pending.
22 Certainly, part of pending is going to be the processing
23 time that it takes because it is a laborious process.

24 We are going from the school district to PCG to
25 DPW, out to the Feds, back through DPW to the Department

1 of Ed to pay us. So there is going to be a flow. There
2 is no question that there is a flow.

3 You know, again, after the conference -- but if
4 you looked at it for whatever reason; and again, I have
5 no idea why, in January of 2014, we had total claims
6 submitted of \$39,238. They have denied \$31,575. I have
7 no idea, positively no idea why they were denied.

8 We are in Northeast Pennsylvania. Blue Cross
9 Northeast Pennsylvania is certainly the dominant insurer
10 in our area.

11 I personally got the letter from Blue Cross in
12 Wilkes-Barre and handed it off to PCG that said no, they
13 don't cover.

14 So the TPL issue with Blue Cross of Northeast
15 PA, who is a dominant insurer in our area, should be put
16 away.

17 Yet, I look at a number there in January that
18 we have got \$31,500 in denied claims. So it is still --
19 it is extremely cloudy to understand what the problems
20 are because we don't have any detail.

21 REPRESENTATIVE CARROLL: It sounds to me and
22 this really is a revelation that probably the more
23 important problem with respect to what we face today is
24 not the actual money flowing but the information flowing
25 with respect to what needs to be done in order to be

1 able to result in the money flowing.

2 So I'm hopeful that we will hear from the
3 Secretary shortly that there is a plan here to allow the
4 districts like Wayne Highlands and the others that I
5 represent not far from you to be able to have access to
6 the money that they should have had access to a long
7 time ago.

8 Thank you, Mr. Chairman.

9 MAJORITY CHAIRMAN BAKER: Thank you very much
10 panelists. We appreciate your information. It has been
11 quite illuminating and complex and multifaceted.

12 If you could just sum up how much -- how many
13 claims are still outstanding and how much money is still
14 outstanding to be paid to the school districts, the
15 Intermediate Units, the IUs. Do you have any idea?
16 Ballpark?

17 MS. ZUBECK: I can -- I'll just speak to our
18 Intermediate Unit. We are still looking at over a half
19 a million dollars of claims from the 12-13 school year;
20 and again, our -- our largest provider in our area is
21 Aetna and Aetna does indeed have a third-party liability
22 denial letter on record.

23 So those dollars should have come through in
24 our estimation by this point in time and they have not.
25 So again, we don't have collimated for you this morning

1 a statewide perspective; but in our two-county region
2 alone, we are looking at over a half a million dollars.

3 MAJORITY CHAIRMAN BAKER: Thank you very much.
4 Thank you.

5 We are due for Cabinet Secretaries now. Thank
6 you very much for your testimony in helping to educate
7 the Committee Members. Thank you.

8 Are there any newer Members that have arrived
9 that have not been previously introduced? Please
10 introduce yourself; take the mike.

11 (Introduction of Members.)

12 CHAIRMAN BAKER: We are very happy to have two
13 of our outstanding Cabinet Secretaries with us, taking
14 time out of their busy schedules to testify on this
15 very important issue. We really appreciate it.

16 We have with us Carolyn Dumaresq, Acting
17 Secretary of Education. I worked closely with her on
18 the Board of Governors of PASSHE. Good to see you,
19 Carolyn.

20 And we have Secretary Beverly Mackereth, Former
21 Member -- Once a Member, always a Member -- one of our
22 favorite Secretaries of DPW and their staff.

23 We have Leesa -- Leesa Allen, Executive
24 Medicaid Director.

25 And I'm sorry. I don't have your name on the

1 --

2 MS. DUMARESQ: Pat Hozella, the Director of the
3 Bureau of Special Education, for the Department of
4 Education.

5 MAJORITY CHAIRMAN BAKER: Thank you very much,
6 Secretary; and I appreciate the introduction.

7 You may proceed when you are ready.

8 MS. DUMARESQ: Thank you, and thank you for
9 making the introductions for me.

10 We are here to talk today about the ACCESS
11 Program that obviously has raised several concerns,
12 which bring us here today.

13 Those concerns stem from new eligibility rules
14 to delayed payments to transitional issues with a new
15 vendor and the one we just heard most about, third-party
16 liability.

17 PDE and its vendor, PCG Pennsylvania Consulting
18 Group, along with DPW and the Pennsylvania Insurance
19 Department and the Governor's Office have dedicated
20 considerable time and resources over the last few months
21 to address the concerns expressed from our stakeholders,
22 which you heard from the Intermediate Units and from
23 local school districts.

24 We are pleased to be here today to provide an
25 update to the ACCESS Program, not only the status but

1 our plans in moving forward into the future with any --
2 to address any remaining issues.

3 I'm not sure that the next part of what I was
4 going to tell you was going to describe, but the ACCESS
5 Program is, which is a reimbursement for eligible
6 students, for eligible services through Medicaid
7 payments when they, in fact, are dictated through their
8 individual IEP for them at the local school and I'm sure
9 you have heard a lot about that from other testifiers,
10 so I won't go into any more details.

11 But this program relies on Federal Medicaid
12 money. Therefore, the requirements for the operation of
13 this program and the funding of this program come from
14 the federal government, the rules come from them and,
15 primarily, through the Federal Department of Health and
16 Human Services through their centers for Medicaid and
17 Medicare services, that is the CMS kind of -- we always
18 have an acronym in education. I'm sure Welfare has
19 theirs.

20 MS. MACKERETH: We have.

21 MS. DUMARESQ: Before we go into more detail
22 about some of those issues, I just wanted to bring an
23 update on the payments to date for the 12-13 year, LEAs
24 have received over 88 million dollars in billed services
25 with remaining, we believe, about 5 million to go.

1 In the 2013-14, although claims are still being
2 processed and billed, 42 million have been paid to local
3 LEAs.

4 Additionally, it should be noted that PDE and
5 DPW are committed to ensuring that LEAs receive all of
6 the money that they are eligible for. And you have
7 heard some of the accommodations that we have been
8 making through PCG.

9 Through the ACCESS Program, it has been in
10 place since 1991; and the level of interest and inquiry
11 has accelerated over the last few years based on two
12 major issues, I believe.

13 One is a CMS audit that was performed on these
14 monies; and during that review, they mention a number of
15 issues that the department -- both the Department of
16 Welfare and the Department of Education had to come in
17 compliance with.

18 On top of that new audit, which changed the
19 rules for what could be appropriately billed, we went
20 out to bid, because the contract for the vendor that
21 handled ACCESS payments had expired and we went out to
22 bid and we -- it was awarded to a new vendor through the
23 statewide bidding process.

24 We had a new vendor coming on board to handle
25 this program. I think the issues of transition that you

1 would expect with a new vendor that you normally would
2 have is they come into a program that has been run for a
3 number of years, was compounded by the fact that there
4 were new rules and that is a confluence of issues that
5 we have been dealing with for the last two years.

6 So for more details on the change in that
7 program, I'm going to turn it over to my colleague, Bev
8 Mackereth.

9 MS. MACKERETH: First off, I would like to
10 thank all of you for having us come today. This is an
11 important issue, and I understand that you have had
12 numerous calls in your offices regarding this. So it
13 gives us the opportunity to really talk through it.

14 It is complicated, as you heard; and it is
15 complex. And even listening this morning to the panel
16 before us, I had the opportunity to hear some things
17 actually that I had not heard, because when you have
18 complex issues that cross multiple Departments of State
19 Government, even when you think you might have fixed a
20 piece, there might be another piece that you didn't,
21 plus understanding the role that each plays, I think, is
22 critical.

23 I know that it has probably been very
24 frustrating for many of you because I know some of you
25 have reached out to me; and I'll say, oh, that is an

1 answer that you need to get from Education; and I'm sure
2 that some of you have reached out to Education and they
3 say, oh, that is an answer you need to get from DPW.

4 So we have been working very, very closely, not
5 only are we Cabinet Secretaries; but we are good
6 friends, which helps, and the Governor's Office and the
7 Department of Insurance have also been at the table.

8 So I think the most important thing at this
9 stage that I want to get across to you is that we
10 understand how important this is to the school districts
11 in Pennsylvania, to the General Assembly. We are using
12 whatever resources we need to to get this right.

13 Let me just tell you what the role of DPW is,
14 so you understand that piece. DPW, as I think some of
15 you know, is the agency that is responsible for the
16 management of all Medicaid funds in Pennsylvania.

17 And so Health probably has a much better feel
18 for what else Medicaid pays for than probably some of
19 the Members on Education.

20 Truthfully, I was on both Committees; and
21 actually, as a State Rep, I didn't know because it is
22 complicated.

23 As a portion -- or the dollars that come into
24 Pennsylvania, it is really about 24 billion dollars. It
25 is a lot of money and not just for School-Based but for

1 the entire program.

2 And remember, it pays for healthcare. It pays
3 for long-term care. It pays for home and
4 community-based services. So there are a lot of things
5 that Medicaid pays for.

6 And Medicaid, part of the dollars are State
7 dollars; and then part of the dollars are federal
8 dollars; but because we receive federal dollars, we must
9 follow federal rules and regulations.

10 School districts may not see themselves in this
11 manner, but school districts, because of their
12 School-Based ACCESS Programs are Medicaid providers and
13 so they are bound by the same rules as all Medicaid
14 providers.

15 And again, it is a different way of thinking
16 about it. I would have never thought that; but in this
17 role, I have learned a lot about that.

18 So let's talk about what happened. In 2012,
19 the federal government came in and did a review of the
20 School-Based ACCESS Program.

21 By the way, they do this with us all the time.
22 They will pick a program. They come in, and they sit
23 down and go through it.

24 Right now, there is probably more than we care
25 to talk about the numbers of things that they are

1 reviewing.

2 So when they came in 2012 and did this, they
3 really saw some things that needed to be changed to come
4 into compliance with their rules and their regulations.

5 If we do not come into compliance, they just
6 won't pay -- give us the money or what they will do is
7 give us a deferral and then goes to a disallowance and
8 that is when we owe millions of dollars back to the
9 federal government. This has happened on many occasions
10 with many programs.

11 So the first thing that happened was they
12 looked at the program and they said, you know what, some
13 of the services that are being billed for are not
14 covered by Medicaid.

15 And just to give you an idea, the development
16 and revisions of IEPs, Medicaid will not pay for that.
17 So whether we feel they should or shouldn't doesn't
18 matter. They won't.

19 There are some other things -- by the way, this
20 is not -- and I'm not in any way pointing my finger at
21 school districts, because we weren't enforcing it,
22 obviously. You probably didn't even know what you could
23 or could not bill for or what we have found as we deal
24 with all of these issues is, ten years ago, they might
25 have known it; but as the years went on and everybody

1 gets lax, I mean, that is what just happens, new people
2 come in and things change and, again, they pulled us
3 back.

4 So you can't bill for the development review of
5 IEPs. There was no billing allowed for collateral
6 contacts, such as working with students -- or I'm sorry
7 -- working with parents or meeting with teachers or
8 other teachers providing services.

9 So there is very specific -- this is not
10 interpretation, very specific requirements that the Feds
11 have on what they are willing to pay for. So I think
12 that is the No. 1 we have to keep in mind.

13 Number two, they said our rate methodology was
14 not good. We couldn't use it. And we found this -- I
15 just dealt with this issue in Aging. I have dealt with
16 this issue in every other -- almost every other aspect
17 of DPW and what it means -- ID population, that is
18 probably one of the biggest one that many of the Members
19 will remember.

20 They said it has to make sense. What you pay
21 -- we will only pay for these services and how we pay
22 for it, we have to understand it and it has to make
23 sense and it has to be consistent.

24 So we had to develop a rate methodology that
25 the federal government reviewed and that the federal

1 government approved of. And so that was issue No. 2 and
2 that really created change and confusion.

3 Because school districts were like, wait a
4 minute. For 20 years I have billed and gotten X amount
5 of dollars back; and now you are telling me I can't.

6 And that is a legitimate issue for you because,
7 again, Pennsylvania is such a big state. We are trying
8 to figure out how to communicate with everybody. It is
9 not easy.

10 But when that change occurred, that created
11 that confusion that I think you are seeing, because
12 people are saying, wait a minute, I was always given
13 this amount of money. Now I can't have that anymore for
14 this service and they can't.

15 So what they saw was a decrease in payments and
16 then, of course, this new rate methodology. Now the
17 Departments of State Government and PCG have spent about
18 a year going around and trying to get this word out and
19 explain this to the districts.

20 But again, it is very complicated; and when you
21 have done something for 20 years, it is very hard to
22 understand why now it has to be different . So that was
23 really issue No. 2.

24 Issue No. 3 that comes up is the third-party
25 liability. Third-party liability basically is just if

1 there is another insurance carrier that covers it,
2 private insurance that covers it, you have to bill them
3 first for the service. Otherwise, you have to show that
4 they won't pay for it and then Medicaid picks it up.
5 Medicaid is always the payor of last resort. That is a
6 critical piece.

7 We are treating school districts, these
8 Medicaid providers as we do all others. We have to do
9 this for everything, not just this.

10 Now, there are different ways to go about doing
11 it. One would be to have everything billed and denied
12 one-on-one one at a time. We felt that that was even
13 going to be more work and complicated for districts.

14 So we developed this form or letter and said,
15 just write that you are denying it, that you are not
16 going to pay for it.

17 By the way, we have heard, I heard the panel
18 before mention that they think all of these services
19 won't be paid for by private carriers. We haven't heard
20 that. So, you know, that may be an area that we can
21 relook at.

22 It doesn't matter. We still need to -- when
23 the Feds come in and look, we've got to have that in
24 there that says the private insurer was notified and
25 they are denying coverage and that is where we had a

1 problem, because we wanted to make it easy.

2 We sent this out and insurance companies were
3 not returning them. We made -- before you all ever got
4 involved, we made and were making multiple, multiple
5 contacts, calls, sending out other letters saying, you
6 know, please get this back to us.

7 We did better if it was an in-state insurer,
8 after a while, not at the beginning. We did not do as
9 well with our out-of-state insurers.

10 The Governor's office stepped in and pulled us
11 all together. We have been working cooperatively. They
12 have been making calls to the insurers. We do want to
13 resolve this problem.

14 We do have what we believe will be a solution
15 moving forward, which you heard about earlier, as far as
16 they don't have to send it back, they just have to -- if
17 they don't respond, then we know that things are status
18 quo. So we hope that will help.

19 We in no way want to be here again next year
20 with a problem. We are trying to resolve problems; and
21 again, to the school districts that have been
22 struggling, if we can provide additional education
23 supports so people understand this, you know, we
24 certainly want to do that.

25 I know it has been a frustrating time, but the

1 purpose -- again, for us, we must follow Medicaid rules;
2 and when they are followed the way they are supposed to
3 be, we want to ensure that the dollars get to the
4 services to meet the needs of these students.

5 So I hope that was helpful. Thank you.

6 MS. DUMARESQ: Okay. Thank you.

7 I want to kind of wrap up; that is, where we
8 have been and kind of focus where we are going in the
9 future.

10 We still have those three major questions that
11 we heard from the previous folks; one, which is what are
12 we going to do about letters we haven't received back
13 about the deadlines and also about how are we going to
14 avoid the problems going forward into the future.

15 So let me address some of those issues. One of
16 the things we have done after waiting for folks to
17 respond is kind of change the focus of how we are going
18 to make sure that my colleague is comfortable with
19 something on file that says they are aren't going to
20 pay.

21 So it is just a different way of approaching
22 this. Instead of asking for them to give us something,
23 we are going to send a letter; and in the process of
24 doing that with those folks that we haven't heard from,
25 I was always surprised when we looked at how many

1 different carriers, especially around the edges of
2 Pennsylvania who have out-of-state carriers for school
3 districts and Intermediate Units.

4 But what we are saying to them is we are
5 assuming that your nonresponse to this letter means you
6 are not going to cover and so that will go into the file
7 as a denial letter, a lack of response and moving
8 forward and that will be for 12-13 and for 13-14, which
9 will then allow us to process any remaining issues that
10 are being held up because of third-party denial letters.

11 Secondly, we will use that same process going
12 forward for the following year, which will be, we have a
13 letter on file or a lack of response on file, either
14 your letter on file which says you don't cover it or
15 your lack of response to our request is assumed that you
16 are not going to cover.

17 So going forward, that will be the methodology
18 that we will use so that we have those denials for when
19 we most certainly have another audit in Welfare that
20 looks at this program, so that we will have those
21 third-party denials.

22 The issue, again, about having to stop at a
23 certain period of time and a cutoff and then not being
24 able to process those, since PCG is a Department
25 contractor, we have informed them that they will move

1 back that deadline. So there is no deadline going
2 forward as we process 12-13s and get those cleared out.
3 So all of those will be paid if, in fact, third-party
4 denial was the purpose.

5 I think the other issue that we continue to
6 hear is that there is not accurate information coming
7 from the contractor that the Department has.

8 And so that it may be a problem that we did not
9 clearly communicate in the proposal for the RFPs, we
10 will make sure that we clearly communicate with our
11 contractor the expectation of data that we expect, the
12 timeliness of data that we expect going forward as we
13 look, as you heard, at the end of next year to renew the
14 RFP for this proposal.

15 So we most certainly will make sure that our
16 contractor has very clear directions on the types of
17 reports and the information that school districts need
18 to make, so as they are trying to close their books,
19 having been a public administrator, a public school
20 superintendent, it is very important that you know
21 whether you have an anticipated on your books or a
22 revenue that has been denied. So we will make sure that
23 we make that very clear with our contractor.

24 So again, we would like to thank you for having
25 us here today. We think while it has been an arduous

1 and painful process to get to here, I think that working
2 well together with the Department of Welfare and the
3 Governor's Office and the Department of Insurance, we
4 have been able to close the issues on some of the
5 concern which you have been hearing.

6 MAJORITY CHAIRMAN BAKER: Thank you very much,
7 Madam Secretaries; and we know you have your staff here,
8 your -- we all have expert staff helping us. So we
9 appreciate that to assist with any questions.

10 Chairman Clymer?

11 MAJORITY CHAIRMAN CLYMER: Thank you, Chairman
12 Baker.

13 And welcome Secretary Dumaresq and Secretary
14 Mackereth. Good to see you before.

15 MS. DUMARESQ: Good to see you, too.

16 MAJORITY CHAIRMAN CLYMER: Just an observation
17 and then just several quick questions. It is
18 interesting the problems we are having because -- well,
19 of course, special education is -- was originated with
20 the federal government and some of this does, you know,
21 dovetail into special education, just kind of
22 interesting.

23 But where does the approvals come from? When
24 you send -- when the IU have bills or the intermediary
25 bills for the services that were rendered, where do

1 those bills go? Where do they go?

2 Can you give us -- you send them out. I'm just
3 curious as to where, you know, and to whose lap do they
4 end up in?

5 MS. ALLEN: Sure. Once the vendor actually
6 submits those to the Department of Public Welfare, they
7 go through our claims processing system and then that
8 generates the claim to the federal government for those
9 federal dollars for those particular services.

10 And then once those come back to the
11 Commonwealth, we actually are able to transfer those
12 funds over to the Department of Education, who then has
13 those in a restricted account for each school district.

14 MAJORITY CHAIRMAN CLYMER: But where in the
15 federal government? Is it down in Baltimore? Is it in
16 Allentown? Philadelphia? Where is the location?

17 MS. ALLEN: Actually, I don't know specifically
18 where those funds come from; but we submit those through
19 an electronic process. So it is all done
20 electronically.

21 MAJORITY CHAIRMAN CLYMER: Okay. We were
22 talking about the private insurance. Can you explain
23 that a little bit more?

24 Are you talking about insurance companies that
25 specifically deal with the -- with the -- with the

1 client, with the student or is it just --

2 MS. DUMARESQ: It is the family's insurance.

3 MAJORITY CHAIRMAN CLYMER: Yes. Just enlighten
4 me a little bit. So the child gets services. So the
5 school district then asks the parents if they have any
6 insurance coverage.

7 MS. ALLEN: So as part of their Medicaid
8 eligibility program, every family has to identify
9 whether or not they have third-party resources
10 available. That is the standard in Medicaid
11 eligibility.

12 So we know that about those children up front.
13 That information is then provided to the Department of
14 Education's vendor to be able to access those vendors
15 if, in fact, they are available for resources for those
16 individual services for that child.

17 So we know that up front. We know that those
18 families have identified that they have third-party
19 insurance.

20 MAJORITY CHAIRMAN CLYMER: So if you get a
21 payment, say 30 percent from the insurance company, it
22 is \$100, we'll say, is what you billed and they paid \$30
23 and there is a balance of \$70, what happens to those \$70
24 then?

25 Is that billed to Medicaid or does the

1 third-party PCG bill that or is it just written off as
2 payment in full? What happens to the balance of that
3 service?

4 MS. ALLEN: What would happen and, generally, I
5 don't know that anyone has billed a private insurer for
6 those particular services for School-Based ACCESS; but
7 if they would bill those insurers, then yes, that would
8 come back to the department, we would look at that.

9 Because that child is Medicaid eligible, we
10 would pick up those additional costs up to whatever our
11 costs would be for that particular service.

12 So it may not be the full 70 percent. It would
13 be whatever the remaining balance would be based on a
14 Medicaid payment.

15 MAJORITY CHAIRMAN CLYMER: And my last question
16 is and it may have been asked by someone before and I
17 apologize, but is this a growing service that is being
18 provided by the school districts?

19 Are we seeing an increase in the number of
20 students who need the services that we were just talking
21 about? I'm just --

22 MS. HOZELLA: The number of students with
23 disabilities across the State of Pennsylvania has been
24 fairly stable for the last three years. It is about 15
25 percent of the school district population.

1 However, it is hard to say that the Medicaid
2 reimbursement would be stable because the needs of the
3 students' related service and medical services are what
4 drive out the billing.

5 And clearly, schools are encountering students
6 with much higher medical needs than, say, they
7 encountered 15 years ago just by the nature of medical
8 technology advancing and kids coming into programs that
9 20 years ago may not have made it to school age.

10 So although the population is relatively
11 stable, the costs do continue to increase somewhat every
12 year. It fluctuates. There are some years where we may
13 see a higher increase than previously.

14 MAJORITY CHAIRMAN BAKER: Thank you, Chairman
15 Clymer.

16 Just a follow-up question on that to clarify.
17 Fifteen percent of the school children population are
18 viewed as disabled?

19 MS. HOZELLA: Yes, eligibility under IDEA.

20 MAJORITY CHAIRMAN BAKER: And that,
21 presumptively, they are eligible for SSI, SSD, Title 2,
22 Title --

23 MS. HOZELLA: No.

24 MAJORITY CHAIRMAN BAKER: No?

25 MS. HOZELLA: Those are two completely

1 different things.

2 MAJORITY CHAIRMAN BAKER: Okay.

3 MS. HOZELLA: Eligibility for an individual
4 educational program is based on some pretty specific
5 federal regulatory language.

6 The fact that you are eligible for special
7 education doesn't mean you are eligible for those other
8 services.

9 MAJORITY CHAIRMAN BAKER: So they are not
10 necessarily adjudicated disabled by the Federal
11 Administrative Law Judge or Social Security
12 Administration?

13 MS. HOZELLA: Correct.

14 MAJORITY CHAIRMAN BAKER: Okay.

15 MS. HOZELLA: For example, you have students
16 with a speech and language impairment. Those students
17 may be eligible for speech and language services for a
18 year or two but then they are able to be remediated to
19 the point that they will be exited from special
20 education; and at that time, they will no longer be
21 viewed as a student with a disability.

22 MAJORITY CHAIRMAN BAKER: Okay. And just
23 regarding the denial process, are the denials ever
24 challenged? Is this a pro forma appeal process, review
25 process to make sure the denials are even accurate? I'm

1 not sure how that works exactly.

2 MS. ALLEN: Specific to the School-Based ACCESS
3 Program are you asking?

4 MAJORITY CHAIRMAN BAKER: Correct.

5 MS. ALLEN: What we have allowed for are these
6 blanket denials. So we have not necessarily gone back
7 to the private insurers and challenged them on the
8 information they provided to us up front.

9 Remember that the claims are not actually being
10 billed directly to the private insurers, which is a
11 little different than what happens under the traditional
12 program.

13 Under the traditional program, a provider bills
14 the third-party insurer first; and then once that claim
15 is denied, that information gets submitted to the
16 Department with the denial to tell us that we will now
17 accept payment for that service.

18 MAJORITY CHAIRMAN BAKER: As the book payer of
19 last resort?

20 MS. ALLEN: Correct.

21 MAJORITY CHAIRMAN BAKER: Okay. Great. Thank
22 you.

23 Members, any questions?

24 Representative Longietti?

25 REPRESENTATIVE LONGIETTI: Thank you,

1 Mr. Chairman.

2 And I want to thank the panel for the work that
3 they have done to date trying to resolve this very
4 critical issue.

5 I just want to try to clarify a couple of the
6 answers and I guess the most concerning part is the flow
7 of information from PCG to these entities.

8 Are we able -- you know, I hear the answer --
9 and if I heard it correctly, the answer is their
10 contract is coming due in a year or so; and if they are
11 going to submit an RFP in the future, we're going to put
12 some detail in there about the kind of information that
13 needs to flow back.

14 Do we have any leverage point on the current
15 contract to say to them, you need to provide more
16 detailed information? We are not -- the school
17 districts, Intermediate Units are not receiving that.

18 MS. DUMARESQ: We have been in constant
19 communication with our contractor about the need for
20 more clear and definitive information. Pat deals with
21 them daily, and we are working to fix that problem. My
22 thought was going forward will even be more clear and
23 not have to ask.

24 REPRESENTATIVE LONGIETTI: You know, obviously,
25 any pressure that can be put to bear is needed, it seems

1 to me.

2 The other question I had was, I understand and
3 appreciate the point that the Departments have
4 communicated to PCG that this May 10th deadline needs to
5 be pushed back.

6 I'm just wondering, it was explained in a
7 previous panel that there is a Cost Settlement
8 Reconciliation Process that has a June 30th deadline.
9 That sounded like a federal deadline. Is that still out
10 there that that still needs to occur by June 30th?

11 MS. ALLEN: Yes. And that was part of the
12 federal management review. When Secretary Mackereth
13 talked about one of the significant changes, one of
14 those changes was a change in the rate methodology for
15 this program.

16 So this process was dictated specifically by
17 the federal government. We had to receive approval from
18 them on this process, and it does require that the cost
19 reconciliation be completed by June 30th.

20 So the deadline is really to have those audited
21 cost reports to the vendor in order for them to complete
22 the Cost Settlement by the end of June.

23 MS. DUMARESQ: I would remind that the Cost
24 Settlement is for the 12-13 school year and bills that
25 have been submitted, we need to clean those through the

1 system.

2 MS. ALLEN: Correct.

3 REPRESENTATIVE LONGIETTI: So at least for
4 12-13, the May 10 deadline was kind of artificially set
5 by PCG, but we still have a June 30th concern and we
6 need to make sure PCG does what they can do to
7 communicate back so those 12-13 claims can be cleaned
8 up?

9 MS. DUMARESQ: That is correct.

10 REPRESENTATIVE LONGIETTI: The other question
11 was, we heard some testimony about, you know, four to
12 six weeks is normally the amount of time that it should
13 take to process a claim.

14 There was some concerns raised that, even in
15 cases, if I heard it correctly, even in cases where
16 there was a case where an insurer provided a blanket
17 denial, there is some experience that it has been taking
18 longer than four to six weeks.

19 I wanted to throw that out there and get an
20 understanding of what could be done to push PCG along to
21 process those claims in a more timely fashion.

22 MS. DUMARESQ: We will continue to make phone
23 calls every day until this is cleared up.

24 REPRESENTATIVE LONGIETTI: I appreciate that.

25 MAJORITY CHAIRMAN BAKER: And might I add the

1 comments about PCG have not been positive for the most
2 part, and I hope they are fully aware of the concerns
3 and problems that the Members of the Legislature and the
4 Governor's Office have.

5 I know you're doing all you can and I know the
6 Governor's Office is doing their due diligence, too. I
7 might want to acknowledge their presence in the room.
8 They are well represented here. Katie just left and
9 there are other Members of the Executive Branch here as
10 well directly working for the Governor's Office.

11 So I appreciate the high level of attention
12 that is given to this, but that vendor really needs to
13 do their due diligence in a much higher level of
14 performance.

15 MS. DUMARESQ: The learning curve has been
16 steep; but now we should be over the learning curve and
17 going toward the finish line. Absolutely.

18 MAJORITY CHAIRMAN BAKER: Thank you. Thank you
19 very much.

20 Chairman Clymer?

21 MAJORITY CHAIRMAN CLYMER: Thank you, Chairman
22 Baker.

23 The Chair recognizes Representative Brown.

24 REPRESENTATIVE BROWN: Thank you. My question
25 is for my colleague Representative DeLissio. She had an

1 important meeting and had to step out. So I'm going to
2 try and tackle her issue.

3 CMS, when they have the requirements, they do
4 also put in an appeal process. So was there ever any
5 consideration to file an appeal on the third-party
6 denial verification?

7 MS. ALLEN: The third-party denial information
8 is a standard practice; and therefore, we did not find
9 that it would be appropriate to appeal that particular
10 decision.

11 REPRESENTATIVE BROWN: And my last question,
12 for the June 30th deadline for the federal guidelines,
13 is it possible to apply for an extension if we make them
14 aware that we have had this learning curve and these
15 issues? Can we possibly do that?

16 MS. ALLEN: I don't believe so. This is set
17 forth in what is required as our state plan amendment,
18 which we did not have previously.

19 So that was part of the federal management
20 review, was to set deadlines for us and to actually make
21 sure we were following a process.

22 And therefore, I -- for us to request an
23 extension, I think would be highly unlikely to be
24 granted.

25 MS. DUMARESQ: I think the resolution for the

1 12-13 issue is not to stop the reconciliation process
2 but to encourage our vendor to bring on sufficient staff
3 to process the 12-13 bills in a timely fashion.

4 MAJORITY CHAIRMAN CLYMER: The Chair recognizes
5 Representative Toohil.

6 REPRESENTATIVE TOOHL: I'll come out of my
7 chair so I'm not hiding back there.

8 Thank you very much for your testimony. Just a
9 point of clarification, because I did get a resolution
10 for my Montgomery County IU as well and one of their
11 points was that Pennsylvania is the only state to
12 require the blanket denial from the third-party vendor.

13 Can you explain to me what the other states are
14 doing then? Are they doing an individual denial, and
15 are they experiencing the same problems or how is this
16 working for them?

17 MS. ALLEN: So we have contacted quite a number
18 of states; and based on the outreach that we have done,
19 the primary way that most states are doing this that
20 have a School-Based ACCESS Program is to actually have
21 the school districts bill each individual insurer for
22 every service just like the traditional Medicaid
23 processes for providers. So that is the primary process
24 that is happening.

25 The other way, there are several states that,

1 when a child has third-party resources identified, they
2 are just not submitting claims under the School-Based
3 ACCESS Program.

4 And the third way is also similar to what we
5 are doing with a blanket denial. There are several
6 states that are also using that process.

7 So that is primarily based on our research with
8 our Medicaid counterparts in other states.

9 REPRESENTATIVE TOOHL: Okay. Thank you for
10 that clarification.

11 MAJORITY CHAIRMAN BAKER: The Chair recognizes
12 the gentleman Mr. Carroll. Representative Carroll?

13 REPRESENTATIVE CARROLL: Thank you,
14 Mr. Chairman.

15 Madam Secretaries, can a finer point be put on
16 the timing with respect to the distribution of the money
17 to the school districts?

18 MS. DUMARESQ: You mean for 12-13?

19 REPRESENTATIVE CARROLL: Yes.

20 MS. DUMARESQ: That should be completed prior
21 to the June 30 deadline.

22 REPRESENTATIVE CARROLL: Okay. And secondly,
23 has any thought been given to a voiding of the contract
24 for nonperformance?

25 MS. DUMARESQ: I believe that what we have is

1 an issue of a vendor who came into a process that
2 dramatically changed, so that processes that were used
3 by a previous vendor that were very successful under old
4 rules could not be followed and new systems had to be
5 created.

6 I think they looked at the old processes that
7 the former vendor had used and realized that the data
8 that they thought was there was not there because the
9 rules were changed.

10 So I would suggest that part of the issues that
11 we are dealing with is a completely new ball field.
12 Perhaps, not clearly understanding on the vendor's part
13 and perhaps from the RFP process what the expectations
14 would be and the amount of work that would be required
15 under the new guidelines and requirements from the
16 federal government.

17 I think that both the Department and its vendor
18 at this point are clearly aware of what is needed to
19 make this program successful, and we will look toward
20 the finishing of 13-14 before any of those decisions are
21 made.

22 REPRESENTATIVE CARROLL: When can we expect
23 13-14 to be wrapped up?

24 MS. DUMARESQ: I believe it would be until June
25 30th of 2015 that we would have -- I obviously would not

1 wait that long to make a decision about renewal or
2 nonrenewal of a contract.

3 REPRESENTATIVE CARROLL: All right. Well, I'm
4 hopeful that the June 30th deadline for 12-13 is
5 satisfied.

6 I'm sure the school districts feel the same
7 way; and if July 1st comes and it is not resolved, then
8 we ought to take a really close look at the contract and
9 plans moving forward.

10 Thank you, Mr. Chairman.

11 MAJORITY CHAIRMAN BAKER: Any other Members
12 seeking recognition?

13 Seeing none, just want to thank you very, very
14 much for your valuable time and illuminating us as to
15 all of the difficulties and challenges ahead.

16 We do appreciate all of the good efforts being
17 made, and we are very hopeful that this will be resolved
18 in the near future.

19 Chairman Clymer?

20 MAJORITY CHAIRMAN CLYMER: Thank you, Chairman
21 Baker.

22 I just want to thank you very much for the
23 panels that have come here today, for our Secretaries,
24 and their staff. It has been very informative and very
25 helpful.

1 MS. DUMARESQ: Good.

2 MAJORITY CHAIRMAN CLYMER: Thank you again.

3 MINORITY CHAIRMAN FABRIZIO: We would just like
4 to thank everybody, too. It was a good session,
5 informative.

6 Obviously, we have a confluence of factors that
7 have come together and pushing us in the wrong
8 direction.

9 Thank you for trying to straighten it out,
10 really. It is important to the school districts and
11 important to this Commonwealth. Thank you.

12 MAJORITY CHAIRMAN BAKER: Thank you. The joint
13 hearing is now concluded and adjourned. Thank you.

14 (Whereupon, the hearing concluded at 10:45
15 a.m.)

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C E R T I F I C A T E

I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me on the within proceedings and that this is a correct transcript of the same.

Hillary M. Hazlett, Reporter
Notary Public