

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

GUARDIAN FLIGHT, LLC,

Plaintiff,

vs.

AETNA HEALTH, INC., and MEDICAL
EVALUATORS OF TEXAS ASO, LLC,

Defendants.

Civil Action No. 4:22-cv-03805

AETNA HEALTH INC.’S OPPOSED MOTION TO SEAL

Aetna Health Inc. (“Aetna”) requests that the Court seal two exhibits. Aetna has filed the exhibits under seal as attachments to both this Motion to Seal and the Reply in Support of its Motion to Dismiss.¹ Aetna respectfully shows the Court as follows.

SUMMARY

The first exhibit, attached as Exhibit 1 to this Motion and Aetna’s Reply, is simply an unredacted version of the e-mail exhibit Aetna attached to its Motion to Dismiss. *Compare* Exhibit 1, *with* Dkt. 12-1. Aetna files this exhibit under seal because it contains the non-party patient’s claim number. The second exhibit is an explanation of benefits (“EOB”) that Aetna sent to Guardian Flight, LLC (“Guardian”), which shows the claim number relates to the medical services Guardian provided on February 18, 2022. *See* Exhibit 2. Aetna files this exhibit under seal for the same reason as Exhibit 1 and has redacted other information related to the non-party patient (e.g., name, account number, personal identification number, etc.).

¹ Due to holidays and short briefing schedule, Aetna was unable to preemptively move to seal the exhibits attached to its Reply. Aetna has concurrently filed its Reply with this Motion to Seal.

ANALYSIS

“The public’s right of access to judicial proceedings is fundamental.” *Binh Hoa Le v. Exeter Fin. Corp.*, 990 F.3d 410, 418 (5th Cir. 2021). “[T]he greater the public interest in the litigation’s subject matter, the greater the showing necessary to overcome the presumption of access.” *Shane Grp., Inc. v. Blue Cross Blue Shield*, 825 F.3d 299, 305 (6th Cir. 2016).

“Nonparties’ medical information is precisely the kind of information that courts will protect.” *Davis v. Elwyn, Inc.*, 2021 WL 4902333, at *4 (E.D. Pa. Oct. 20, 2021); *see Doe v. Beaumont Indep. Sch. Dist.*, --- F. Supp. 3d ---, 2022 WL 2783047, at *21 (E.D. Tex. July 14, 2022) (“Courts routinely find that the personal interest in keeping medical records private outweighs the public’s interest in viewing those records.”). That is because “there is . . . a legitimate interest in maintaining the confidentiality of this personal information in order to protect the non-party’s privacy.” *See Hicks v. Wegmans Food Mkt.*, 2011 WL 499368, at *1 n.2 (D.N.J. Feb. 10, 2011) (granting motion to seal references to non-party’s medical history); *United States v. McGill*, 2016 WL 8716240, at *5 n.3 (E.D. Pa. May 13, 2016) (granting motion to seal document containing nonparty “patients’ names and medical information”).

Here, there is no public interest in the information Aetna requests to file under seal. With respect to Exhibit 1, Aetna is simply filing an unredacted version of a document that is already publicly available. *See* Dkt. 12-1. With regard to Exhibit 2, Aetna is filing it for the limited purpose of connecting the claim number to the medical services at issue in this case. No public interest exists in the non-party patient’s personal information. Moreover, Aetna is required to comply with HIPPA-related disclosure rules.

CONCLUSION

For the reason outlined above, Aetna respectfully requests the Court admit under seal Exhibits 1 and 2 to both this Motion to Seal and Aetna's Reply in Support of its Motion to Dismiss.

Respectfully submitted,

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**Attorneys for Defendant
Aetna Health Inc.**

CERTIFICATE OF CONFERENCE

I hereby certify that I contacted counsel for Guardian regarding this Motion on January 6, 2023. I have not received a response as to whether Guardian is opposed to the relief sought. Accordingly, Aetna designates its Motion to Seal as opposed.

/s/ David Hughes
David W. Hughes

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was filed electronically on January 6, 2023. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt.

/s/ David Hughes
David W. Hughes