

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION

BLUE CROSS BLUE SHIELD OF TEXAS, A
DIVISION OF HEALTH CARE SERVICE
CORPORATION, A MUTUAL LEGAL
RESERVE COMPANY,

Plaintiff,

vs.

NEUROMONITORING ASSOCIATES, LLC,
PHYSICIAN OVERSIGHT, LLC, and
MONITORING ASSOCIATES LLC,

Defendants.

Case No. 5:26-cv-00022-RWS-JBB

**MOTION FOR LEAVE
TO FILE UNDER SEAL**

INTRODUCTION

Pursuant to Local Rule CV-5(a)(7), Plaintiff Blue Cross Blue Shield of Texas (“BCBSTX”) moves the Court to file its Amended Complaint under seal for the same reasons the Court granted BCBSTX leave to file its original complaint under seal. *See* D.E. 17. The information to be sealed is identical to that in the original complaint that the Court has already deemed to warrant sealing.

This action relates, in part, to a fraudulent scheme by which Defendants abused federal legislation to initiate statutory out-of-network payment disputes for claims, services, and items that were ineligible for the Independent Dispute Resolution (“IDR”) processes they were submitted into so that Defendants could secure excessive funds from HCSC and its plan sponsors. Accordingly, the Complaint includes references to the specific rates that HCSC reimbursed certain at-issue medical services. These reimbursement rates are confidential, proprietary, and non-public because their disclosure would put HCSC at a competitive disadvantage in future negotiations with healthcare providers. Accordingly, HCSC seeks leave to file its Complaint under seal. HCSC will immediately

file a public version of the Complaint with limited redactions to protect its confidential information in compliance with Local Rule CV-5(a)(7)(E).

LEGAL STANDARDS

Although the public has a common law right to view judicial records, this “right is not absolute.” *Cunningham v. Concentrix Sols. Corp.*, No. 4:20-cv-661, 2021 WL 3190518, at *2 (E.D. Tex. July 28, 2021). “In deciding whether to seal [judicial records], the [c]ourt must balance the common law right of access to judicial records with the purported interest in sealing the record.” *Id.* “The Court considers the relevant facts and circumstances of the particular case, and weighs the interests advanced by the parties in light of the public interest and the duty of the courts.” *Id.* (internal quotations omitted).

ARGUMENT

There is ample justification to grant BCBSTX leave to file its Complaint under seal because it contains sensitive reimbursement rate information, the disclosure of which would put BCBSTX at a competitive disadvantage in future negotiations with healthcare providers.

Courts regularly permit such pricing or rate information to be filed under seal.¹ For instance, in *Saint Alphonsus Med. Ctr.--Nampa, Inc. v. St. Luke's Health Sys., Ltd.*, the court considered the sealing of portions of various materials related to a healthcare dispute. No. 1:12-CV-00560-BLW,

¹ This includes in complaints as well. For instance, in *Blackhawk Network Inc. v. SL Card Co. Inc.*, the plaintiff sought “leave to file two paragraphs” of a complaint “under seal because they contain proprietary and confidential information concerning how Plaintiff prices its services to its customers.” No. CV-21-00813-PHX-MTL, 2021 WL 2779497, at *2 (D. Ariz. July 2, 2021) (internal quotations omitted). The plaintiffs alleged, *inter alia*, “the release of this information would cause competitive harm because the information reveals details about how [Plaintiff] prices its products.” *Id.* (internal quotations omitted). In response, the Court found that “public disclosure of this confidential pricing information would cause Plaintiff competitive harm such that Plaintiff has demonstrated compelling reasons for sealing the information.” *Id.*

2014 WL 3101716, at *1–3 (D. Idaho July 3, 2014). As it relates to a “[m]emo” that contained “the specific results of an agreement between these parties on various reimbursement rates[,]” the Court found that there is “compelling reason to seal this because it reveals current and future specific rate information that will harm Blue Cross’s negotiating ability with other providers.” *Id.* at *4.

Here too, BCBSTX’s Complaint contains references to reimbursement rates that BCBSTX reimbursed various at-issue services rendered by providers in Texas and elsewhere. If these rates were disseminated or publicly disclosed, it “will harm [BCBSTX’s] negotiating ability with other providers.” *Id.* Against this clear harm, there is *de minimis*, if any, benefit to public access to these reimbursement rates. The publicly available version of the Complaint enables the public to view the allegations and claims for relief and understand the fraudulent scheme at issue. Moreover, as can be seen in the public version of the Complaint, BCBSTX has only redacted limited portions of the Complaint which include specific references to these reimbursement rates. *See JBS Packerland, Inc. v. Phillips Cattle Co., Inc.*, No. 24-CV-01299-BAS-MSB, 2024 WL 4427794, at *2 (S.D. Cal. Oct. 4, 2024) (granting motion to seal where the “proposed redactions are narrow and appropriate”).

CONCLUSION

For the foregoing reasons, BCBSTX respectfully requests that this Court enter an Order granting BCBSTX leave to file its Complaint under seal.

Dated: May 26, 2026

By: /s/ Jamie R. Kurtz

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CERTIFICATE OF SERVICE

The undersigned certifies that all counsel of record who are deemed to have consented to electronic service are being served this 26th day of May, 2026, with this document via the Court's CM/ECF system.

/s/ Jamie R. Kurtz
Jamie R. Kurtz

CERTIFICATE OF CONFERENCE

The undersigned certifies that Plaintiff requested Defendants' position on the instant motion via email. Plaintiff has not yet received a response to this request and will supplement this certificate with Defendants' position once Plaintiff receives it.

/s/ Jamie R. Kurtz
Jamie R. Kurtz

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**[PROPOSED] ORDER GRANTING
MOTION TO SEAL**

Pending before the Court is Plaintiff Health Care Service Corporation’s (“HCSC”) motion for leave to file its Amended Complaint under seal. Having reviewed HCSC’s motion and supporting arguments and authorities, the Court finds that public disclosure of the confidential reimbursement rates in the Amended Complaint would place HCSC at a competitive disadvantage in future negotiations with providers. Accordingly, the Court finds good cause to grant the motion.

It is hereby **ORDERED**:

1. HCSC’s Motion for Leave to File Under Seal is **GRANTED**; and
2. The clerk shall maintain HCSC’s Amended Complaint under seal.

So ORDERED.