

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

SARAH JACKSON on her own behalf and on )  
behalf of a class of those similarly situated, )

Plaintiff, )

vs. )

SECRETARY OF THE INDIANA FAMILY )  
AND SOCIAL SERVICES )  
ADMINISTRATION in his official capacity, )

Defendant. )

No. 1:15-cv-01874-SEB-MPB

**ORDER**

This matter comes before the Court on two pending motions filed by Defendant, Secretary of the Indiana Family and Social Services Administration (“FSSA”)—a Motion to Maintain Documents Under Seal ([Docket No. 46](#)) and a Motion to Compel ([Docket No. 47](#)). The Court will now address each motion in turn.

**I. FSSA’s MOTION TO COMPEL ([Docket No. 47](#))**

FSSA filed a Motion to Compel on May 9, 2016, requesting that the Court order Plaintiff to provide a signed authorization for the release of her protected health information. ([Docket No. 47 at 2](#)). FSSA asserted that it was not permitted to discuss Plaintiff’s health information during the litigation of this matter without a signed HIPAA-compliant release. For the following reasons, the Court **DENIES** FSSA’s motion to compel.

FSSA’s position is Jackson has sued the FSSA claiming she is being denied a medically necessary prescription drug treatment and, therefore, has placed her protected health information at issue in the case. ([Docket No. 47 at 1](#)). On January 26, 2016, FSSA requested

that Jackson's counsel provide a signed HIPAA-compliant release and authorization for the release of records so that Jackson's protected health information could be released and discussed during the litigation of this matter. ([Docket No. 47 at 1](#)). FSSA sent a second and third request to Jackson on February 5, 2016, and April 26, 2016, respectively. ([Docket No. 47 at 2](#)). Correspondence between the parties during this time indicates both sides were determining whether a protective order would suffice in lieu of a HIPAA-compliant authorization. ([Docket No. 55-1](#)). During a telephonic status conference on May 17, 2016, this Court directed the parties to file a Uniform Protective Order in accordance with [Fed. R. Civ. P. 26\(c\)\(1\)](#), which the Court approved on May 25, 2016. ([Docket No. 56](#)).

In this instance, a motion to compel Jackson to provide a HIPAA-compliant authorization is not necessary. Information may be disclosed in a judicial proceeding if parties have agreed to a qualified protective order and presented it to the court. [45 C.F.R. 164.512 \(e\)\(1\)\(iii\)](#). A qualified protective order prohibits the parties from using or disclosing the protected health information for any purpose other than the litigation or proceeding for which such information was requested and requires the return to the covered entity or destruction of the protected health information at the end of the litigation or proceeding. [45 C.F.R. 164.512 \(e\)\(1\)\(v\)](#). The aforementioned protective order provides both safeguards. First, part V(A) provides that information produced or exchanged in the course of the action may be used solely for this litigation. Second, part VII(A) requires that upon conclusion of the action parties are responsible for ensuring that any shared or disclosed designated information in the action is returned or destroyed, regardless of a medium.

Given that the uniform protective order entered into in this case meets the requirements set forth in [45 C.F.R. 165.512\(e\)\(1\)\(v\)](#) the FSSA is authorized to release and discuss Jackson's

protected health information in this judicial proceeding. See [45 C.F.R. 164.512 \(e\)\(1\)\(iii\)](#). A motion to compel Jackson to sign a HIPAA-compliant authorization is unnecessary and this motion to compel is, therefore, **DENIED**. See [Gile, 95.F.3d at 495](#).

II. **FSSA's MOTION TO MAINTAIN DOCUMENTS UNDER SEAL** ([Docket No. 46](#))

FSSA also filed a Motion to Maintain Documents under Seal on May 8, 2016, requesting that the Court grant leave to maintain its filed responses in opposition to preliminary injunction and class certification. ([Docket No. 46 at 2](#)). Jackson supports this motion to seal. ([Docket No. 55 at 1](#)). The Court being duly and sufficiently advised now **GRANTS** the motion.

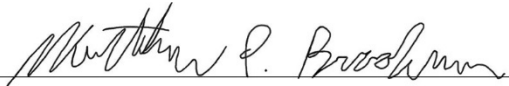
A court may order a filing maintained under seal without redaction if it determines good cause exists. [Fed. R. Civ. P. 5.2\(d\)](#); [Fed. R. Civ. P. 26\(c\)\(1\)\(H\)](#). Good cause must exist, as the public interest in transparent court proceedings may outweigh the property and privacy interests of the litigants. [Citizens First Nat'l Bank of Princeton v. Cincinnati Ins. Co., 178 F.3d 943, 944 \(7th Cir. 1999\)](#). To prevail on a motion to seal a specific document, therefore, the moving party must assert that the privacy interests of the litigant outweighs the public's interest. See [id.](#)

Upon an *in camera* review by this Court of the documents in question, the Court finds that FSSA's responses in opposition to the preliminary injunction and class certification do contain information concerning Ms. Jackson that is protected by HIPAA. therefore, good cause exists to seal these documents. As this case continues counsel should not expect any and all future FSSA filings will be ordered to be filed under seal. The Court will weigh the privacy

interests of the litigant against the public's interest as the cause progresses. The Court **ORDERS** that [Docket No. 44](#) and [Docket No. 45](#) be maintained under seal. The Court further **ORDERS** FSSA to file redacted versions of the same within five (5) days of this Order.

**SO ORDERED.**

Date: June 29, 2016

  
Matthew P. Brookman  
United States Magistrate Judge  
Southern District of Indiana

Service will be made electronically on all ECF-registered counsel of record via email generated by the court's ECF system.