



reviewers selected by her with access, as the Court Monitor deems necessary, to (a) observe the provision of services to individual class members, speak with individual class members, and speak with staff regarding the provision of services to individual class members;<sup>1</sup> and (b) obtain copies of and review documents concerning individual class members.

2. Protective Order: All individually identifiable health information as defined by the Health Insurance Portability and Accountability Act ("HIPAA") and implementing regulations,<sup>1</sup> shall be treated as "Confidential Information." The Court Monitor and any reviewers selected by her shall use Confidential Information solely for the purpose of conducting the reviews and evaluation ordered by the court, and not for any other purpose. The Court Monitor and any reviewers selected by her shall not disclose any Confidential Information to any person other than the Court Monitor and her reviewers, representatives of the Defendants or Plaintiffs, or the court. Confidential Information may be used in a pleading, filing, hearing, trial, or other proceeding in the instant matter without being sealed and without notification to the person who is the subject of that information provided, however, that any party using the Confidential Information in such a manner shall ensure that only the initials of the individuals may be utilized.

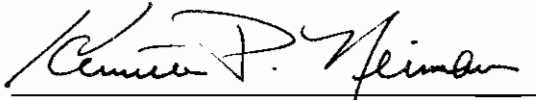
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<sup>1</sup> The term "individually identifiable health information" is defined by HIPAA to mean "any information, including demographic information collected from an individual, that: (A) is created or received by a health care provider, health plan, employer, or health care clearinghouse; and (B) relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and (i) identifies the individual; or (ii) with respect to which there is a reasonable basis to believe that the information can be used to identify the individual." See 42 U.S.C. § 1320d; accord 42 C.F.R. § 160.103.

Confidential Information in the possession of the Court Monitor or any reviewer selected by the Court Monitor, or obtained by Plaintiffs' counsel, including all copies made by them of such Confidential Information, must either be returned to the original providing party or destroyed when the Court Monitor's appointment by the court is terminated, or when this litigation and all subsequent appeals conclude, whichever comes first.

IT IS SO ORDERED.

DATED: September 4, 2007

  
KENNETH P. NEIMAN  
Chief Magistrate Judge