

STATE OF MICHIGAN
COURT OF CLAIMS

REGION 10 PIHP, SOUTHWEST MICHIGAN
BEHAVIORAL HEALTH, MID-STATE
HEALTH NETWORK, ST. CLAIR COUNTY
COMMUNITY MENTAL HEALTH
AUTHORITY, INTEGRATED SERVICES OF
KALAMAZOO, and SAGINAW COUNTY
COMMUNITY MENTAL HEALTH
AUTHORITY,

Plaintiffs,

v

Case No. 25-000143-MB

STATE OF MICHIGAN, STATE OF MICHIGAN
DEPARTMENT OF HEALTH AND HUMAN
SERVICES, and STATE OF MICHIGAN
DEPARTMENT OF TECHNOLOGY,
MANAGEMENT, AND BUDGET,

Hon. Christopher P. Yates

Defendants.

_____ /

OPINION AND ORDER RESOLVING REQUESTS FOR SUMMARY DISPOSITION

This dispute involves a decision by Defendant Michigan Department of Health and Human Services (MDHHS) to make a transition from a single-source procurement system to a competitive procurement system for furnishing public mental-health services to Medicaid beneficiaries. Even though the MDHHS concedes that this transition was not caused by any statutory amendment, the MDHHS claims existing law supports the change, which takes the form of conditions in a Request for Proposal (RFP) issued by Defendant Michigan Department of Technology, Management, and Budget (DTMB) in 2025. According to plaintiffs, which include several prepaid inpatient health plans (PIHPs) that serve some of the ten existing regions in Michigan, the terms of the 2025 RFP

conflict with Michigan law. In contrast, the MDHHS contends that Michigan law not only affords it discretion to reduce from ten to three the number of regions in the state, but also permits the shift from single-source procurement through the PIHPs to a competitive procurement system in which all of the existing PIHPs can no longer participate. The Court concludes that the MDHHS has the discretion to move from a single-source procurement system to a competitive procurement system, but the language of the 2025 RFP may run afoul of Michigan law in important respects.

I. FACTUAL BACKGROUND

The MDHHS is the state agency charged with administering the state's Medicaid program, including "specialty services and supports for eligible Medicaid beneficiaries with a serious mental illness, developmental disability, serious emotional disturbance or substance abuse disorder[,]" which are "carved out" or provided through a different delivery system than medical services that are provided by Medicaid health plans. MCL 400.109f. Currently, this delivery system involves contracts with ten regional PIHPs, which in turn administer Medicaid funds through contracts with community mental-health services programs (CMHSPs) and other service providers. For decades, the MDHHS has sought and received a waiver from the federal government allowing it to contract with PIHPs without a competitive bidding process. But the MDHHS has received no promise that its waiver will remain in place, and its current application for renewal of its waiver is now awaiting a decision from the federal government.

Michigan uses a community-based model for offering public mental-health services that is codified in chapter 2 of the Mental Health Code, MCL 330.1201 *et seq.* Each county in Michigan may establish a CMHSP either on its own or by joining with other counties and/or an institution of higher education located in the county. MCL 330.1204; MCL 330.1204a; MCL 330.1218; MCL

330.1219. Community mental-health organizations established by counties may join together to form a regional entity under MCL 330.1204b, which is how the PIHPs in this lawsuit were formed. A CMHSP's purpose is "to provide a comprehensive array of mental health services appropriate to conditions of individuals who are located within its geographic services area, regardless of the individual's ability to pay." MCL 330.1206(1). According to MCL 330.1206(1), a CMHSP must provide: (a) "[c]risis stabilization and response"; (b) "[i]dentification, assessment, and diagnosis to determine the specific needs of the recipient and to develop an individual plan of services"; (c) "[p]lanning, linking, coordinating, follow-up, and monitoring to assist the recipient in gaining access to services"; (d) "[s]pecialized mental health recipient training, treatment and support"; (e) "[r]ecipient rights services"; (f) "[m]ental health advocacy"; (g) "[p]revention activities that serve to inform and educate with the intent of reducing the risk of severe recipient dysfunction"; and (h) "[a]ny other service approved by the [MDHHS]." Also, a "community mental-health entity shall coordinate the provision of substance use disorder services in its region and shall ensure services are available for individuals with substance use disorder." MCL 330.1210(2). Under Michigan law, CMHSPs may be "designated as specialty prepaid health plans under the medicaid managed care program" and may contract with the MDHHS with respect to that. MCL 330.1232b.

A. THE 2025 RFP

On August 4, 2025, the DTMB and the MDHHS issued an RFP for bids to those interested in serving as PIHPs beginning on October 1, 2026.¹ Mandatory minimum requirements for bidders state that the organization must be a nonprofit, governmental entity, or public university. Bidders

¹ The 2025 RFP is officially identified as "Request for Proposal No. 250000002670" for "Prepaid Inpatient Health Plan (PIHP)."

“must submit proposals by region as defined in the RFP, not by individual counties,” and although bidders “may bid on more than one” of the three regions, the bidders “must demonstrate the ability to be fully operational across the entire geographic area of the region for which they are submitting a proposal.” As the RFP emphasizes, “[b]idders that cannot provide services throughout the entire region will not be considered.” The Statement of Work in the RFP requires that the PIHP for each region “hold contracts with each [CMHSP] in its region and . . . minimize duplication of contracts and reviews for providers contracting with multiple CMHSPs” The contractors are “expected to provide managed care functions to beneficiaries,” and all those functions “cannot be delegated to contracted network providers with the exception of Preadmission screening for emergency intervention services per Mental Health Code MCL 330.1409 which shall be performed by the CMHSP with Contractor authorization of inpatient admissions as indicated by the preadmission screening unit.” “Managed care functions include, but are not limited to, eligibility and coverage verification, utilization management, network development, contracted network provider training, claims processing, activities to improve health care quality, and fraud prevention activities.” The PIHPs selected through the RFP “may not directly provide or deliver health care services beyond these managed care functions.”

The chosen PIHPs must provide services in one or more of three regions pre-determined by the MDHHS.² Each PIHP is responsible for “development of the service delivery system and establishment of sufficient administrative capabilities to carry out the requirements and obligations of the Contract” without any discrimination. Each PIHP is “not required to contract with providers beyond the number necessary to meet the needs of its beneficiaries and is not precluded from using

² In contrast, the existing system divides the State of Michigan into ten regions.

different practitioners in the same specialty.” Each PIHP has to notify the state of any significant changes in its provider network both in and out of network. Also, each PIHP is “solely responsible for the composition, compensation and performance of its contracted provider network.” The RFP requires PIHPs to work collaboratively with Medicaid Health Plans (MHPs) “to regularly identify and coordinate the provision of services to shared beneficiaries who have significant behavioral health issues and complex physical comorbidities,” and to work with the MHPs to “identify and coordinate the provision of services to shared beneficiaries who have significant behavioral health issues and complex physical comorbidities,” as well as to “provide care management services. . . to shared beneficiaries.” Each PIHP has an exclusive right to serve Medicaid beneficiaries within its service area. But “[i]n a region with a single Contractor, Medicaid beneficiaries are mandatorily enrolled with the single Contractor” unless the covered service or a provider is not available in the network.

B. THIS SUIT CHALLENGING THE 2025 RFP

On August 29, 2025, plaintiffs – including several of the existing PIHPs covering some of the ten existing regions in the state - filed this action seeking a declaratory judgment and injunctive relief concerning the 2025 RFP. Plaintiffs contend that MCL 330.1204b authorizes a CMHSP to form a regional entity with another CMHSP and then contract as a PIHP for the designated service areas of the participating CMHSPs, that the 2025 RFP’s “full-region bid requirement” contravenes that authority “by precluding bids confined to a regional entity’s designated service area,” and that by issuing the 2025 RFP, both the DTMB and the MDHHS exceeded their statutory authority and violated MCL 330.1204b.

Plaintiffs note that the 2025 RFP solicits competitive bids from non-profit, governmental, and educational institutions that are interested in contracting with the MDHHS to serve as PIHPs in one of three regions beginning in fiscal year 2027. The RFP represents a significant, structural change in the delivery of Medicaid funds for public mental-health services in Michigan. There are currently ten PIHPs serving ten geographic regions, and several of them are plaintiffs in this case. None of the ten current PHIPs can satisfy the requirements to bid under the 2025 RFP, so all ten of them will be dismantled after fiscal year 2026. Other plaintiffs in this case are CMHSPs created under the Mental Health Code, and specifically MCL 330.1204. Those CMHSPs have contracts with the current PIHPs and receive Medicaid funds to carry out their duties prescribed by Michigan law. They, too, support the existing single-source procurement system based on ten regions, which would be upended by the 2025 RFP.

Plaintiffs not only filed the complaint demanding declaratory and injunctive relief, but also moved for a preliminary injunction to prevent the MDHHS and the DTMB from “proceeding with and awarding any bids” submitted in response to the 2025 RFP. Defendants opposed injunctive relief and requested summary disposition under MCR 2.116(C)(8) and (10), claiming that the 2025 RFP was developed pursuant to the MDHHS’s authority under state and federal law. In response, plaintiffs opposed defendants’ request for summary disposition and demanded such relief in their own right under MCR 2.116(I)(2). The Court agreed to address all of the motions on an expedited basis. Hence, on October 9, 2025, the Court conducted oral argument on the competing requests for summary disposition. The Court also took testimony on plaintiffs’ motion for injunctive relief. In this opinion, however, the Court shall focus exclusively on the parties’ competing requests for summary disposition. Plaintiffs’ motion for a preliminary injunction will be resolved in a separate opinion and order.

II. LEGAL ANALYSIS

Defendants moved for summary disposition under MCR 2.116(C)(8) and (10). Plaintiffs responded by requesting similar relief under MCR 2.116(I)(2), which provides that, “[i]f it appears to the court that the opposing party, rather than the moving party, is entitled to judgment, the court may render judgment in favor of the opposing party.” A motion requesting summary disposition “under MCR 2.116(C)(8) tests the *legal sufficiency* of a claim based on the factual allegations in the complaint.” *El-Khalil v Oakwood Healthcare, Inc*, 504 Mich 152, 159; 934 NW2d 665 (2019). In contrast, a summary disposition motion under MCR 2.116(C)(10) “tests the *factual sufficiency* of a claim.” *Id.* at 160. Because the parties supplied materials to the Court to consider as part of the competing requests for summary disposition, the Court shall consider whether relief is proper under MCR 2.116(C)(10). See *Cary Investments, LLC v Mount Pleasant*, 342 Mich App 304; 312-313; 994 NW2d 802 (2022). Summary disposition under MCR 2.116(C)(10) may be granted only if “there is no genuine issue of material fact.” *El-Khalil*, 504 Mich at 160. Such a genuine issue of material fact exists ““when the record leaves open an issue upon which reasonable minds might differ.”” *Id.* With these standards in mind, the Court will first consider whether the MDHHS has the legal authority to shift from a single-source procurement system to a competitive procurement system. Next, the Court will decide whether the MDHHS violated Michigan law by reducing the number of PIHP regions from ten to three. Finally, the Court will evaluate whether the 2025 RFP conforms to the requirements of Michigan law.

A. THE SHIFT IN THE PROCUREMENT SYSTEM

By all accounts, the 2025 RFP shifts Michigan from a single-source procurement model to a competitive procurement model. Plaintiffs argue that Michigan law disallows such a transition,

but the Court concludes that a competitive procurement system is not only compatible with state law, but also regarded as the preferred nationwide model. The federal preference for competitive procurement is so strong that, for years, the MDHHS has had to obtain federal authorization in the form of a waiver of governing provisions the Social Security Act, "under which the State operates the Managed Specialty Services and Supports Program," to maintain its single-source procurement system. See Plaintiffs' Exhibit 2 (letter to James K. Haveman, Jr., dated February 20, 2001). The state's most recent request for a waiver is still pending, and the MDHHS has no assurance that its request will be granted. Thus, the MDHHS is simply taking proactive steps to bring Michigan into compliance with the federal mandate of competitive procurement.

Plaintiffs insist that the shift from single-source procurement to competitive procurement cannot be squared with Michigan law, which contemplates the formation and support of CMHSPs, see MCL 330.1202(1); 330.1204(1), and expressly permits "a combination of community mental health organizations or authorities to establish a regional entity" in the form of a PIHP. See MCL 330.1204b(1). To be sure, Michigan law requires CMHSPs and allows for PIHPs, but the approach in the 2025 RFP to move to a competitive procurement system meets the requirements of Michigan law by maintaining CMHSPs and PIHPs, albeit in a modified configuration that provides for three PIHPs, but no more than that.

Plaintiffs' principal complaint rests on the fact that no existing PIHP can bid for a contract under the 2025 RFP because each existing PIHP covers one of the ten existing geographic regions, whereas the 2025 RFP recognizes only three larger geographic regions, so the existing PIHPs will not be able to provide services across any of the three newly recognized regions. But that concern has nothing to do with the legality of the competitive procurement system. Instead, the complaint arises from the existing PIHPs' inability to qualify as a bidder under the 2025 RFP, which explains

that “[b]idders that cannot provide services throughout the entire region will not be considered.” In other words, although plaintiffs describe their own treatment as impermissible under Michigan law, they cannot establish that the shift from a single-source procurement system to a competitive procurement system impermissibly alters the structure of PIHPs and CMHSPs. Consequently, the Court must turn to the propriety of the alteration of the regions accomplished by the 2025 RFP to ascertain whether plaintiffs are entitled to relief.

B. THE REDUCTION FROM TEN REGIONS TO THREE REGIONS

Without question, the 2025 RFP divides the state into just three regions, and each region is substantially larger than any of the existing ten regions. Reduction of the number of regions is not unprecedented. In 2013, the MDHHS reduced the number of regions from 18 to ten, and that was done without creating significant concerns. To be sure, plaintiffs insist that that was accomplished through a truly collaborative process, whereas the reduction of regions mandated by the 2025 RFP appears to be the unilateral work of the MDHHS. Moreover, the requirement in the 2025 RFP that “[b]idders that cannot provide services throughout the entire region will not be considered” has an adverse impact on the existing PIHPs, which are effectively foreclosed from bidding because they lack the capacity to provide services throughout any of the three new regions. But those facts do not render the reduction of regions from ten to three incompatible with Michigan law.

Under MCL 330.1204b(1), “[a] combination of community mental health organizations or authorities may establish a regional entity” in the form of a PIHP, but no Michigan statute sets the number of regions that must exist or defines the geographic boundaries of such regions. Therefore, the MDHHS has no statutory mandate to maintain the existing regions. Divesting the established PIHPs of their coverage areas, and concomitantly closing those PIHPs out of the bidding process

by mandating that bidders must serve the entirety a new region, seems unwise given the history of those existing PIHPs with the program and their strong connections with CMHSPs and providers. But assessing the wisdom of such changes is a matter of policy reserved for the MDHHS, not the courts. Indeed, as our Legislature made clear in MCL 400.109f(1), “Medicaid-covered specialty services and supports shall be managed and delivered by specialty prepaid health plans chosen by the department” of Health and Human Services. However unwise the changes may seem, nothing in Michigan law precludes the MDHHS from making them. Thus, the Court lacks the authority to invalidate the changes in the number and geographic scope of the regions serviced by PIHPs.

C. THE PARTICULAR REQUIREMENTS OF THE 2025 RFP

Having acknowledged the authority of the MDHHS to make the structural changes at issue, the Court must consider the propriety of the specific requirements set forth in the 2025 RFP. One particular aspect of the 2025 RFP gives rise to a genuine issue of material fact, which prevents the Court from awarding summary disposition to either side on plaintiffs’ challenge to the 2025 RFP. Michigan law does not empower the MDHHS to rewrite the Mental Health Code by permitting a PIHP to directly provide or contract out services that a CMHSP is statutorily obligated to provide. In its current form, the Statement of Work (that is Schedule A to the 2025 RFP) states that PIHPs “are expected to provide managed care functions to beneficiaries[,]” and “[t]hose functions cannot be delegated to contracted network providers” as a general matter. See Statement of Work, § 1.1. That assignment of non-delegable functions to PIHPs appears to conflict with MCL 330.1206(1), which assigns those functions to CMHSPs, rather than PIHPs.

Beyond that, nothing in the 2025 RFP itself or the attached Statement of Work requires a PIHP to provide Medicaid funds to a CMHSP for services that the CMHSP is obligated to provide.

Medicaid funding presumably is just one source of the CMHSP's funding, but Medicaid funds are vital to CMHSPs in carrying out their responsibilities. Indeed, nothing in the record even suggests that a CMHSP can exist and operate without Medicaid funds. Without question, the MDHHS has discretion to select a PIHP, see MCL 400.109f(1), but the MDHHS cannot exercise that discretion in a manner that renders CMHSPs unable to carry out their statutory obligations. The record does not enable the Court to determine whether CMHSPs are actually or potentially fatally impaired by the language of the 2025 RFP (including the Statement of Work), so the Court cannot yet enter an order awarding summary disposition to either side of this dispute.³

III. CONCLUSION

Defendants are granted summary disposition under MCR 2.116(C)(10) on the claims that the MDHHS may switch from a single-source procurement system to a competitive procurement system and that the MDHHS may reduce the number of PIHP regions from ten to three. Summary disposition is denied to both sides with regard to the legality of the terms in the 2025 RFP.

IT IS SO ORDERED.

This is not a final order because it does not resolve the last pending claim.

Dated: October 14, 2025



Hon. Christopher P. Yates (P41017)
Judge, Michigan Court of Claims

³ The lingering concerns primarily involve CMHSPs, not PIHPs, but those concerns can be raised by several plaintiffs in this case. Thus, the Court must resolve those concerns before declaring a winner in this dispute. See *Associated Builders and Contractors of Mich v Dep't of Technology, Mgt, and Budget*, ___ Mich ___, ___; ___ NW3d ___ (2024) (Docket No. 363601); slip op at 5 (holding that "standing to sue for declaratory relief" exists when "bidders on state contracts" seek "declaratory relief against a policy" that they claim is "in contravention of state law").

