

**STATE OF MICHIGAN**  
**COURT OF CLAIMS**

WEST MICHIGAN PARTNERSHIP FOR  
CHILDREN,

Plaintiff,

v

Case No. 25-000164-MZ

MICHIGAN DEPARTMENT OF HEALTH &  
HUMAN SERVICES and ELIZABETH HERTEL,  
in her official capacity as Director of the Michigan  
Department of Health and Human Services,

Hon. Christopher P. Yates

Defendants.

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**OPINION AND ORDER RESOLVING SUMMARY DISPOSITION**  
**MOTIONS AND GRANTING LIMITED DECLARATORY JUDGMENT**

Plaintiff West Michigan Partnership for Children (WMPC) filed suit to obtain declaratory and injunctive relief directing defendants, the Michigan Department of Health and Human Services (MDHHS) and MDHHS Director Elizabeth Hertel, to enter into a three-year contract with WMPC, extend WMPC's fiscal year (FY) 2025 grant agreement with MDHHS for at least 90 days pending the resolution of this litigation, and maintain a prospective payment system and state-administered performance-based child welfare system in Kent County that satisfies both MCL 400.117a(4)(h) and MCL 803.305(4).

The parties filed competing summary disposition motions. Defendants requested summary disposition under MCR 2.116(C)(7), (8), and (10), and WMPC sought summary disposition under MCR 2.116(I)(2). As a threshold matter, the Court concludes that WMPC complied with the notice

and verification terms in the Court of Claims Act (COCA), MCL 600.6401 *et seq.*, so defendants' request for summary disposition under MCR 2.116(C)(7) must fail. The Court shall award WMPC partial summary disposition under MCR 2.116(I)(2), as well as limited declaratory relief pursuant to MCR 2.605, because Michigan law obligates the MDHHS to "implement a prospective payment system as part of a state-administered performance-based child welfare system" in any county with a population the size of Kent County. MCL 400.117a(4)(h). Hence, the MDHHS must implement a "prospective payment system" with a "performance-based child welfare system" in Kent County within 30 days of issuance of this order. If the MDHHS fails to do so, the Court shall entertain a motion from WMPC to reopen the matter for consideration of injunctive relief. But the Court shall award summary disposition to the MDHHS under MCR 2.116(C)(10), and deny relief to WMPC, on its request for declaratory relief instructing the MDHHS to extend its FY 2025 grant agreement or enter into a contract with WMPC for FY 2026. The MDHHS has discretion to implement the legislatively mandated system by entering into a contract with WMPC, and it would be wise to do so given WMPC's ten-year history building the program with private agency foster care providers (PAFCs) in Kent County. But the MDHHS has discretion to implement the legislatively mandated system on its own, without involvement of WMPC, and the Court lacks legal authority to mandate a contract between the MDHHS and WMPC. Thus, WMPC's request for a declaratory judgment requiring the MDHHS to extend the FY 2025 grant agreement or to execute a new grant agreement is denied, and defendants' motion for summary disposition under MCR 2.116(C)(10) is granted on that issue.

## I. FACTUAL BACKGROUND

The MDHHS is responsible for establishing and administering the Michigan plan for foster care in accordance with state and federal law. MCL 400.18e. In 82 counties, the MDHHS fulfills

its obligation by directly funding PFACs through a fee-for-service model. For years, Kent County has been the one and only exception. More than a decade ago, the Legislature amended the Social Welfare Act and the Youth Rehabilitation Services Act to obligate the MDHHS to “implement a prospective payment system as part of a state-administered performance-based child welfare system” for foster care case management. That mandate remains in the statute addressing funding of out-of-home foster care services, MCL 400.117a(4)(h), which states as follows:

Notwithstanding the provisions in [MCL 400.117a(4)(c)] and subject to appropriations, the [MDHHS] shall implement a prospective payment system as part of a state-administered performance-based child welfare system in a county with a population of not less than 575,000 or more than 750,000, for foster care case management in accordance with section 503 of article X of 2014 PA 252. The county is only required to contribute to foster care services payments in an amount that does not exceed the average of the annual net contribution made by the county for cases received under section 2(b) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, in the 5 previous fiscal years before October 1, 2015. The prospective payment system as part of the state-administered performance-based child welfare system shall be implemented as described in this subdivision but shall not include in-home care service funding.

It also appears in the Youth Rehabilitation Services Act, MCL 803.301 *et seq.*, specifically in MCL 803.305(4), which relates to funding for public wards and provides as follows:

Notwithstanding the provisions in [MCL 803.305](1) and (2) and subject to appropriations, the [MDHHS] shall implement a prospective payment system as part of a state-administered performance-based child welfare system in a county with a population of not less than 575,000 or more than 750,000, for foster care case management in accordance with section 503 of article X of 2014 PA 252. The county is only required to contribute to foster care services payments in an amount that does not exceed the average of the annual net contribution made by the county for cases received under section 2(b) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, in the 5 previous fiscal years before October 1, 2015. The prospective payment system as part of the state-administered performance-based child welfare system shall be implemented as described in this subsection but shall not include in-home care service funding.

The Legislature made clear that that section affects abuse and neglect services, not juvenile-justice funding. MCL 803.305(5).

WMPC, which was created to carry out the mandate, operates as a nonprofit organization that has coordinated foster care services across Kent County since its formation in 2017. WMPC receives referrals from Children's Protective Services for children who require care, places those children with one of five PFACs operating in Kent County, and continues to work with PFACs to serve children, families, and the PFACs at all stages of the care continuum. WMPC employs care coordinators who meet weekly at the PFAC offices and clinical liaisons who conduct independent assessments and work with the PFACs to identify the proper level of care and authorize clinical services for children with special needs. One program WMPC administers is an enhanced foster care services program that has yielded positive outcomes for more than 70 children in Kent County and produced cost savings in comparison to the cost of institutional care that those children would otherwise need. WMPC also maintains contracts with service providers in Kent County who assist children and families involved in the child welfare system. The MDHHS does not offer enhanced foster care services of that nature in any other county, nor does the MDHHS have the contracts or the ability to administer the foster care system in the same manner as WMPC. On September 30, 2025, WMPC was responsible for approximately 426 children receiving services in Kent County. Most of WMPC's funding in recent years came through grant agreements with the MDHHS. The FY 2024 grant provided \$29.6 million, and the FY 2025 grant furnished \$28.9 million.

In 2024, an appropriations bill, 2024 PA 121, instructed the MDHHS to enter into a three-year master agreement with WMPC, but the MDHHS did not do so. Instead, the MDHHS offered two annual agreements to WMPC, which signed the most recent agreement on October 16, 2024. The MDHHS agreed to provide \$28,952,429.00 to WMPC in quarterly prepayments equal to 25% of the capitated amount to enable WMPC to carry out the statement of work and the contractual obligations defined by the agreement.

On occasion, the Legislature made direct appropriations for WMPC until October 8, 2025, when the FY 2026 budget was signed into law. For FY 2026, the Legislature removed a line-item appropriation for the contract with WMPC. The House Fiscal Analysis summarizing the omnibus bill for FY 2026 described the decision to remove the appropriation for WMPC as a cost “savings of \$3.0 million GF/GO as a result of the elimination of a contract with [WMPC].” The Legislature, however, did not amend MCL 400.117a(4)(h) or MCL 803.305(4) to alter or remove the language requiring a prospective payment system in Kent County, nor did it alter or remove the MDHHS’s discretion to continue working with WMPC to administer that program. The MDHHS conceded at the hearing on November 17, 2025, that it still has discretion to contract with WMPC, and that it could have done so using appropriations for the foster care system as a whole. Indeed, that was the primary funding system for the grant agreements with WMPC in prior years.

WMPC’s latest contract expired on September 30, 2025. It did not learn that the MDHHS would not renew WMPC’s contract until after the FY 2026 budget passed on October 8, 2025. In the interim, WMPC continued to serve more than 400 children and received a referral of children in need of care. The first news that the MDHHS was converting Kent County to a fee-for-service model came through PFACs who received an e-mail at 9:28 p.m. on October 9, 2025. That e-mail required the PFACs to transition all children receiving foster care and adoption services to Kent County MDHHS “effective October 1, 2025” by preparing a new Individual Service Agreement and entering new information into the Michigan Statewide Automated Child Welfare Information System (MiSACWIS) no later than Monday, October 13, 2025.

David Knezek, Jr., the chief operating officer of the MDHHS, sent an e-mail to WMPC on October 10, 2025, providing notice that the MDHHS would not pay WMPC for “any costs incurred beyond October 1, 2025,” but requesting that WMPC send a list of costs and wind-down expenses

that WMPC anticipated for the remainder of October 2025. The e-mail further asked that WMPC furnish “case specific information related to a child that has not been shared with the providers or included in MiSACWIS” to the MDHHS by Monday, October 13. No transition plan was put in place, nor was WMPC given any advance notice that this would occur. In fact, WMPC received a referral for children in need of care during the first weekend in October, and it provided services to those children.

The MDHHS transitioned Kent County to the same fee-for-service model employed in the other counties in the state. Affidavits attached to the MDHHS’s briefs and testimony presented at the hearing explained that the MDHHS returned foster care management services to Kent County DHHS. Case-specific needs could be referred to the Kent County DHHS clinical liaison, who works with the local community health partners, in conjunction with a PFAC that furnishes direct services. The MDHHS has been conducting daily transition meetings with the PFACs that provide foster care and adoption services in Kent County since October 9, 2025, and the PFACs have been given on-call information for Kent County as well as contact information for the Business Service Center 3 Director for shelter approvals and other emergencies. The MDHHS asserts no services been interrupted.

Each of the five PFACs with which WMPC worked offered a letter in support of WMPC’s request for a transition period of no less than 90 days. The PFACs described WMPC’s functions as “deeply embedded in daily foster care operations,” including paying for staff members whose efforts are “essential to permanency outcomes,” providing “flexible, innovative, and responsive services that have measurably improved outcomes for youth and families,” negotiating rates for children with significant need, and funding uninsured children, enhanced foster care services, and other beneficial services.



The MDHHS's brief includes an Evaluation Report by the University of Michigan, which described Kent County's pilot program as relatively expensive with "no significant differences in the rate of permanency, the safety of children in care or the likelihood of re-entry to care." Neither the PFACs or the University of Michigan testified at the hearing, but the MDHHS's representatives and WMPC's representatives who appeared at the hearing were knowledgeable and experienced in the foster care system. At the hearing, it was undisputed that WMPC furnished services that the MDHHS did not offer, with measurably improved outcomes for the children who were eligible for those services.

## II. LEGAL ANALYSIS

Defendants seek summary disposition under MCR 2.116(C)(7), (8), and (10). Because the Court has considered documents and testimony outside of the pleadings, it will evaluate the motion under MCR 2.116(C)(7) and (10), but not MCR 2.116(C)(8). *Jawad A Shah, MD, PC v State Farm Mut Auto Ins Co*, 324 Mich App 182, 206-207; 920 NW2d 148 (2018); see also *Maiden v Rozwood*, 461 Mich 109, 119; 597 NW2d 817 (1999) (explaining that "[a] party may support a motion under MCR 2.116(C)(7) by affidavits, depositions, admissions, or other documentary evidence" and "[i]f such material is submitted, it must be considered").

### A. DEFENDANTS' MOTION UNDER MCR 2.116(C)(7)

MCR 2.116(C)(7) authorizes summary disposition when, among other things, a defendant is immune from a plaintiff's claims as a matter of law. This Court must review the pleadings and all of the documentary evidence furnished by the parties in the light most favorable to WMPC as the nonmoving party. *Lavey v Mills*, 248 Mich App 244, 249-250; 639 NW2d 261 (2001). "If no facts are in dispute, and if reasonable minds could not differ regarding the legal effect of those facts, the question whether the claim is barred is an issue of law for the court." *Dextrom v Wexford*

*Co*, 287 Mich App 406, 429; 789 NW2d 211 (2010). Immunity is the appropriate defense when a governmental body requests summary disposition for failure to comply with the notice provisions of the COCA. *McCahan v Brennan*, 492 Mich 730, 737-738; 822 NW2d 747 (2012).

The Court concludes that WMPC complied with the Court of Claims Act and, therefore, defendants' summary disposition motion under MCR 2.116(C)(7) must be denied. Michigan law is unequivocal: the notice-and-verification requirement of the COCA "applies to all claims against the state" except as expressly exempted by the COCA itself. *Christie v Wayne State Univ*, 511 Mich 39, 52; 993 NW2d 203 (2023). The COCA's language is mandatory, clearly explaining that "a claim may not be maintained against the state unless the claimant, within 1 year after the claim has accrued, files" a written claim against the state or any of its departments or agencies. MCL 600.6431(1). The claim or notice must contain, among other things, "[a] signature and verification by the claimant before an officer authorized to administer oaths." MCL 600.6431(2)(d).

WMPC filed a verified complaint within one year of the accrual of its claims. Its amended complaint, which includes the required signature and verification, was filed on October 15, 2025, which was within one year of the date WMPC's claims accrued. A claim accrues, for purpose of the COCA, "at the time the wrong upon which the claim is based was done." *City of Mt Pleasant v Acting Dir of Dep't of Technology, Mgt and Budget*, \_\_\_ Mich App \_\_; \_\_\_ NW3d \_\_\_ (2024). The time of the wrong is "the date on which [the MDHHS's] breach harmed [WMPC], as opposed to the date" on which the MDHHS breached its duty. *Frank v Linkner*, 500 Mich 133, 147; 894 NW2d 574 (2017). "A claim does not accrue until each element of the cause of action, including some form of damages, exists." *Mays v Governor*, 506 Mich 157, 182; 954 NW2d 139 (2020) (opinion by BERNSTEIN, J.). WMPC's claim that the MDHHS breached its statutory obligation to implement a prospective payment and performance-based system in Kent County and to contract



with WMPC accrued on October 10, 2025, when the MDHHS notified WMPC that it would neither renew the parties' contract nor implement the prospective payment and performance-based child welfare system in FY 2026. WMPC's claim that the MDHHS violated Michigan law by refusing to enter into a three-year agreement accrued on October 16, 2024, when the latest one-year contract was signed. Its verified complaint was filed within a year of the date on which its claims accrued. Because WMPC complied with the COCA, defendants' summary disposition motion under MCR 2.116(C)(7) must be denied.

B. THE PARTIES' MOTIONS UNDER MCR 2.116(C)(10) AND MCR 2.116(I)(2)

Defendants request summary disposition under MCR 2.116(C)(10), which enables a party to test the factual sufficiency of the complaint. *Corley v Detroit Bd of Ed*, 470 Mich 274, 278; 681 NW2d 342 (2004). When evaluating that motion, this Court must consider "affidavits, pleadings, admissions, and documentary evidence submitted by the parties . . . in the light most favorable to the party opposing the motion." *Quinto v Cross & Peters Co*, 451 Mich 358, 362; 547 NW2d 314 (1996). The Court must "review the record evidence, and all reasonable inferences therefrom, and decide whether a genuine issue of material fact exists to warrant a trial." *Skinner v Square D Co*, 445 Mich 153, 161; 516 NW2d 475 (1994). "A genuine issue of material fact exists when the record, giving the benefit of the reasonable doubt to the opposing party, leaves open an issue upon which reasonable minds might differ." *West v Gen Motors Corp*, 469 Mich 177, 182-183; 665 NW2d 468 (2003).

As an initial matter, this Court rejects defendants' claim that WMPC lacks standing to sue. Michigan's standing doctrine instructs trial courts to assess whether a litigant's interest in the issue is sufficient to ensure sincere and vigorous advocacy. *Lansing Sch Ed Ass'n v Lansing Bd of Ed*, 487 Mich 349, 355; 792 NW2d 686 (2010) (*LSEA*). Each litigant "must assert his own legal rights

and interests and cannot rest his claim to relief on the legal rights and interests of third parties.” *Barclae v Zarb*, 300 Mich App 455, 483; 834 NW2d 100 (2013). Years ago, WMPC was created to administer a prospective payment and performance-based child welfare system in Kent County, and WMPC has regularly entered into contracts with the MDHHS for this purpose and developed networks, programs, processes, and procedures with a myriad of entities in Kent County to assist children and families in the child welfare system. The MDHHS’s decision to revert to a fee-for-services program and to end its contractual relationship with WMPC, without any transition plan, affects a legal right and interest uniquely held by WMPC, and so it vests WMPC with standing as recognized by Michigan’s courts. This interest also creates an actual controversy between WMPC and defendants sufficient to satisfy the requirements for declaratory relief under MCR 2.605(1).

But the existence of standing and an actual controversy does not resolve this dispute on the merits. This case presents a question of statutory interpretation, so the Court’s primary task “is to discern and give effect to the intent of the Legislature.” *Ford Motor Co v Dep’t of Treasury*, 496 Mich 382, 389; 852 NW2d 786 (2014). “[W]here the Legislature uses certain and unambiguous language, the plain meaning of the statute must be followed.” *Browder v Int’l Fidelity Ins Co*, 413 Mich 603, 611; 321 NW2d 668 (1982).

MCL 400.117a(4)(h) and MCL 803.305(4) direct the MDHHS to “implement a prospective payment system as part of a state-administered performance-based child welfare system” in Kent County. This unambiguous language did not grant the MDHHS the option to implement a fee-for-service system in Kent County as it did in October 2025. Instead, the statutory language provides that the MDHHS “shall” implement a prospective payment system. The Legislature’s selection of the word “shall” presumptively imposes a mandate, and nothing in the statutory language supports the conclusion that that presumption does not apply here. See *Browder*, 413 Mich at 613-614.

Moreover, the statutory language making the mandate “subject to appropriations” does not alter the obligation because the MDHHS received an appropriation to implement the child welfare system in Kent County. Although the FY 2026 appropriations bill does not specifically appropriate such funding to the MDHHS, it appropriates money for the MDHHS to carry out the required child welfare system in Kent County. Indeed, the MDHHS’s earlier grant agreements with WMPC were funded through general appropriations. The \$3 million savings cited in the House Fiscal Analysis constitutes approximately 10% of the total amount previously allocated to WMPC through grant agreements with the MDHHS, whose counsel and representatives acknowledged that the MDHHS had discretion to work with WMPC in FY 2026, but unilaterally decided not to do so. Thus, WMPC’s request for a declaratory judgment is granted to the extent that the Court orders that the MDHHS must implement a prospective payment system as part of a state-administered performance-based child welfare system in Kent County because MCL 400.117a(4)(h) and MCL 803.305(4) require it to do so. Consequently, defendants’ motion for summary disposition under MCR 2.116(C)(10) is denied with respect to that matter.

Conversely, defendants’ summary disposition motion under MCR 2.116(C)(10) is granted, and WMPC’s motion for relief under MCR 2.116(I)(2) is denied, to the extent WMPC requests a declaratory judgment requiring the MDHHS to contract with WMPC. The appropriations bill that instructed the MDHHS to enter into a three-year agreement with WMPC is no longer in effect, and defendants correctly contend that the appropriation of money is the role of the Legislature, not the judiciary. Const 1963, art 4, § 31. Nothing in current law obligates the MDHHS to implement the prospective payment system by contracting with WMPC if the MDHHS can set up a prospective payment system within 30 days of the issuance of the Court’s order. That expedited timeframe is necessary because, for nearly a decade, the MDHHS satisfied the statutory mandate through grant

agreements with WMPC, a nonprofit organized solely for that purpose in Kent County that has the support of all five PFACs with which it worked. The MDHHS did not implement the prospective payment system when it transitioned all the Kent County PFACs to the MDHHS's administration. The Court has concerns that at least one program that WMPC developed and administered is not administered by the MDHHS in any other county, so history provides no assurance of continuation in Kent County after this case ends. The MDHHS's decision to cut off WMPC with no meaningful transition period and without the capability to administer the programs provided by WMPC to one of the most vulnerable populations in our state is troubling, to say the least. If the MDHHS is not able to carry out the legislative mandate within 30 days of the entry of this order, WMPC may file a motion requesting injunctive relief to avoid irreparable harm not only to WMPC itself, but also to children, families, and all persons or entities involved the foster care system. For now, the Court must take the MDHHS at its word that it can implement the prospective payment system,<sup>1</sup> so the Court shall issue declaratory relief that requires the MDHHS to do so within 30 days, irrespective of whether the MDHHS enters into a contract with WMPC or takes on the responsibility by itself.

### III. CONCLUSION AND DECLARATORY JUDGMENT

For the reasons stated in this opinion, the MDHHS's motion for summary disposition under MCR 2.116(C)(7) is denied. In contrast, the MDHHS's summary disposition motion under MCR 2.116(C)(10) is granted in part and denied in part, as is WMPC's request for summary disposition under MCR 2.116(I)(2). Specifically, **the Court declares that, within 30 days of entry of this**

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<sup>1</sup> The Court has doubts that the MDHHS can satisfy the requirements of the declaratory judgment without the involvement of WMPC, but the discretion afforded to the MDHHS by Michigan law, coupled with defendants' confidence in their own capability, requires the Court to give defendants latitude to carry out their statutory obligations.

**declaratory order, the MDHHS must implement a prospective payment system as part of a state-administered performance-based child welfare system in Kent County.** The MDHHS may fulfill that obligation either on its own or by entering into a contract with WMPC. The Court shall retain jurisdiction to enforce this declaratory judgment. WMPC may file a motion to reopen the case and request injunctive relief if defendants fail to comply with the Court's judgment within 30 days.<sup>2</sup>

IT IS SO ORDERED.

This is a final order that resolves the last pending claim and closes the case.

Date: December 22, 2025



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



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<sup>2</sup> Because WMPC moved for a preliminary injunction, the Court conducted an evidentiary hearing to consider that request. At that hearing, WMPC adduced evidence of a substantial likelihood of irreparable harm to WMPC itself and to the community it serves in the absence of injunctive relief, but Michigan law counsels against injunctive relief against state agencies and officials except when declaratory relief has failed. See *Davis v Detroit Fin Review Team*, 296 Mich App 568, 614; 821 NW2d 896 (2012). Consequently, the Court will stay its hand unless and until defendants prove unable or unwilling to fulfill their obligations under the Court's declaratory judgment.