STATE OF MICHIGAN

COURT OF CLAIMS

PORTIA LAMB,

Plaintiff,

v

Case No. 25-000050-MZ

MICHIGAN DEPARTMENT OF HEALTH AND HUMAN SERVICES,

Hon. Michael F. Gadola

Defendant.
_____ /

OPINION AND ORDER GRANTING IN PART AND DENYING IN PART DEFENDANT'S MOTION FOR SUMMARY DISPOSITION AND DISMISSING CASE

Plaintiff, Portia Lamb, filed an amended complaint in this action against defendant, Michigan Department of Health and Human Services (MDHHS), under the Freedom of Information Act (FOIA), MCL 15.231 *et seq*., seeking judicial review of MDHHS's February 12, 2025 denial of her request for disclosure of the identity of the person who made complaints about her concerning suspected child abuse or neglect to Children's Protective Services (CPS). Defendant responded with a motion seeking summary disposition of plaintiff's amended complaint under MCR 2.116(C)(7) and (8). The Court GRANTS in part and DENIES in part that motion and DISMISSES the case.

I. BACKGROUND

Plaintiff submitted a FOIA request to MDHHS purportedly seeking records "sufficient to identify the anonymous individual(s) who made repeated CPS complaints against plaintiff."[1] MDHHS received the FOIA request on February 12, 2025. MDHHS denied the request on February 17, 2025, as follows:

> Child Protective Services (CPS) records are confidential under the Child Protection Law, MCL 722.627(2); this makes them exempt from the FOIA under MCL 15.243(1)(d) as records exempted from disclosure by statute. Per MCL 722.628(1),[2] CPS records are confidential and not subject to the disclosure requirements of the FOIA.
>
> If you are, or an attorney representing, a parent of a child that was an alleged victim of abuse or neglect; an adult who as a child was the alleged victim of abuse or neglect; or the alleged perpetrator of child abuse or neglect, you may be able to obtain these records by submitting your request along with an authorization signed by the individual whose records you are requesting to the Department's county office in the county where the case occurred.

Plaintiff contends that MDHHS improperly denied her FOIA request. She seeks a declaration that MDHHS violated FOIA by denying her request, and an order requiring MDHHS to disclose the identity of the person who reported the child abuse or neglect allegations to CPS.

MDHHS moved for summary disposition of the amended complaint under MCR 2.116(C))(7) and (8). MDHHS argues that plaintiff's action must be dismissed because plaintiff's amended complaint was not verified as required by MCL 600.6431(2)(d) of the Court of Claims Act (COCA), MCL 600.6401 *et seq*. MDHHS also argues that summary disposition is appropriate because the identity of a person who reports suspected child abuse or neglect is confidential

[1] Plaintiff has not provided the Court with a copy of her FOIA request, nor has she identified the date on which she sent the request to MDHHS. Plaintiff alleges in her amended complaint only that she sought information that would identify the person who reported child abuse or neglect.

[2] It appears that this is a typographical error, and that the correct statutory citation is MCL 722.628(11).

information exempt from disclosure under MCL 15.243(1)(d) and the child protection law, MCL 722.621 *et seq*.

II. ANALYSIS

A. VERIFICATION UNDER THE COCA

The requirements of the COCA are conditions precedent to "successfully expose the defendant state agencies to liability." *Fairley v Dep't of Corrections*, 497 Mich 290, 298; 871 NW2d 129 (2015). The failure to comply with the notice-and-verification requirements mandates dismissal of the case. *Elia Cos, LLC v Univ of Mich Regents*, 511 Mich 66, 68; 993 NW2d 392 (2023).

MCL 600.6431(2)(d) requires a plaintiff to timely[3] file either a written claim or a written notice of intention to file a claim against the state that contains a signature and verification by the claimant before an officer authorized to administer oaths. MDHHS made a final determination to deny plaintiff's FOIA request on February 17, 2025. Plaintiff filed a written complaint in this Court on March 27, 2025. The March 27, 2025 complaint was not signed and verified before an officer authorized to administer oaths. In response to defendant's first motion for summary disposition that raised the issue of plaintiff's failure to comply with the notice-and-verification requirements of MCL 600.6431(2)(d), plaintiff filed a notarized affidavit of verification attesting to the truthfulness of the facts in her original complaint on April 30, 2025, just over two months from the final determination to deny the request. Plaintiff therefore timely satisfied the verification

[3] Depending upon the nature of the claim, the time limit for filing a notice of intent or claim is either six months or one year. See MCL 600.6431(1) and MCL 600.6431(4).

requirements of § 6431(2)(d). Defendant's motion for summary disposition under MCR 2.116(C)(7) is DENIED.

B. FOIA EXEMPTION

The Court will evaluate MDHHS's motion under MCR 2.116(C)(10) because it considered documents attached to the parties' filings. "A motion under MCR 2.116(C)(10) tests the *factual sufficiency* of a claim." *El-Khalil v Oakwood Healthcare Inc*, 504 Mich 152, 160; 934 NW23d 665 (2019). "When considering such a motion, a trial court must consider all evidence submitted by the parties in the light most favorable to the party opposing the motion." *Johnson v VanderKooi*, 502 Mich 751, 761; 918 NW2d 785 (2019). A motion under MCR 2.116(C)(10) may be granted only when the evidence does not present a genuine issue of material fact. *Jewett v Mesick Consol Sch Dist*, 32 Mich App 462, 470; 957 NW2d 377 (2020).

The primary goal of statutory construction is to give effect to the Legislature's intent. *TRJ & E Props, LLC v Lansing*, 323 Mich App 664, 670; 919 NW2d 795 (2018). The language of the statute itself is the primary indicator of the Legislature's intent. *Id*. When the language of the statute is clear and unambiguous, judicial construction is not permitted, and the Court must give the words their plain and ordinary meaning. *Mich Federation of Teachers & Sch Related Personnel, AFT, AFL-CIO v Univ of Mich*, 471 Mich 657, 664; 753 NW2d 28 (2008).

"FOIA is a statute intended to provide members of the public access to public records unless the Legislature enacted a statutory exemption to disclosure." *Woodman v Dep't of Corrections*, 511 Mich 427, 441; 999 NW2d 562 (2023). FOIA reflects a "public policy favoring public access to government information," so a public body is "required to disclose public records upon request unless those records are specifically exempt from disclosure under MCL 15.243."

Id. At 441-442 (cleaned up). When a public body invokes MCL 15.243(1)(d), "it is necessary to examine the statute under which the public body claims disclosure is prohibited." *MLive Media Group v Grand Rapids*, 321 Mich App 263, 270; 909 NW2d 282 (2017). Exemptions to disclosure must be narrowly construed, and the public body has the burden of proving that it was justified in withholding records. *Woodman*, 511 Mich at 441-442.

MDHHS denied plaintiff's FOIA request under the exemption in MCL 15.243(1)(d). This exemption allows a public body to exempt from disclosure "[r]ecords or information specifically described and exempted from disclosure by statute." MDHHS more specifically pointed to the child protection law. Under the child protection law, a written report, document, or photograph filed with CPS is a confidential record. MCL 722.627(1). The identity of the reporting person is confidential. MCL 722.625. Confidential CPS records are not subject to "the disclosure requirements of the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246." MCL 722.628(11).[4] In her response to defendant's motion, plaintiff does not dispute that the child protection law provides confidentiality. Instead, she contends that the identity of the reporting person is subject to disclosure by judicial process under MCL 722.625 of the child protection law, and that she is "seeking judicial process here." This action, however, is one for review of MDHHS's decision to deny a FOIA request. MDHHS has sustained its burden of showing that the information requested is exempt from disclosure under MCL 15.234(1)(d). The Court therefore GRANTS MDHHS's motion for summary disposition under MCR 2.116(C)(10).

[4] To allow disclosure of a reporter's identity through a simple FOIA request would not only run afoul of the child protection law, it would expose a reporter of suspected child abuse or neglect to potential retribution from the alleged perpetrator and would have a chilling effect on a reporter's willingness to alert CPS to information critical to the protection and welfare of the child.

III. CONCLUSION

For the reasons stated in this Opinion and Order, the Court orders the following:

IT IS ORDERED that defendant's motion for summary disposition under MCR 2.116(C)(7) is DENIED.

IT IS FURTHER ORDERED that defendant's motion for summary disposition is GRANTED under MCR 2.116(C)(10) and the case is DISMISSED.

IT IS FURTHER ORDERED that plaintiff's ex parte motion for expedited consideration is DENIED as moot.

IT IS FURTHER ORDERED that plaintiff's motion to compel identity of reporter and for *in camera review* of the CPS records relating to plaintiff's child is DENIED as moot.

IT IS FURTHER ORDERED that plaintiff's motion for status conference and for hearing is DENIED as moot.

IT IS FURTHER ORDERED that plaintiff's renewed motion to seal documents is moot; the clerk of this Court is directed to return to plaintiff any documents submitted with the renewed motion to seal.

IT IS SO ORDERED. This is a final order that resolves the last pending claim and closes the case.

Date: February 10, 2026

Hon. Michael F. Gadola
Chief Judge, Court of Claims