

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

DWAYNE B., by his next friend, John Stempfle; CARMELA B., by her next friend William Ladd; LISA J., by her next friend, Teresa Kibby; and JULIA, SIMON, and COURTNEY G., by their next friend, William Ladd; for themselves and others similarly situated,

Plaintiffs,

v

GRETCHEN WHITMER, in her official capacity as Governor of the State of Michigan, *et al.*,

Defendants.

No. 2:06-cv-13548

HON. NANCY G. EDMUNDS

Class Action

**STIPULATED ORDER
REGARDING
COMMITMENT
MODIFICATIONS DUE TO
COVID-19 TO THE
01/01/2021 – 06/30/2021
REPORTING PERIOD OF
MISEP**

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**STIPULATED ORDER REGARDING COMMITMENT
MODIFICATIONS DUE TO COVID-19 TO THE 01/01/2021 -
06/30/2021 REPORTING PERIOD OF THE MODIFIED
SUSTAINABILITY AND EXIT PLAN (MISEP)**

IT IS HEREBY STIPULATED AND AGREED by the Parties that the COVID-19 pandemic continues to impact some provisions of the Modified Sustainability and Exit Plan (“MISEP”). Accordingly, the Parties agree to the following modifications of these MISEP commitments solely for the monitoring period covering January 1, 2021 – June 30, 2021 (“the Relevant Period”).

**A. Temporary Modifications to MISEP commitments
6.25, 6.26, 6.27, 6.28, and 6.29**

The parties agree that MISEP commitments related to medical and dental care—6.25, 6.26, 6.27, 6.28, and 6.29—continue to be skewed as a result of the pandemic and factors beyond MDHHS’s control. For these reasons, the parties agree that, for the Relevant Period, MDHHS should not be penalized for negatively skewed performance for these commitments. The parties agree that positively skewed performance should likewise not be used as a basis for exiting these commitments from court oversight. Accordingly, the parties agree that MDHHS

performance on MISEP commitments 6.25, 6.26, 6.27, 6.28, and 6.29 will not be used by either party to demonstrate sustained compliance or non-compliance under the terms of the MISEP.

B. Temporary Modification to MISEP commitments 6.16, 6.21, 6.22, 6.23, and 6.24

The parties stipulate to the following for MISEP commitments 6.16, 6.21, 6.22, 6.23, and 6.24, which require face-to-face visits and/or meetings:

1. For purposes of measuring compliance with MISEP commitments 6.16, 6.21, 6.22, 6.23, and 6.24 for the Relevant Period, the definition of “visit” and “meeting” shall include the following:
 - a. For MISEP commitment 6.21 (worker child visits), visits conducted (i) face-to-face or (ii) by video conferencing, FaceTime, Skype, Zoom, or similar videoconferencing technologies.
 - b. For MISEP commitments 6.16 (worker supervisor meetings), 6.22 (worker parent visits), 6.23 (parent child visits), and 6.24 (sibling visits), visits or meetings conducted (i) face-to-face, (ii) by video conferencing, FaceTime, Skype, Zoom, or similar videoconferencing technologies, or (iii) by telephone.

2. This modification does not eliminate all face-to-face visitation with children in care. The alternative visitation options are available for routine visits, but not for emergencies in which the caseworker must respond in person to an immediate child health or safety concern.

C. Reporting for the Relevant Period

For all commitments in the MISEP, MDHHS will continue providing data to the monitor as usual and as needed to issue their report in accordance with the stipulated terms above for commitments 6.16, 6.21, 6.22, 6.23, and 6.24. The monitors will continue to validate and publicly report performance consistent with the terms of the MISEP as modified by the terms described above.

The parties respectfully request this Honorable Court enter an order approving this stipulation.

IT IS SO ORDERED.

Dated: March 19, 2021

s/ Nancy G. Edmunds
HON. NANCY G. EDMUNDS
United States District Judge

Stipulated and Agreed to by:

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Date: March 19, 2021