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UNITED STATES COURT OF APPEALS

FOR THE SIXTH CIRCUIT

ZAMARIA METCALF,

Plaintiff-Appellant,

v.

STATE OF MICHIGAN; ENNIS CENTER FOR CHILDREN INC.; PATRICIA NEITMAN; ASHLEY CURTIS; STEPHANIE MILLER; ASHLEIGH BROTHERSON, nka Ashleigh LaPointe,

Defendants-Appellees.

No. 25-1963

Appeal from the United States District Court for the Eastern District of Michigan at Flint.
No. 4:21-cv-12242—Shalina D. Kumar, District Judge.

Argued: June 4, 2026

Decided and Filed: August 24, 2026

Before: STRANCH, BUSH, and BLOOMEKATZ, Circuit Judges.

COUNSEL

ARGUED: Collin H. Nyeholt, LAW OFFICES OF CASEY D. CONKLIN, PLC, Okemos, Michigan, for Appellant. Marissa Wiesen, OFFICE OF THE MICHIGAN ATTORNEY GENERAL, Lansing, Michigan, for State of Michigan Appellees. **ON BRIEF:** Collin H. Nyeholt, LAW OFFICES OF CASEY D. CONKLIN, PLC, Okemos, Michigan, for Appellant. Marissa Wiesen, Erin E. Harrington, OFFICE OF THE MICHIGAN ATTORNEY GENERAL, Lansing, Michigan, for State of Michigan Appellees. Matthew T. Wise, GORDON & REES, Bloomfield Hills, Michigan, for Appellees Ennis Center for Children, Inc., Ashley Curtis, and Stephanie Miller.

OPINION

BLOOMEKATZ, Circuit Judge. Zamaria Metcalf, a quadriplegic confined to a wheelchair, applied to be a foster parent in Michigan. The state determined that she was physically incapable of providing the necessary care to foster children because of her disability and administratively closed her application. Metcalf sued, alleging this closure amounted to unlawful disability discrimination. As Metcalf demonstrates, categorically precluding individuals with severe physical disabilities from being foster parents may violate the Americans with Disabilities Act and the Rehabilitation Act, since these laws require an individualized assessment of whether, with a reasonable accommodation, an applicant can fulfill their parenting responsibilities. But Metcalf's proposed accommodation to meet the physical needs of any potential foster children was unreasonable, so we affirm the district court's grant of summary judgment to the defendants.

BACKGROUND

I. Metcalf's Background

More than twenty years ago, a car accident tragically paralyzed Zamaria Metcalf from the neck down. Today, she retains only slight mobility in her left arm and moves through daily life with the aid of a powered wheelchair.

Given her significant physical limitations, Metcalf relies on a network of formal and informal care. She has full-time aides that assist her with all day-to-day physical activities. Because Michigan's no-fault insurance pays for these aides, they are limited to helping Metcalf and "should not be assisting any other person." Friedman Dep., R. 60-8, PageID 1385. Family and friends also provide Metcalf with care through informal arrangements—there are no contracts, set wages, firm schedules, or formal documentation of any kind. Instead, she gives them "gifts" of varying amounts of money. Metcalf Dep., R. 60-9, PageID 1445.

With this formal and informal network of caregivers, Metcalf has served as a primary caretaker for multiple children. Notwithstanding her disability, Metcalf's niece and nephew each lived with her for several years. Her nephew testified that Metcalf was a "great parent" and that he was better off living with her than with his own mother. Michael Metcalf Dep., R. 60-6, PageID 1341. Child Protective Services even once placed children in her home as part of a safety plan. During these periods of time, her full-time, paid aides sometimes drove the children around or cooked meals for them, even though these tasks exceeded the scope of Metcalf's insurance coverage. Her friends and family helped with the children as well.

Though she faces physical challenges, no one has questioned Metcalf's mental or emotional ability to be a foster parent. Instead, the record reflects that she was an active participant in the lives of the children who had lived with her previously. She played with them, imposed discipline, provided emotional guidance, initiated medical care, and generally ensured the children were taken care of. In other words, she performed the mental and emotional tasks one would expect of a parental figure. As Metcalf explained, though she cannot physically perform certain tasks, she can still "watch over a child" and "supervise them." Metcalf Dep., R. 60-9, PageID 1427. And for those physical tasks she cannot do herself, she "can instruct those things to be done" and "watch over and make sure that [they're] done appropriately." *Id.*

Metcalf's passion for childcare led her to follow in the footsteps of her mother and aunt and apply to become a foster parent. The application process, however, proved fraught.

II. Foster Parent Application Process

The Division of Child Welfare Licensing (DCWL), housed within the Michigan Department of Health and Human Services (MDHHS), oversees the license application process for foster care homes and parents in Michigan. Michigan law authorizes MDHHS to investigate, via private agencies, the backgrounds of prospective foster parents. Following these investigations, the private agencies issue recommendations to MDHHS regarding the applicants' suitability. *See* Mich. Comp. Laws § 722.115. Defendant Ennis Center is one such private agency.

Metcalf applied for a license to be a foster parent through the Ennis Center. In her application, Metcalf identified herself as the sole caretaker and requested to foster up to three children between the ages of four and eighteen. She then successfully completed the first few steps of the application process, including an orientation and a required background check.

The subsequent steps did not go as smoothly. Michigan law requires prospective foster parents to obtain a "medical statement," signed by a physician, attesting that each member of the applicant's household "does not have a known condition that would *affect the care of a foster child*." *Id.* § 722.115(3) (emphasis added). Metcalf asked her physician of over fifteen years, Dr. Neil Friedman, to examine her and fill out the form. Dr. Friedman agreed to do so. On the state's medical statement form, he wrote that Metcalf "is paralyzed from [the] shoulders down. She has no functional use of arms or legs." Licensing R., R. 60-3, PageID 1235. Crucially, he also checked "yes" to whether there were "any physical or mental factors that would jeopardize the physical or mental welfare of any child placed in" Metcalf's care. *Id.* He likewise checked "yes" to whether Metcalf "suffer[ed] from an illness including a communicable disease that would be detrimental to the care of a foster child . . . ?" and "yes" to whether Metcalf had "any physical, behavioral or emotional problems that would be detrimental to a foster child/adoptive child placed in the home?" *Id.* The medical statement form did not provide specific space for Dr. Friedman to address the possibility of assistance for Metcalf. And neither the form nor the Ennis Center asked whether assistance would alleviate his concerns.

In a deposition, Dr. Friedman detailed his thinking when filling out the form. He explained that since Metcalf "cannot even care for herself," he did not believe she was "physically capable of caring for another person." Friedman Dep., R. 60-8, PageID 1386. He therefore thought it would be "inappropriate" for someone with Metcalf's physical limitations to *ever* foster a child. *Id.* at PageID 1392. Yet Dr. Friedman also testified that Metcalf could "possibl[y]" be a foster parent if she paid for additional assistance with the physical tasks childcare requires. *Id.* at PageID 1387. He emphasized, though, that Metcalf would need to pay for this care out of her own pocket since it would be inappropriate for her to rely on the aides prescribed for her own care and paid for by the state of Michigan for assistance with childcare tasks.

Following Dr. Friedman's medical assessment, defendant Ashley Curtis, an employee of the Ennis Center, reviewed Metcalf's application. Curtis conducted two home visits and conversed several times with Metcalf. Dr. Friedman's assessment, combined with these experiences, led Curtis to recommend denying Metcalf's application. She concluded that granting Metcalf a foster license would violate four regulatory provisions: (1) Metcalf did not "[d]emonstrate an understanding of the care which must be provided to the children served by the agency," Mich. Admin. Code r. 400.9201(d) (2019); (2) she was not "of such physical, mental, and emotional health to assure appropriate care of children," *id.* at r. 400.9201(h) (2019); (3) she was not "of responsible character," and "suitable and able to meet the needs of children and provide for their care, supervision, and protection," *id.* at r. 400.9201(j) (2019); and (4) she was not "in a state of physical, mental, and emotional health that [would] not impair the care of a foster child," *id.* at r. 400.9202(1)(b) (2019). Defendant Stephanie Miller, Curtis's supervisor, cosigned Curtis's recommendation to deny Metcalf's application.

After reviewing Curtis's investigative report and recommendation, defendant Patricia Neitman (then Director of DCWL) informed Metcalf in February 2020 that DCWL was administratively closing her application. Importantly, and contrary to Metcalf's assertions, the record indisputably demonstrates that DCWL did not *deny* her application. Had that occurred, Michigan law would allow DCWL to bar Metcalf from reapplying to be a foster parent for five years. *See* Mich. Comp. Laws § 722.125(4). But, as Michigan confirmed at oral argument, since Neitman administratively closed Metcalf's application, she may reapply at any time or provide DCWL with information rebutting the Ennis Center's recommendation without starting the process over.

III. Current Proceedings

Metcalf brought this lawsuit against the State of Michigan, Neitman, and Ashleigh LaPointe (current Director of DCWL) (collectively, the "State Defendants"), as well as the Ennis Center, Curtis, and Miller (collectively, the "Ennis Defendants"), challenging the closure of her foster parent application. She raised three primary claims: *first*, that the defendants discriminated against her in violation of Title II of the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act; *second*, that two Michigan laws facially violate the

ADA and Rehabilitation Act; and *third*, that Neitman and the Ennis Defendants violated the Equal Protection Clause by treating her differently because of her disability. *See* 42 U.S.C. § 12101 *et seq.* (ADA); 29 U.S.C. § 794 (Section 504); U.S. Const. amend. XIV; 42 U.S.C. § 1983.

Following discovery, the parties cross-moved for summary judgment. The district court granted the defendants' motions on all counts and denied Metcalf's. Metcalf timely appealed.

ANALYSIS

We review summary judgment decisions de novo. *Power & Tel. Supply Co. v. SunTrust Banks, Inc.*, 447 F.3d 923, 932 (6th Cir. 2006). In reviewing the district court's grant of summary judgment for the defendants, we draw all reasonable inferences in favor of Metcalf. *Id.* Thus, we will grant summary judgment if, when examining the record as a whole, there is no dispute of material fact, and the defendants are entitled to judgment as a matter of law. *Id.*; Fed. R. Civ. P. 56(c). Because even making every inference in Metcalf's favor, we affirm the district court's grant of summary judgment for the defendants, we need not consider Metcalf's request for summary judgment. *Gen. Teamsters Sales & Serv. & Indus. Union Loc. No. 654 v. Active Transp. Co.*, 172 F.3d 872, at *4 n.11 (6th Cir. 1999) (unpublished table decision).

Before turning to the merits of Metcalf's claims, we first consider a discovery dispute. We next explain why the State Defendants are entitled to sovereign immunity on many of their claims. Then we turn to Metcalf's as-applied discrimination claims under the ADA and Rehabilitation Act, her facial challenges under those statutes, and her Equal Protection claim.

I. Discovery Dispute

Metcalf contends that the district court improperly considered a declaration from Neitman and an affidavit from Curtis in granting summary judgment for the defendants. She argues that it was improper for the court to rely on this testimony because it was filed alongside the defendants' motion for summary judgment and never previously disclosed to her. We review the district court's discovery determination for an abuse of discretion and, after examination, find none. *Ondo v. City of Cleveland*, 795 F.3d 597, 603 (6th Cir. 2015).

This discovery dispute implicates two rules regarding what parties must disclose to the opposing parties and the consequences for failing to do so. During discovery, the parties often exchange information and respond to the other's written questions, called interrogatories. Rule 26(e) of the Federal Rules of Civil Procedure requires parties to continually supplement their responses to interrogatories as they learn new information. If they fail to supplement their responses, Rule 37 bars them from later relying on the information that they should have provided under Rule 26(e).

Metcalf asserts that the defendants violated Rule 26(e) by not updating their interrogatory responses with the testimony contained in the Neitman declaration and Curtis affidavit. During discovery, Metcalf served, for example, an interrogatory asking the State Defendants to state "any and all of the reasons" MDHHS closed her license application. State Defs.' Resp. to Interrogs., R. 60-4, PageID 1272. The State Defendants objected to this interrogatory on various grounds, then directed Metcalf to various documents they had already disclosed. Metcalf contends that the Neitman declaration and Curtis affidavit were responsive to this and other interrogatories, and because the defendants never supplemented their responses under Rule 26(e) with this testimony, Rule 37 bars the defendants from using it to support their motion for summary judgment.

Metcalf is wrong for several reasons. *First*, to the extent that Metcalf now contends the defendants' objections were "nonsensical" or "cookie-cutter," Appellant Br. at 15, she ignores that the defendants did respond to many of her interrogatories and identified Neitman and Curtis in their initial disclosures. *Second*, Metcalf never sought to depose Neitman or Curtis through four years of litigation. The defendants disclosed at the outset that both Neitman and Curtis would have information relevant to MDHHS's decision not to grant Metcalf's application. And the documents the State Defendants identified in response to Metcalf's interrogatories included Curtis's recommendation and Neitman's letter. Indeed, Metcalf had already named Neitman and Curtis in her lawsuit. Despite having knowledge and an opportunity to take their testimony, Metcalf never did. So she cannot fairly complain about the district court relying on their testimony. *Third*, the defendants did not create the documents until mere days before they moved for summary judgment, long after discovery had concluded. It is difficult to fault the defendants for failing to produce documents that did not even exist while discovery was ongoing, much less when Metcalf declined to pursue the discovery tools at her disposal to obtain the contested information. *See Muhammad v. Deutsche Bank Nat'l Tr. Co.*, No. 21-6243, 2023 WL 3067756, at *4 (6th Cir. Apr. 25, 2023).

Metcalf's reliance on *Gipson v. Vought Aircraft Industries* is unavailing. There, Gipson's initial disclosures named a specific individual who was likely to have discoverable knowledge. 387 F. App'x 548, 551 (6th Cir. 2010). When Vought propounded an interrogatory seeking a description of that knowledge, Gipson did not meaningfully elaborate on what that individual knew. *Id.* Then, at the summary judgment stage, Gipson introduced an affidavit from the named individual that contained information that would have been responsive to Vought's initial interrogatory. *Id.* at 552. The district court granted Vought's motion to strike portions of the affidavit. *Id.* We affirmed, holding that the additional information contained in the affidavit was not properly before the district court because it had been notarized two months before the close of discovery. *Id.* at 554–55. But here, unlike in *Gipson*, the defendants objected to Metcalf's interrogatories. *See id.* at 551–52. The contested documents in this case also did not exist until well after the close of discovery, unlike in *Gipson*. *See id.* at 554.

Thus, the district court did not abuse its discretion in considering the Neitman declaration and Curtis affidavit, and we will also consider those documents as part of the record.

II. Sovereign Immunity

Before turning to each of Metcalf's claims, we first address the State Defendants' threshold defense: sovereign immunity. The State Defendants contend that they are entitled to sovereign immunity on all claims except for Metcalf's Rehabilitation Act claim and her request for prospective injunctive relief against LaPointe. *See* U.S. Const. amend. XI. Metcalf does not dispute the applicability of sovereign immunity, nor should she, as the State Defendants are correct. Sovereign immunity bars ADA Title II claims against states, their agencies, and their officials when those claims sound in equal protection and are based on heightened scrutiny. *Babcock v. Michigan*, 812 F.3d 531, 534 (6th Cir. 2016). Sovereign immunity also protects states, their agencies, and their officials (when sued in their official capacity) from suits for damages arising under 42 U.S.C. § 1983, such as Metcalf's Equal Protection claim. *Cady v. Arenac County*, 574 F.3d 334, 342 (6th Cir. 2009).

After applying sovereign immunity, Metcalf's appeal narrows, but it still continues on several fronts. Sovereign immunity does not dispense of any claims against the Ennis Defendants. Nor does it dispense of the Rehabilitation Act claims against the State Defendants. *See* 42 U.S.C. § 2000d-7 (explicitly abrogating sovereign immunity for Section 504 claims). Finally, sovereign immunity does not bar Metcalf's request for prospective injunctive relief against state officials. *See Ex parte Young*, 209 U.S. 123, 159 (1908); *Charlton-Perkins v. Univ. of Cincinnati*, --- F.4th ----, 2026 WL 2254577, at *8 (6th Cir. Aug. 5, 2026). Metcalf would have us enjoin enforcement of state law against her future attempts to obtain a foster license. That is well within the scope of the *Ex parte Young* actions endorsed by our precedents. *Cf. Charlton-Perkins*, 2026 WL 2254577, at *12 (injunction unavailable when there was "no future action to enjoin").[1]

With these limits, we turn to Metcalf's discrimination claims.

III. As-Applied ADA and Rehabilitation Act Claims

Metcalf's central claim is that the defendants discriminated against her based on her disability by rejecting her application to be a foster parent because she is quadriplegic. Metcalf acknowledges that her quadriplegia prevents her from performing certain physical tasks required of caregivers. But she maintains that her network of formal and informal aides could provide the necessary support and function as a reasonable accommodation. As she describes her plan to parent, she is the "brains of her operation," while her aides "act as her hands." Second Am. Compl., R. 42, PageID 719. Because the defendants rejected this accommodation, she contends that they discriminated against her in violation of Title II of the ADA and Section 504 of the Rehabilitation Act. *See* 42 U.S.C. § 12132 (Title II); 29 U.S.C. § 794(a) (Section 504).

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[1] Metcalf also requests an injunction "from future violations of [her] rights by continuing to exclude her . . . from access to the Michigan foster care licensing system by reason of her . . . disability." Second Am. Compl., R. 42, PageID 732. Because Metcalf argues that the application of Michigan law is excluding her from the foster licensing system, we read this requested injunction to be identical to the requested injunction listed above.

We disagree, however, that Metcalf offered a reasonable accommodation for providing physical assistance to foster children. As the defendants confirm, Metcalf may be able to demonstrate that she is qualified to be a foster parent by securing sufficient dedicated help to provide physical support for potential foster children. But the record shows that she has not secured that help or even proffered a plan to do so. Thus, based on this record, the defendants are entitled to summary judgment on Metcalf's as-applied ADA and Rehabilitation Act claims.

Because the ADA and Rehabilitation Act claims have similar elements, we evaluate them together (with the caveat that sovereign immunity shields the State Defendants from some of the ADA claims, as explained above). *See Knox County v. M.Q.*, 62 F.4th 978, 1000 (6th Cir. 2023). To succeed under either statute, Metcalf must satisfy three elements. *First*, that she has a disability, an element not contested here given her quadriplegia. *See Finley v. Huss*, 102 F.4th 789, 820 (6th Cir. 2024). *Second*, that she is "otherwise qualified" to be a foster parent, either with or without a reasonable accommodation. *Kaltenberger v. Ohio Coll. of Podiatric Med.*, 162 F.3d 432, 435 (6th Cir. 1998). *Third*, that the defendants rejected her application because of her disability, which she can establish by showing that the defendants failed to provide a reasonable accommodation. *See Finley*, 102 F.4th at 820.[2] Here, the inquiry turns on whether her proposed accommodation was reasonable—which matters for both the second and third elements—so we focus our analysis on that question.

A. Accommodation Request

Metcalf must first establish that she requested an accommodation, but the defendants say she did not. *See Smith v. Henderson*, 376 F.3d 529, 535–36 (6th Cir. 2004). Even if she did not directly make a request, however, it is enough that the defendants knew or should have known that Metcalf sought accommodation. *See id.* The record reflects that Metcalf satisfied that standard. Given Metcalf's physical limitations, it was not a question that she would need assistance in caring for foster children. Recognizing that, Metcalf "ask[ed] the Ennis Center" whether her aides would need to take foster care classes or only take CPR and first aid classes (foster parent requirements that Metcalf cannot physically perform). Metcalf Dep., R. 60-9,

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[2]Rehabilitation Act claims also require the program to receive federal funding, *see Gohl v. Livonia Pub. Schs. Sch. Dist.*, 836 F.3d 672, 682 (6th Cir. 2016), an element not contested by the defendants.

PageID 1441–42. She also asked if her aides would "need to be, you know, certified" since they would be "assisting [her] with the children." *Id.* Indeed, Neitman inquired into whether Metcalf's aides could assist with children in the home, demonstrating that Neitman understood Metcalf would be relying on them as an accommodation. Given this record, we conclude that Metcalf sufficiently requested an accommodation so that she could receive a foster care license.

B. Reasonable Accommodation

We must next consider whether Metcalf's proposed accommodation was reasonable. An accommodation is unreasonable under the ADA and Rehabilitation Act if it "would fundamentally alter the nature of the service, program, or activity." 28 C.F.R. § 35.130(b)(7)(i); *see Jones v. City of Monroe*, 341 F.3d 474, 480 (6th Cir. 2003), *abrogated on other grounds by*, *Lewis v. Humboldt Acquisition Corp.*, 681 F.3d 312 (6th Cir. 2012) (en banc); *McPherson v. Mich. High Sch. Athletic Ass'n*, 119 F.3d 453, 459–61, 463 (6th Cir. 1997) (en banc) (applying the same framework to Rehabilitation Act claims).[3] In applying this standard, we must undertake an "individualized inquiry," asking whether Metcalf's specific accommodation request would "fundamentally alter" the licensure scheme for foster parents. *PGA Tour, Inc. v. Martin*, 532 U.S. 661, 688 (2001).

The defendants carry both the burden of production and the burden of persuasion in establishing that Metcalf's network of aides would fundamentally alter the scheme and thus was not a reasonable accommodation that would allow her to serve as a foster parent. *Hindel v. Husted*, 875 F.3d 344, 348 (6th Cir. 2017). They advance two reasons why Metcalf's plan was unreasonable. *First*, they contend that Metcalf's aides would need to themselves get licensed as foster parents to satisfy the licensure scheme. *Second*, they contend that Metcalf's existing network of aides did not make her properly prepared to meet all of a foster child's physical needs. Although the defendants' first rationale is unpersuasive, their second one convinces us that Metcalf's proposed accommodation is not reasonable.

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[3]The defendants do not argue Metcalf's proposed accommodation is unreasonable for other reasons, and thus we consider only whether the accommodation would fundamentally alter the state's scheme.

Separate Licensure. The defendants contend that Metcalf's accommodation request is not reasonable because her aides would need to be separately licensed as co-foster parents given that they would be performing nearly all of the necessary physical caregiving tasks. The district court agreed with the defendants. It reasoned that since "both [Metcalf] and her aides would all play necessary roles in rendering childcare," both she and her aides "must meet foster parent licensure standards." D. Ct. Op., R. 79, PageID 2241.

We are not persuaded, however, that her aides would need separate licensure. The state defendants have not demonstrated on this record that Michigan's foster-parent scheme actually requires secondary caregivers who assist with childcare to be separately licensed. And if the scheme singled out Metcalf because of her quadriplegia, we would have serious questions about its lawfulness.

Start with the record. The defendants rely on Curtis's testimony that "[i]f Ms. Metcalf intended to have her aides assist her with caring [for] the foster children, then each aide would have been required to apply and be accepted as licensed foster parents." Curtis Aff., R. 63-3, PageID 1529, ¶ 24. But the foster-care scheme does not require all persons in a household with a foster child to be licensed. Instead, under Rule 400.9205, licensing agencies may certify members of a licensee's household without licensing them as separate foster parents. *See* Mich. Admin. Code r. 400.9205. Neitman herself testified that DCWL "assessed whether Metcalf could safely provide care with her individual aid[e]s," and concluded that "without additional information about the aid[e]s, including background checks," Metcalf's home was not an appropriate place for foster children. Neitman Decl., R. 65-2, PageID 1930–31, ¶ 9. Thus, it is not clear that Neitman thought Metcalf's aides would need to be separately licensed rather than approved under Rule 400.9205. Moreover, Metcalf testified that she asked the Ennis Center "do [the aides] need to be, you know, certified"? Metcalf Dep., R. 60-9, PageID 1441. While Metcalf does not say what the Center's response to this query was, crediting her testimony and considering the rest of the record, it is reasonable to infer that the defendants said her aides would not need to be licensed.

The defendants bear the burden of production in showing that Metcalf's aides would need to be separately licensed as foster parents. *See Hindel*, 875 F.3d at 348. Yet they have not shown that other in-home help who devote similar time and care to children must be separately licensed, such as a nanny or live-in au pair for a traveling businessperson. Nor have they explained, if Metcalf intends to rely on a number of aides and assistants as she has in the past, how many of them must be licensed as co-parents.

If the defendants instead mean that Metcalf's quadriplegia categorically barred her from being a *solo* foster parent, that could violate the ADA's requirement that the government make an "individualized inquiry" into a person's disability accommodation request. *PGA Tour*, 532 U.S. at 688. Indeed, at oral argument, the government conceded that a quadriplegic could plausibly qualify as a solo foster parent. Thus, the district court erred in determining that the defendants met their burden to show that allowing Metcalf's aides to assist her in providing care without being separately licensed would fundamentally alter the licensing scheme.

Metcalf's Patchwork of Assistance. Although we reject the defendants' argument that each of Metcalf's aides would need to be separately licensed as foster parents, we agree with their second reason for rejecting Metcalf's accommodation request: Metcalf had not secured—nor even promised to secure—supplemental care that would reliably provide the type of full-time physical assistance needed for her to care for foster children. Because Metcalf's proffered accommodation would have required the state to effectively waive fundamental rules related to the safety of foster children, *see* Mich. Admin. Code r. 400.9201(d), (h), (j) (2019); *id.* r. 9202(b) (2019), her request was not reasonable. *See PGA Tour*, 532 U.S. at 689; *see also Tri-Cities Holdings LLC v. Tenn. Admin. Procs. Div.*, 726 F. App'x 298, 316 (6th Cir. 2018).

The defendants demonstrated that Metcalf's patchwork of formal and informal assistance did not provide adequate assurance that she could meet her foster parent responsibilities. Consider first her full-time, paid aides. As mentioned, the government presented unrebutted testimony that Metcalf's no-fault insurance did not allow these caretakers to assist any other person; insurance covered the cost of meeting Metcalf's physical needs only. *See* Mich. Comp. Laws § 500.3107(1)(a). Metcalf did not plan to increase these aides' pay if she were to foster a child. Quite the opposite, she minimized how much fostering children could increase their responsibilities, surmising that it would not add a significant burden given that they already cooked, cleaned, and transported her. And even assuming Metcalf would supplement their pay, there is no evidence in the record that these aides were "willing to undertake physical caregiving responsibilities for foster children in addition to assisting Metcalf." D. Ct. Op., R. 79, PageID 2237. The district court alerted Metcalf to these concerns at the motion to dismiss stage, explaining that "one critical factual issue," which "may be decisive," was whether her insurance-provided aides were "willing and able to take on childcare duties." D. Ct. Op. on MTD, R. 23, PageID 234 n.2. But at summary judgment, the record does not demonstrate that Metcalf had secured—or even could secure—the assistance of her full-time, paid aides to meet the physical needs of a foster child.

Metcalf's informal network of support likewise does not provide assurance that Metcalf could meet the physical needs of foster children. The record shows that Metcalf's supplemental care amounted to a loose network of over twenty different friends and family members. She paid these care providers through informal gifts, with undefined pay scales, no firm schedule, and no documentation. We do not discount the value that informal networks play in raising children. But we agree with the defendants that placing foster children in Metcalf's care without more concrete assurance that Metcalf could reliably meet the physical needs of foster children would "fundamentally alter" the licensure system and is, therefore, not a reasonable accommodation. 28 C.F.R. § 35.130(b)(7)(i).

Metcalf is not precluded from supplementing her application with a more comprehensive third-party assistance plan showing that she can properly physically care for foster children with appropriate help. But, based on this record, we affirm the district court's grant of summary judgment for the defendants on Metcalf's claim that rejecting her application violated the ADA and the Rehabilitation Act.

IV. Facial Challenge

In addition to challenging the rejection of her application specifically, Metcalf also contends that two provisions of Michigan law governing foster care licensure facially discriminate against people who have disabilities, in violation of the ADA and the Rehabilitation Act. She points first to a Michigan law that prohibits foster parent licensure unless "each member of the household" can show that "he or she does not have a known condition that would affect the care of a foster child." Mich. Comp. Laws § 722.115(3). Next, Metcalf emphasizes that, by law, DCWL must exclude an applicant if they do not "[h]ave the physical, mental, and emotional health to ensure appropriate care of children." Mich. Admin. Code r. 400.9201(1)(d). These two provisions, she contends, mean that Michigan law prohibits any disabled person whose condition would "affect" a child's care from being a foster parent, or even living in a home with foster children, regardless of the size or impact of that effect.

Metcalf has not met the high bar of showing that these provisions are facially discriminatory. Laws are facially invalid only if they are discriminatory "'in all of [their] applications.'" *City of Los Angeles v. Patel*, 576 U.S. 409, 418–19 (2015) (quoting *Wash. State Grange v. Wash. State Republican Party*, 552 U.S. 442, 449 (2008)). DCWL has issued foster licenses to people with disabilities, meaning that it does not interpret the provisions to bar anyone and everyone with a disability from receiving a foster care license. So it does not preclude people with disabilities, no matter how little their "known condition" would "affect" caring for the child, from being foster parents. Nor does DCWL violate the ADA or Rehabilitation Act each time it applies these provisions. There are some cases, as here, where an applicant has a severe disability and has not proposed a reasonable accommodation. And there may be cases where an individual's disability cannot be accommodated in a way to "ensure appropriate care of children." Mich. Admin. Code r. 400.9201(1)(d). Rejecting a foster care license in those circumstances does not violate the ADA or Rehabilitation Act. Because the provisions have not been discriminatory in all their applications, her facial challenges fail.

Metcalf's counterargument is unavailing. She argues that evidence of other disabled people nevertheless receiving foster care licenses means only that they were fortunate, "even though the law says they are not eligible." Appellant Br. at 30. True, the laws are not artfully worded. But we can examine how Michigan has applied its laws in evaluating a facial challenge. And Michigan has awarded other people with disabilities foster care licenses. Similarly, MDHHS has declined to foreclose the possibility that Metcalf herself could be qualified in the future, even considering her quadriplegia. We will not interpret these provisions as so unyielding as to violate federal law, especially when Michigan itself does not.

V. Equal Protection

Beyond her statutory claims, Metcalf argues that Neitman and the Ennis Defendants violated her Equal Protection rights by discriminating against her based on her disability. *See* U.S. Const. amend. XIV. For this claim, she must first demonstrate "disparate treatment." *Scarbrough v. Morgan Cnty. Bd. of Educ.*, 470 F.3d 250, 260 (6th Cir. 2006). She has. The Ennis Defendants' recommendation, which the State Defendants relied on to close Metcalf's application, was based on Metcalf's "physical examination documentation" and the home visits. Licensing R., R. 60-3, PageID 1254. The physical examination form listed Metcalf's quadriplegia as its only explanation for why she was not medically capable of caring for children. And Dr. Friedman testified that Metcalf's disability was the sole reason for the conclusions in his evaluation. Metcalf's application would not have been closed if she were not disabled.

Whether this disparate treatment amounts to unconstitutional discrimination, however, is a different inquiry. Disparate treatment based on an individual's disability is subjected to rational basis review. *See Bd. of Trs. of Univ. of Ala. v. Garrett*, 531 U.S. 356, 366–68 (2001). So the disparate treatment is unconstitutional only if it was "unrelated to the achievement of any combination of [] legitimate purposes." *Scarbrough*, 470 F.3d at 261 (citation modified). Because the defendants' actions were rationally related to the legitimate purpose of ensuring safe homes for foster children, they are entitled to summary judgment on Metcalf's Equal Protection claim.

To the extent that Metcalf argues that the defendants' actions were motivated by animus, the record does not support that assertion. *Cf. id.* For example, Metcalf testified that Curtis helped her throughout the process and encouraged her to apply. Neitman additionally administratively closed her application rather than denying it outright, allowing for the possibility of a future application. We will not impute animus given this record.

In sum, based on this record, the defendants are entitled to summary judgment on all of Metcalf's claims. As the defendants assure us, if Metcalf or another individual with physical limitations presents a sufficiently comprehensive plan for assistance, the physical limitations alone will not be a sufficient basis for preventing that person from becoming a foster parent.

CONCLUSION

We affirm the district court's grant of summary judgment to the defendants on all of Metcalf's claims.