

IN THE SUPREME COURT OF OHIO

Case No. 2024-1075

Original Action in Mandamus

STATE OF OHIO *ex rel.* LEADINGAGE OHIO, *et al.*

Relators

v.

OHIO DEPARTMENT OF MEDICAID, *et al.*

Respondents

RESPONDENTS' MOTION FOR STAY OF EXECUTION OF JUDGMENT

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RESPONDENTS' MOTION FOR STAY OF EXECUTION OF JUDGMENT

Pursuant to Rule 18.03(B), Respondents Ohio Department of Medicaid and Maureen M. Corcoran, Director (collectively, "ODM") ask this Court to stay execution of its September 2, 2025 opinion and judgment granting a writ of mandamus in favor of Relators for the reasons set forth in the accompanying Memorandum in Support. This Motion is timely made within seven days of the judgment as required by Rule 18.03(B) and, pursuant to that Rule, operates as an automatic stay of execution until the Court rules upon this Motion.

A supporting memorandum is attached.

Respectfully submitted,

/s/ Frank J. Reed, Jr.

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MEMORANDUM IN SUPPORT

Rule 18.03 of this Court’s Rules of Practice provides that “[a]ny party may file a motion to stay execution of the Supreme Court’s judgment within seven days after the filing of the judgment entry.” Further, “a motion to stay execution of the Supreme Court’s judgment automatically stays execution of the judgment until the Supreme Court rules upon such motion.” *Id.*

ODM respectfully asks for a stay of the Court’s September 2, 2025 opinion and judgment that granted a writ of mandamus in favor of Relators (the “Judgment”). A stay is appropriate here while ODM seeks reconsideration of the Court’s Judgment. ODM intends to seek reconsideration for the Court to review the legal and practical issues that the State of Ohio would face in order to attempt to comply with the Judgment, as well as how ODM can comply with this Court’s Judgment given that the Ohio General Assembly has not appropriated the \$286 million dollars per fiscal year required to comply with this Court’s Judgment. The legislature has only appropriated the amount of funds for quality incentive payments consistent with ODM’s interpretation R.C. 5165.26.

A stay is necessary so that ODM can file that motion for reconsideration as of right within the allotted time—within ten days after this Court’s Judgment was filed with the Clerk of the Supreme Court, i.e., no later than September 12, 2025—thus allowing the Court to consider and resolve these important outstanding issues before the Judgment is carried into effect. Rule 18.02(A)(1).

First, ODM will seek to clarify whether the Court’s decision applies retroactively to the 2024–2025 biennial budget covered by Relators’ petition. If the Court’s decision is applied retroactively, ODM will be faced with an Order compelling the expenditure of funds that do not

exist. As such, ODM will file a motion seeking reconsideration and clarification from the Court as to the temporal scope and implications of its ruling.

Second, the Judgment does not address the ample evidence ODM presented supporting ambiguity in R.C. 5165.26 that would support reference to sources other than the statute to aid in its interpretation. *See, e.g., State v. Chappell*, 2010-Ohio-5991, ¶ 16 (“[W]here the words [of a statute] are ambiguous and are subject to varying interpretations, further interpretation is necessary.”). Relators’ interpretation of R.C. 5165.26(E) as adopted in the Judgment results in a budget outlay of approximately \$286 million more than the expenditures calculated by the Legislative Budget Office for each year of the 2024–2025 biennium. ODM respectfully submits that those calculations—which Relators agreed with during the budget negotiations and which the General Assembly relied upon in passing the 2024–2025 state budget—evinced a legislative intent and thus a statutory interpretation consistent with the arguments presented by ODM. This is a different issue than the unclean hands argument ODM addressed at the merits stage and which the Court addressed in the Judgment. This is an issue of statutory interpretation that calls for further examination by this Court in determining the meaning of R.C. 5165.26.

Third, ODM will seek reconsideration because the General Assembly has not appropriated the funds for the 2026–2027 budget biennium that would be required to comply with the Court’s order. Rather, the General Assembly once again has appropriated funds consistent with ODM’s interpretation and application of the statute—i.e., that R.C. 5165.26(E) provides quality incentive pool funding from 60% of the increase in the rate for direct care costs directly attributable to rebasing (the increase to price). This is a novel issue that could not previously have been raised because it was not presented to the Court by Relators’ petition, nor (axiomatically) could it have

been, because ODM was not faced with the circumstances now presented by the Judgment while this case was pending decision by the Court.

A brief stay, simply to allow this Court to ensure each aspect of its pronouncement in this case is correct and complete, will have minimal impact on Relators given the length of the period for which ODM seeks a stay (only for however long it takes the Court to decide ODM's motion for reconsideration) compared to the overall length of this litigation (since early 2024).

It bears emphasis that this Court's Judgment addresses expenditures by ODM of more than **\$627 million** in fiscal year 2024 and more than **\$747 million** in fiscal year 2025 relating to the Medicaid nursing home quality incentive payments alone. The Judgment also arguably compels ODM to spend **more than \$572 million *beyond*** the appropriations actually authorized by the Ohio General Assembly for the 2024–2025 biennium. Based on ODM's current calculations, similar significant budgetary impacts—i.e., shortfalls—from the Judgment will result in the 2026–2027 biennial budget, which already has been signed into law by Governor DeWine.

It is difficult to overstate the outsized impact of such issues on the State's budget and overall financial health, and so, given the sheer size of the numbers involved here, it is only appropriate that the Court's Judgment be stayed while ODM is permitted to seek the full scope of review consistent with this Court's Rules.

The gravity and equities of this case, as well as the timetables presented by the Court's Rules, justify a limited stay of execution through the Court's determination of ODM's forthcoming motion for reconsideration, which will be timely filed within the period permitted by the Rules. ODM therefore respectfully asks that this Court grant it the requested, limited stay of execution of the Judgment.

Respectfully submitted,

/s/ Frank J. Reed, Jr.

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CERTIFICATE OF SERVICE

I hereby certify that on the 9th day of September 2025, a copy of the foregoing was served by email upon the following:

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