

ASSEMBLY CONCURRENT RESOLUTION No. 82

STATE OF NEW JERSEY

INTRODUCED JUNE 3, 1996

By Assemblywoman HECK and Assemblyman KAVANAUGH

1 A CONCURRENT RESOLUTION concerning legislative review of proposed
2 Department of Human Services regulations pursuant to Article V, Section
3 IV, paragraph 6 of the Constitution of the State of New Jersey.

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5 BE IT RESOLVED by the General Assembly of the State of New Jersey
6 (the Senate concurring):

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8 1. Pursuant to Article V, Section IV, paragraph 6 of the Constitution of the
9 State of New Jersey, the Legislature may review any rule or regulation of an
10 administrative agency to determine if the rule or regulation is consistent with
11 the intent of the Legislature.

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13 2. The Department of Human Services has proposed regulations to be
14 codified in chapters 51 and 59 of Title 10 of the New Jersey Administrative
15 Code, as amendments to N.J.A.C.10:51-1.5 et seq. and 10:59-1.4, and new
16 rules at N.J.A.C.10:51-1.26 and 4.27. As proposed, the regulations would
17 implement limits on reimbursement and coverage for prescription drugs under
18 the pharmaceutical assistance to the aged and disabled, or PAAD, and
19 Medicaid fee-for-service programs in anticipation of legislative approval of
20 these changes in PAAD and Medicaid pharmaceutical services, which were
21 included in the Governor's budget recommendations for Fiscal Year 1997.

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23 3. The Legislature finds that the above regulations, as proposed, are not
24 consistent with the legislative intent because the changes with respect to
25 pharmaceutical services provided by the PAAD and Medicaid programs
26 which are incorporated in these regulations have not yet been enacted into law
27 and, in the case of the proposed mail-order services plan for prescription
28 drugs included in proposed new rules as set forth at N.J.A.C.10:51-1.26 and
29 4.27, represent a proposal which the current administration sought to include
30 in the budget for Fiscal Year 1996 but which was not approved by the
31 Legislature.

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33 4. The Secretary of the Senate and the Clerk of the General Assembly
34 shall transmit a duly authenticated copy of this concurrent resolution to the
35 Governor, the Commissioner of Human Services and the Director of the

1 Division of Medical Assistance and Health Services in the Department of
2 Human Services.

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4 5. The Department of Human Services, pursuant to Article V, Section IV,
5 paragraph 6 of the Constitution of the State of New Jersey, shall have 30 days
6 following transmittal of this resolution to amend or withdraw the proposed
7 regulations or the Legislature may, by passage of another concurrent
8 resolution, exercise its authority under the Constitution to invalidate the
9 regulations.

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STATEMENT

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14 This concurrent resolution embodies the finding of the Legislature that the
15 amendments to N.J.A.C.10:51-1.5 et seq. and 10:59-1.4, and the adoption
16 of new rules as set forth at N.J.A.C.10:51-1.26 and 4.27, proposed by the
17 Department of Human Services (28 N.J.R. 2482) are not consistent with
18 legislative intent pursuant to Article V, Section IV, paragraph 6 of the State
19 Constitution.

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21 The proposed regulations would implement limits on reimbursement and
22 coverage for prescription drugs under the pharmaceutical assistance to the
23 aged and disabled (PAAD) and Medicaid programs in anticipation of
24 legislative approval of these changes, which were included in the Governor's
25 budget recommendations for Fiscal Year 1997.

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27 The concurrent resolution finds that the proposed regulations are not
28 consistent with legislative intent since the changes in PAAD and Medicaid
29 pharmaceutical services incorporated in these regulations have not been
30 enacted into law and, in at least one case, represent a proposal by the current
31 administration which was previously rejected by the Legislature.

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33 The Department of Human Services shall have 30 days following
34 transmittal of this resolution to amend or withdraw the proposed regulations
35 or the Legislature may, by passage of another concurrent resolution, exercise
36 its authority under the Constitution to invalidate the regulations.

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41 Determines that proposed Department of Human Services regulations
42 regarding limits on pharmaceutical services under PAAD and Medicaid
43 programs are not consistent with legislative intent.