

SENATE CONCURRENT RESOLUTION NO. 38

An act by concurrent resolution and pursuant to Article IV, Section 8, Missouri Constitution, to disapprove portions of 13 CSR 70-20.031 and 13 CSR 70-20.034 relating to prior authorization of excludable and non-excludable drugs.

WHEREAS, the Department of Social Services promulgated 13 CSR 70-20.031 and 13 CSR 70-20.034 which would become effective thirty days after publication in the Code of State Regulations; and

WHEREAS, the Joint Committee on Administrative Rules has found that the Department acted arbitrarily and capriciously and recommends that the General Assembly act to permanently disapprove and suspend that portion of 13 CSR 70-20.031(3), List of Excludable Drugs for Which Prior Authorization is Required, that reads "Itraconazole Oral -- Noncosmetic uses"; and that portion of 13 CSR 70-20.034(2), List of Non-Excludable Drugs for Which Prior Authorization is Required, that reads "Non-sedating antihistamines -- unrestricted use by patients 18 years of age and younger and medically accepted uses following acceptable trial of unrestricted alternatives for patients older than 18 years of age"; and

WHEREAS, the General Assembly finds that the department acted arbitrarily and capriciously when it failed to comply with the provisions of 13 CSR 70-20.200 (3) and (4) when promulgating those portions of 13 CSR 70-20.031 and 13 CSR 70-20.034 which relate to Itraconazole and non-sedating antihistamines:

NOW, THEREFORE, BE IT RESOLVED, that the ninety-first General Assembly, Second Regular Session, upon concurrence of a majority of the members of the Senate and a majority of the members of the House of Representatives, hereby permanently disapproves and suspends that portion of 13 CSR 70-20.031(3), List of Excludable Drugs for Which Prior Authorization is Required, that reads "Itraconazole Oral -- Noncosmetic uses"; and that portion of 13 CSR 70-20.034(2), List of Non-Excludable Drugs for Which Prior Authorization is Required, that reads "Non-sedating antihistamines -- unrestricted use by patients 18 years of age and younger and medically accepted uses following acceptable trial of unrestricted alternatives for patients older than 18 years of age"; and

BE IT FURTHER RESOLVED that a copy of the foregoing be submitted to the Secretary of State so that the Secretary of State may publish in the Missouri Register, as soon as practicable, notice of the revocation upon this resolution having been signed by the Governor or having been approved by two-thirds of each house of the Ninety-first General Assembly, Second Regular Session, after veto by the Governor as provided in Article III, Sections 31 and 32, and Article IV, Section 8 of the Missouri Constitution; and

BE IT FURTHER RESOLVED, that a properly inscribed copy be presented to the Governor in accordance with Article IV, Section 8 of the Missouri Constitution.