

**RESOLUTION**

**Allow state court judicial review of administrative decisions concerning  
Medicaid services**

A RESOLUTION TO: repeal Texas Government Code 2001.223(1) and allow state court judicial review of cases involving Medicaid services.

WHEREAS: The United States Supreme Court in 1803 in the case of *Marbury v. Madison*, held that it is “emphatically the province and duty of the judicial department to say what the law is,” and in 1970 the Court in the case of *Goldberg v. Kelly*, referred to the “brutal need” that individuals may have for certain public services; and,

WHEREAS: The Texas Administrative Procedure Act *generally* permits persons who have exhausted administrative procedures to have state court judicial review of the final administrative decision, but Texas Government Code 2001.223(1) explicitly exempts those cases involving Medicaid— cases involving brutal need -- from state court judicial review; and,

WHEREAS: Texas’ peer states do permit state court judicial review of final administrative decisions concerning Medicaid, and in the federal system judicial review of final administrative decisions is permitted under Medicare, Social Security, and Supplemental Security Income; now, therefore, be it

RESOLVED: That the 11<sup>th</sup> Texas Silver-Haired Legislature encourage and strongly recommend that the 80<sup>th</sup> Texas Legislature repeal Texas Government Code 2001.223(1) and allow Texas state court judicial review of final administrative decisions concerning the granting, payment, denial or withdrawal of Medicaid.

PASSED AND APPROVED this 11<sup>th</sup> day of September, 2006, by the State Affairs Committee.

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Glen Peterson, Chair

PASSED AND APPROVED this 12<sup>th</sup> day of September, 2006, by the Texas Silver-Haired Legislature.

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Charlotte Parks, Speaker

ATTEST:

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Carlos Higgins, Secretary