CERTIFICATION OF ENROLLMENT

ENGROSSED SUBSTITUTE HOUSE BILL 1866

67th Legislature 2022 Regular Session

Passed by the House March 9, 2022 Yeas 87 Nays 9	CERTIFICATE
-	I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby
Speaker of the House of	 certify that the attached is ENGROSSED SUBSTITUTE HOUSE BILL
Representatives	1866 as passed by the House of Representatives and the Senate on the dates hereon set forth.
Passed by the Senate March 3, 2022 Yeas 30 Nays 17	
	Chief Clerk
President of the Senate	
Approved	FILED
Governor of the State of Washington	Secretary of State State of Washington

ENGROSSED SUBSTITUTE HOUSE BILL 1866

AS AMENDED BY THE SENATE

Passed Legislature - 2022 Regular Session

State of Washington

67th Legislature

2022 Regular Session

By House Health Care & Wellness (originally sponsored by Representatives Chopp, Riccelli, Macri, Bateman, Davis, Fey, Goodman, Leavitt, Ortiz-Self, Peterson, Ramel, Ryu, Santos, Orwall, Wylie, Cody, Simmons, Slatter, Valdez, Wicks, Pollet, Taylor, Stonier, Ormsby, Hackney, Harris-Talley, and Frame)

READ FIRST TIME 02/03/22.

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- AN ACT Relating to assisting persons receiving community support services through medical assistance programs to receive supportive housing; amending RCW 36.22.176; adding new sections to chapter 74.09 RCW; adding new sections to chapter 43.330 RCW; adding a new section
- 5 to chapter 44.28 RCW; and creating new sections.
- 6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:
- 7 <u>NEW SECTION.</u> **Sec. 1.** (1) The legislature finds that:
- 8 (a) The epidemic of homelessness apparent in communities 9 throughout Washington is creating immense suffering. It is 10 threatening the health of homeless families and individuals, sapping 11 their human potential, eroding public confidence, and undermining the 12 shared values that have driven our state's prosperity, including 13 public safety and access to public streets, parks, and facilities;
 - (b) In seeking to identify the causes of this epidemic, a large proportion of those unsheltered also suffer from serious behavioral health or physical health conditions that will inevitably grow worse without timely and effective health care;
- 18 (c) Housing is an indispensable element of effective health care.
 19 Stable housing is a prerequisite to addressing behavioral health
 20 needs and lack of housing is a precursor to poor health outcomes;

1 (d) A home, health care, and wellness are fundamental for 2 Washington residents;

- (e) Reducing homelessness is a priority of the people of Washington state and that reducing homelessness through policy alignment and reform lessens fiscal impact to the state and improves the economic vitality of our businesses;
- (f) The impact of this epidemic is falling most heavily on those communities that already suffer the most serious health disparities: Black, indigenous, people of color, and historically marginalized and underserved communities. It is a moral imperative to shelter chronically homeless populations; and
- (g) Washington state has many of the tools needed to address this challenge, including a network of safety net health and behavioral health care providers in both urban and rural areas, an effective system of health care coverage through apple health, and excellent public and nonprofit affordable housing providers. Yet far too many homeless families and individuals are going without the housing and health care resources they need because these tools have yet to be combined in an effective way across the state.
- 20 (2) It is the intent of the legislature to treat chronic 21 homelessness as a medical condition and that the apple health and 22 homes act address the needs of chronically homeless populations by 23 pairing a health care problem with a health care solution.
- NEW SECTION. Sec. 2. A new section is added to chapter 74.09
 RCW to read as follows:
- The definitions in this section apply throughout sections 3 and 4 of this act unless the context clearly requires otherwise.
 - (1) "Community support services" means active search and promotion of access to, and choice of, appropriate, safe, and affordable housing and ongoing supports to assure ongoing successful tenancy. The term includes, but is not limited to, services to medical assistance clients who are homeless or at risk of becoming homeless through outreach, engagement, and coordination of services with shelter and housing. The term includes benefits offered through the foundational community supports program established pursuant to the authority's federal waiver, entitled "medicaid transformation project," as amended and reauthorized.
- 38 (2) "Community support services provider" means a local entity 39 that contracts with a coordinating entity to provide community

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- support services. A community support services provider may also separately perform the functions of a housing provider.
- (3) "Coordinating entity" means one or more organizations, including medicaid managed care organizations, under contract with the authority to coordinate community support services as required under sections 3 and 4 of this act. There may only be one coordinating entity per regional service area.
 - (4) "Department" means the department of commerce.

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- (5) "Homeless person" has the same meaning as in RCW 43.185C.010.
- (6) "Housing provider" means a public or private organization 10 11 that supplies permanent supportive housing units consistent with RCW 12 36.70A.030 to meet the housing needs of homeless persons. A housing provider may supply permanent supportive housing in a site-based or 13 14 scattered site arrangement using a variety of public, private, philanthropic, or tenant-based sources of funds to cover operating 15 16 costs or rent. A housing provider may also perform the functions of a 17 community support services provider.
- 18 (7) "Office" means the office of apple health and homes created 19 in section 5 of this act.
- 20 (8) "Program" means the apple health and homes program 21 established in section 3 of this act.
- 22 (9) "Permanent supportive housing" has the same meaning as in RCW 36.70A.030.
- NEW SECTION. Sec. 3. A new section is added to chapter 74.09
 RCW to read as follows:
 - (1) Subject to the availability of amounts appropriated for this specific purpose, the apple health and homes program is established to provide a permanent supportive housing benefit and a community support services benefit through a network of community support services providers for persons assessed with specific health needs and risk factors.
 - (a) The program shall operate through the collaboration of the department, the authority, the department of social and health services, local governments, the coordinating entity or entities, community support services providers, local housing providers, local health care entities, and community-based organizations in contact with potentially eligible individuals, to assure seamless integration of community support services, stable housing, and health care services.

- (b) The entities operating the program shall coordinate resources, technical assistance, and capacity building efforts to help match eligible individuals with community support services, health care, including behavioral health care and long-term care services, and stable housing.
- (2) To be eligible for community support services and permanent supportive housing under subsection (3) of this section, a person must:
 - (a) Be 18 years of age or older;

- 10 (b)(i) Be enrolled in a medical assistance program under this 11 chapter and eligible for community support services;
 - (ii) (A) Have a countable income that is at or below 133 percent of the federal poverty level, adjusted for family size, and determined annually by the federal department of health and human services; and
- 16 (B) Not be eligible for categorically needy medical assistance, 17 as defined in the social security Title XIX state plan; or
 - (iii) Be assessed as likely eligible for, but not yet enrolled in, a medical assistance program under this chapter due to the severity of behavioral health symptom acuity level which creates barriers to accessing and receiving conventional services;
 - (c) Have been assessed:
 - (i) By a licensed behavioral health agency to have a behavioral health need which is defined as meeting one or both of the following criteria:
 - (A) Having mental health needs, including a need for improvement, stabilization, or prevention of deterioration of functioning resulting from the presence of a mental illness; or
 - (B) Having substance use disorder needs indicating the need for outpatient substance use disorder treatment which may be determined by an assessment using the American society of addiction medicine criteria or a similar assessment tool approved by the authority;
 - (ii) By the department of social and health services as needing either assistance with at least three activities of daily living or hands-on assistance with at least one activity of daily living and have the preliminary determination confirmed by the department of social and health services through an in-person assessment conducted by the department of social and health services; or

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39 (iii) To be a homeless person with a long-continuing or 40 indefinite physical condition requiring improvement, stabilization,

or prevention of deterioration of functioning, including the ability to live independently without support; and

(d) Have at least one of the following risk factors:

- (i) (A) Be a homeless person at the time of the eligibility determination for the program and have been homeless for 12 months prior to the eligibility determination; or
- (B) Have been a homeless person on at least four separate occasions in the three years prior to the eligibility determination for the program, as long as the combined occasions equal at least 12 months;
- (ii) Have a history of frequent or lengthy institutional contact, including contact at institutional care facilities such as jails, substance use disorder or mental health treatment facilities, hospitals, or skilled nursing facilities; or
- 15 (iii) Have a history of frequent stays at adult residential care 16 facilities or residential treatment facilities.
 - (3) Once a coordinating entity verifies that a person has met the eligibility criteria established in subsection (2) of this section, it must connect the eligible person with a community support services provider. The community support services provider must:
 - (a) Deliver pretenancy support services to determine the person's specific housing needs and assist the person in identifying permanent supportive housing options that are appropriate and safe for the person;
 - (b) Fully incorporate the eligible person's available community support services into the case management services provided by the community support services provider; and
 - (c) Deliver ongoing tenancy-sustaining services to support the person in maintaining successful tenancy.
 - (4) Housing options offered to eligible participants may vary, subject to the availability of housing and funding.
 - (5) The community support services benefit must be sustained or renewed in accordance with the eligibility standards in subsection (2) of this section, except that the standards related to homelessness shall be replaced with an assessment of the person's likelihood to become homeless in the event that the community support services benefit is terminated. The coordinating entity must adopt procedures to conduct community support services benefit renewals, according to authority standards.

- NEW SECTION. Sec. 4. A new section is added to chapter 74.09
 RCW to read as follows:
- 3 (1) To establish and administer section 3 of this act, the 4 authority shall:
- 5 (a)(i) Establish or amend a contract with a coordinating entity 6 to:

- (A) Assure the availability of access to eligibility determinations services for community support services benefits and permanent supportive housing benefits;
- 10 (B) Verify that persons meet the eligibility standards of section 11 3(2) of this act;
 - (C) Coordinate enrollment in medical assistance programs for persons who meet the eligibility standards of section 3(2) of this act, except for actual enrollment in a medical assistance program under this chapter; and
 - (D) Coordinate with a network of community support services providers to arrange with local housing providers for the placement of an eligible person in permanent supportive housing appropriate to the person's needs and assure that community support services are provided to the person by a community support services provider.
 - (ii) The primary role of the coordinating entity or entities is administrative and operational, while the authority shall establish the general policy parameters for the work of the coordinating entity or entities.
 - (iii) In selecting the coordinating entity or entities, the authority shall: Choose one or more organizations that are capable of coordinating access to both community support services and permanent supportive housing services to eligible persons under section 3 of this act; and select no more than one coordinating entity per region which is served by medicaid managed care organizations;
- 31 (b) Report to the office for the ongoing monitoring of the 32 program; and
 - (c) Adopt any rules necessary to implement the program.
 - (2) The authority shall establish a work group to provide feedback to the agency on its foundational community supports program as it aligns with the work of the housing benefit. The work group may include representatives of state agencies, behavioral health administrative services organizations, the coordinating entity or entities, and contracted agencies providing foundational community supports services. Topics may include, but are not limited to, best

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practices in eligibility screening processes and case rate billing 1 foundational community supports housing, regional 2 3 differentials, costs consistent with specialized needs, improved data access and data sharing with foundational community supports 4 providers, and requirements related to the use of a common practice 5 6 tool among community support services providers to integrate social 7 determinants of health into service delivery. The authority, in consultation with foundational community supports providers and their 8 stakeholders, shall engage each region on case management tools and 9 programs, evaluate effectiveness, and inform the 10 11 committees of the legislature on the use of case management tools. 12 Case management shall also be a regular item of engagement in the work group. The authority shall convene the work group at least once 13 each quarter and may expand upon, but not duplicate, existing work 14 groups or advisory councils at the authority or other state agencies. 15

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- (3) To support the goals of the program and the goals of other statewide initiatives to identify and address social needs, including efforts within the 1115 waiver renewal to advance health equity and health-related supports, the authority shall work with the office and the department of social and health services to research, identify, and implement statewide universal measures to identify and consider social determinants of health domains, including housing, security, transportation, financial strain, and interpersonal safety. The authority shall select an accredited or nationally vetted tool, including criteria for prioritization, for the community support services provider to use when making determinations about housing options and other support services to offer individuals eligible for the program. This screening and prioritization process may not exclude clients transitioning from inpatient or other behavioral health residential treatment settings. The authority shall inform the governor and the appropriate committees of the legislature progress to this end.
- 33 (4)(a) The authority and the department may seek and accept funds 34 from private and federal sources to support the purposes of the 35 program.
- 36 (b) The authority shall seek approval from the federal department 37 of health and human services to:
- 38 (i) Receive federal matching funds for administrative costs and 39 services provided under the program to persons enrolled in medicaid;

(ii) Align the eligibility and benefit standards of the foundational community supports program established pursuant to the waiver, entitled "medicaid transformation project" and initially approved November 2017, between the authority and the federal centers for medicare and medicaid services, as amended and reauthorized, with the standards of the program, including extending the duration of the benefits under the foundational community supports program to not less than 12 months; and

- 9 (iii) Implement a medical and psychiatric respite care benefit 10 for certain persons enrolled in medicaid.
 - (5) (a) By December 1, 2022, the authority and the office shall report to the governor and the legislature on preparedness for the first year of program implementation, including the estimated enrollment, estimated program costs, estimated supportive housing unit availability, funding availability for the program from all sources, efforts to improve billing and administrative burdens for foundational community supports providers, efforts to streamline continuity of care and system connection for persons who are potentially eligible for foundational community supports, and any statutory or budgetary needs to successfully implement the first year of the program.
 - (b) By December 1, 2023, the authority and the office shall report to the governor and the legislature on the progress of the first year of program implementation and preparedness for the second year of program implementation.
 - (c) By December 1, 2024, the authority and the office shall report to the governor and the legislature on the progress of the first two years of program implementation and preparedness for ongoing housing acquisition and development.
 - (d) By December 1, 2026, the authority and the office shall report to the governor and the legislature on the full implementation of the program, including the number of persons served by the program, available permanent supportive housing units, estimated unmet demand for the program, ongoing funding requirements for the program, and funding availability for the program from all sources. Beginning December 1, 2027, the authority and the office shall provide annual updates to the governor and the legislature on the status of the program.

NEW SECTION. Sec. 5. A new section is added to chapter 43.330 RCW to read as follows:

- (1) Subject to the availability of amounts appropriated for this specific purpose, there is created the office of apple health and homes within the department.
- (2) Activities of the office of apple health and homes must be carried out by a director of the office of apple health and homes, supervised by the director of the department or their designee.
- (3) The office of apple health and homes is responsible for leading efforts under this section and coordinating a spectrum of practice efforts related to providing permanent supportive housing, including leading efforts related to every aspect of creating housing, operating housing, obtaining services, and delivering those services to connect people with housing and maintain them in that housing.
 - (4) The office of apple health and homes shall:
- (a) Subject to available funding, allocate funding for permanent supportive housing units sufficient in number to fulfill permanent supportive housing needs of persons determined to be eligible for the program by the coordinating entity or entities under section 3 of this act;
- (b) Collaborate with department divisions responsible for making awards or loans to appropriate housing providers to acquire, build, and operate the housing units, including but not limited to nonprofit community organizations, local counties and cities, public housing authorities, and public development authorities;
- (c) Collaborate with the authority on administrative functions, oversight, and reporting requirements, as necessary to implement the apple health and homes program established under section 3 of this act;
- (d) Establish metrics and collect racially disaggregated data from the authority and the department related to the program's effect on providing persons with permanent supportive housing, moving people into independent housing, long-term housing stability, improving health outcomes for people in the program, estimated reduced health care spending to the state on persons enrolled in the program, and outcomes related to social determinants of health;
- 38 (e) Develop a publicly accessible dashboard to make key program 39 outcomes available to the public. Key program outcomes include, but

- are not limited to, the number of people served by the program and the number of housing units created by the office;
 - (f) Create work plans and establish milestones to achieve the goal of providing permanent supportive housing for all eligible individuals; and
 - (g) Oversee the allocation of community support services provider and housing provider capacity-building grants to further the state's interests of enhancing the ability of community support services providers and housing providers to deliver community support services and permanent supportive housing and assure that an initial infrastructure is established to create strong networks of community support services providers and housing providers.
 - (5) The office of apple health and homes must be operational no later than January 1, 2023. The department shall assure the coordination of the work of the office of apple health and homes with other offices within the department with similar or adjacent authorities and functions.
 - (6) For the purposes of this section:

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- 19 (a) "Community support services provider" has the same meaning as 20 in section 2 of this act.
- 21 (b) "Coordinating entity" has the same meaning as in section 2 of this act.
- 23 (c) "Housing provider" has the same meaning as in section 2 of this act.
- 25 (d) "Permanent supportive housing" has the same meaning as in 26 section 2 of this act.
- NEW SECTION. Sec. 6. A new section is added to chapter 43.330 RCW to read as follows:

The apple health and homes account is created in the state 29 30 Moneys in the account may be spent only appropriation. Expenditures from the account may be used only for 31 permanent supportive housing programs administered by the office 32 created in section 5 of this act, including acquisition and 33 34 development of permanent supportive housing units, operations, maintenance, and services costs of permanent supportive housing 35 units, project-based vouchers, provider grants, and other purposes 36 authorized by appropriations made in the operating budget. The 37 department must prioritize allocating at least 10 percent of the 38 expenditures from the account to organizations that serve and are 39

substantially governed by individuals disproportionately impacted by homelessness and behavioral health conditions, including black, indigenous, and other people of color, lesbian, gay, bisexual, queer, transgender, and other gender diverse individuals. When selecting projects supported by funds from the account, the office shall balance the state's interest in quickly approving and financing projects, the degree to which the project will leverage other funds, the extent to which the project promotes racial equity, and the extent to which the project will promote priorities of this act on a statewide basis, including in rural areas and in geographically diverse parts of the state.

Sec. 7. RCW 36.22.176 and 2021 c 214 s 1 are each amended to 13 read as follows:

- (1) Except as provided in subsection (2) of this section, a surcharge of \$100 must be charged by the county auditor for each document recorded, which is in addition to any other charge or surcharge allowed by law. The auditor must remit the funds to the state treasurer to be deposited and used as follows:
- (a) Twenty percent of funds must be deposited in the affordable housing for all account for operations, maintenance, and service costs for permanent supportive housing as defined in RCW 36.70A.030;
- (b) From July 1, 2021, through June 30, 2023, four percent of the funds must be deposited into the landlord mitigation program account created in RCW 43.31.615 for the purposes of RCW 43.31.605(1). Thereafter, two percent of funds must be deposited into the landlord mitigation program account created in RCW 43.31.615 for purposes of RCW 43.31.605(1); ((and))
- (c) (i) The remainder of funds must be distributed to the home security fund account, with no less than 60 percent of funds to be used for project-based vouchers for nonprofit housing providers or public housing authorities, housing services, rapid rehousing, emergency housing, ((er)) acquisition, or operations, maintenance, and service costs for permanent supportive housing as defined in RCW 36.70A.030 for persons with disabilities. Permanent supportive housing programs administered by the office of apple health and homes created in section 5 of this act are also eligible to use these funds. Priority for use must be given to ((project-based vouchers and related services, housing acquisition, or emergency housing, for)) purposes intended to house persons who are chronically homeless or

maintain housing for individuals with disabilities and prior experiences of homelessness, including families with children. ((At least 50 percent of persons receiving a project-based voucher, rapid rehousing, emergency housing, or benefiting from housing acquisition must be living unsheltered at the time of initial engagement.)) In addition, funds may be used for eviction prevention rental assistance pursuant to RCW 43.185C.185, foreclosure prevention services, dispute resolution center eviction prevention services, rental assistance for people experiencing homelessness, and tenant education and legal assistance.

- (ii) The department shall provide counties with the right of first refusal to receive grant funds distributed under this subsection (c). If a county refuses the funds or does not respond within a time frame established by the department, the department shall identify an alternative grantee. The alternative grantee shall distribute the funds in a manner that is in compliance with this chapter.
- (2) The surcharge imposed in this section does not apply to: (a) Assignments or substitutions of previously recorded deeds of trust; (b) documents recording a birth, marriage, divorce, or death; (c) any recorded documents otherwise exempted from a recording fee or additional surcharges under state law; (d) marriage licenses issued by the county auditor; or (e) documents recording a federal, state, county, city, or water-sewer district, or wage lien or satisfaction of lien.
- NEW SECTION. Sec. 8. Subject to amounts appropriated from the apple health and homes account created in section 6 of this act the department of commerce shall establish a rapid permanent supportive housing acquisition and development program to issue competitive financial assistance to eligible organizations under RCW 43.185A.040 and to public development authorities established under RCW 35.21.730 through 35.21.755, for the acquisition or the construction of permanent supportive housing units, subject to the following conditions and limitations:
- (1) Awards or loans provided under this section may be used to construct permanent supportive housing units or to acquire real property for quick conversion into permanent supportive housing units which may include predevelopment or development activities, renovation, and building update costs. Awards or loans provided under

this section may not be used for operating or maintenance costs associated with providing permanent supportive housing, supportive services, or debt service.

- (2) Projects acquired or constructed under this section must serve individuals eligible for a community support services benefit through the apple health and homes program, as established in section 3 of this act.
- (3) The department of commerce shall establish criteria for the issuance of the awards or loans, including but not limited to:
- (a) The date upon which structural modifications or construction would begin and the anticipated date of completion of the project;
- (b) A detailed estimate of the costs associated with the construction or acquisition and any updates or improvements necessary to make the property habitable for its intended use;
- 15 (c) A detailed estimate of the costs associated with opening the units; and
 - (d) A financial plan demonstrating the ability to maintain and operate the property and support its intended tenants through the end of the award or loan contract.
 - (4) The department of commerce shall provide a progress report on its website by June 1, 2023. The report must include:
 - (a) The total number of applications and amount of funding requested; and
 - (b) A list and description of the projects approved for funding including state funding, total project cost, number of units, and anticipated completion date.
 - (5) (a) The funding in this section shall be allocated on an ongoing basis until all funds are expended. The department of commerce shall dispense funds to qualifying applicants within 45 days of receipt of documentation from the applicant for qualifying uses and execution of any necessary contracts with the department in order to effect the purpose of rapid deployment of funds under this section.
 - (b) The department of commerce shall ensure that proposals that reach the greatest public benefit, as defined by the department, are prioritized. For the purposes of this subsection, "greatest public benefit" must include, but is not limited to:
- 38 (i) The greatest number of qualifying permanent supportive 39 housing units created by the state investment, determined by

- 1 comparing simultaneous applications for funding from the same 2 geographic region; and
- 3 (ii) Equitable geographic distribution, to the extent possible, 4 relative to need, as determined by the establishment of regional 5 targets.
- 6 <u>NEW SECTION.</u> **Sec. 9.** A new section is added to chapter 44.28 7 RCW to read as follows:
- The joint committee must review the efficacy of the apple health and homes program established by this act and report its findings to the appropriate committees of the legislature by December 1, 2027.
- 11 The review must include a recommendation on whether this program
- 12 should be continued without change or should be amended or repealed.
- NEW SECTION. Sec. 10. This act may be known and cited as the apple health and homes act.

--- END ---