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**SUBSTITUTE SENATE BILL 6116**

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**State of Washington 65th Legislature 2018 Regular Session**

**By** Senate Human Services & Corrections (originally sponsored by Senators Darneille, Keiser, and Chase)

AN ACT Relating to modifying eligibility and benefits under certain economic services programs; amending RCW 43.185C.220 and 74.04.805; and creating a new section.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

**Sec.**  RCW 43.185C.220 and 2015 c 128 s 5 are each amended to read as follows:

(1) The department shall distribute funds for the essential needs and housing support program established under this section in a manner consistent with the requirements of this section ((~~and the biennial operating budget~~)). The first distribution of funds must be completed by September 1, 2011. Essential needs or housing support is only for persons found eligible for such services under RCW 74.04.805 ((~~and is not considered an entitlement~~)).

(2) The department shall distribute funds appropriated for the essential needs and housing support program in the form of grants to designated essential needs support and housing support entities within each county. The department shall not distribute any funds until it approves the expenditure plan submitted by the designated essential needs support and housing support entities. The amount of funds to be distributed pursuant to this section ((~~shall be designated in the biennial operating budget~~)) must be as appropriated in the omnibus appropriations act. For the sole purpose of meeting the initial distribution of funds date, the department may distribute partial funds upon the department's approval of a preliminary expenditure plan. The department shall not distribute the remaining funds until it has approved a final expenditure plan.

(3)((~~(a) During the 2011-2013 biennium, in awarding housing support that is not funded through the contingency fund in this subsection, the designated housing support entity shall provide housing support to clients who are homeless persons as defined in RCW 43.185C.010. As provided in the biennial operating budget for the 2011-2013 biennium, a contingency fund shall be used solely for those clients who are at substantial risk of losing stable housing or at substantial risk of losing one of the other services defined in RCW 74.62.010(6). For purposes of this chapter, "substantial risk" means the client has provided documentation that he or she will lose his or her housing within the next thirty days or that the services will be discontinued within the next thirty days.~~

~~(b) After July 1, 2013, the designated housing support entity shall give first priority to clients who are homeless persons as defined in RCW 43.185C.010 and second priority to clients who would be at substantial risk of losing stable housing without housing support.~~

~~(4)~~)) For each county, the department shall designate an essential needs support entity and a housing support entity that will begin providing these supports to medical care services program recipients on November 1, 2011. ((~~Essential needs and housing support entities are not required to provide assistance to every person referred to the local entity or who meets the priority standards in subsection (3) of this section.~~))

(a) Each designated entity must be a local government or community‑based organization, and may administer the funding for essential needs support, housing support, or both. Designated entities have the authority to subcontract with qualified entities. Upon request, and the approval of the department, two or more counties may combine resources to more effectively deliver services.

(b) The department's designation process must include a review of proficiency in managing housing or human services programs when designating housing support entities.

((~~(c) Within a county, if the department directly awards separate grants to the designated housing support entity and the designated essential needs support entity, the department shall determine the amount allocated for essential needs support as directed in the biennial operating budget.~~

~~(5)~~)) (4)(a) Essential needs and housing support entities must use funds distributed under this section as flexibly as is practicable to provide essential needs items and housing support to recipients of the essential needs and housing support program, subject to the requirements of this section.

(b) Benefits provided under the essential needs and housing support program shall not be provided to recipients in the form of cash assistance.

(c) The department may move funds between entities or between counties to reflect actual caseload changes. In doing so, the department must: (i) Develop a process for reviewing the caseload of designated essential needs and housing support entities, and for redistributing grant funds from those entities experiencing reduced actual caseloads to those with increased actual caseloads; and (ii) inform all designated entities of the redistribution process. Savings resulting from program caseload attrition from the essential needs and housing support program shall not result in increased per‑client expenditures.

(d) Essential needs and housing support entities must partner with other public and private organizations to maximize the beneficial impact of funds distributed under this section, and should attempt to leverage other sources of public and private funds to serve essential needs and housing support recipients. Funds appropriated in the ((~~operating budget~~)) omnibus appropriations act for essential needs and housing support must be used only to serve persons eligible to receive services under that program.

((~~(6)~~)) (5) The department shall use no more than five percent of the funds for administration of the essential needs and housing support program. Each essential needs and housing support entity shall use no more than seven percent of the funds for administrative expenses.

((~~(7)~~)) (6) The department shall:

(a) Require housing support entities to enter data into the homeless client management information system;

(b) Require essential needs support entities to report on services provided under this section;

(c) In collaboration with the department of social and health services, submit a report annually to the relevant policy and fiscal committees of the legislature. A preliminary report shall be submitted by December 31, 2011, and must include (c)(i), (iii), and (v) of this subsection. Annual reports must be submitted beginning December 1, 2012, and must include:

(i) A description of the actions the department has taken to achieve the objectives of chapter 36, Laws of 2011 1st sp. sess.;

(ii) The amount of funds used by the department to administer the program;

(iii) Information on the housing status of essential needs and housing support recipients served by housing support entities, and individuals who have requested housing support but did not receive housing support;

(iv) Grantee expenditure data related to administration and services provided under this section; and

(v) Efforts made to partner with other entities and leverage sources or public and private funds;

(d) Review the data submitted by the designated entities, and make recommendations for program improvements and administrative efficiencies. The department has the authority to designate alternative entities as necessary due to performance or other significant issues. Such change must only be made after consultation with the department of social and health services and the impacted entity.

((~~(8)~~)) (7) The department, counties, and essential needs and housing support entities are not civilly or criminally liable and may not have any penalty or cause of action of any nature arise against them related to decisions regarding: (a) The provision or lack of provision of housing or essential needs support; or (b) the type of housing arrangement supported with funds allocated under this section, when the decision was made in good faith and in the performance of the powers and duties under this section. However, this section does not prohibit legal actions against the department, county, or essential needs or housing support entity to enforce contractual duties or obligations.

**Sec.**  RCW 74.04.805 and 2013 2nd sp.s. c 10 s 3 are each amended to read as follows:

(1) The department is responsible for determining eligibility for referral for essential needs and housing support under RCW 43.185C.220. Persons found to be eligible are entitled to services as provided in RCW 43.185C.220. Persons eligible are persons who:

(a) Are incapacitated from gainful employment by reason of bodily or mental infirmity that will likely continue for a minimum of ninety days. The standard for incapacity in this subsection, as evidenced by the ninety-day duration standard, is not intended to be as stringent as federal supplemental security income disability standards;

(b) Are citizens or aliens lawfully admitted for permanent residence or otherwise residing in the United States under color of law;

(c) Have furnished the department their social security number. If the social security number cannot be furnished because it has not been issued or is not known, an application for a number must be made prior to authorization of benefits, and the social security number must be provided to the department upon receipt;

(d) Have countable income as described in RCW 74.04.005 at or below four hundred twenty-eight dollars for a married couple or at or below three hundred thirty-nine dollars for a single individual;

(e) Do not have countable resources in excess of those described in RCW 74.04.005; and

(f) Are not eligible for:

(i) The aged, blind, or disabled assistance program;

(ii) The pregnant women assistance program; or

(iii) Federal aid assistance, other than basic food benefits transferred electronically and medical assistance.

(2) The following persons are not eligible for a referral for essential needs and housing support:

(a) Persons who are unemployable due primarily to alcohol or drug addiction, except as provided in subsection (3) of this subsection. These persons must be referred to appropriate assessment, treatment, shelter, or supplemental security income referral services as authorized under chapter 74.50 RCW. Referrals must be made at the time of application or at the time of eligibility review. This subsection may not be construed to prohibit the department from making a referral for essential needs and housing report for persons who have a substance abuse addiction who are incapacitated due to other physical or mental conditions that meet the eligibility criteria for a referral for essential needs and housing support;

(b) Persons who refuse or fail to cooperate in obtaining federal aid assistance, without good cause;

(c) Persons who refuse or fail without good cause to participate in drug or alcohol treatment if an assessment by a certified chemical dependency counselor indicates a need for such treatment. Good cause must be found to exist when a person's physical or mental condition, as determined by the department, prevents the person from participating in drug or alcohol dependency treatment, when needed outpatient drug or alcohol treatment is not available to the person in the county of his or her residence or when needed inpatient treatment is not available in a location that is reasonably accessible for the person; and

(d) Persons who are fleeing to avoid prosecution of, or to avoid custody or confinement for conviction of, a felony, or an attempt to commit a felony, under the laws of the state of Washington or the place from which the person flees; or who are violating a condition of probation, community supervision, or parole imposed under federal or state law for a felony or gross misdemeanor conviction.

(3) For purposes of determining whether a person is incapacitated from gainful employment under subsection (1) of this section:

(a) The department shall adopt by rule medical criteria for incapacity determinations to ensure that eligibility decisions are consistent with statutory requirements and are based on clear, objective medical information; and

(b) The process implementing the medical criteria must involve consideration of opinions of the treating or consulting physicians or health care professionals regarding incapacity, and any eligibility decision which rejects uncontroverted medical opinion must set forth clear and convincing reasons for doing so.

(4) For purposes of reviewing a person's continuing eligibility and in order to remain eligible for the program, persons who have been found to have an incapacity from gainful employment must demonstrate that there has been no material improvement in their medical or mental health condition. The department may discontinue benefits when there was specific error in the prior determination that found the person eligible by reason of incapacitation.

(5) The department must review the cases of all persons who have received benefits under the essential needs and housing support program for twelve consecutive months, and at least annually after the first review, to determine whether they are eligible for the aged, blind, or disabled assistance program.

NEW SECTION. **Sec.**  The department of social and health services and the department of commerce, in consultation with the office of financial management, must conduct a study to determine the appropriate benefit amount for persons found eligible to receive services under the aged, blind, or disabled assistance program pursuant to RCW 74.62.030 or the essential needs and housing support program pursuant to RCW 74.04.805 to help achieve or improve their financial stability and housing stability. The study must also identify the fiscal impacts of modifying each benefit amount on other economic services programs. The department of social and health services and the department of commerce must submit a report on the study, including any legislative recommendations, to the appropriate committees of the legislature by July 1, 2019.

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