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**SUBSTITUTE HOUSE BILL 1866**

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**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)

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; creating new sections; and declaring an emergency.

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

NEW SECTION. **Sec.**  (1) The legislature finds that:

(a) The epidemic of homelessness apparent in communities throughout Washington is creating immense suffering. It is threatening the health of homeless families and individuals, sapping their human potential, eroding public confidence, and undermining the shared values that have driven our state's prosperity, including 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;

(c) Housing is an indispensable element of effective health care. Stable housing is a prerequisite to addressing behavioral health needs and lack of housing is a precursor to poor health outcomes;

(d) A home, health care, and wellness are fundamental for 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.

(2) It is the intent of the legislature to treat chronic homelessness as a medical condition and that the apple health and homes act address the needs of chronically homeless populations by pairing a health care problem with a health care solution.

NEW SECTION. **Sec.**  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.

(2) "Coordinating entity" means an organization under contract with the authority to coordinate community support services as required under sections 3 and 4 of this act.

(3) "Department" means the department of commerce.

(4) "Homeless person" has the same meaning as in RCW 43.185C.010.

(5) "Housing benefit authorization" means a determination from the coordinating entity that a person has been determined to meet the eligibility standards under section 3 of this act to qualify for community support services and permanent supportive housing and includes an assessment of the client's housing needs to assure that a permanent supportive housing placement is appropriate and safe.

(6) "Office" means the office of health and homes created in section 5 of this act.

(7) "Program" means the apple health and homes program established in section 3 of this act.

(8) "Permanent supportive housing" has the same meaning as in RCW 36.70A.030.

NEW SECTION. **Sec.**  A new section is added to chapter 74.09 RCW to read as follows:

(1) The apple health and homes program is established to provide a permanent supportive housing benefit that is renewable in 12-month periods for persons assessed with specific health needs and risk factors. The program shall operate through the submission of housing benefit authorizations issued by a coordinating entity to the office on behalf of persons who meet the eligibility standards established in subsection (2) of this section, as may be adjusted in accordance with federal standards for providing funding for community support services.

(2) To be eligible for a housing benefit authorization under subsection (4) of this section, a person must:

(a) Be 18 years of age or older;

(b)(i) Be enrolled in a medical assistance program under this 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

(B) Not be eligible for categorically needy medical assistance, 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

(iii) To be a homeless person with a long-continuing or 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 housing benefit authorization for the program and have been homeless for 12 months prior to housing benefit authorization; or

(B) Have been a homeless person on at least four separate occasions in the three years prior to a housing benefit authorization being submitted on behalf of the person 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;

(iii) Have a history of frequent stays at adult residential care facilities or residential treatment facilities;

(iv) Have frequent turnover of in-home caregivers; or

(v) Have at least one chronic condition and have been determined by the authority to be at risk for a second chronic condition as determined by the use of a predictive risk scoring tool that considers the person's age, gender, diagnosis, and medications.

(3) To inform eligibility for the program, the authority shall implement a screening process to identify and consider social determinants of health domains in addition to housing. Other social determinants of health domains include, but are not limited to, food security, transportation, financial strain, and interpersonal safety. The authority shall select an accredited or nationally vetted tool, including criteria for prioritization, for the coordinating entity to use to screen individuals and make the determination for the housing benefit. This screening and prioritization process should not exclude clients transitioning from inpatient or other behavioral health residential treatment settings. When selecting and implementing a tool, the authority shall seek to support and align with other statewide initiatives to identify and address social needs, including efforts within the 1115 waiver renewal to advance health equity and health-related supports.

(4) Once a coordinating entity verifies that a person has met the eligibility criteria established in subsection (2) of this section, it must determine the person's specific housing needs to assure that the permanent supportive housing option is appropriate and safe for the person. The coordinating entity must submit the housing benefit authorization, including the suitable housing assessment, to the office.

(5) A housing benefit authorization is valid for at least 12 months and must be 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 housing benefit authorization expires. The coordinating entity must adopt procedures to conduct annual housing benefit authorization renewals, according to authority standards, and submit the results to the office.

NEW SECTION. **Sec.**  A new section is added to chapter 74.09 RCW to read as follows:

(1) To establish and administer section 3 of this act, the authority shall:

(a)(i) Establish a contract with a coordinating entity to:

(A) Assure the availability of access for potential permanent supportive housing recipients to eligibility determination services subject to housing and funding availability;

(B) Verify that persons meet the eligibility standards of section 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 the office to arrange suitable housing for persons with a housing benefit authorization and assist the person with case management services to assure that the housing is appropriate to the person's needs and that permanent supportive housing services are provided to the person by the office.

(ii) The primary role of the coordinating entity is administrative and operational, while the authority shall establish the general policy parameters for the work of the coordinating entity.

(iii) In selecting the coordinating entity, the authority shall choose an organization that is capable of providing both community support services and permanent supportive housing services to persons enrolled in medical assistance programs under this chapter;

(b) Report to the office on metrics created by the office for the ongoing monitoring of the program, including the program's effect on providing persons with permanent supportive housing, moving people into independent housing, 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; and

(c) Adopt any rules necessary to implement the program.

(2) The authority, in collaboration with the department, shall establish a work group to provide feedback to the agencies in the administration of the federal waiver known as the "medicaid transformation project," with respect to its foundational community supports provisions generally and as those provisions complement and align with the work of the program. The work group shall include representatives of counties, cities, nonprofit operators of permanent supportive housing, licensed agencies providing foundational community supports services, community health centers, organizations representing the interests of homeless persons, and other stakeholders knowledgeable in the provision of services to homeless individuals. Topics may include eligibility screening processes and case rate billing for foundational community supports housing, regional cost differentials, costs consistent with specialized needs, improved data access and data sharing with foundational community supports providers, expanded uses of waiver funds, and other topics. The authority shall convene the work group at least once each quarter for the duration of the waiver.

(3)(a) The authority and the department may seek and accept funds from private and federal sources to support the purposes of the program.

(b) The authority shall seek approval from the federal department of health and human services to:

(i) Receive federal matching funds for administrative costs and services provided under the program to persons enrolled in medicaid; and

(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 12 months.

(4)(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.**  A new section is added to chapter 43.330 RCW to read as follows:

(1) There is created the office of health and homes within the department.

(2) Activities of the office of health and homes must be carried out by a director of the office of health and homes, supervised by the director of the department or his or her designee.

(3) The office of health and homes is responsible for leading efforts under this section and sections 3 and 4 of this act to coordinate a spectrum of ongoing and future funding, policy, and practice efforts related to acquiring, producing, and providing housing to eligible recipients identified in section 3 of this act.

(4) The office of health and homes shall:

(a) Acquire or create permanent supportive housing units sufficient in number to fulfill housing benefit authorizations approved by the coordinating entity under section 3 of this act to provide approved persons with permanent supportive housing;

(b) Contract with appropriate organizations 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) Receive approved housing benefit authorizations and suitable housing assessments from the coordinating entity and identify an available permanent supportive housing unit that meets the approved person's needs;

(d) Reevaluate the suitability of a person's permanent supportive housing unit upon renewal of the housing benefit authorization by the coordinating entity;

(e) 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; and

(f) Adopt procedures to assist persons whose housing benefit authorizations are not renewed to transition to an independent housing arrangement and coordinate supports.

(5) The office of 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 health and homes with other offices within the department with similar or adjacent authorities and functions.

(6) For the purposes of this section:

(a) "Coordinating entity" has the same meaning as in section 2 of this act.

(b) "Housing benefit authorization" has the same meaning as in section 2 of this act.

(c) "Permanent supportive housing" has the same meaning as in section 2 of this act.

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

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

**Sec.**  RCW 36.22.176 and 2021 c 214 s 1 are each amended to 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 are distributed to the home security fund account to be used for project-based vouchers for nonprofit housing providers or public housing authorities, housing services, rapid rehousing, emergency housing, ((~~or~~)) 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 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.**  Subject to amounts appropriated from the 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 and development of permanent supportive housing units, subject to the following conditions and limitations:

(1) Awards or loans provided under this section may be used to acquire real property for quick conversion into permanent supportive housing units or for predevelopment or development activities, renovation, and building update costs associated with the establishment of the acquired facilities. 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) Units acquired or developed under this section must serve individuals eligible for a permanent supportive housing 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, which must follow the guidelines and compliance requirements of the housing trust fund program's established criteria under RCW 43.185.070(5), except as provided in subsection (5) of this section, and the federal coronavirus state fiscal recovery fund. The criteria must include:

(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 acquisition and any updates or improvements necessary to make the property habitable for its intended use;

(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) The funding in this section is not subject to the 90-day application periods in RCW 43.185.070 or 43.185A.050. 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.

(6) If the department of commerce receives simultaneous applications for funding under this program, proposals that reach the greatest public benefit, as defined by the department, must be prioritized. For the purposes of this subsection (6), "greatest public benefit" must include, but is not limited to:

(a) The greatest number of qualifying permanent supportive housing units;

(b) Whether the project has federally funded rental assistance tied to it;

(c) The scarcity of the permanent supportive housing units applied for compared to the number of available permanent supportive housing units in the same geographic location; and

(d) The housing trust fund program's established funding priorities under RCW 43.185.070(5).

NEW SECTION. **Sec.**  This act may be known and cited as the apple health and homes act.

NEW SECTION. **Sec.**  This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

**--- END ---**