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**ENGROSSED SUBSTITUTE HOUSE BILL 1260**

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**State of Washington 68th Legislature 2023 Regular Session**

**By** House Appropriations (originally sponsored by Representatives Alvarado, Leavitt, Taylor, Senn, Farivar, Simmons, Davis, Fitzgibbon, Callan, Reeves, Reed, Fey, Gregerson, Cortes, Macri, Fosse, Doglio, and Pollet; by request of Department of Social and Health Services)

AN ACT Relating to accelerating stability for people with a work-limiting disability or incapacity; amending RCW 74.04.805, 74.62.005, and 74.62.030; and creating a new section.

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

**Sec.**  RCW 74.04.805 and 2022 c 208 s 1 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 eligible for a referral are persons who:

(a) Have been determined to be eligible for the aged, blind, or disabled assistance program under RCW 74.62.030 or the pregnant women assistance program under RCW 74.62.030, or are incapacitated from gainful employment by reason of bodily or mental infirmity that will likely continue for a minimum of ((~~ninety~~)) 90 days. The standard for incapacity in this subsection, as evidenced by the ((~~ninety-day~~)) 90-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, or are victims of human trafficking as defined in RCW 74.04.005;

(c)(i) Have furnished the department with 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;

(ii) This requirement does not apply to victims of human trafficking as defined in RCW 74.04.005 if they have not been issued a social security number;

(d)(i) 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~~)) that meets the standard established by the department, which shall not exceed 100 percent of the federal poverty level; or

(ii) Have income that meets the standard established by the department, who are eligible for the pregnant women assistance program;

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

(f) Are not eligible for federal aid assistance, other than basic food benefits transferred electronically and medical assistance.

(2) ((~~Recipients of aged, blind, or disabled assistance program benefits who meet other eligibility requirements in this section are eligible for a referral for essential needs and housing support services within funds appropriated for the department of commerce.~~

~~(3)~~)) Recipients of pregnant women assistance program benefits who meet other eligibility requirements in this section are eligible for referral for essential needs and housing support services, within funds appropriated for the department of commerce, for ((~~twenty-four~~)) 24 consecutive months from the date the department determines pregnant women assistance program eligibility.

((~~(4)~~)) (3) The following persons are not eligible for a referral for essential needs and housing support:

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

(b) Persons who refuse or fail without good cause to participate in substance use treatment if an assessment by a certified substance use disorder professional 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 substance use treatment, when needed outpatient treatment is not available to the person in the county of their residence ((~~or~~)), when needed inpatient treatment is not available in a location that is reasonably accessible for the person, or when the person is a parent or other relative personally providing care for a minor child or an incapacitated individual living in the same home as the person, and child care or day care would be necessary for the person to participate in substance use disorder treatment, and such care is not available; and

(c) 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.

((~~(5)~~)) (4) 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.

((~~(6)~~)) (5) 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.

((~~(7)~~)) (6) 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.

**Sec.**  RCW 74.62.005 and 2011 1st sp.s. c 36 s 1 are each amended to read as follows:

(1) The legislature finds that:

(a) Persons who have a long-term disability and apply for federal supplemental security income benefits should receive assistance while their application for federal benefits is pending((~~, with repayment from the federal government of state-funded income assistance paid through the aged, blind, or disabled assistance program~~));

(b) Persons who are incapacitated from gainful employment for an extended period, but who may not meet the level of severity of a long-term disability, are at increased risk of homelessness; and

(c) Persons who are homeless and suffering from significant medical impairments, mental illness, or ((~~chemical dependency~~)) substance use disorder face substantial barriers to successful participation in, and completion of, needed medical or behavioral health treatment services. Stable housing increases the likelihood of compliance with and completion of treatment.

(2) Through chapter 36, Laws of 2011 1st sp. sess., the legislature intends to:

(a) Terminate all components of the disability lifeline program created in 2010 and codified in RCW 74.04.005 and create new programs: (i) To provide financial grants through the aged, blind, ((~~and [or]~~)) or disabled assistance program and the pregnant women assistance program; and (ii) to provide services through the essential needs and housing support program; and

(b) Increase opportunities to utilize limited public funding, combined with private charitable and volunteer efforts to serve persons who are recipients of the benefits provided by the new programs created under chapter 36, Laws of 2011 1st sp. sess.

**Sec.**  RCW 74.62.030 and 2022 c 208 s 2 are each amended to read as follows:

(1)(a) The aged, blind, or disabled assistance program shall provide financial grants to persons in need who:

(i) Are not eligible to receive ((~~federal aid assistance, other than basic food benefits transferred electronically and medical assistance~~)) supplemental security income, refugee cash assistance, temporary assistance for needy families, or state family assistance benefits;

(ii) Meet the eligibility requirements of subsection (3) of this section; and

(iii) Are aged, blind, or disabled. For purposes of determining eligibility for assistance for the aged, blind, or disabled assistance program, the following definitions apply:

(A) "Aged" means age ((~~sixty-five~~)) 65 or older.

(B) "Blind" means statutorily blind as defined for the purpose of determining eligibility for the federal supplemental security income program.

(C) "Disabled" means likely to meet the federal supplemental security income disability standard. In making this determination, the department should give full consideration to the cumulative impact of an applicant's multiple impairments, an applicant's age, and vocational and educational history.

In determining whether a person is disabled, the department may rely on, but is not limited to, the following:

(I) A previous disability determination by the social security administration or the disability determination service entity within the department; or

(II) A determination that an individual is eligible to receive optional categorically needy medicaid as a disabled person under the federal regulations at 42 C.F.R. Parts 435, Secs. 201(a)(3) and 210.

(b) The following persons are not eligible for the aged, blind, or disabled assistance program:

(i) Persons who are not able to engage in gainful employment due primarily to a substance use disorder. These persons shall be referred to appropriate assessment, treatment, or shelter services. Referrals shall 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 granting aged, blind, or disabled assistance benefits to persons with a substance use disorder who are incapacitated due to other physical or mental conditions that meet the eligibility criteria for the aged, blind, or disabled assistance program; or

(ii) Persons for whom there has been a final determination of ineligibility based on age, blindness, or disability for federal supplemental security income benefits.

(c) Persons may receive aged, blind, or disabled assistance benefits and essential needs and housing program support under RCW 43.185C.220 concurrently while pending application for federal supplemental security income benefits. ((~~The monetary value of any aged, blind, or disabled assistance benefit that is subsequently duplicated by the person's receipt of supplemental security income for the same period shall be considered a debt due the state and shall by operation of law be subject to recovery through all available legal remedies.~~)) Effective October 1, 2023, a person's receipt of supplemental security income received for the same period as aged, blind, or disabled program assistance as described in this section shall not be considered a debt due to the state and is not subject to recovery.

(2) The pregnant women assistance program shall provide financial grants to persons who:

(a) ((~~Are not eligible to receive federal aid assistance other than basic food benefits or medical assistance; and~~

~~(b)~~)) Are pregnant and in need, based upon the current income and resource standards of the federal temporary assistance for needy families program, but are ineligible for federal temporary assistance for needy families or state family assistance benefits for a reason other than failure to cooperate in program requirements; and

((~~(c)~~)) (b) Meet the eligibility requirements of subsection (3) of this section.

(3) To be eligible for the aged, blind, or disabled assistance program under subsection (1) of this section or the pregnant women assistance program under subsection (2) of this section, a person must:

(a) Be a citizen or alien lawfully admitted for permanent residence or otherwise residing in the United States under color of law, or be a victim of human trafficking as defined in RCW 74.04.005;

(b) Meet the income and resource standards described in RCW 74.04.805(1) (d) and (e);

(c)(i) Have furnished the department with 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 shall be made prior to authorization of benefits, and the social security number shall be provided to the department upon receipt;

(ii) This requirement does not apply to victims of human trafficking as defined in RCW 74.04.005 if they have not been issued a social security number;

(d) Not have refused or failed without good cause to participate in substance use treatment if an assessment by a certified substance use disorder professional 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 substance use treatment, when needed outpatient treatment is not available to the person in the county of their residence ((~~or~~)), when needed inpatient treatment is not available in a location that is reasonably accessible for the person, or when the person is a parent or other relative personally providing care for a minor child or an incapacitated individual living in the same home as the person, and child care or day care would be necessary for the person to participate in substance use disorder treatment, and such care is not available; and

(e) Not have refused or failed to cooperate in obtaining federal aid assistance, without good cause.

(4) Referrals for essential needs and housing support under RCW 43.185C.220 shall be provided to persons found eligible under RCW 74.04.805.

(5) No person may be considered an eligible individual for benefits under this section with respect to any month if during that month the person:

(a) Is 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

(b) Is violating a condition of probation, community supervision, or parole imposed under federal or state law for a felony or gross misdemeanor conviction.

(6) The department must share client data for individuals eligible for essential needs and housing support with the department of commerce and designated essential needs and housing support entities as required under RCW 43.185C.230.

NEW SECTION. **Sec.**  If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2023, in the omnibus appropriations act, this act is null and void.

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