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**HOUSE BILL 1866**

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**State of Washington 67th Legislature 2022 Regular Session**

**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; making appropriations; 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. 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 a private organization under contract with the authority to coordinate community support services as well as supportive housing functions as required under sections 3 and 4 of this act.

(3) "Homeless" means living in a safe haven, an emergency shelter, or a place not meant for human habitation.

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

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

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

(7) "Regional service area" means a regional service area established pursuant to RCW 74.09.870.

(8) "Supportive housing" means subsidized housing that prioritizes people who need comprehensive support services to retain tenancy and utilizes admissions practices designed to use lower barriers to entry than would be typical for other subsidized or unsubsidized rental housing, especially related to rental history, criminal history, and personal behaviors. Supportive housing is paired with on-site or off-site voluntary services designed to support a person living with a complex and disabling behavioral health or physical health condition who was experiencing homelessness or was at imminent risk of homelessness prior to moving into housing to retain their housing and be a successful tenant in a housing arrangement, improve the resident's health status, and connect the resident of the housing with community-based health care, treatment, or employment services. Supportive housing is subject to all of the rights and responsibilities defined in chapter 59.18 RCW.

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 supportive housing benefit in renewable 12-month periods for persons enrolled in medical assistance programs under this chapter and receiving community support services. 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 (3) of this section, a person must:

(a) Be 18 years of age or older;

(b) Be enrolled in a medical assistance program under this chapter and eligible for community support 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 homeless at the time a housing benefit authorization is submitted on behalf of the person for the program and have been homeless for 12 months prior to the submission of the housing benefit authorization; or

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

(4) A housing benefit authorization is valid for 12 months and must be renewed annually 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 supportive housing recipients to eligibility determination services;

(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 supportive housing services are provided to the person.

(ii) The primary role of the coordinating entity is administrative and operational, while the authority shall establish the general policy parameters for the program and 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 supportive housing to persons enrolled in medical assistance programs under this chapter;

(b) Establish metrics for the ongoing monitoring of the program, including the program's effect on providing persons with 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 office, shall implement the program in phases as funding and housing is available. If either funding or supportive housing is not adequate to provide full access to the benefit, the authority, in collaboration with the office, may limit the enrollee size for a regional service area to remain within budgeted amounts or the availability of supportive housing within the regional service area. No later than:

(a) January 1, 2023, the program must be available in at least three regional service areas. One regional service area must be the most populous single county regional service area in the state. The other two regional service areas must be the two regional service areas with the greatest number of counties within their boundaries. In implementing the program in the first phase, the authority must work with the office to address the ability to establish all program elements required by this chapter, including contracting with a coordinating entity to collaborate housing benefit authorizations with the office and establishing an adequate supply of supportive housing to meet anticipated demand by January 1, 2023;

(b) July 1, 2024, the program must be available in at least four regional service areas; and

(c) July 1, 2025, the program must be available in all regional service areas.

(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 phase of program implementation, including the estimated enrollment, estimated program costs, estimated supportive housing unit availability, funding availability for the program from all sources, and any statutory or budgetary needs to successfully implement the first phase 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 phase of program implementation and preparedness for the second phase 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 phases of program implementation and preparedness for the final phase of program implementation.

(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 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 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 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 supportive housing unit that meets the approved person's needs;

(d) Reevaluate the suitability of a person's 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)(a) The office of health and homes shall regularly consult with an advisory committee, comprised of 13 members, including advocates, at least two legislators, a representative from the health care authority, a representative from a county that provides local county dollars for affordable housing, a councilmember or designee from a city or jurisdiction that provides local dollars for affordable housing, a nonprofit developer of housing supported by the bond or tax credit program from western Washington, a nonprofit developer of housing supported by the bond or tax credit program from central Washington, a nonprofit developer of housing supported by the bond or tax credit program from eastern Washington, a person with lived experience with chronic homelessness, two service providers, and other stakeholders knowledgeable in the provision of services to homeless individuals. The advisory committee shall provide guidance and recommendations to the office of health and homes regarding funding, policy, and practice gaps within and among state programs.

(b) The advisory committee must be staffed by the department.

(c) The members of the advisory committee must be appointed by the governor, except for the legislators who must be appointed by the speaker of the house of representatives and the president of the senate.

(d) The advisory committee shall have its initial meeting no later than March 1, 2023.

(6) 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.

(7) 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) "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. All receipts from the state's portion of the surcharge established in RCW 36.22.176(1)(c)(i) must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for supportive housing programs administered by the office created in section 5 of this act, including acquisition and development of supportive housing units, operations, maintenance, and services costs of supportive housing units, project-based vouchers, and rapid rehousing. At least 25 percent of the expenditures from the account must be allocated to organizations that serve and are substantially governed by marginalized populations to pay the costs associated with program outreach.

**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) The remainder of funds must be distributed ((~~to the home security fund account, with 60~~)) such that:

(i) Thirty percent of funds are distributed to the health and homes account created in section 6 of this act; and

(ii) Thirty 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. Priority for use must be given to project-based vouchers and related services, housing acquisition, or emergency housing, for persons who are chronically homeless, 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.

(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.**  The sum of $500,000,000 is appropriated for the fiscal biennium ending June 30, 2023, from the coronavirus state fiscal recovery fund to the office of financial management for expenditure into the health and homes account created in section 6 of this act.

NEW SECTION. **Sec.**  The sum of $500,000,000 is appropriated for the fiscal biennium ending June 30, 2023, from the health and homes account created in section 6 of this act to the department of commerce for the purpose of a rapid supportive housing acquisition 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 supportive housing units, subject to the following conditions and limitations:

(1) Grants provided under this section may be used to acquire real property for quick conversion into supportive housing units or for predevelopment activities, renovation, and building update costs associated with the establishment of the acquired facilities. Grants provided under this section may not be used for operating or maintenance costs associated with providing supportive housing, supportive services, or debt service.

(2) Units acquired or developed under this section must serve individuals eligible for a 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 grants, which must follow the guidelines and compliance requirements of the housing trust fund program 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 grant 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 supportive housing units;

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

(c) The scarcity of the supportive housing units applied for compared to the number of available 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 ---**