

# HOUSE BILL REPORT

## ESHB 1866

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### As Amended by the Senate

**Title:** An act relating to assisting persons receiving community support services through medical assistance programs to receive supportive housing.

**Brief Description:** Assisting persons receiving community support services through medical assistance programs to receive supportive housing.

**Sponsors:** House Committee on 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).

### Brief History:

#### Committee Activity:

Health Care & Wellness: 1/20/22, 2/2/22 [DPS];  
Appropriations: 2/5/22, 2/7/22 [DPS(HCW)].

#### Floor Activity:

Passed House: 2/13/22, 96-2.  
Senate Amended.  
Passed Senate: 3/3/22, 30-17.

### Brief Summary of Engrossed Substitute Bill

- Establishes the Apple Health and Homes Program (Program) to provide a permanent supportive housing benefit and a community support services benefit to persons who meet eligibility criteria related to income, medical risk factors and barriers to finding stable housing.
- Establishes the Office of Apple Health and Homes (Office) within the Department of Commerce to acquire sufficient permanent supportive housing units to fulfill the needs of persons enrolled in the Program.
- Establishes the Apple Health and Homes Account to be used for permanent supportive housing programs administered by the Office.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

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## HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives Cody, Chair; Bateman, Vice Chair; Schmick, Ranking Minority Member; Caldier, Assistant Ranking Minority Member; Bronoske, Davis, Harris, Macri, Maycumber, Riccelli, Rude, Simmons, Stonier, Tharinger and Ybarra.

**Staff:** Christopher Blake (786-7392).

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## HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** The substitute bill by Committee on Health Care & Wellness be substituted therefor and the substitute bill do pass. Signed by 33 members: Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Boehnke, Caldier, Chandler, Chopp, Cody, Dolan, Dye, Fitzgibbon, Frame, Hansen, Harris, Hoff, Jacobsen, Johnson, J., Lekanoff, Pollet, Rude, Ryu, Schmick, Senn, Springer, Steele, Stonier, Sullivan and Tharinger.

**Staff:** Jessica Van Horne (786-7288).

### **Background:**

#### Medicaid and Community Support Services.

The Health Care Authority (Authority) administers the Medicaid program which is a state-federal program that pays for health care for low-income state residents who meet certain eligibility criteria. Washington's Medicaid program, known as Apple Health, offers a complete medical benefits package to eligible families, children under age 19, low-income adults, certain disabled individuals, and pregnant women.

In November 2017 the federal Centers for Medicare and Medicaid Services approved a waiver for Washington, known as the Medicaid Transformation Project (MTP), to allow the Authority to receive federal Medicaid funding for several services and eligibility standards not generally recognized under the program. Among the additional categories of services included in the MTP are community support services. Community support services include pretenancy supports and tenancy-sustaining services. Pretenancy supports include services such as conducting functional needs assessments related to housing needs and preferences, connecting clients with housing-related social services, developing a community-integration plan, providing supports and interventions according to the plan, and identifying client goals. Tenancy-sustaining services include connecting clients to social and health services, assisting clients with applications for entitlements, connecting clients with independent living supports, and assisting clients in communications with property management. Community support services do not include the payment of rent or other room and board

costs, housing modification costs, or expenses for utilities.

The provision of the services is coordinated by a single managed care organization for all eligible clients statewide. The initial waiver period expired December 31, 2021, but was extended for an additional year and the Authority has sought an additional five-year extension.

#### Homeless Housing and Assistance Surcharges.

State and local homeless housing programs receive funding from the homeless housing and assistance surcharges collected by each county auditor when certain documents are recorded. The following surcharges related to affordable housing and homeless services are collected by the county, with shares of the funds distributed to the county and to the state:

- \$13 Affordable Housing for All surcharge;
- \$62 Local Homeless Housing and Assistance surcharge; and
- \$8 additional Local Homeless Housing and Assistance surcharge.

In 2021 the Legislature passed an additional surcharge of \$100 to be collected by a county auditor for each document recorded, with some exceptions. The funds collected must be fully remitted to the state to be distributed as follows:

- 20 percent of the funds must be deposited into the Affordable Housing for All Account for the operations, maintenance, and service costs for permanent supportive housing;
- from July 1, 2021, through June 30, 2023, 4 percent of funds must be deposited into the Landlord Mitigation Program Account for the Landlord Mitigation Program. After June 30, 2023, 2 percent of funds must be deposited into the Landlord Mitigation Program Account; and
- the remainder of funds must be deposited into the Home Security Fund, with 60 percent of the funds to be used for project-based vouchers for nonprofit housing providers or public housing authorities, housing services, rapid rehousing, emergency housing, or acquisition.

#### **Summary of Engrossed Substitute Bill:**

Effective November 1, 2022, the Apple Health and Homes Program (Program) is established to provide eligible persons with a permanent supportive housing benefit and a community support services benefit. The Program operates to assure seamless integration of community support services, stable housing, and health care services through the collaboration of the Department of Commerce (Department), the Health Care Authority (Authority), the Department of Social and Health Services, local governments, coordinating entities, community support services providers, local housing providers, local health care entities, and community-based organizations.

"Permanent supportive housing" is defined as subsidized, leased housing with no limit on length of stay that prioritizes people who need comprehensive support services to retain

tenancy. Permanent supportive housing uses admissions practices to lower barriers to entry compared to other subsidized or unsubsidized rental housing, especially related to rental history, criminal history, and personal behaviors. Permanent supportive housing is combined with voluntary services to support persons with complex and disabling behavioral health or physical health conditions who were experiencing homelessness or are at imminent risk of homelessness to retain housing, to be a successful tenant, improve health status, and connect with other community-based services. "Community support services" is defined as active search and promotion of access to appropriate, safe, and affordable housing and ongoing supports to assure ongoing successful tenancy. The term includes benefits offered through the Foundational Community Supports program established under the Authority's Medicaid Transformation Project (MTP).

A person may be eligible for community support services and permanent supportive housing under the Program if the person:

- is at least 18 years old;
- is: (1) enrolled in medical assistance and is eligible for community support services; (2) not eligible for categorically needy medical assistance and has income at or below 133 percent of the Federal Poverty Level; or (3) assessed as likely eligible for medical assistance, but not enrolled due to the severity of their behavioral health symptom acuity level;
- has been assessed: (1) to have mental health needs with a need for improvement, stabilization, or prevention of deterioration of functioning; (2) to have substance use disorder needs indicating a need for outpatient substance use disorder treatment; (3) to need assistance with at least three activities of daily living or hands-on assistance with one activity of daily living; or (4) to be a homeless person with a long-continuing or indefinite physical condition requiring improvement, stabilization, or prevention of deterioration of functioning; and
- has at least one risk factor related to: (1) being homeless for at least 12 months or having been homeless in the prior three years for a combination of at least 12 months; (2) having a history of lengthy institutional contacts; (3) having a history of frequent stays at adult residential care facilities or residential treatment facilities; (4) having frequent turnover of in-home caregivers; or (5) having at least one chronic condition and being at risk for a second.

Under the Program, a coordinating entity verifies that a person has met the eligibility criteria for the Program and connects the eligible person with a community support services provider. The community support services provider delivers pretenancy services and tenancy-sustaining services to the eligible person and fully incorporates the eligible person's available community support services into case management services. A community support services provider is a local entity that contracts with a coordinating entity to provide community support services. Coordinating entities are one or more organizations, including Medicaid managed care organizations, under contract with the Authority to coordinate community support services. Coordinating entities assure the availability of access to eligibility determination services for community support services benefits and permanent

supportive housing benefits, verify that persons meet the eligibility standards for the Program, coordinate enrollment in medical assistance programs, and coordinate with a network of community support services providers to arrange with local housing providers for the placement of eligible persons in permanent supportive housing and assure that community support services are provided. When selecting the coordinating entity, the Authority must choose one or more organizations that are capable of managing a network of community support services providers that are capable of delivering community support services and supportive housing to eligible persons.

The Authority must establish a workgroup to provide feedback on its foundational community supports program as it aligns with the work of the housing benefit. The workgroup may include representatives of state agencies, counties, cities, and contracted entities providing foundational community support services. The workgroup must meet at least quarterly and may consider such topics as eligibility screening processes and 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, and requirements related to the use of a common practice tool among community support services providers to integrate social determinants of health into service delivery.

The Authority must work with the Office of Apple Health and Homes (Office) and the Department of Social and Health Services to identify and implement statewide universal measures to identify and consider social determinants of health domains including housing food security, transportation, financial strain, and interpersonal safety. The Authority must select an accredited or nationally vetted tool from among the common practice tools used by community support services providers in Washington for community support services providers to use when making determinations about housing options and other support services to offer eligible persons.

The Office is established within the Department to lead efforts to coordinate a spectrum of practice efforts related to providing permanent supportive housing, including efforts related to creating housing, operating housing, and obtaining and delivering services to connect people with housing and maintain them in that housing. The Office is specifically responsible for:

- allocating funding for enough permanent supportive housing units to fulfill permanent supportive housing needs of eligible persons;
- collaborating with the Department's divisions responsible for making awards or loans to housing providers to acquire, build, and operate the housing units, including nonprofit community organizations, local counties and cities, public housing authorities, and public development authorities;
- collaborating with the Authority on administrative functions, oversight, and reporting;
- establishing 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 reductions in health care spending for people enrolled in the Program, and outcomes related to social determinants of health;
- creating workplans and milestones to achieve the goal of providing permanent supportive housing for all eligible individuals; and
  - overseeing the allocation of community support service provider and housing provider capacity-building grants.

The Apple Health and Homes Account (Account) is created as an appropriated account. Funds in the Account must be used for permanent supportive housing programs administered by the Office, 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 as authorized in the operating budget. At least 10 percent of the expenditures must be prioritized for organizations that serve and are substantially governed by individuals disproportionately impacted by homelessness and behavioral health conditions. When selecting projects supported by the Account funds, the Office must 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 the act on a statewide basis, including in rural areas and geographically diverse parts of the state.

In addition to the existing uses for funds in the Home Security Fund Account, the funds may be used for operations, maintenance, and service costs for permanent supportive housing for persons with disabilities and permanent supportive housing programs administered by the Office. The amount of the document recording fee surcharge designated for the Home Security Fund Account is changed from 60 percent to at least 60 percent. Priority for uses of the Home Security Fund Account are broadened from project-based vouchers, housing acquisition, and emergency housing for persons who are chronically homeless to purposes intended to house persons who are chronically homeless or maintain housing for individuals with disabilities and prior experiences of homelessness. The requirement that at least 50 percent of persons receiving project-based vouchers, rapid rehousing, emergency housing, or benefitting from housing acquisition be unsheltered at the time of initial engagement is removed. The Department must provide counties with the right of first refusal for the grant funds.

Subject to amounts appropriated, funds from the Account must be used for a rapid permanent supportive housing acquisition program to issue competitive financial assistance for the acquisition and development of permanent supportive housing units. Funding recipients may include local governments, local housing authorities, nonprofit community or neighborhood-based organizations, federally recognized Indian tribes, regional or statewide nonprofit housing assistance organizations, and public development authorities. The funds may be used to acquire real property for quick conversion into supportive housing units or for predevelopment or renovation activities, but not for operating or



maintenance costs. The units acquired with the funds must serve individuals eligible for a community support services benefit under the Program. The Department must establish criteria for the issuance of awards or loans. The Department must provide a progress report on its website by June 1, 2023, that includes the total number of applications and amount of funding requested and a list and description of the projects approved for funding, including state funding, total project cost, number of units, and anticipated completion date.

The Authority must seek approval from the federal Department of Health and Human Services to: (1) receive federal matching funds for administrative costs and services provided under the Program to Medicaid enrollees; (2) align the eligibility and benefit standards of the Foundational Community Supports program established under the state's MTP to the 12-month time period under the Program; and (3) implement a medical and psychiatric respite care benefit for certain persons enrolled in Medicaid.

The Authority and the Office must submit the following reports to the Governor and the Legislature:

- by December 1, 2022, a report on preparedness for the first year of program implementation, including the estimated enrollment, estimated costs, estimated supportive housing unit availability, funding availability from all sources, efforts to improve billing and administrative burdens for foundational community support providers, efforts to streamline continuity of care and system connection for persons potentially eligible for foundational community supports, and any statutory or budget needs to successfully implement the Program;
- by December 1, 2023, report on the progress of the first year of Program implementation and preparedness for the second year;
- by December 1, 2024, report on the progress of the first two years of the Program and preparedness for ongoing housing acquisition and development;
- by December 1, 2026, a report on the full implementation of the Program, including the number of people served, available supportive housing units, estimated unmet demand for the Program, ongoing funding requirements for the Program, and funding available for the Program; and
- beginning December 1, 2027, provide annual updates on the status of the Program.

#### **EFFECT OF SENATE AMENDMENT(S):**

The Senate amendment removes the November 1, 2022, establishment date for the Apple Health and Homes Program (Program) and makes the Program subject to appropriated amounts. Eligibility criteria related to the frequency of turnover of in-home caregivers and the risk of a second chronic condition are removed.

The Senate amendment removes the requirement that the Health Care Authority (Authority) convene stakeholders to discuss implementation of the Program and the alignment of Medicaid managed care organizations to the coordination of community support services. Behavioral health administrative services organizations and coordinating entities are added

to the Authority's work group to provide feedback on the Foundational Community Supports program. The work group must discuss case management on a regular basis and may not duplicate existing work groups or advisory councils at the Authority or other agencies. The Authority, in consultation with foundational community support providers and stakeholders, must: (1) engage each region with regards to case management tools and programs; (2) evaluate effectiveness; and (3) inform legislative committees on the use of case management tools. The requirement that the Authority select a practice tool from among those used by community support services providers in Washington is removed. The Authority must inform the Governor and legislative committees on progress in selecting a practice tool.

The Senate amendment makes the creation of the Office of Apple Health and Homes (Office) subject to appropriation. The Office must develop a dashboard to make key Program outcomes available to the public. It is specified that the Office is not responsible for leading efforts within the Authority's mandate.

The Senate amendment specifies that, in addition to the acquisition of property, the awards or loans from the Apple Health and Homes Account (Account) may be used to construct permanent supportive housing units. The requirements that the Department of Commerce's criteria for the issuance of awards or loans follow guidelines and compliance requirements of the Housing Trust Fund and the federal Coronavirus State Fiscal Recovery Fund are removed. Funding from the Account must be allocated on an ongoing basis until all funds are expended and is not subject to the 90-day application periods in the Housing Assistance Program and the Affordable Housing Program.

The Senate amendment requires the "greatest public benefit" to be an element of all proposals, not only in cases of simultaneous applications. Consideration of the number of permanent supportive housing units to be created by a proposal applies to decisions between simultaneous applications from within the same geographic region. Determinations of the greatest public benefit must consider equitable geographic distribution relative to need, rather than the scarcity of permanent supportive housing units applied for in comparison to the number of available permanent supportive housing units in the same geographic region. The consideration of the Housing Trust Fund's priorities is removed from determinations of the greatest public benefit.

The Senate amendment directs the Joint Legislative Audit and Review Committee to review the efficacy of the Program and report its findings, including a recommendation of whether the Program should continue without changes, continue with amendments, or be repealed, to the Legislature by December 1, 2027.

The Senate amendment removes the emergency clause.

**Appropriation:** None.



**Fiscal Note:** Available.

**Effective Date:** The bill contains an emergency clause and takes effect immediately.

**Staff Summary of Public Testimony (Health Care & Wellness):**

(In support) Over 70 percent of people who are chronically homeless struggle with a health condition. Stable housing is an indispensable element of health care treatment for persons who have been chronically homeless. This bill will treat chronic homelessness as a medical condition. Homeless persons die on average 20 years earlier than those with a home. Permanent supportive housing effectively maintains housing stability for most people experiencing chronic homelessness. This bill is what Washington needs to create permanent supportive housing, which is the solution to homelessness and unnecessary institutionalization for people with disabilities. The grants will help increase capacity building through increased wages for frontline staff and allow for the provision of culturally-attuned services to reach the community. Supportive housing is the most humane and cost-effective solution to chronic homelessness. It is challenging to take care of one's health while unhoused, such as safely storing medications and getting to appointments. Patients in supportive housing have higher rates of medical and behavioral health visits, their chronic diseases and communicable diseases are better controlled, medication management is better, and medications for opioid use disorder treatments have much better success for ongoing care and treatment.

The Apple Health and Homes Program will build on the successful Foundational Community Supports (FCS) program. Every person who qualifies for the FCS program has a medical necessity for housing and this bill will help provide the missing element—the actual homes.

This bill creates the Office of Health and Homes to focus on rapidly creating supportive housing through a proactive model to acquire or produce housing for medically eligible recipients. This bill will help the homeless by investing in building more housing, providing operational support for people living in housing, and connecting people to housing. Counties need thousands more supportive housing units for persons with disabilities who are experiencing long-term homelessness. The lack of affordable housing is the single biggest challenge when trying to connect individuals with supportive housing services. The state must expand investments in operating services and capital in supportive housing. The type of housing in the bill will bridge the gap between expensive residential treatment and independence. This bill combines policy and funding to build more supportive housing while ensuring ongoing funding for the necessary services to keep people housed. It is crucial that Native Americans be allowed to establish their own permanent supportive housing. Housing providers need more capacity to develop and launch projects quickly and this bill will ensure state-level support, coordination, and funding to ramp up the creation of supportive housing units.

The homelessness epidemic negatively impacts the appearance, safety, and humanity of the region. Letting this crisis continue will negatively impact the region's ability to sustain economic growth. The \$500 million will give individuals the dignified housing they need and create stability for communities and local businesses.

(Opposed) None.

(Other) There is support for the way this has been braided with the existing FCS program. The FCS program is a six-month program and extending it to 12 months will require time to implement. The contractor would need to build a link with the Department of Commerce so it can conduct referrals for housing. This bill would require an extension of the Medicaid Transformation Project waiver. The need for supportive housing should not crowd out other types of affordable housing. It will take time to house anybody who is potentially eligible, so prioritizing who will be served first should be stated in the bill.

**Staff Summary of Public Testimony (Appropriations):**

(In support) This bill will help address the issues of chronic homelessness, especially among individuals with significant behavioral health needs and other medical conditions. Housing instability negatively impacts people's health, especially for chronic conditions like diabetes. Chronic homelessness results in immense human suffering and major costs for the state. By providing housing for the chronically homeless, this bill will help address these major community and fiscal impacts and provide basic dignity for homeless persons. It will benefit not just individuals receiving housing, but also businesses and the broader community. The state should take advantage of federal funding provided through the American Rescue Plan Act to jump start housing acquisition and creation. This bill has broad support amongst many stakeholders.

(Opposed) None.

**Persons Testifying (Health Care & Wellness):** (In support) Representative Frank Chopp, prime sponsor; Jessica Renner, Self Advocates in Leadership; Charles Mayer and Richard Waters, Washington Physicians for Social Responsibility; Rhonda Hauff, Yakima Neighborhood Health Services; Ben Stuckart, Spokane Low Income Housing Consortium; Torri Canda, Amerigroup; Josephine Ensign; Debbie Thiele, Corporation for Supportive Housing; Derrick Belgarde, Chief Seattle Club; Matt Gavin, Third Door Coalition; Lucinda Grande, Washington Society of Addiction Medicine; Jon Grant, Low Income Housing Institute; Dane Austreng, Service Employees International Union Healthcare 1199NW; Beth Doglio, Apple Health and Homes Act Coalition; Aynsley Duncan; and Celia Jackson, King County.

(Other) Charissa Fotinos, Health Care Authority; and Tedd Kelleher, Department of Commerce.

**Persons Testifying (Appropriations):** Representative Frank Chopp, prime sponsor; Daniel Low, Washington Physicians for Social Responsibility; and Debbie Thiele, Corporation for Supportive Housing.

**Persons Signed In To Testify But Not Testifying (Health Care & Wellness):** None.

**Persons Signed In To Testify But Not Testifying (Appropriations):** None.