

SENATE BILL REPORT

ESHB 1866

As Reported by Senate Committee On:
Health & Long Term Care, February 23, 2022
Ways & Means, February 28, 2022

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: Passed House: 2/13/22, 96-2.

Committee Activity: Health & Long Term Care: 2/21/22, 2/23/22 [DPA-WM, w/oRec].
Ways & Means: 2/26/22, 2/28/22 [DPA, DNP, w/oRec].

Brief Summary of Amended 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 (Commerce) to fund 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.
- Expands the use of the Home Security Fund Account for it to be used to fund permanent supportive housing.

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.

- Requires Commerce to establish a rapid permanent supportive housing acquisition and development program to issue financial assistance to certain local government and nonprofit entities for acquiring and developing permanent supportive housing units.

SENATE COMMITTEE ON HEALTH & LONG TERM CARE

Majority Report: Do pass as amended and be referred to Committee on Ways & Means.
Signed by Senators Cleveland, Chair; Frockt, Vice Chair; Muzzall, Ranking Member; Conway, Holy, Keiser, Randall, Rivers, Robinson and Van De Wege.

Minority Report: That it be referred without recommendation.
Signed by Senators Padden and Sefzik.

Staff: LeighBeth Merrick (786-7445)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended.
Signed by Senators Rolfes, Chair; Frockt, Vice Chair, Capital; Robinson, Vice Chair, Operating & Revenue; Billig, Carlyle, Conway, Dhingra, Hunt, Keiser, Mullet, Pedersen, Van De Wege and Wellman.

Minority Report: Do not pass.
Signed by Senators Schoesler, Assistant Ranking Member, Capital; Honeyford, Ranking Minority Member, Capital; Gildon and Wagoner.

Minority Report: That it be referred without recommendation.
Signed by Senators Wilson, L., Ranking Member; Brown, Assistant Ranking Member, Operating; Braun, Hasegawa, Muzzall, Rivers and Warnick.

Staff: LeighBeth Merrick (786-7445)

Background: Apple Health and Foundational Community Support Services. The Health Care Authority (HCA) 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 (CMS) approved a waiver for Washington, known as the Medicaid Transformation Project (MTP),

to allow HCA 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 foundational community support services. These 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 HCA is seeking 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 by the Department of Commerce (Commerce) 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 Amended Bill: Apple Health and Homes Program. Effective November 1, 2022, the Program is established to provide eligible persons with a permanent supportive housing benefit and a community support services benefit. Permanent supportive housing is

low barrier, subsidized, leased housing with no limit on length of stay that provides voluntary support services and housing to people with complex and disabling behavioral health or physical health conditions who were experiencing homelessness or are at imminent risk of homelessness. The support services provided include assisting individuals with being a successful tenant, improving their health, and connecting with community-based services. Community support services assist individuals with accessing appropriate, safe, and affordable housing and provide ongoing supports to assure ongoing successful tenancy. The term includes benefits offered through HCA's foundational community support services.

Commerce, HCA, DSHS, local governments, coordinating entities, community support services providers, local housing providers, local health care entities, and community-based organizations must collaborate on the Program's operations to assure seamless integration of community support services, stable housing, and health care services. Coordinating entities must assure the availability of access to eligibility determination services for the Program's benefits, verify that persons meet the eligibility standards for the Program, coordinate enrollment in Apple Health 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, HCA 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. 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 HCA to coordinate community support services.

To be eligible for the Program an individual must be:

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

having frequent turnover of in-home caregivers; or having at least one chronic condition and being at risk for a second.

Once an individual is determined to be eligible, the coordinating entity must connect the eligible person to a community support services provider. The community support services provider must deliver pretenancy services and tenancy-sustaining services to the eligible person and fully incorporate the eligible person's available community support services into case management services.

HCA must seek CMS approval to:

- receive federal matching funds for administrative costs and services provided under the Program to Medicaid enrollees;
- align the eligibility and benefit standards of the foundational community support services to the 12-month time period under the Program; and
- implement a medical and psychiatric respite care benefit for certain persons enrolled in Medicaid.

HCA must establish a work group to provide feedback on its foundational community supports services as it aligns with the work of the housing benefit; and work with the Office and DSHS to identify and implement statewide universal measures for considering social determinants of health when determining housing options and support options for eligible individuals.

Beginning December 1, 2022 through 2027, HCA and Commerce must report to the Governor and the Legislature their progress of implementing the program for every year except for 2025.

Apple Health and Homes Office. Subject to appropriation, the Office is established within Commerce to lead and coordinate efforts related to providing permanent supportive housing which include creating housing, operating housing, and obtaining and delivering services to connect people with housing and maintain them in that housing. The Office must allocate funding for enough permanent supportive housing units to fulfill permanent supportive housing needs of eligible persons; collaborate with other divisions responsible for making awards or loans to housing providers to acquire, build, and operate the housing units; collaborate with HCA on administrative functions, oversight, and reporting; establishing metrics and collect racially disaggregated data from HCA and Commerce for measuring specific Program outcomes; create work plans and milestones to achieve the goal of providing permanent supportive housing for all eligible individuals; and oversee the allocation of community support service provider and housing provider capacity-building grants.

The Apple Health and Homes Account. The 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.

Home Security Fund Account. 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 benefiting 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.

Rapid Permanent Supportive Housing Acquisition Program. Subject to the amounts appropriated from the Account, Commerce must establish a rapid permanent supportive housing acquisition program to issue competitive financial assistance for the acquisition or construction 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 must be allocated on an ongoing basis until all funds are expended and 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. Commerce must establish criteria for the issuance of awards or loans and 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.

EFFECT OF WAYS & MEANS COMMITTEE AMENDMENT(S):

- Requires HCA to consult with FCS providers on case management tools and

- programs.
- Allows HCA to choose a nationally vetted tool that isn't in use by Washington community support service providers.
 - Clarifies the duties of the Office of Apple Health and Homes.
 - Clarifies the use of the funds for the Rapid Permanent Supportive Housing Acquisition and Development Program and removes reference to the Housing Trust Fund.
 - Makes creating the Office of Health and Homes subject to appropriation.
 - Removes the emergency clause.

EFFECT OF HEALTH & LONG TERM CARE COMMITTEE AMENDMENT(S):

- Removes the requirement for HCA to convene key stakeholders to discuss program implementation and approaches with aligning MCOs to the coordination of community support services.
- Modifies the representatives HCA may include in their work group for aligning FCS with the program's housing benefit so that cities and counties are removed and behavioral health administrative services organizations and the coordinating entity or entities are added.
- Clarifies that HCA may expand upon, but not duplicate, existing work groups or advisory councils at HCA or other state agencies when implementing the work group for aligning the FSC benefit with the housing benefit.
- Requires HCA to inform the Governor and appropriate legislative committees on their progress of implementing as statewide tool to measure and screen for social determinants of health.
- Specifies that funding for Commerce's newly established rapid permanent supportive housing and acquisition and development program must be allocated on an ongoing basis until all funds are expended and can be used for construction.

Appropriation: The bill contains a section or sections to limit implementation to the availability of amounts appropriated for that specific purpose.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Engrossed Substitute House Bill (Health & Long Term Care): *The committee recommended a different version of the bill than what was heard.* PRO: Across Washington the epidemic of homelessness is creating immense suffering and jeopardizing public safety. Research indicates the vast majority of people who are homeless suffer from severe behavior and disabilities and without a home these conditions grow worse. This bill builds on the success of HCA's FCS program which

provides medically necessary services and reduces the societal costs of chronic homelessness. Addressing health issues is much harder for people when they don't know where they are going to sleep at night. This often results in people using services in higher cost settings. Study after study proves that providing permanent supportive housing to people struggling with homelessness and chronic health conditions leads to reduced ER visits, time incarcerated and generates overall savings. This bill will not only reduce costs but it'll save lives. We know that stable housing improves health. The bill addresses the gap in serving our unhoused residents. As doctors, we want to improve our patient's health but it can be very difficult when the patient doesn't have a roof over their head. Participants in permanent supportive housing are able to manage their chronic conditions better than their homeless peers. This includes attending scheduled doctor visits, managing their medications and successful compliance with opioid use disorder treatment. This bill is necessary to address our homeless crisis. It is critical for health, housing and social service providers to collaborate. All people should have access to permanent supportive housing regardless of their disabilities.

OTHER: There is a clear linkage between poor health outcomes and living outside with physical or mental illnesses, and supportive housing at-scale systematically provided to this vulnerable population is critical. We request the bill clarify that the rapid permanent supportive housing acquisition and development program is allowed to fund new construction. This bill establishes an HCA advisory committee, HB 1724 creates one in Commerce, and SB 5662 creates another cross agency team to address these issues. Merging these consultation bodies into a single all-encompassing advisory body may be the best path forward to achieve the goals of integrating state efforts to best assist those most in need of state services.

Persons Testifying (Health & Long Term Care): PRO: Representative Frank Chopp, Prime Sponsor; Rhonda Hauff, Yakima Neighborhood Health Services; Dr. Daniel Low, Washington Physicians for Social Responsibility; Zach Carstensen, Salesforce; Nigel Herbig, King County Regional Homelessness Authority; Jessica Renner, Self Advocates in Leadership (SAIL).

OTHER: Nate Lichti, Washington State - Department of Commerce.

Persons Signed In To Testify But Not Testifying (Health & Long Term Care): No one.

Staff Summary of Public Testimony on Bill as Amended by Health & Long Term Care (Ways & Means): *The committee recommended a different version of the bill than what was heard.* PRO: This bill builds on the success of HCA's FCS program which provides medically necessary services and reduces the societal costs of chronic homelessness. It aligns services that have previously been in silos: health care, and housing. It is important that the funding for both be provided together. We have seen how supportive housing improves health, especially as compared to the unhoused. This has become increasingly apparent during the pandemic.

OTHER: There is a clear linkage between poor health outcomes and living outside with physical or mental illnesses, and supportive housing at-scale systematically provided to this vulnerable population is critical. We request the bill clarify that the rapid permanent supportive housing acquisition and development program is allowed to fund new construction. We have other technical corrections that we will provide. We want to make sure Commerce can implement the bill. We also want to make sure we coordinate the housing support provided under HB 1277.

Persons Testifying (Ways & Means): PRO: Debbie Thiele, Corporation for Supportive Housing; Rhonda Hauff, Yakima Neighborhood Health Services.

OTHER: Dave Pringle, Dept. of Commerce.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.