
ENGROSSED SUBSTITUTE HOUSE BILL 1866

State of Washington

67th Legislature

2022 Regular Session

By House Health Care & Wellness (originally sponsored by Representatives Chopp, Riccelli, Macri, Bateman, Davis, Fey, Goodman, Leavitt, Ortiz-Self, Peterson, Ramel, Ryu, Santos, Orwall, Wylie, Cody, Simmons, Slatter, Valdez, Wicks, Pollet, Taylor, Stonier, Ormsby, Hackney, Harris-Talley, and Frame)

READ FIRST TIME 02/03/22.

1 AN ACT Relating to assisting persons receiving community support
2 services through medical assistance programs to receive supportive
3 housing; amending RCW 36.22.176; adding new sections to chapter 74.09
4 RCW; adding new sections to chapter 43.330 RCW; creating new
5 sections; and declaring an emergency.

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

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

8 (a) The epidemic of homelessness apparent in communities
9 throughout Washington is creating immense suffering. It is
10 threatening the health of homeless families and individuals, sapping
11 their human potential, eroding public confidence, and undermining the
12 shared values that have driven our state's prosperity, including
13 public safety and access to public streets, parks, and facilities;

14 (b) In seeking to identify the causes of this epidemic, a large
15 proportion of those unsheltered also suffer from serious behavioral
16 health or physical health conditions that will inevitably grow worse
17 without timely and effective health care;

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

1 (d) A home, health care, and wellness are fundamental for
2 Washington residents;

3 (e) Reducing homelessness is a priority of the people of
4 Washington state and that reducing homelessness through policy
5 alignment and reform lessens fiscal impact to the state and improves
6 the economic vitality of our businesses;

7 (f) The impact of this epidemic is falling most heavily on those
8 communities that already suffer the most serious health disparities:
9 Black, indigenous, people of color, and historically marginalized and
10 underserved communities. It is a moral imperative to shelter
11 chronically homeless populations; and

12 (g) Washington state has many of the tools needed to address this
13 challenge, including a network of safety net health and behavioral
14 health care providers in both urban and rural areas, an effective
15 system of health care coverage through apple health, and excellent
16 public and nonprofit affordable housing providers. Yet far too many
17 homeless families and individuals are going without the housing and
18 health care resources they need because these tools have yet to be
19 combined in an effective way across the state.

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

24 NEW SECTION. **Sec. 2.** A new section is added to chapter 74.09
25 RCW to read as follows:

26 The definitions in this section apply throughout sections 3 and 4
27 of this act unless the context clearly requires otherwise.

28 (1) "Community support services" means active search and
29 promotion of access to, and choice of, appropriate, safe, and
30 affordable housing and ongoing supports to assure ongoing successful
31 tenancy. The term includes, but is not limited to, services to
32 medical assistance clients who are homeless or at risk of becoming
33 homeless through outreach, engagement, and coordination of services
34 with shelter and housing. The term includes benefits offered through
35 the foundational community supports program established pursuant to
36 the authority's federal waiver, entitled "medicaid transformation
37 project," as amended and reauthorized.

38 (2) "Community support services provider" means a local entity
39 that contracts with a coordinating entity to provide community

1 support services. A community support services provider may also
2 separately perform the functions of a housing provider.

3 (3) "Coordinating entity" means one or more organizations,
4 including medicaid managed care organizations, under contract with
5 the authority to coordinate community support services as required
6 under sections 3 and 4 of this act. There may only be one
7 coordinating entity per regional service area.

8 (4) "Department" means the department of commerce.

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

10 (6) "Housing provider" means a public or private organization
11 that supplies permanent supportive housing units consistent with RCW
12 36.70A.030 to meet the housing needs of homeless persons. A housing
13 provider may supply permanent supportive housing in a site-based or
14 scattered site arrangement using a variety of public, private,
15 philanthropic, or tenant-based sources of funds to cover operating
16 costs or rent. A housing provider may also perform the functions of a
17 community support services provider.

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

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

22 (9) "Permanent supportive housing" has the same meaning as in RCW
23 36.70A.030.

24 NEW SECTION. **Sec. 3.** A new section is added to chapter 74.09
25 RCW to read as follows:

26 (1) Effective November 1, 2022, the apple health and homes
27 program is established to provide a permanent supportive housing
28 benefit and a community support services benefit through a network of
29 community support services providers for persons assessed with
30 specific health needs and risk factors.

31 (a) The program shall operate through the collaboration of the
32 department, the authority, the department of social and health
33 services, local governments, the coordinating entity or entities,
34 community support services providers, local housing providers, local
35 health care entities, and community-based organizations in contact
36 with potentially eligible individuals, to assure seamless integration
37 of community support services, stable housing, and health care
38 services.

1 (b) The entities operating the program shall coordinate
2 resources, technical assistance, and capacity building efforts to
3 help match eligible individuals with community support services,
4 health care, including behavioral health care and long-term care
5 services, and stable housing.

6 (2) To be eligible for community support services and permanent
7 supportive housing under subsection (3) of this section, a person
8 must:

9 (a) Be 18 years of age or older;

10 (b)(i) Be enrolled in a medical assistance program under this
11 chapter and eligible for community support services;

12 (ii)(A) Have a countable income that is at or below 133 percent
13 of the federal poverty level, adjusted for family size, and
14 determined annually by the federal department of health and human
15 services; and

16 (B) Not be eligible for categorically needy medical assistance,
17 as defined in the social security Title XIX state plan; or

18 (iii) Be assessed as likely eligible for, but not yet enrolled
19 in, a medical assistance program under this chapter due to the
20 severity of behavioral health symptom acuity level which creates
21 barriers to accessing and receiving conventional services;

22 (c) Have been assessed:

23 (i) By a licensed behavioral health agency to have a behavioral
24 health need which is defined as meeting one or both of the following
25 criteria:

26 (A) Having mental health needs, including a need for improvement,
27 stabilization, or prevention of deterioration of functioning
28 resulting from the presence of a mental illness; or

29 (B) Having substance use disorder needs indicating the need for
30 outpatient substance use disorder treatment which may be determined
31 by an assessment using the American society of addiction medicine
32 criteria or a similar assessment tool approved by the authority;

33 (ii) By the department of social and health services as needing
34 either assistance with at least three activities of daily living or
35 hands-on assistance with at least one activity of daily living and
36 have the preliminary determination confirmed by the department of
37 social and health services through an in-person assessment conducted
38 by the department of social and health services; or

39 (iii) To be a homeless person with a long-continuing or
40 indefinite physical condition requiring improvement, stabilization,

1 or prevention of deterioration of functioning, including the ability
2 to live independently without support; and

3 (d) Have at least one of the following risk factors:

4 (i) (A) Be a homeless person at the time of the eligibility
5 determination for the program and have been homeless for 12 months
6 prior to the eligibility determination; or

7 (B) Have been a homeless person on at least four separate
8 occasions in the three years prior to the eligibility determination
9 for the program, as long as the combined occasions equal at least 12
10 months;

11 (ii) Have a history of frequent or lengthy institutional contact,
12 including contact at institutional care facilities such as jails,
13 substance use disorder or mental health treatment facilities,
14 hospitals, or skilled nursing facilities;

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

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

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

22 (3) Once a coordinating entity verifies that a person has met the
23 eligibility criteria established in subsection (2) of this section,
24 it must connect the eligible person with a community support services
25 provider. The community support services provider must:

26 (a) Deliver pretenancy support services to determine the person's
27 specific housing needs and assist the person in identifying permanent
28 supportive housing options that are appropriate and safe for the
29 person;

30 (b) Fully incorporate the eligible person's available community
31 support services into the case management services provided by the
32 community support services provider; and

33 (c) Deliver ongoing tenancy-sustaining services to support the
34 person in maintaining successful tenancy.

35 (4) Housing options offered to eligible participants may vary,
36 subject to the availability of housing and funding.

37 (5) The community support services benefit must be sustained or
38 renewed in accordance with the eligibility standards in subsection
39 (2) of this section, except that the standards related to
40 homelessness shall be replaced with an assessment of the person's

1 likelihood to become homeless in the event that the community support
2 services benefit is terminated. The coordinating entity must adopt
3 procedures to conduct community support services benefit renewals,
4 according to authority standards.

5 NEW SECTION. **Sec. 4.** A new section is added to chapter 74.09
6 RCW to read as follows:

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

9 (a)(i) Establish or amend a contract with a coordinating entity
10 to:

11 (A) Assure the availability of access to eligibility
12 determinations services for community support services benefits and
13 permanent supportive housing benefits;

14 (B) Verify that persons meet the eligibility standards of section
15 3(2) of this act;

16 (C) Coordinate enrollment in medical assistance programs for
17 persons who meet the eligibility standards of section 3(2) of this
18 act, except for actual enrollment in a medical assistance program
19 under this chapter; and

20 (D) Coordinate with a network of community support services
21 providers to arrange with local housing providers for the placement
22 of an eligible person in permanent supportive housing appropriate to
23 the person's needs and assure that community support services are
24 provided to the person by a community support services provider.

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

29 (iii) In selecting the coordinating entity or entities, the
30 authority shall: Choose one or more organizations that are capable of
31 coordinating access to both community support services and permanent
32 supportive housing services to eligible persons under section 3 of
33 this act; and select no more than one coordinating entity per region
34 which is served by medicaid managed care organizations. The authority
35 shall convene key stakeholders to discuss implementation of the
36 program and potential approaches to more closely align medicaid
37 managed care organizations to the coordination of community support
38 services;

1 (b) Report to the office for the ongoing monitoring of the
2 program; and

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

4 (2) The authority shall establish a work group to provide
5 feedback to the agency on its foundational community supports program
6 as it aligns with the work of the housing benefit. The work group may
7 include representatives of state agencies, counties, cities, and
8 contracted agencies providing foundational community supports
9 services. Topics may include, but are not limited to, best practices
10 in eligibility screening processes and case rate billing for
11 foundational community supports housing, regional cost differentials,
12 costs consistent with specialized needs, improved data access and
13 data sharing with foundational community supports providers, and
14 requirements related to the use of a common practice tool among
15 community support services providers to integrate social determinants
16 of health into service delivery. The authority shall convene the work
17 group at least once each quarter and may expand upon, but not
18 duplicate, existing work groups or advisory councils.

19 (3) To support the goals of the program and the goals of other
20 statewide initiatives to identify and address social needs, including
21 efforts within the 1115 waiver renewal to advance health equity and
22 health-related supports, the authority shall work with the office and
23 the department of social and health services to identify and
24 implement statewide universal measures to identify and consider
25 social determinants of health domains, including housing, food
26 security, transportation, financial strain, and interpersonal safety.
27 The authority shall select an accredited or nationally vetted tool
28 from among the common practice tools used by community support
29 services providers in Washington, including criteria for
30 prioritization, for the community support services provider to use
31 when making determinations about housing options and other support
32 services to offer individuals eligible for the program. This
33 screening and prioritization process may not exclude clients
34 transitioning from inpatient or other behavioral health residential
35 treatment settings.

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

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

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

3 (ii) Align the eligibility and benefit standards of the
4 foundational community supports program established pursuant to the
5 waiver, entitled "medicaid transformation project" and initially
6 approved November 2017, between the authority and the federal centers
7 for medicare and medicaid services, as amended and reauthorized, with
8 the standards of the program, including extending the duration of the
9 benefits under the foundational community supports program to not
10 less than 12 months; and

11 (iii) Implement a medical and psychiatric respite care benefit
12 for certain persons enrolled in medicaid.

13 (5) (a) By December 1, 2022, the authority and the office shall
14 report to the governor and the legislature on preparedness for the
15 first year of program implementation, including the estimated
16 enrollment, estimated program costs, estimated supportive housing
17 unit availability, funding availability for the program from all
18 sources, efforts to improve billing and administrative burdens for
19 foundational community supports providers, efforts to streamline
20 continuity of care and system connection for persons who are
21 potentially eligible for foundational community supports, and any
22 statutory or budgetary needs to successfully implement the first year
23 of the program.

24 (b) By December 1, 2023, the authority and the office shall
25 report to the governor and the legislature on the progress of the
26 first year of program implementation and preparedness for the second
27 year of program implementation.

28 (c) By December 1, 2024, the authority and the office shall
29 report to the governor and the legislature on the progress of the
30 first two years of program implementation and preparedness for
31 ongoing housing acquisition and development.

32 (d) By December 1, 2026, the authority and the office shall
33 report to the governor and the legislature on the full implementation
34 of the program, including the number of persons served by the
35 program, available permanent supportive housing units, estimated
36 unmet demand for the program, ongoing funding requirements for the
37 program, and funding availability for the program from all sources.
38 Beginning December 1, 2027, the authority and the office shall
39 provide annual updates to the governor and the legislature on the
40 status of the program.

1 NEW SECTION. **Sec. 5.** A new section is added to chapter 43.330
2 RCW to read as follows:

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

5 (2) Activities of the office of apple health and homes must be
6 carried out by a director of the office of apple health and homes,
7 supervised by the director of the department.

8 (3) The office of apple health and homes is responsible for
9 leading efforts under this section and sections 3 and 4 of this act
10 to coordinate a spectrum of practice efforts related to providing
11 permanent supportive housing, including leading efforts related to
12 every aspect of creating housing, operating housing, obtaining
13 services, and delivering those services to connect people with
14 housing and maintain them in that housing.

15 (4) The office of apple health and homes shall:

16 (a) Subject to available funding, allocate funding for permanent
17 supportive housing units sufficient in number to fulfill permanent
18 supportive housing needs of persons determined to be eligible for the
19 program by the coordinating entity or entities under section 3 of
20 this act;

21 (b) Collaborate with department divisions responsible for making
22 awards or loans to appropriate housing providers to acquire, build,
23 and operate the housing units, including but not limited to nonprofit
24 community organizations, local counties and cities, public housing
25 authorities, and public development authorities;

26 (c) Collaborate with the authority on administrative functions,
27 oversight, and reporting requirements, as necessary to implement the
28 apple health and homes program established under section 3 of this
29 act;

30 (d) Establish metrics and collect racially disaggregated data
31 from the authority and the department related to the program's effect
32 on providing persons with permanent supportive housing, moving people
33 into independent housing, long-term housing stability, improving
34 health outcomes for people in the program, estimated reduced health
35 care spending to the state on persons enrolled in the program, and
36 outcomes related to social determinants of health;

37 (e) Create work plans and establish milestones to achieve the
38 goal of providing permanent supportive housing for all eligible
39 individuals; and

1 (f) Oversee the allocation of community support services provider
2 and housing provider capacity-building grants to further the state's
3 interests of enhancing the ability of community support services
4 providers and housing providers to deliver community support services
5 and permanent supportive housing and assure that an initial
6 infrastructure is established to create strong networks of community
7 support services providers and housing providers.

8 (5) The office of apple health and homes must be operational no
9 later than January 1, 2023. The department shall assure the
10 coordination of the work of the office of apple health and homes with
11 other offices within the department with similar or adjacent
12 authorities and functions.

13 (6) For the purposes of this section:

14 (a) "Community support services provider" has the same meaning as
15 in section 2 of this act.

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

18 (c) "Housing provider" has the same meaning as in section 2 of
19 this act.

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

22 NEW SECTION. **Sec. 6.** A new section is added to chapter 43.330
23 RCW to read as follows:

24 The apple health and homes account is created in the state
25 treasury. Moneys in the account may be spent only after
26 appropriation. Expenditures from the account may be used only for
27 permanent supportive housing programs administered by the office
28 created in section 5 of this act, including acquisition and
29 development of permanent supportive housing units, operations,
30 maintenance, and services costs of permanent supportive housing
31 units, project-based vouchers, provider grants, and other purposes
32 authorized by appropriations made in the operating budget. The
33 department must prioritize allocating at least 10 percent of the
34 expenditures from the account to organizations that serve and are
35 substantially governed by individuals disproportionately impacted by
36 homelessness and behavioral health conditions, including black,
37 indigenous, and other people of color, lesbian, gay, bisexual, queer,
38 transgender, and other gender diverse individuals. When selecting
39 projects supported by funds from the account, the office shall

1 balance the state's interest in quickly approving and financing
2 projects, the degree to which the project will leverage other funds,
3 the extent to which the project promotes racial equity, and the
4 extent to which the project will promote priorities of this act on a
5 statewide basis, including in rural areas and in geographically
6 diverse parts of the state.

7 **Sec. 7.** RCW 36.22.176 and 2021 c 214 s 1 are each amended to
8 read as follows:

9 (1) Except as provided in subsection (2) of this section, a
10 surcharge of \$100 must be charged by the county auditor for each
11 document recorded, which is in addition to any other charge or
12 surcharge allowed by law. The auditor must remit the funds to the
13 state treasurer to be deposited and used as follows:

14 (a) Twenty percent of funds must be deposited in the affordable
15 housing for all account for operations, maintenance, and service
16 costs for permanent supportive housing as defined in RCW 36.70A.030;

17 (b) From July 1, 2021, through June 30, 2023, four percent of the
18 funds must be deposited into the landlord mitigation program account
19 created in RCW 43.31.615 for the purposes of RCW 43.31.605(1).
20 Thereafter, two percent of funds must be deposited into the landlord
21 mitigation program account created in RCW 43.31.615 for purposes of
22 RCW 43.31.605(1); ~~((and))~~

23 (c) (i) The remainder of funds must be distributed to the home
24 security fund account, with no less than 60 percent of funds to be
25 used for project-based vouchers for nonprofit housing providers or
26 public housing authorities, housing services, rapid rehousing,
27 emergency housing, ~~((or))~~ acquisition, or operations, maintenance,
28 and service costs for permanent supportive housing as defined in RCW
29 36.70A.030 for persons with disabilities. Permanent supportive
30 housing programs administered by the office of apple health and homes
31 created in section 5 of this act are also eligible to use these
32 funds. Priority for use must be given to ~~((project-based vouchers and~~
33 ~~related services, housing acquisition, or emergency housing, for))~~
34 purposes intended to house persons who are chronically homeless or
35 maintain housing for individuals with disabilities and prior
36 experiences of homelessness, including families with children. ((At
37 least 50 percent of persons receiving a project-based voucher, rapid
38 rehousing, emergency housing, or benefiting from housing acquisition
39 must be living unsheltered at the time of initial engagement.)) In

1 addition, funds may be used for eviction prevention rental assistance
2 pursuant to RCW 43.185C.185, foreclosure prevention services, dispute
3 resolution center eviction prevention services, rental assistance for
4 people experiencing homelessness, and tenant education and legal
5 assistance.

6 (ii) The department shall provide counties with the right of
7 first refusal to receive grant funds distributed under this
8 subsection (c). If a county refuses the funds or does not respond
9 within a time frame established by the department, the department
10 shall identify an alternative grantee. The alternative grantee shall
11 distribute the funds in a manner that is in compliance with this
12 chapter.

13 (2) The surcharge imposed in this section does not apply to: (a)
14 Assignments or substitutions of previously recorded deeds of trust;
15 (b) documents recording a birth, marriage, divorce, or death; (c) any
16 recorded documents otherwise exempted from a recording fee or
17 additional surcharges under state law; (d) marriage licenses issued
18 by the county auditor; or (e) documents recording a federal, state,
19 county, city, or water-sewer district, or wage lien or satisfaction
20 of lien.

21 NEW SECTION. Sec. 8. Subject to amounts appropriated from the
22 apple health and homes account created in section 6 of this act the
23 department of commerce shall establish a rapid permanent supportive
24 housing acquisition and development program to issue competitive
25 financial assistance to eligible organizations under RCW 43.185A.040
26 and to public development authorities established under RCW 35.21.730
27 through 35.21.755, for the acquisition and development of permanent
28 supportive housing units, subject to the following conditions and
29 limitations:

30 (1) Awards or loans provided under this section may be used to
31 acquire real property for quick conversion into permanent supportive
32 housing units or for predevelopment or development activities,
33 renovation, and building update costs. Awards or loans provided under
34 this section may not be used for operating or maintenance costs
35 associated with providing permanent supportive housing, supportive
36 services, or debt service.

37 (2) Units acquired or developed under this section must serve
38 individuals eligible for a community support services benefit through

1 the apple health and homes program, as established in section 3 of
2 this act.

3 (3) The department of commerce shall establish criteria for the
4 issuance of the awards or loans, which must follow the guidelines and
5 compliance requirements of the housing trust fund program's
6 established criteria under RCW 43.185.070(5), except as provided in
7 subsection (5) of this section, and the federal coronavirus state
8 fiscal recovery fund. The criteria must include:

9 (a) The date upon which structural modifications or construction
10 would begin and the anticipated date of completion of the project;

11 (b) A detailed estimate of the costs associated with the
12 acquisition and any updates or improvements necessary to make the
13 property habitable for its intended use;

14 (c) A detailed estimate of the costs associated with opening the
15 units; and

16 (d) A financial plan demonstrating the ability to maintain and
17 operate the property and support its intended tenants through the end
18 of the award or loan contract.

19 (4) The department of commerce shall provide a progress report on
20 its website by June 1, 2023. The report must include:

21 (a) The total number of applications and amount of funding
22 requested; and

23 (b) A list and description of the projects approved for funding
24 including state funding, total project cost, number of units, and
25 anticipated completion date.

26 (5) The funding in this section is not subject to the 90-day
27 application periods in RCW 43.185.070 or 43.185A.050. The department
28 of commerce shall dispense funds to qualifying applicants within 45
29 days of receipt of documentation from the applicant for qualifying
30 uses and execution of any necessary contracts with the department in
31 order to effect the purpose of rapid deployment of funds under this
32 section.

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

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

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

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

6 NEW SECTION. **Sec. 9.** This act may be known and cited as the
7 apple health and homes act.

8 NEW SECTION. **Sec. 10.** This act is necessary for the immediate
9 preservation of the public peace, health, or safety, or support of
10 the state government and its existing public institutions, and takes
11 effect immediately.

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