
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.

35 (2) "Coordinating entity" means an organization under contract
36 with the authority to coordinate community support services as
37 required under sections 3 and 4 of this act.

38 (3) "Department" means the department of commerce.

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

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

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

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

11 (8) "Permanent supportive housing" has the same meaning as in RCW
12 36.70A.030.

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

15 (1) The apple health and homes program is established to provide
16 a permanent supportive housing benefit that is renewable in 12-month
17 periods for persons assessed with specific health needs and risk
18 factors. The program shall operate through the submission of housing
19 benefit authorizations issued by a coordinating entity to the office
20 on behalf of persons who meet the eligibility standards established
21 in subsection (2) of this section, as may be adjusted in accordance
22 with federal standards for providing funding for community support
23 services.

24 (2) To be eligible for a housing benefit authorization under
25 subsection (4) of this section, a person must:

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

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

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

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

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

39 (c) Have been assessed:

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

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

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

11 (ii) By the department of social and health services as needing
12 either assistance with at least three activities of daily living or
13 hands-on assistance with at least one activity of daily living and
14 have the preliminary determination confirmed by the department of
15 social and health services through an in-person assessment conducted
16 by the department of social and health services; or

17 (iii) To be a homeless person with a long-continuing or
18 indefinite physical condition requiring improvement, stabilization,
19 or prevention of deterioration of functioning, including the ability
20 to live independently without support; and

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

22 (i) (A) Be a homeless person at the time of housing benefit
23 authorization for the program and have been homeless for 12 months
24 prior to housing benefit authorization; or

25 (B) Have been a homeless person on at least four separate
26 occasions in the three years prior to a housing benefit authorization
27 being submitted on behalf of the person for the program, as long as
28 the combined occasions equal at least 12 months;

29 (ii) Have a history of frequent or lengthy institutional contact,
30 including contact at institutional care facilities such as jails,
31 substance use disorder or mental health treatment facilities,
32 hospitals, or skilled nursing facilities;

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

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

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

1 (3) To inform eligibility for the program, the authority shall
2 implement a screening process to identify and consider social
3 determinants of health domains in addition to housing. Other social
4 determinants of health domains include, but are not limited to, food
5 security, transportation, financial strain, and interpersonal safety.
6 The authority shall select an accredited or nationally vetted tool,
7 including criteria for prioritization, for the coordinating entity to
8 use to screen individuals and make the determination for the housing
9 benefit. This screening and prioritization process should not exclude
10 clients transitioning from inpatient or other behavioral health
11 residential treatment settings. When selecting and implementing a
12 tool, the authority shall seek to support and align with other
13 statewide initiatives to identify and address social needs, including
14 efforts within the 1115 waiver renewal to advance health equity and
15 health-related supports.

16 (4) Once a coordinating entity verifies that a person has met the
17 eligibility criteria established in subsection (2) of this section,
18 it must determine the person's specific housing needs to assure that
19 the permanent supportive housing option is appropriate and safe for
20 the person. The coordinating entity must submit the housing benefit
21 authorization, including the suitable housing assessment, to the
22 office.

23 (5) A housing benefit authorization is valid for at least 12
24 months and must be renewed in accordance with the eligibility
25 standards in subsection (2) of this section, except that the
26 standards related to homelessness shall be replaced with an
27 assessment of the person's likelihood to become homeless in the event
28 that the housing benefit authorization expires. The coordinating
29 entity must adopt procedures to conduct annual housing benefit
30 authorization renewals, according to authority standards, and submit
31 the results to the office.

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

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

36 (a) (i) Establish a contract with a coordinating entity to:

37 (A) Assure the availability of access for potential permanent
38 supportive housing recipients to eligibility determination services
39 subject to housing and funding availability;

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

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

7 (D) Coordinate with the office to arrange suitable housing for
8 persons with a housing benefit authorization and assist the person
9 with case management services to assure that the housing is
10 appropriate to the person's needs and that permanent supportive
11 housing services are provided to the person by the office.

12 (ii) The primary role of the coordinating entity is
13 administrative and operational, while the authority shall establish
14 the general policy parameters for the work of the coordinating
15 entity.

16 (iii) In selecting the coordinating entity, the authority shall
17 choose an organization that is capable of providing both community
18 support services and permanent supportive housing services to persons
19 enrolled in medical assistance programs under this chapter;

20 (b) Report to the office on metrics created by the office for the
21 ongoing monitoring of the program, including the program's effect on
22 providing persons with permanent supportive housing, moving people
23 into independent housing, improving health outcomes for people in the
24 program, estimated reduced health care spending to the state on
25 persons enrolled in the program, and outcomes related to social
26 determinants of health; and

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

28 (2) The authority, in collaboration with the department, shall
29 establish a work group to provide feedback to the agencies in the
30 administration of the federal waiver known as the "medicaid
31 transformation project," with respect to its foundational community
32 supports provisions generally and as those provisions complement and
33 align with the work of the program. The work group shall include
34 representatives of counties, cities, nonprofit operators of permanent
35 supportive housing, licensed agencies providing foundational
36 community supports services, community health centers, organizations
37 representing the interests of homeless persons, and other
38 stakeholders knowledgeable in the provision of services to homeless
39 individuals. Topics may include eligibility screening processes and
40 case rate billing for foundational community supports housing,

1 regional cost differentials, costs consistent with specialized needs,
2 improved data access and data sharing with foundational community
3 supports providers, expanded uses of waiver funds, and other topics.
4 The authority shall convene the work group at least once each quarter
5 for the duration of the waiver.

6 (3) (a) The authority and the department may seek and accept funds
7 from private and federal sources to support the purposes of the
8 program.

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

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

14 (ii) Align the eligibility and benefit standards of the
15 foundational community supports program established pursuant to the
16 waiver, entitled "medicaid transformation project" and initially
17 approved November 2017, between the authority and the federal centers
18 for medicare and medicaid services, as amended and reauthorized, with
19 the standards of the program, including extending the duration of the
20 benefits under the foundational community supports program to 12
21 months.

22 (4) (a) By December 1, 2022, the authority and the office shall
23 report to the governor and the legislature on preparedness for the
24 first year of program implementation, including the estimated
25 enrollment, estimated program costs, estimated supportive housing
26 unit availability, funding availability for the program from all
27 sources, efforts to improve billing and administrative burdens for
28 foundational community supports providers, efforts to streamline
29 continuity of care and system connection for persons who are
30 potentially eligible for foundational community supports, and any
31 statutory or budgetary needs to successfully implement the first year
32 of the program.

33 (b) By December 1, 2023, the authority and the office shall
34 report to the governor and the legislature on the progress of the
35 first year of program implementation and preparedness for the second
36 year of program implementation.

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

1 (d) By December 1, 2026, the authority and the office shall
2 report to the governor and the legislature on the full implementation
3 of the program, including the number of persons served by the
4 program, available permanent supportive housing units, estimated
5 unmet demand for the program, ongoing funding requirements for the
6 program, and funding availability for the program from all sources.
7 Beginning December 1, 2027, the authority and the office shall
8 provide annual updates to the governor and the legislature on the
9 status of the program.

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

12 (1) There is created the office of health and homes within the
13 department.

14 (2) Activities of the office of health and homes must be carried
15 out by a director of the office of health and homes, supervised by
16 the director of the department or his or her designee.

17 (3) The office of health and homes is responsible for leading
18 efforts under this section and sections 3 and 4 of this act to
19 coordinate a spectrum of ongoing and future funding, policy, and
20 practice efforts related to acquiring, producing, and providing
21 housing to eligible recipients identified in section 3 of this act.

22 (4) The office of health and homes shall:

23 (a) Acquire or create permanent supportive housing units
24 sufficient in number to fulfill housing benefit authorizations
25 approved by the coordinating entity under section 3 of this act to
26 provide approved persons with permanent supportive housing;

27 (b) Contract with appropriate organizations to acquire, build,
28 and operate the housing units, including but not limited to nonprofit
29 community organizations, local counties and cities, public housing
30 authorities, and public development authorities;

31 (c) Receive approved housing benefit authorizations and suitable
32 housing assessments from the coordinating entity and identify an
33 available permanent supportive housing unit that meets the approved
34 person's needs;

35 (d) Reevaluate the suitability of a person's permanent supportive
36 housing unit upon renewal of the housing benefit authorization by the
37 coordinating entity;

38 (e) Collaborate with the authority on administrative functions,
39 oversight, and reporting requirements, as necessary to implement the

1 apple health and homes program established under section 3 of this
2 act; and

3 (f) Adopt procedures to assist persons whose housing benefit
4 authorizations are not renewed to transition to an independent
5 housing arrangement and coordinate supports.

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

10 (6) For the purposes of this section:

11 (a) "Coordinating entity" has the same meaning as in section 2 of
12 this act.

13 (b) "Housing benefit authorization" has the same meaning as in
14 section 2 of this act.

15 (c) "Permanent supportive housing" has the same meaning as in
16 section 2 of this act.

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

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

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

36 (1) Except as provided in subsection (2) of this section, a
37 surcharge of \$100 must be charged by the county auditor for each
38 document recorded, which is in addition to any other charge or

1 surcharge allowed by law. The auditor must remit the funds to the
2 state treasurer to be deposited and used as follows:

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

6 (b) From July 1, 2021, through June 30, 2023, four percent of the
7 funds must be deposited into the landlord mitigation program account
8 created in RCW 43.31.615 for the purposes of RCW 43.31.605(1).
9 Thereafter, two percent of funds must be deposited into the landlord
10 mitigation program account created in RCW 43.31.615 for purposes of
11 RCW 43.31.605(1); ~~((and))~~

12 (c) (i) The remainder of funds must be distributed to the home
13 security fund account, with no less than 60 percent of funds are
14 distributed to the home security fund account to be used for project-
15 based vouchers for nonprofit housing providers or public housing
16 authorities, housing services, rapid rehousing, emergency housing,
17 ~~((or))~~ acquisition, or operations, maintenance, and service costs for
18 permanent supportive housing as defined in RCW 36.70A.030 for persons
19 with disabilities. Permanent supportive housing programs administered
20 by the office of health and homes created in section 5 of this act
21 are also eligible to use these funds. Priority for use must be given
22 to ~~((project-based vouchers and related services, housing~~
23 ~~acquisition, or emergency housing, for))~~ purposes intended to house
24 persons who are chronically homeless or maintain housing for
25 individuals with disabilities and prior experiences of homelessness,
26 including families with children. ~~((At least 50 percent of persons~~
27 ~~receiving a project-based voucher, rapid rehousing, emergency~~
28 ~~housing, or benefiting from housing acquisition must be living~~
29 ~~unsheltered at the time of initial engagement.))~~ In addition, funds
30 may be used for eviction prevention rental assistance pursuant to RCW
31 43.185C.185, foreclosure prevention services, dispute resolution
32 center eviction prevention services, rental assistance for people
33 experiencing homelessness, and tenant education and legal assistance.

34 (ii) The department shall provide counties with the right of
35 first refusal to receive grant funds distributed under this
36 subsection (c). If a county refuses the funds or does not respond
37 within a time frame established by the department, the department
38 shall identify an alternative grantee. The alternative grantee shall
39 distribute the funds in a manner that is in compliance with this
40 chapter.

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

9 NEW SECTION. **Sec. 8.** Subject to amounts appropriated from the
10 health and homes account created in section 6 of this act the
11 department of commerce shall establish a rapid permanent supportive
12 housing acquisition and development program to issue competitive
13 financial assistance to eligible organizations under RCW 43.185A.040
14 and to public development authorities established under RCW 35.21.730
15 through 35.21.755, for the acquisition and development of permanent
16 supportive housing units, subject to the following conditions and
17 limitations:

18 (1) Awards or loans provided under this section may be used to
19 acquire real property for quick conversion into permanent supportive
20 housing units or for predevelopment or development activities,
21 renovation, and building update costs associated with the
22 establishment of the acquired facilities. Awards or loans provided
23 under this section may not be used for operating or maintenance costs
24 associated with providing permanent supportive housing, supportive
25 services, or debt service.

26 (2) Units acquired or developed under this section must serve
27 individuals eligible for a permanent supportive housing benefit
28 through the apple health and homes program, as established in section
29 3 of this act.

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

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

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

4 (c) A detailed estimate of the costs associated with opening the
5 units; and

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

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

11 (a) The total number of applications and amount of funding
12 requested; and

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

16 (5) The funding in this section is not subject to the 90-day
17 application periods in RCW 43.185.070 or 43.185A.050. The department
18 of commerce shall dispense funds to qualifying applicants within 45
19 days of receipt of documentation from the applicant for qualifying
20 uses and execution of any necessary contracts with the department in
21 order to effect the purpose of rapid deployment of funds under this
22 section.

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

28 (a) The greatest number of qualifying permanent supportive
29 housing units;

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

32 (c) The scarcity of the permanent supportive housing units
33 applied for compared to the number of available permanent supportive
34 housing units in the same geographic location; and

35 (d) The housing trust fund program's established funding
36 priorities under RCW 43.185.070(5).

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

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

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