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**SUBSTITUTE HOUSE BILL 1866**

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**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)

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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