ESHB 1866 - S COMM AMD By Committee on Ways & Means

ADOPTED AS AMENDED 03/03/2022

1 Strike everything after the enacting clause and insert the 2 following:

3 "NEW SECTION. Sec. 1. (1) The legislature finds that:

- (a) The epidemic of homelessness apparent in communities throughout Washington is creating immense suffering. It is threatening the health of homeless families and individuals, sapping their human potential, eroding public confidence, and undermining the shared values that have driven our state's prosperity, including public safety and access to public streets, parks, and facilities;
- (b) In seeking to identify the causes of this epidemic, a large proportion of those unsheltered also suffer from serious behavioral health or physical health conditions that will inevitably grow worse without timely and effective health care;
- (c) Housing is an indispensable element of effective health care. Stable housing is a prerequisite to addressing behavioral health needs and lack of housing is a precursor to poor health outcomes;
- (d) A home, health care, and wellness are fundamental for Washington residents;
- (e) Reducing homelessness is a priority of the people of Washington state and that reducing homelessness through policy alignment and reform lessens fiscal impact to the state and improves the economic vitality of our businesses;
- (f) The impact of this epidemic is falling most heavily on those communities that already suffer the most serious health disparities: Black, indigenous, people of color, and historically marginalized and underserved communities. It is a moral imperative to shelter chronically homeless populations; and
- (g) Washington state has many of the tools needed to address this challenge, including a network of safety net health and behavioral health care providers in both urban and rural areas, an effective system of health care coverage through apple health, and excellent public and nonprofit affordable housing providers. Yet far too many

- homeless families and individuals are going without the housing and health care resources they need because these tools have yet to be combined in an effective way across the state.
 - (2) It is the intent of the legislature to treat chronic homelessness as a medical condition and that the apple health and homes act address the needs of chronically homeless populations by pairing a health care problem with a health care solution.
- 8 <u>NEW SECTION.</u> **Sec. 2.** A new section is added to chapter 74.09 9 RCW to read as follows:
- The definitions in this section apply throughout sections 3 and 4 of this act unless the context clearly requires otherwise.
 - (1) "Community support services" means active search and promotion of access to, and choice of, appropriate, safe, and affordable housing and ongoing supports to assure ongoing successful tenancy. The term includes, but is not limited to, services to medical assistance clients who are homeless or at risk of becoming homeless through outreach, engagement, and coordination of services with shelter and housing. The term includes benefits offered through the foundational community supports program established pursuant to the authority's federal waiver, entitled "medicaid transformation project," as amended and reauthorized.
 - (2) "Community support services provider" means a local entity that contracts with a coordinating entity to provide community support services. A community support services provider may also separately perform the functions of a housing provider.
 - (3) "Coordinating entity" means one or more organizations, including medicaid managed care organizations, under contract with the authority to coordinate community support services as required under sections 3 and 4 of this act. There may only be one coordinating entity per regional service area.
 - (4) "Department" means the department of commerce.
 - (5) "Homeless person" has the same meaning as in RCW 43.185C.010.
 - (6) "Housing provider" means a public or private organization that supplies permanent supportive housing units consistent with RCW 36.70A.030 to meet the housing needs of homeless persons. A housing provider may supply permanent supportive housing in a site-based or scattered site arrangement using a variety of public, private, philanthropic, or tenant-based sources of funds to cover operating

- 1 costs or rent. A housing provider may also perform the functions of a community support services provider.
- 3 (7) "Office" means the office of apple health and homes created 4 in section 5 of this act.
- 5 (8) "Program" means the apple health and homes program 6 established in section 3 of this act.
- 7 (9) "Permanent supportive housing" has the same meaning as in RCW 36.70A.030.
- 9 <u>NEW SECTION.</u> **Sec. 3.** A new section is added to chapter 74.09 10 RCW to read as follows:
 - (1) Effective November 1, 2022, the apple health and homes program is established to provide a permanent supportive housing benefit and a community support services benefit through a network of community support services providers for persons assessed with specific health needs and risk factors.
 - (a) The program shall operate through the collaboration of the department, the authority, the department of social and health services, local governments, the coordinating entity or entities, community support services providers, local housing providers, local health care entities, and community-based organizations in contact with potentially eligible individuals, to assure seamless integration of community support services, stable housing, and health care services.
- 24 (b) The entities operating the program shall coordinate 25 resources, technical assistance, and capacity building efforts to 26 help match eligible individuals with community support services, 27 health care, including behavioral health care and long-term care 28 services, and stable housing.
- 29 (2) To be eligible for community support services and permanent 30 supportive housing under subsection (3) of this section, a person 31 must:
 - (a) Be 18 years of age or older;
- 33 (b)(i) Be enrolled in a medical assistance program under this 34 chapter and eligible for community support services;
- (ii) (A) Have a countable income that is at or below 133 percent of the federal poverty level, adjusted for family size, and determined annually by the federal department of health and human services; and

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- 1 (B) Not be eligible for categorically needy medical assistance, 2 as defined in the social security Title XIX state plan; or
 - (iii) Be assessed as likely eligible for, but not yet enrolled in, a medical assistance program under this chapter due to the severity of behavioral health symptom acuity level which creates barriers to accessing and receiving conventional services;
 - (c) Have been assessed:

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- 8 (i) By a licensed behavioral health agency to have a behavioral 9 health need which is defined as meeting one or both of the following 10 criteria:
 - (A) Having mental health needs, including a need for improvement, stabilization, or prevention of deterioration of functioning resulting from the presence of a mental illness; or
 - (B) Having substance use disorder needs indicating the need for outpatient substance use disorder treatment which may be determined by an assessment using the American society of addiction medicine criteria or a similar assessment tool approved by the authority;
 - (ii) By the department of social and health services as needing either assistance with at least three activities of daily living or hands-on assistance with at least one activity of daily living and have the preliminary determination confirmed by the department of social and health services through an in-person assessment conducted by the department of social and health services; or
 - (iii) To be a homeless person with a long-continuing or indefinite physical condition requiring improvement, stabilization, or prevention of deterioration of functioning, including the ability to live independently without support; and
 - (d) Have at least one of the following risk factors:
 - (i) (A) Be a homeless person at the time of the eligibility determination for the program and have been homeless for 12 months prior to the eligibility determination; or
 - (B) Have been a homeless person on at least four separate occasions in the three years prior to the eligibility determination for the program, as long as the combined occasions equal at least 12 months;
- (ii) Have a history of frequent or lengthy institutional contact, including contact at institutional care facilities such as jails, substance use disorder or mental health treatment facilities, hospitals, or skilled nursing facilities;

- 1 (iii) Have a history of frequent stays at adult residential care 2 facilities or residential treatment facilities;
 - (iv) Have frequent turnover of in-home caregivers; or
 - (v) Have at least one chronic condition and have been determined by the authority to be at risk for a second chronic condition as determined by the use of a predictive risk scoring tool that considers the person's age, gender, diagnosis, and medications.
 - (3) Once a coordinating entity verifies that a person has met the eligibility criteria established in subsection (2) of this section, it must connect the eligible person with a community support services provider. The community support services provider must:
 - (a) Deliver pretenancy support services to determine the person's specific housing needs and assist the person in identifying permanent supportive housing options that are appropriate and safe for the person;
 - (b) Fully incorporate the eligible person's available community support services into the case management services provided by the community support services provider; and
 - (c) Deliver ongoing tenancy-sustaining services to support the person in maintaining successful tenancy.
- 21 (4) Housing options offered to eligible participants may vary, 22 subject to the availability of housing and funding.
 - (5) The community support services benefit must be sustained or renewed in accordance with the eligibility standards in subsection (2) of this section, except that the standards related to homelessness shall be replaced with an assessment of the person's likelihood to become homeless in the event that the community support services benefit is terminated. The coordinating entity must adopt procedures to conduct community support services benefit renewals, according to authority standards.
- NEW SECTION. Sec. 4. A new section is added to chapter 74.09
 RCW to read as follows:
- 33 (1) To establish and administer section 3 of this act, the 34 authority shall:
- 35 (a)(i) Establish or amend a contract with a coordinating entity 36 to:
- 37 (A) Assure the availability of access to eligibility 38 determinations services for community support services benefits and 39 permanent supportive housing benefits;

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

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- (C) Coordinate enrollment in medical assistance programs for persons who meet the eligibility standards of section 3(2) of this act, except for actual enrollment in a medical assistance program under this chapter; and
- (D) Coordinate with a network of community support services providers to arrange with local housing providers for the placement of an eligible person in permanent supportive housing appropriate to the person's needs and assure that community support services are provided to the person by a community support services provider.
- (ii) The primary role of the coordinating entity or entities is administrative and operational, while the authority shall establish the general policy parameters for the work of the coordinating entity or entities.
- (iii) In selecting the coordinating entity or entities, the authority shall: Choose one or more organizations that are capable of coordinating access to both community support services and permanent supportive housing services to eligible persons under section 3 of this act; and select no more than one coordinating entity per region which is served by medicaid managed care organizations;
- 22 (b) Report to the office for the ongoing monitoring of the 23 program; and
 - (c) Adopt any rules necessary to implement the program.
 - The authority shall establish a work group to provide feedback to the agency on its foundational community supports program as it aligns with the work of the housing benefit. The work group may include representatives of state agencies, behavioral administrative services organizations, the coordinating entity or entities, and contracted agencies providing foundational community supports services. Topics may include, but are not limited to, best practices in eligibility screening processes and case rate billing foundational community supports housing, regional differentials, costs consistent with specialized needs, improved data access and data sharing with foundational community supports providers, and requirements related to the use of a common practice tool among community support services providers to integrate social determinants of health into service delivery. The authority, consultation with foundational community support providers and their stakeholders, shall engage each region on case management tools and

- programs, evaluate effectiveness, and inform the appropriate committees of the legislature on the use of case management tools.

 Case management shall also be a regular item of engagement in the work group. The authority shall convene the work group at least once each quarter and may expand upon, but not duplicate, existing work groups or advisory councils at the authority or other state agencies.
- 7 (3) To support the goals of the program and the goals of other statewide initiatives to identify and address social needs, including 8 efforts within the 1115 waiver renewal to advance health equity and 9 health-related supports, the authority shall work with the office and 10 11 the department of social and health services to research, identify, 12 and implement statewide universal measures to identify and consider social determinants of health domains, including housing, food 13 security, transportation, financial strain, and interpersonal safety. 14 The authority shall select an accredited or nationally vetted tool, 15 16 including criteria for prioritization, for the community support 17 services provider to use when making determinations about housing options and other support services to offer individuals eligible for 18 19 the program. This screening and prioritization process may not exclude clients transitioning from inpatient or other behavioral 20 health residential treatment settings. The authority shall inform the 21 22 governor and the appropriate committees of the legislature on progress to this end. 23
- 24 (4)(a) The authority and the department may seek and accept funds 25 from private and federal sources to support the purposes of the 26 program.
 - (b) The authority shall seek approval from the federal department of health and human services to:
 - (i) Receive federal matching funds for administrative costs and services provided under the program to persons enrolled in medicaid;
 - (ii) Align the eligibility and benefit standards of the foundational community supports program established pursuant to the waiver, entitled "medicaid transformation project" and initially approved November 2017, between the authority and the federal centers for medicare and medicaid services, as amended and reauthorized, with the standards of the program, including extending the duration of the benefits under the foundational community supports program to not less than 12 months; and
- 39 (iii) Implement a medical and psychiatric respite care benefit 40 for certain persons enrolled in medicaid.

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

- (b) By December 1, 2023, the authority and the office shall report to the governor and the legislature on the progress of the first year of program implementation and preparedness for the second year of program implementation.
- (c) By December 1, 2024, the authority and the office shall report to the governor and the legislature on the progress of the first two years of program implementation and preparedness for ongoing housing acquisition and development.
- (d) By December 1, 2026, the authority and the office shall report to the governor and the legislature on the full implementation of the program, including the number of persons served by the program, available permanent supportive housing units, estimated unmet demand for the program, ongoing funding requirements for the program, and funding availability for the program from all sources. Beginning December 1, 2027, the authority and the office shall provide annual updates to the governor and the legislature on the status of the program.
- NEW SECTION. Sec. 5. A new section is added to chapter 43.330 RCW to read as follows:
 - (1) Subject to the availability of amounts appropriated for this specific purpose, there is created the office of apple health and homes within the department.
 - (2) Activities of the office of apple health and homes must be carried out by a director of the office of apple health and homes, supervised by the director of the department or their designee.
- 37 (3) The office of apple health and homes is responsible for leading efforts under this section and coordinating a spectrum of practice efforts related to providing permanent supportive housing,

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- including leading efforts related to every aspect of creating housing, operating housing, obtaining services, and delivering those services to connect people with housing and maintain them in that housing.
 - (4) The office of apple health and homes shall:
 - (a) Subject to available funding, allocate funding for permanent supportive housing units sufficient in number to fulfill permanent supportive housing needs of persons determined to be eligible for the program by the coordinating entity or entities under section 3 of this act;
 - (b) Collaborate with department divisions responsible for making awards or loans to appropriate housing providers to acquire, build, and operate the housing units, including but not limited to nonprofit community organizations, local counties and cities, public housing authorities, and public development authorities;
 - (c) Collaborate with the authority on administrative functions, oversight, and reporting requirements, as necessary to implement the apple health and homes program established under section 3 of this act;
 - (d) Establish metrics and collect racially disaggregated data from the authority and the department related to the program's effect on providing persons with permanent supportive housing, moving people into independent housing, long-term housing stability, improving health outcomes for people in the program, estimated reduced health care spending to the state on persons enrolled in the program, and outcomes related to social determinants of health;
 - (e) Create work plans and establish milestones to achieve the goal of providing permanent supportive housing for all eligible individuals; and
 - (f) Oversee the allocation of community support services provider and housing provider capacity-building grants to further the state's interests of enhancing the ability of community support services providers and housing providers to deliver community support services and permanent supportive housing and assure that an initial infrastructure is established to create strong networks of community support services providers and housing providers.
- 37 (5) The office of apple health and homes must be operational no 38 later than January 1, 2023. The department shall assure the 39 coordination of the work of the office of apple health and homes with

- other offices within the department with similar or adjacent authorities and functions.
 - (6) For the purposes of this section:

- 4 (a) "Community support services provider" has the same meaning as 5 in section 2 of this act.
- 6 (b) "Coordinating entity" has the same meaning as in section 2 of this act.
- 8 (c) "Housing provider" has the same meaning as in section 2 of 9 this act.
- 10 (d) "Permanent supportive housing" has the same meaning as in section 2 of this act.
- NEW SECTION. Sec. 6. A new section is added to chapter 43.330 RCW to read as follows:

The apple health and homes account is created in the state 14 15 treasury. Moneys in the account may be spent only after 16 appropriation. Expenditures from the account may be used only for permanent supportive housing programs administered by the office 17 created in section 5 of this act, including acquisition and 18 development of permanent supportive housing units, operations, 19 maintenance, and services costs of permanent supportive housing 20 units, project-based vouchers, provider grants, and other purposes 21 22 authorized by appropriations made in the operating budget. The department must prioritize allocating at least 10 percent of the 23 24 expenditures from the account to organizations that serve and are substantially governed by individuals disproportionately impacted by 25 homelessness and behavioral health conditions, including black, 26 27 indigenous, and other people of color, lesbian, gay, bisexual, queer, transgender, and other gender diverse individuals. When selecting 28 projects supported by funds from the account, the office shall 29 30 balance the state's interest in quickly approving and financing 31 projects, the degree to which the project will leverage other funds, 32 the extent to which the project promotes racial equity, and the extent to which the project will promote priorities of this act on a 33 statewide basis, including in rural areas and in geographically 34 35 diverse parts of the state.

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

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

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- (a) Twenty percent of funds must be deposited in the affordable housing for all account for operations, maintenance, and service costs for permanent supportive housing as defined in RCW 36.70A.030;
- (b) From July 1, 2021, through June 30, 2023, four percent of the funds must be deposited into the landlord mitigation program account created in RCW 43.31.615 for the purposes of RCW 43.31.605(1). Thereafter, two percent of funds must be deposited into the landlord mitigation program account created in RCW 43.31.615 for purposes of RCW 43.31.605(1); ((and))
- (c)(i) The remainder of funds must be distributed to the home security fund account, with no less than 60 percent of funds to be used for project-based vouchers for nonprofit housing providers or public housing authorities, housing services, rapid rehousing, emergency housing, ((or)) acquisition, or operations, maintenance, and service costs for permanent supportive housing as defined in RCW 36.70A.030 for persons with disabilities. Permanent supportive housing programs administered by the office of apple health and homes created in section 5 of this act are also eligible to use these funds. Priority for use must be given to ((project-based vouchers and related services, housing acquisition, or emergency housing, for)) purposes intended to house persons who are chronically homeless or maintain housing for individuals with disabilities and prior experiences of homelessness, including families with children. ((At least 50 percent of persons receiving a project-based voucher, rapid rehousing, emergency housing, or benefiting from housing acquisition must be living unsheltered at the time of initial engagement.)) In addition, funds may be used for eviction prevention rental assistance pursuant to RCW 43.185C.185, foreclosure prevention services, dispute resolution center eviction prevention services, rental assistance for people experiencing homelessness, and tenant education and legal assistance.
- (ii) The department shall provide counties with the right of first refusal to receive grant funds distributed under this subsection (c). If a county refuses the funds or does not respond within a time frame established by the department, the department

- shall identify an alternative grantee. The alternative grantee shall distribute the funds in a manner that is in compliance with this chapter.
 - (2) The surcharge imposed in this section does not apply to: (a) Assignments or substitutions of previously recorded deeds of trust; (b) documents recording a birth, marriage, divorce, or death; (c) any recorded documents otherwise exempted from a recording fee or additional surcharges under state law; (d) marriage licenses issued by the county auditor; or (e) documents recording a federal, state, county, city, or water-sewer district, or wage lien or satisfaction of lien.
- <u>NEW SECTION.</u> **Sec. 8.** Subject to amounts appropriated from the 12 apple health and homes account created in section 6 of this act the 13 department of commerce shall establish a rapid permanent supportive 14 15 housing acquisition and development program to issue competitive 16 financial assistance to eligible organizations under RCW 43.185A.040 and to public development authorities established under RCW 35.21.730 17 18 through 35.21.755, for the acquisition or the construction of permanent supportive housing units, subject to the following 19 20 conditions and limitations:
 - (1) Awards or loans provided under this section may be used to construct permanent supportive housing units or to acquire real property for quick conversion into permanent supportive housing units which may include predevelopment or development activities, renovation, and building update costs. Awards or loans provided under this section may not be used for operating or maintenance costs associated with providing permanent supportive housing, supportive services, or debt service.
 - (2) Projects acquired or constructed under this section must serve individuals eligible for a community support services benefit through the apple health and homes program, as established in section 3 of this act.
 - (3) The department of commerce shall establish criteria for the issuance of the awards or loans, including but not limited to:
- 35 (a) The date upon which structural modifications or construction 36 would begin and the anticipated date of completion of the project;
- 37 (b) A detailed estimate of the costs associated with the 38 construction or acquisition and any updates or improvements necessary 39 to make the property habitable for its intended use;

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- 1 (c) A detailed estimate of the costs associated with opening the units; and
 - (d) A financial plan demonstrating the ability to maintain and operate the property and support its intended tenants through the end of the award or loan contract.
- 6 (4) The department of commerce shall provide a progress report on its website by June 1, 2023. The report must include:
- 8 (a) The total number of applications and amount of funding 9 requested; and
- 10 (b) A list and description of the projects approved for funding 11 including state funding, total project cost, number of units, and 12 anticipated completion date.
 - (5)(a) The funding in this section shall be allocated on an ongoing basis until all funds are expended and is not subject to the 90-day application periods in RCW 43.185.070 or 43.185A.050. The department of commerce shall dispense funds to qualifying applicants within 45 days of receipt of documentation from the applicant for qualifying uses and execution of any necessary contracts with the department in order to effect the purpose of rapid deployment of funds under this section.
 - (b) If the department of commerce receives simultaneous applications for funding under this program, proposals that reach the greatest public benefit, as defined by the department, must be prioritized. For the purposes of this subsection, "greatest public benefit" must include, but is not limited to:
- 26 (i) The greatest number of qualifying permanent supportive 27 housing units; and
- (ii) The scarcity of the permanent supportive housing units applied for compared to the number of available permanent supportive housing units in the same geographic location.
- NEW SECTION. Sec. 9. This act may be known and cited as the apple health and homes act."

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On page 1, line 3 of the title, after "housing;" strike the remainder of the title and insert "amending RCW 36.22.176; adding new sections to chapter 74.09 RCW; adding new sections to chapter 43.330 RCW; and creating new sections."

EFFECT: Removes the requirement for the Health Care Authority (HCA) to convene key stakeholders to discuss program implementation and approaches with aligning managed care organizations with coordinating community support services. Modifies the representatives HCA may include in their work group for aligning foundational community supports (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 FCS benefit with the housing benefit. Requires HCA to inform the governor and appropriate legislative committees of their progress for implementing a statewide tool to measure and screen for social determinants of health. Specifies that funding for the department of 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.

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