

AL TSA/DDA/BHA IPAC SUBCOMMITTEE MINUTES

MARCH 8, 2022 9 A.M. TO 12 P.M.

Administrations and Divisions:

Home & Community Services (HCS), Residential Community Services (RCS), Behavioral Health Administration (BHA),

Developmental Disabilities Administration (DDA), Division of Behavioral Health and Recovery (DBHR), Office of the Deaf & Hard of Hearing (ODHH)

Welcome and Introductions – Brenda Francis-Thomas, Office of Indian Policy

- Announcements
 - Tim Collins, Office of Indian Policy
- There were no tribal updates.
- Roll Call:
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Connie Martin	Senior Programs Manager, Lummi Nation	Christine Morris	HCA Office Chief, Training, Communications and Workforce Development
Denese LaClair	Skokomish Tribe	Danielle Verhey	Trueblood Project Manager
Lisa Martinez	Tribal Chair of the Hoh Tribe	Charlene Abrahamson	Squaxin Island Tribe
Mariana Gomez	Hoh Tribe		
Nicole Earls	Regional Tribal Liaison, Health Care Authority (HCA)	Marco Tan	DDA Tribal Affairs Manager
Raina Peone	HCA Office of Tribal Affairs, Eastern Washington	Debra Knutson	Resource Support and Development Manager, HCS
Tamara Gaston	Tribal Initiative Project Manager, AL TSA	Tonya Ahsoak-Stevens	Health Home Program Manager, AL TSA
Tasha Lockwood	Nisqually Adult Healing Home Manager	Caritina Gonzalez	Samish Indian Nation
Lucilla Mendoza	Health Care Authority	Dr. Marie Natrall-Ackles	Behavioral Health Administrator

Nicole Mims	Health Care Authority	Thomas Kinlen	Director of Forensic Mental Health Services for the Behavioral Health Administration
Christopher Zilar	Spokane Tribe Director of Vocational Rehabilitation	Cheryl Miller	Port Gamble S'Klallam Tribe Director of Children and Family Services
Tim Collins	Senior Director of the Office of Indian Policy	Brenda Francis-Thomas	Region 3 Manager, Office of Indian Policy
Heather Hoyle	Region 3 South Manager, OIP	Leah Muasau	Tribal Contacts Manager, OIP
Loni Greninger	Vice-Chair of the Jamestown S'Klallam Tribe, Chair of the Indian Policy Advisory Committee	Bill Moss	ALISA Assistant Secretary

Behavioral Health Administration - Dr. Marie Natrall-Ackles, Tribal Liaison

- TrueBlood presentation-slides attached in minutes.

Aging and Long-Term Services Administration – Marietta Bobba, Tamara Gaston, Tonya Ahsok-Stevens

Money Follows the Person Tribal Initiative Updates

- 5 State/Tribal Meeting in Oklahoma – The meeting will be on June 21-22 in Oklahoma City. It will be held at the First Americans Museum. A draft agenda should be available before the end of the month. ALISA will reach out to those tribes that have participated in the Tribal Initiative to invite them to join us in Oklahoma. We have set aside funds to pay for travel expenses for one representative from each of those tribes. Once we have the agenda we will send more information out.
- Mathematica national report - Mathematica has been hired by CMS to write an evaluation of the Money Follows the Person demonstration, including the tribal initiative component. They have held a multi-state and multi-tribe focus group as well as 1:1 meetings with Lummi Nation and the Makah Tribe.
- Other Updates: none.

ALISA Legislative Updates

- Personal Needs Allowance Changes:

- The PNA bill will be solidified in statute per Senate Bill 5745. It will increase the PNA for ALTSA in-home clients to 300% of the federal benefit rate, continue to promote client choice and allows seniors and individuals with disabilities to remain in their own home. Currently, 300% of the federal benefit rate is \$2,523; this is the federal maximum for HCBS Waivers.
- Instead of being just budget bill language, the PNA bill will be solidified in statute per Senate Bill 5745.
- Link to the bill: <https://app.leg.wa.gov/billsummary?BillNumber=5745&Year=2021&Initiative=false>
- The budget will likely not be final until March 21st or later. We are hopeful that the funding request that goes with this legislation will be approved.

Self-Directed Care: SSB 5529 passed. This is a technical fix.

- In 1999, the self-directed statute was passed by the legislature which allows an individual with a functional disability to self-direct health care tasks to a personal aide defined as an Individual Provider who has a contract with the Department of Social and Health Services.
- This legislation will simply correct an error and oversight of a change that should have been made with the update of RCW 74.39A.240 in 2018.
- Without this correction, by default, the statute will prevent an adult with a functional disability from self-directing health-related tasks to an individual provider once they become employed by the CDE. This creates inequity between an individual with a disability who is unable to manually perform the task(s) and those that are able to do so. Allowing an adult to self-direct health-related tasks to an individual provider supports the dignity of choice as it allows the person to live at home for as long as they want and can. It also increases access to care that is less costly than if required to be delivered by a licensed person.

Tribal Medicaid Eligibility Assessment and Case Management:

- SB 5866 has passed both houses and has been sent to the Governor's office for signature.
- This legislation will revise RCW 74.39A.009, 090, 095, 515; and RCW 74.09.520 to allow federally recognized tribes to administer Medicaid long-term services and supports to individuals in need within their regional authority. The revision specifically allows the department to delegate authority for assessments and reassessments of Medicaid eligibility and case management, to federally recognized tribes on a voluntary opt-in basis.

What will the bill do?

- Allow tribes to administer long-term services and supports in a similar capacity as The Department of Social and Health Services and the Area Agencies on Aging for individuals within the regional authority of the tribe.
- Providing this function is optional for tribes; it would not be required under the law.

ALTSA Workgroups:

- Background Check workgroup – 1st meeting was held last month. The next meeting is scheduled for March 16th. At the next meeting, the group asked for an update from the background check unit on current processes in order to provide feedback to the tribal representatives on the HB1411 workgroup. The HB1411 workgroup is tasked with sending the legislature a set of recommendations

to help clients make informed choices when considering hiring someone with a criminal background. Workgroup representatives are Charlene Abrahamson and Angie Matt and Tawhnee Colvin.

- Health Home Care Coordination Consultation outcomes (Tribal Contract Addendum is attached). Roundtables and consultation have been completed. The Lead Health Home Agencies will have a meeting on the new addendum and the expectations that it be incorporated into contracts with tribes that will be providing care coordination services. Lead agencies will review the addendum next week.
- Adult Family Home Administrator training – AL TSA is working with the Lummi Nation to provide an Adult Family Home Administrator training in the spring. As slots are available it will be open for other tribes to send someone to so they can learn what is required to open and run an adult family home. We will also be planning a training in Eastern WA. If there is more interest, AL TSA will schedule more classes.
- Adult Protective Services: A one day multi-state conference will be held on May 3 in the Vancouver area. If interested, contact Vicky Gawlik at APS. We had a great turnout at the recent APS Academy. The recent feedback has been very helpful.
- WA CARES -legislation has delayed implementation for 18 months. The team has asked to join us in May to give an update.
- Changes at AL TSA: Bill Moss, Assistant Secretary, will be retiring in June. Bea Rector has been named acting assistant secretary effective in April as Bill takes some time off before retirement. Marietta Bobba, Tribal Affairs Administrator, will also retire at the end of June. AL TSA is in the process of the Tribal Affairs Administrator job description and will post as soon as possible. We will also be creating a job description and posting for a new position to lead the Medicaid Long-Term Services Eligibility contracting and training. The position will be in the Tribal Affairs Unit. We will be reaching out when interviews are scheduled for tribal representatives on the hiring panels.

Developmental Disabilities Administration – Marco Tan, DDA Tribal Liaison

DDA Adult Family Homes *Tabled*– Anna Facio Region 3 Tribal Liaison, Quality Assurance Program Manager

- Anna will join in April to present information

Announcements –

- DDA Tribal Affairs Manager Position: Marco Tan was introduced as the DDA Tribal Affairs Manager, transitioning from his interim role. Below is a brief message I'd like to share:
 - I am honored to begin serving in a new role as the DDA Tribal Affairs Manager and continue the government-to-government partnership between DDA and Washington's federally recognized tribes. This newly created position is an exciting opportunity to strengthen existing relationships and develop new ones, and to ensure tribal interests are accurately represented and considered in the development and design of DDA programs and services across the state. For those of you who don't know me, I started with DDA in 2006 as a Case Resource Manager in Region 2, moving to a DDA HQ position with the Quality Management Team in 2014. After serving in a variety of roles between 2019 and the present, I look forward to drawing on the relationships built moving forward. When not at work, I can be found with my wife, 16-year-old daughter, and our 5-year-old dog, Wilson, aka: 30 lbs. of fierce in a 15 lb. Shi-tzu/Terrier/Chihuahua body.
- On the horizon:

- DDA is exploring development of a Native American Cultural Competency Policy. It is aligned with the work of Dr. Marie Natrall-Ackles and the Policy BHA has in place to address the programs and services offered by DDA. A proposal and draft of the Policy will be shared with IPAC members for advice and consultation.
- DDA is holding its first ever Quality Summit in July. This virtual event continues the Pillars of Quality initiative begun in early 2021. More information will be shared at upcoming IPAC subcommittee meetings.

COVID-19 Updates

Informational Handouts-

- DDA clients with self-identified tribal affiliation by Tribe and residence type as of February 28, 2022
- [DDA Eligibility Flow Chart \(PDF\)](#): An overview of the process to apply for DDA eligibility and services.
- [Request for DDA Eligibility Determination Form \(14-151\)](#)
- [DSHS Form 14-459 Eligible Conditions Specific to Age and Type of Evidence](#)
- [Becoming a Certified Supported Living Provider](#)
- [Additional DDA Contracts available.](#)

For any questions, comments requests or, please contact [Marco Tan](#) 360-890-2208

Closing – Heather Hoyle

Agenda Items for the April meeting:

- BHA TrueBlood
- BHA Covid Updates
- Money Follows the Person Tribal Initiative Updates
- Adult Protective Services Check-In
- Legislative Updates – AL TSA

Closing Invocation by Chairwoman of the Hoh Tribe Lisa Martinez

Next meeting is on April 12, 2022, from 9 a.m. to 12 p.m.

Trueblood Settlement of Contempt Agreement

February 23, 2022

Implementation Update

Washington State
Health Care Authority



Trueblood Contempt Settlement

The Contempt Settlement Agreement outlines an array of services intended to better deliver the right care, at the right time, to the right people and reduce the number of people who become or remain class members.

The state is in Phase 2 of implementation, which covers the King region.

For more information about Trueblood vs. DSHS, access to Court Monitor monthly reports, and one-pagers that describe the programs and services of Trueblood in more detail, please go to:

www.dshs.wa.gov/bha/trueblood-et-al-v-washington-state-dshs

To join the Trueblood listserv, please email truebloodtaskforce@dshs.wa.gov



Outpatient Competency Restoration

OCRCP is a community-based competency restoration service that criminal courts can order as an alternative to facility-based competency restoration. OCRCP includes assessment of barriers to competency, psychoeducational programming, medication management, competency evaluation and referral to other supports (i.e. behavioral health services, residential supports) as needed.

- As of December 2021, all OCRCP contractors have housing units they can use specifically for OCRCP participants.
- DSHS and HCA are drafting a proposal to review OCRCP orders for individuals in a Residential Treatment Facility and receiving a second competency restoration order. Their suitability for OCRCP services as an alternative to completing their entire restoration in a facility-based program would be assessed and could provide individuals with the opportunity to utilize community-based resources.
- HCA continues to engage with existing licensed community behavioral health agencies to identify an OCRCP contractor in the King County region.
- Outreach and education to courts and other interested stakeholders in King County continues.

Note: Numbers in this slide will not align with quarterly SAR data due to differences in timelines and may not de-duplicate individuals.



Forensic Navigators

The primary goal of the program is to assist people who have been referred for competency evaluation. Forensic navigators help guide, support and advocate for their clients as they undergo competency services or transition into the community. Forensic navigators serve as officers of the courts, interim case managers, and community liaisons who help clients while they are involved with the criminal court system. They also offer coordinated transitions and warm handoffs to suitable community resources.

As of : 2/01/2022

Total cases worked: 2021
People discharged: 1853
People active: 164

Average caseloads:
➤ Overall: 18.2
➤ Pierce: 18.75
➤ Southwest: 19.5
➤ Spokane: 16.7

Highest caseload to date: 31

Note: People may be counted more than once.

Note: Numbers in this slide will not align with quarterly SAR data due to differences in timelines and may not de-duplicate individuals.



Ramp Down of Maple Lane

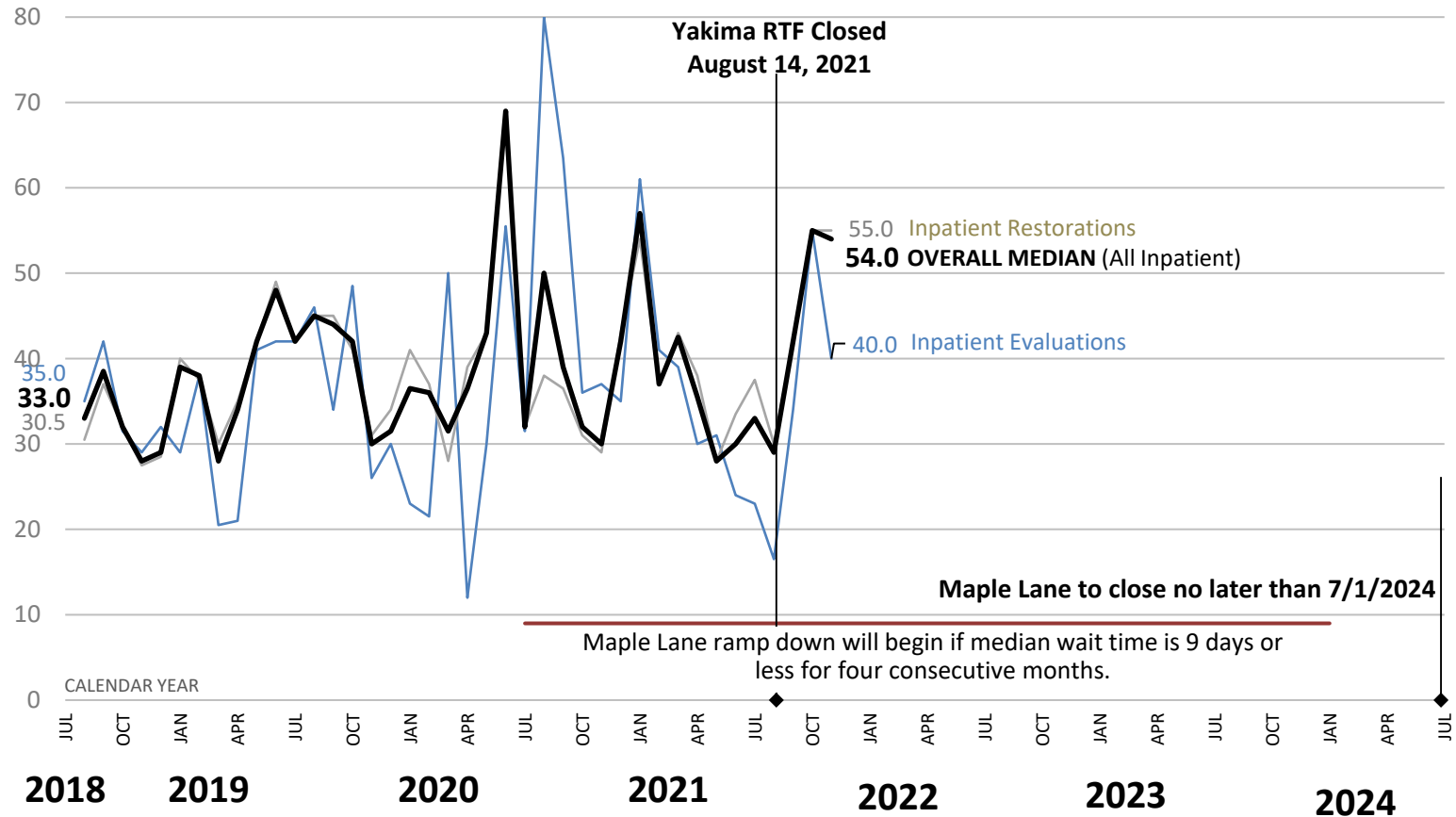
Requirements:

Maple Lane RTF will begin ramp down when class member wait times for inpatient competency services reaches a median of nine days or fewer for four consecutive months, based on mature data, or no later than July 1, 2024.

(Trueblood Contempt Settlement Agreement, Section B.5.b, page 19)

Closure of Maple Lane Residential Treatment Facility

Median number of days from court order signature for inpatient competency services to hospital admission or order completion



DATA SOURCE: BHA Forensic Data System; August 2018 through November 2021.

MEASURE DEFINITION: The median wait time represents the number of days from the beginning of a period of waiting in jail for competency services to order completion among orders completed in the specified month. Includes all inpatient competency evaluation or restoration orders for individuals waiting for services in jail. The order is completed when the individual is admitted for inpatient services, or when the order is dismissed, withdrawn or when the individual is physically released from jail (e.g. on personal recognizance or work release). Includes admissions to WSH, ESH, Maple Lane and Yakima Residential Treatment Facilities (until 7/26/2021, when the last patient was discharged from Yakima, with final facility closure on 8/14/2021).

King Crisis Bed Capacity

The state will increase crisis stabilization/triage facilities in King County by adding two 16-bed facilities.

Through collaborated efforts, the Department of Commerce, DSHS, DOH and HCA developed and deployed a request for proposal for capital funds for the construction of the two facilities.

All pre-applications were due to Department of Commerce December 29, 2021, with all full applications due January 10, 2022.

HCA and other subject matter experts will work with the Department of Commerce in reviewing collected King region RFPs responses by February 28, 2022.

The Department of Commerce will issue awards for capital funding for increased bed capacity for crisis triage/stabilization facilities by April 30, 2022.



Crisis Enhancements

Funding was provided to enhance four facilities in the Phase 1 regions. Examples include physical/environment changes to accommodate a more acute population, additional workforce/salary, infrastructure improvements (technology/medical equipment), and programmatic supplies.

- HCA provided funding to support increased wages at the 16-bed CS/CT Parkland Crisis Response Center facility in Pierce Region to reduce staff turnover.
- Contracted facilities report that they are continuing to employ Department of Health COVID-19 protocols to ensure safety for guests and staff. At least one contracted facility has reduced their daily operating census to maintain adequate distance protocol due to COVID-19.
- HCA continues to provide technical assistance in supporting the King BHASO as they identify and develop their plans for enhancement of services for the region.

Forensic HARPS

Forensic Housing and Recovery through Peer Services teams provide supportive housing services and subsidies through the evidence-based Permanent Supportive Housing model. This model focuses on participant choice in housing and household composition. Teams are staffed with people who have lived experience with behavioral health challenges.

- FHARPS housing supports and subsidies may be extended on a case-by-case basis by request to HCA.
- HCA has approved more than 35 requests for extension when providers demonstrated individuals were clinically unique, had shown improvement in the program, and would likely reenter the forensic or criminal court system if support services and/or subsidies were not extended.
- All Phase 1 FHARPS teams have access to some form of master leasing project. These projects allow the teams to immediately place people in supportive housing environments with less need to utilize hotels and motels. Pierce region providers have access to 30 individual units with shared living spaces in 5 different buildings.
- Phase 2 FHARPS teams will begin providing services in King County on 3/31/22.



Forensic HARPS Success Story

This success story comes from a FHARPS provider in Pierce County.

FHARPS worked with someone who was ordered to Outpatient Competency Restoration Program and recently completed that program. FHARPS shares that after OCRP, this person was able to get his charges dismissed. We helped him get his own apartment and he was able to find a great job. He says: “As of March, I can make it on my own. Thanks for everything! You all really have been a blessing.”



Crisis Emergency Vouchers

Law enforcement can choose to take people to crisis triage and stabilization facilities instead of taking people to jail.

- Four crisis stabilization facilities in the Phase 1 regions are contracted to provide short-term housing vouchers. Housing vouchers cover a maximum of 14 days, but at the discretion of the facility, may be extended an additional 14 days.
- People exiting one of these facilities, who are experiencing homelessness are eligible for these vouchers and must be referred to a longer-term service provider on or before the day of discharge.
- HCA will be deploying Crisis Housing Vouchers through a King County Behavioral Health Housing Specialist. The Contractor will work with crisis outreach and crisis diversion facilities to identify unhoused and unstably housed people experiencing a behavioral health crisis.
- People who meet criteria will be provided housing vouchers for an initial 14 days and the vouchers may be extended for an additional 14 days. The Contractor must also refer eligible individuals to longer-term service providers on or before the day the voucher is dispersed.



Mobile Crisis Response

Mobile crisis response teams have been enhanced in the Phase 1 regions including expanding services region wide and providing 24/7 coverage. MCR teams provide community-based support and offer crisis stabilization services to people experiencing a behavioral health emergency.

- Phase 1 MCR services providers report that regional services are fully operational. These teams are building partnerships with law enforcement and other first responders.
 - These partnerships have allowed law enforcement and other first responders to divert individuals from arrest and to provide least restrictive treatment options.
- Phase 1 MCR teams report that they continue to provide community and educational outreach with stakeholders to include hospitals and behavioral health agencies.
- In Phase 2 HCA is continuing to work with King BHASO to identify the individualized enhancement needs for their MCR services.

Forensic PATH

Forensic Projects for the Assistance in Transitions from Homelessness is a targeted outreach program that works to connect eligible persons with community-based programs including behavioral health, substance use disorder treatment, medical, housing, and other relevant services. Eligible people have been referred to two or more criminal competency evaluations in the past 24 months. The program works with people who are experiencing homelessness, as well as those who are housed, in hopes of diverting them from the criminal court system.

Phase 1

- Changes in Covid protocols across systems has increased access to some eligible individuals who are in jail and hospital settings.
- HCA held weekly meetings to discuss “best practices” in October and November. FPATH teams will be able to review “best practices” at the FPATH Annual Meeting in March 2022 and will set up regular networking opportunities going forward.
- In December 2021, HCA began doing site visits starting with the two Pierce County teams, Comprehensive Life Resources and Greater Lakes Mental Health. The visits provided an opportunity to meet the teams and troubleshoot questions in person. HCA plans to continue doing site visits throughout 2022 to provide ongoing technical assistance.



Forensic PATH cont.

Phase 2

- HCA has contracted with two community behavioral health providers in King County, Community House Mental Health Agency and Telecare.
- Routine meetings are being held with new providers to review progress with program development.
- HCA has developed a comprehensive training plan that will include, Motivational Interviewing, Decompensation and Relapse, Anti-Racism, etc.
- FPATH services will be available in all of King County starting March 31, 2022.

Forensic PATH Success Story

After several months of working with an FPATH participant, the FPATH team was able to connect this person with housing resources and PACT services. The team supported this person to navigate the process of obtaining housing which included helping them get back on Social Security benefits and worked with the FHARPS team in their region to help them with funding for the security deposit and move-in fees. They also utilized FPATH participant support funds to purchase household basics like bedding, pots and pans, as well as help them obtain food from the local food pantry and furnishings from the local furniture bank.



Crisis Intervention Training

The Washington State Criminal Justice Training Commission has provided Crisis Intervention Training (CIT) for the Pierce, Southwest, and Spokane regions. The eight-hour CIT class for dispatchers was converted to a four-hour self-paced course and a four-hour live training. The eight-hour CIT class for corrections officers was converted to an online platform and made available to all corrections officers in the Phase 1 regions. CJTC continues to offer the 40-hour CIT course to 25% of peace officers for each agency in these regions.

- 40-hour CIT training for law enforcement officers is available.
 - Phase 1 areas have six trainings scheduled through June 30, 2022
 - Two trainings scheduled for the Phase two area in January and February were rescheduled due to pandemic closures. 12 trainings are scheduled through calendar year 2022. Only 58 officers remain to be trained in this region.
- 8-hour CIT for corrections is available for corrections officers
 - The CIT 8-hour correction course has four classes before June 30, 2022
- 8-hour CIT for 911 dispatchers
 - This hybrid online/webinar training is ongoing in all areas of the state

Technical Assistance to Jails

DSHS' Jail Technical Assistance program provides training and information to jails across the state to support jail staff in working effectively with persons who suffer from mental illness. Services include:

- Monthly training webinars that are available to all city, county and tribal jails statewide.
- Inviting jail staff to submit questions or requests via our JTA mailbox at jailassistance@dshs.wa.gov
- Maintaining a website www.dshs.wa.gov/bha/office-forensic-mental-health-services/jail-technical-assistance-program with information and resources related to jail technical assistance, including past presentations.
- DSHS continues to provide support for jail-based competency evaluations to be completed via video conferencing.
- 24 jails (including county, city and tribal jails) are now using video conferencing to complete an average of 120 competency evaluations per month.

Enhanced Peer Support

The Enhanced Peer Support continuing education program provides training on the intersection between behavioral health and the criminal court system for Washington certified peer counselors.

- Online trainings are being hosted on a Learning Management System and being built using advanced e-learning software, coordinating content narration, and ensuring accessibility for all users.
- “The Intersection of Behavioral Health and the Law” curriculum has been converted into a virtual format and is now available to learners online.
- A continuing education Diversity, Equity, and Inclusion training, “Enhancing Your Cultural Intelligence,” is being developed as a virtual learning opportunity. Additionally, there is a scheduled train-the-trainer-event to prepare WA approved trainers to present this content in person.
- Both the “The Intersection of Behavioral Health and the Law” and “Enhancing Your Cultural Intelligence” trainings will be offered in person when physical distancing protocols allow.
- Peer support and recovery technical assistance continues to be offered to DSHS/BHA, HCA , Forensic PATH, Forensic HARPS, and Outpatient Competency Restoration teams.



Workforce Development

For the Trueblood Contempt Settlement Agreement to be successful, our state must cultivate a very specialized kind of workforce that includes social work, psychology, psychiatry, nursing, law enforcement, housing and other professionals to work together at what we call “The Intersection of Behavioral Health and the Law.” DSHS’ Workforce Development program is charged with studying the needs for this specialized workforce and helping to develop strategies that promote an adequate and skilled workforce.

During Phase 2 the Workforce Development team will:

- Continue to gather information from Phase 1 regions about workforce strengths and needs.
- Gather information from Phase 2 partners in King County to identify specific workforce strengths and challenges.
- Pilot a collaboratively developed training series with the King County Jail, and make that training available to all jails statewide.
- Incorporate information gathered and associated recommendations into this year's annual Workforce Development report.





Increasing Washington's in-home Personal Needs Allowance will promote client choice in long-term care

Washington's current in-home Personal Needs Allowance is inadequate and inequitable, creating a barrier to individuals receiving necessary care in their own homes

Background

In-home services are the most preferred and often least costly form of long-term care. Clients who receive these services through Medicaid are required to pay a co-pay, which is calculated by taking their income and subtracting a Personal Needs Allowance, or PNA. Clients need this PNA to cover household costs, including rent/mortgage, groceries, utilities, transportation, home maintenance and any other household needs. The rest of their income goes to fund their co-pay for in-home services. Medicaid then makes up the difference between that co-pay and the full cost of their care. Under Medicaid, States have wide latitude to determine the PNA which equates to how much income in-home clients are allowed to keep to maintain their households.

Example: How PNA Works with Monthly Client Costs for In-Home Long-Term Services and Supports

Client Income	\$2,950
Personal Needs Allowance	\$1,074
Participation	\$1,876
Average Cost of Living	\$3,019
Income deficit	\$1,945

The Current PNA is Inadequate and Results in Co-Pays Clients Can't Afford

The current in-home PNA is set at 100% of the federal poverty level, which is \$1,074 per month for an unmarried individual. This is far below what it actually costs to maintain a household in Washington State.

- Someone with a modest income of \$2,950 per month would be left with only about a third of that (\$1,074) to maintain their household. The remaining two-thirds of their income (\$1,876) would be paid to their providers in order to receive care.
- That is far below Washington's 2021 average cost of living, which is \$3,019, as estimated by the Elder Index.
- For older adults and individuals with disabilities who want to stay in their homes, this means that they might:
 - Have to choose between paying for homecare and covering basic household expenses
 - Have to cut corners – skipping meals, or skipping rent, utility payments or necessary home maintenance
 - Live in substandard or unsafe housing
- Many clients refuse needed care or accept less care than they need because of the cost.
- Clients who refuse services due to the high co-pay often re-enter Medicaid when their needs are higher and more expensive for the state. They may seek emergency care or have long-term hospital stays and frequently end up in higher levels of care – which are both costly and, in many cases, preventable.
- When clients are unable to pay their co-pay, providers are saddled with bad debt.



Washington's PNA Level is Far Below the National Average

	2022 In-Home PNA	2021 Average Cost of Living
Washington	\$1,074	\$3,019
Colorado	\$2,523	\$2,827
Massachusetts	\$2,523	\$3,489
Michigan	\$2,523	\$2,608
New Jersey	\$2,523	\$3,649

Median PNA Nationally (2018): \$2,024

Washington's PNA for Long-Term Care is Far Behind the PNA for Developmental Disabilities

DDA and AL TSA in-home clients receive significantly different PNAs, despite the cost of living being the same. For DDA clients, the PNA for in-home clients at the Developmental Disabilities Administration is currently \$2,523 per month, which is 300% of the Federal Benefit Rate. Increasing the PNA for AL TSA long-term care clients would align policy and treat individuals with in-home care needs in Washington equally.

The Solution: Increase In-Home PNA to 300% Federal Benefit Rate Cost: \$25.6 GF-S, \$58M total funds for FY23

Increasing the PNA for AL TSA in-home clients to 300% of the federal benefit rate promotes client choice and allows seniors and individuals with disabilities to remain in their own home. Currently, 300% FBR is \$2,523; this is the federal maximum for HCBS Waivers.

This change would:

- Reduce poverty among clients receiving personal care in their own homes.
- Enable clients to successfully transition out of acute care hospitals, nursing facilities and state psychiatric hospitals and live in their own homes.
- Enable more clients to stay at home if they prefer it, reducing costs to the State.
- Create equity across disability groups receiving personal care in their own homes in Washington.
- Significantly minimize administrative and accounting burden of collecting client participation on home care agencies, in-home providers, and the Consumer Directed Employer.

The current PNA creates an unnecessary barrier for many Washingtonians who prefer to be served in their own homes. Increasing the in-home PNA would allow older adults and people with disabilities to have a viable choice to remain in their own homes.

HB 1777; SB 5529, Concerning Self-Directed Care

Key benefits:

- Corrects an oversight when RCW 74.39A.240 was updated in 2018.
- Supports individuals with functional disabilities served by the DSHS Aging and Long-Term Support Administration and Developmental Disabilities Administration to live at home for as long as they want and can.
- Preserves the plans of care and self-directed arrangements that currently exist ensuring they can continue.
- Supports care being provided in a cost-effective manner.

Contact:

Bea Rector, Director
Home and Community Services Division
(360) 725-2272
bea-alise.rector@dshs.wa.gov

Why is this legislation necessary?

In 1999, the self-directed statute was passed by the legislature which allows an individual with a functional disability to self-direct health care tasks to a personal aide defined as an Individual Provider who has a contract with the Department of Social and Health Services.

During the 2018 legislative session RCW 74.39A.240 was amended to change the definition of “Individual Provider” to include a personal aide who is employed by a Consumer Directed Employer (CDE). At the time, it was not recognized that to preserve the right of individuals with functional impairments to self-direct health care services to their Individual Provider, a technical fix is needed to RCW 74.39.007 to update and correct the definition of “Personal Aide”.

What will the bill do?

This legislation will simply correct an error and oversight of a change that should have been made with the update of RCW 74.39A.240 in 2018.

Without this correction, by default, the statute will prevent an adult with a functional disability from self-directing health-related tasks to an individual provider once they become employed by the CDE. This creates inequity between an individual with a disability who is unable to manually perform the task(s) and those that are able to do so. Allowing an adult to self-direct health-related tasks to an individual provider supports the dignity of choice as it allows the person to live at home for as long as they want and can. It also increases access to care that is less costly than if required to be delivered by a licensed person.

How much will this cost?

No fiscal impact

Transforming
Lives

HEALTH CARE WORKFORCE ELIGIBILITY— CRIMINAL RECORDS Substitute House Bill 1411

Alec Graham

Office Chief, Home & Community Programs

Aging and Long-Term Support Administration

alec.graham@dshs.wa.gov





STATE OF WASHINGTON
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
Aging and Long-Term Support Administration
Developmental Disabilities Administration
PO Box 45600, Olympia, WA 98504-5600

November 5, 2018

Dear Tribal Leader,

Subject: Background Checks and Hiring for Long-Term Services and Supports Tribal Workgroup Representatives

The Department of Social and Health Services, Aging and Long-Term Support Administration (AL TSA) and Developmental Disabilities Administration (DDA) have heard a variety of issues concerning current background check processes and procedures. At the July 2019 Quarterly IPAC meeting a request was made to form a work group to explore options.

AL TSA and DDA are requesting representatives from Tribes to participate in a work group. The work group will review, discuss and make recommendations to improve the background check processes and procedures utilized for long-term services and supports for elders, adults with disabilities and individuals with intellectual disabilities. The work group will be asked to consider the list of disqualifying crimes codified in WAC 388-113-0020 and how the WAC is applied to Tribal members. More specifically, AL TSA and DDA are looking for feedback regarding background check processes and procedures that can be addressed through Washington Administrative Code and working procedures AL TSA and DDA have with tribal governments. Both AL TSA and DDA expect the work group to discuss the topic of background checks and disqualifying crimes broadly, with the understanding that some changes would require a statutory change to be enacted by the Legislature. Representatives from AL TSA Home and Community Services, AL TSA Residential Care Services, Developmental Disabilities Administration, the Background Check Central Unit and the Office of Indian Policy will be included.

Meetings will be held semimonthly from January 2019 through August 2019. The first meeting is scheduled for Thursday, January 17, 2019 from 10 a.m. - noon at AL TSA headquarters, 4450 10th Ave SE, Lacey WA 98503. The meeting schedule will be determined at the first meeting. On-line meeting access will also be available to decrease barriers to participation.

Please contact Marietta Bobba, AL TSA Tribal Affairs Administrator for further information or to volunteer for the work group. She can be reached at bobbam@dshs.wa.gov or 360-725-2618.

2018/2019 Background check workgroup

Tribal Leaders have previously raised concerns about the impact of background checks for Long-Term Care workers on Tribal Communities.

Workgroups

- **Tribal Workgroup-**

- 2018 IPAC meeting-Tribal Members and AL TSA/DDA committed to forming a workgroup to review, discuss, and make recommendation to improve BG check process/procedures as they related to tribal members.
- Workgroup convened in early 2019 and met several times to discuss the list of disqualifying crimes in WAC 388-113-0020, how it applied to tribal members, options for change, and possible limitations due to statutory requirements.

- **DSHS workgroup**

- Concurrently, in 2019, a group of individuals from various DSHS administrations and the AAG's office began to meet to discuss a WA Supreme Court decision and related implications for DSHS background checks.

Automatic Disqualifications

- The content, scope, and options in both the tribal and DSHS workgroup began to center around steps that could be taken to address automatic DQ under certain circumstances, while staying within the parameters of the background check statutes.
- Both groups reviewed waiver/variance processes from other states and were interested in pursuing this further.
- Legislative changes were discussed and added to the list of future options.

Variance Alaska

In Alaska, a provider can complete a background check variance request. Variances are not granted for crimes or civil findings for which federal law prohibits certain approvals. Applications are reviewed by a committee who makes recommendations to a Commissioner. Commissioner makes final decision.

- Variance application includes, but is not limited to the following information:
- Copies of all known info relevant to determining whether the health, welfare and safety will be protected:
 - Protective orders
 - Charging and conviction docs
 - Incarceration, parole and probation information
- Behavioral health and Domestic Violence information
- Applicant statements related to: issues for which variance is being requested, action taken to reduce risk of reoffending, statement of actions to ensure health and safety of clients
- Letters of recommendation
- Job duties including level of supervision, if any, that will be provided

DSHS Workgroup variance pilot project

Proposed a process where contracted providers have an opportunity to request a review of a disqualifying background check result when the disqualification is based on a crime that is currently not disqualifying by statute.

- Request would be limited to approximately 22 crimes listed in WAC 388-113-0020 or limited to the two crimes that are not in statute but have the highest frequency of automatic disqualification:
 - Residential Burglary: 134 in 2018
 - Vehicular Assault 47: in 2018
- This means only applicants that are solely disqualified by one of these convictions would be eligible to request a review.
- Request and review process would be similar to Alaska.
- Requests would be reviewed by a group and if variance is granted, the individual would be eligible for a CC&S by the hiring entity, not guaranteed employment.

Variance pilot, COVID 19, and HB 1411

- Variance pilot was developed and presented to DSHS cabinet for approval.
- COVID 19 interrupted various activities in development
- HB 1411 was presented that addressed some of the issues by making more crimes time limited and by directing DSHS to facilitate a broader workgroup discussion.

HB 1411

- Passed in 2021 Legislative Session
- Goals:
 - Expand long-term care workforce eligibility
 - Decrease employment barriers
 - Address disproportionate community impacts
- Actions:
 - Amended disqualifying crimes list – Section 1
 - Directed DSHS to convene workgroup to recommend Informed Choice process and communication strategy to legislature by December 1, 2022 (Section 2)
 - Implement CROP (Certificate of Restoration of Opportunity) (Section 3)

Amended Crimes – Permanent to Time Limited

Disqualifying Crime (prior to HB 1411)	Amended as of July 25, 2021
Selling Marijuana to a person under RCW 69.500.401	After 3 years or more have passed between the most recent conviction and the date the background check is processed
Theft in the first degree under RCW 9A.56.030 after 10 years or more have passed between the most recent conviction and the date the background check is processed	After 10 years or more have passed between the most recent conviction and the date the background check is processed
Robbery in the second degree under RCW.9A.56.210	After five years or more have passed between the most recent conviction and the date the background check is processed
Extortion in the second degree under RCW 9A.36.021	After five years or more have passed between the most recent conviction and the date the background check is processed
Assault in the second degree under RCW 9A.36.021	After five years or more have passed between the most recent conviction and the date the background check is processed
Assault in the third degree under RCW 9A.36.031	After five years or more have passed between the most recent conviction and the date the background check is processed.

Project Scope – 1411, Section 2

Workgroup Members

- Community-based agencies representing criminally disqualified individuals
- Unpaid caregivers
- Consumers of personal care
- Individuals with disabilities (or their representatives)
- Tribal partners
- Advocacy groups representing minority and immigrant populations
- Representatives from the state Long-Term Care and Developmental Disability Ombuds offices
- DSHS
- Area Agencies on Aging
- Attorney General's office
- SEIU775
- Medicaid Home Care Agencies
- Consumer-Directed Employer program

Project Scope – 1411, Section 2

Topic Areas to Include

- Client Safety
- Client Direction
- Racial Equity
- Cultural Competence
- Economic consequences of unpaid caregiving on caregivers and people receiving care
- Categories of eligible workers (family, friend, trusted individuals, or others)
- Disqualifying crimes
- Mechanisms for consideration (attestation, petition, other)
- Workforce development
- Disparities in charges and disqualifications in providing paid home care services

Project Scope – 1411, Section 2

Recommendations shall :

- Preserve Client choice
- Create a process to determine whether/when/how a trusted individual can be hired by a client if they have a disqualifying conviction. (Informed Choice)
- Consider operational feasibility to implement Informed Choice process

Telling Our Stories

**Centering the voices of the people most directly impacted
and who stand to benefit the most from change**



STATE OF WASHINGTON
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
PO Box 45050, Olympia, WA 98504-5050

October 21, 2021

Dear Tribal Leader:

The 2020-21 State legislative session passed HB 1411: Healthcare Workforce Eligibility-Criminal Records. This important legislation has made changes to existing background check regulations, processes for restoration certification review and directs the department to:

- Identify recommendations on informed choice so older adults and individuals with disabilities may hire a trusted individual with a criminal record who would otherwise, be disqualified.

The Department of Social and Health Services (Department), Aging and Long-Term Support Administration (AL TSA), and the Developmental Disabilities Administration (DDA) will be convening and facilitating a workgroup to expand the long-term care workforce while continuing to recognize the importance of protecting vulnerable adults. The workgroup will create a set of recommendations by December 2022 for the state legislature.

The Department is seeking two tribal representatives to assist with developing recommendations to the state legislature. The legislation asks for tribal representatives from federally recognized tribes east and west of the Cascade Mountains. The workgroup will include representatives from a variety of organizations and individuals who may be impacted by this work. A fact sheet with specific elements of the legislation, including areas for recommendations and workgroup composition is included.

The workgroup meetings will be held virtually, tentatively monthly starting Fall/Winter 2021 and continue through June 2022. Each meeting is anticipated to be one-hour long. Meeting details will be finalized at the first meeting.

If you are interested in participating in the HB 1411 workgroup as a delegate or alternate, please contact either Marietta Bobba, AL TSA Tribal Affairs Administrator, by telephone at (360) 725-2618 or via email at bobbam@dshs.wa.gov, or Nina Banken, Long-term Care Workforce Project Manager via email at nina.banken@dshs.wa.gov.

The discussions held in 2019, with tribes to identify barriers to employment for tribal members assisted in identifying the need to move forward on this important issue. The IPAC subcommittee will continue to seek additional input from the committee in order to provide broader input and feedback to the tribal representatives to the HB1411 workgroup.

Sincerely,

Bill Moss
Assistant Secretary,
Aging and Long-Term Support Administration
"Transforming Lives"

Debbie Roberts
Assistant Secretary,
Developmental Disabilities Administration

SHB 1411 Workgroup

The legislation called for tribal representatives on the 1411 workgroup specifically, "one from the west side of the Cascade mountains and one from the east side of the Cascade mountains, from federally recognized tribes."

Formal Workgroup Members:

Charlene Abrahamson, Squaxin Tribe

Angie Matt/Tawhnee Colvin, Spokane Tribe of Indians

Goal:

Identify recommendations on informed choice so older adults and individuals with disabilities may hire a trusted individual with a criminal record to provide Long-Term Care Services who would otherwise be disqualified.

Looking Ahead

Meeting 3: February 23rd 3:30 – 5:30

- Client Focused Conversation centering on Client Choice, Trusted Individuals, Decisional Capacity, Cultural Competency

Meeting 4: March 23rd 3:30 – 5:30

- Caregiver Focused Conversation centering on Racial Equity, Expanding the Workforce, Economic Stability

Meeting Schedule:

April 20; May 18; June 22; July 27

Final Report Due: December 1, 2022

Thank you

Questions? Please contact:

Project Manager:

Nina Banken

nina.banken@dshs.wa.gov



Transforming lives

SB 5866/HB 2060 - Medicaid long-term services and supports administered by federally recognized tribes Chapter 74.39A RCW and Chapter 74.09 RCW

Key benefits:

- The federal government delegates Medicaid eligibility authority to the states. Tribes, as sovereign nations, should have the authority to act in similar function to that of the state government.
- Tribal Nations have expertise in providing services and operating programs in a manner that is culturally responsive and accessible to potentially eligible individuals within their regional authority.
- As demand for Medicaid long-term services and supports continues to grow, so does our need to expand access and cultural competence. Expansion of these statutes to include federally recognized tribes would help increase access to culturally competent services for tribal members while giving tribes the autonomy to administer services to individuals within their regional authority.

Why is this legislation necessary?

This legislation would revise RCW 74.39A.009, 090, 095, 515; and RCW 74.09.520 to allow federally recognized tribes to administer Medicaid long-term services and supports to individuals in need within their regional authority. The revision specifically allows the department to delegate authority for assessments and reassessments of Medicaid eligibility and case management, to federally recognized tribes on a voluntary opt-in basis.

What will the bill do?

- Allow tribes to administer long-term services and supports in a similar capacity as The Department of Social and Health Services and the Area Agencies on Aging for individuals within the regional authority of the tribe.
- Providing this function is optional for tribes; it would not be required under the law.

How much will this cost?

AL TSA has requested \$135,000; \$68,000 GF-S to fund this request.

Contact:

Bea Rector, Director
Home and Community Services Division
Aging and Long-Term Support Administration
(360) 725-2272
bea-alise.rector@dshs.wa.gov

Tribe	Count of Self-Identified Clients
Confederated Tribes and Bands of the Yakama Nation	73
Confederated Tribes of the Chehalis Reservation	8
Confederated Tribes of the Colville Reservation	57
Cowlitz Indian Tribe	17
Hoh Indian Tribe	1
Jamestown S'Klallam Tribe	3
Kalispel Indian Community of the Kalispel Reservation	5
Lower Elwha Tribal Community	9
Lummi Tribe of the Lummi Reservation	46
Makah Indian Tribe of the Makah Indian Reservation	18
Muckleshoot Indian Tribe	26
Nisqually Indian Tribe	11
Nooksack Indian Tribe	12
Port Gamble Band of S'Klallam Indians	7
Puyallup Tribe of the Puyallup Reservation	30
Quinault Indian Nation	9
Samish Indian Nation	5
Sauk-Suiattle Indian Tribe	6
Shoalwater Bay Indian Tribe of the Shoalwater Bay Indian Reservation, Washington	5
Skokomish Indian Tribe	8
Snoqualmie Indian Tribe	4
Spokane Tribe of the Spokane Reservation	26
Squaxin Island Tribe of the Squaxin Island Reservation	4
Stillaguamish Tribe of Indians of Washington	1
Suquamish Indian Tribe of the Port Madison Reservation	5
Swinomish Indians of the Swinomish Reservation of Washington	5
Tulalip Tribes of Washington	40
Upper Skagit Indian Tribe	6
Grand Total	447

Tribe	Count of Residence Type
Confederated Tribes and Bands of the Yakama Nation	73
Adult Family Home	3
DCYF-Child Foster Home	6
Other	6
Own Home	7
Own Home (Alone)	1
Own Home (Companion Home)	1
Own Home (Supported Living)	8
Parents Home	33
Relatives Home	6
State Operated Living Alternatives (SOLA)	2
Confederated Tribes of the Chehalis Reservation	8
Own Home	1
Own Home (Supported Living)	2
Parents Home	4
Relatives Home	1
Confederated Tribes of the Colville Reservation	57
Adult Family Home	4
Assisted Living Facility (non-ARC)	1
DCYF-Child Foster Home	1
Own Home	3
Own Home (Alone)	5
Own Home (Supported Living)	12
Parents Home	25
Relatives Home	6
Cowlitz Indian Tribe	17
Nursing Facility	1
OHS-Staffed Residential Home	1
Other	1
Own Home	1
Own Home (Alone)	1
Parents Home	11
Relatives Home	1
Residential Habilitation Center (RHC)	
Hoh Indian Tribe	1
DCYF-Child Foster Home	1
Jamestown S'Klallam Tribe	3
Own Home (Alone)	
Own Home (Companion Home)	1
Own Home (Supported Living)	1
Parents Home	1
Kalispel Indian Community of the Kalispel Reservation	5
DCYF-Child Foster Home	1

Parents Home	3
Relatives Home	1
Lower Elwha Tribal Community	9
Adult Family Home	1
Other	2
Own Home	2
Parents Home	2
Relatives Home	2
Lummi Tribe of the Lummi Reservation	46
Adult Residential Care (ARC)	1
DCYF-Child Foster Home	3
Other	1
Own Home	6
Own Home (Companion Home)	1
Own Home (Supported Living)	4
Parents Home	26
Relatives Home	4
Makah Indian Tribe of the Makah Indian Reservation	18
Adult Family Home	1
DCYF-Child Foster Home	1
Group Home DDA	1
OHS-Child Foster Home	2
OHS-Staffed Residential Home	1
Own Home (Alone)	1
Own Home (Supported Living)	1
Parents Home	9
Relatives Home	1
Muckleshoot Indian Tribe	26
Adult Family Home	2
Medical Hospital	1
Own Home	3
Own Home (Alone)	2
Own Home (Supported Living)	3
Parents Home	13
Relatives Home	2
Nisqually Indian Tribe	11
Adult Family Home	1
DCYF-Child Foster Home	1
Other	1
Own Home (Supported Living)	1
Parents Home	7
Nooksack Indian Tribe	12
Own Home (Supported Living)	3
Parents Home	5
Relatives Home	4

Port Gamble Band of S'Klallam Indians	7
Other	1
Own Home	1
Parents Home	4
Relatives Home	1
Puyallup Tribe of the Puyallup Reservation	30
Adult Family Home	1
Assisted Living Facility (non-ARC)	1
DCYF-Child Foster Home	2
DCYF-Group Care Facility for Medically Fragile Children	1
Other	2
Own Home	1
Own Home (Alone)	1
Own Home (Supported Living)	6
Parents Home	10
Relatives Home	5
Quinault Indian Nation	9
Adult Family Home	2
Other	1
Parents Home	6
Samish Indian Nation	5
OHS-Group Care Facility for Medically Fragile Children	1
Own Home (Supported Living)	1
Parents Home	2
Relatives Home	1
Sauk-Suiattle Indian Tribe	6
DCYF-Child Foster Home	1
Other	1
Own Home (Alone)	2
Own home (w/ spouse/partner)	1
Parents Home	1
Shoalwater Bay Indian Tribe of the Shoalwater Bay Indian Reservation, Washington	5
Other	1
Parents Home	4
Skokomish Indian Tribe	8
Own Home	1
Own Home (Supported Living)	3
Parents Home	4
Snoqualmie Indian Tribe	4
Own Home (Alone)	1
Parents Home	3
Spokane Tribe of the Spokane Reservation	26
Adult Family Home	3
Adult Residential Care (ARC)	1

Assisted Living Facility (non-ARC)	1
DCYF-Child Foster Home	2
DCYF-Group Care Facility for Medically Fragile Children	1
Nursing Facility	1
Own Home	3
Own Home (Supported Living)	2
Parents Home	11
Relatives Home	1
Squaxin Island Tribe of the Squaxin Island Reservation	4
Own Home	1
Own Home (Supported Living)	1
Parents Home	2
Stillaguamish Tribe of Indians of Washington	1
Homeless	1
Suquamish Indian Tribe of the Port Madison Reservation	5
Own Home (Supported Living)	2
Parents Home	3
Swinomish Indians of the Swinomish Reservation of Washington	5
Own Home	1
Own Home (Supported Living)	1
Parents Home	1
Psychiatric Hospital	1
Relatives Home	1
Tulalip Tribes of Washington	40
Adult Residential Care (ARC)	1
DCYF-Child Foster Home	3
Nursing Facility	1
Other	1
Own Home	2
Own Home (Alone)	1
Own Home (Supported Living)	6
Parents Home	23
Relatives Home	1
State Operated Living Alternatives (SOLA)	1
Upper Skagit Indian Tribe	6
Adult Family Home	1
Own Home	2
Own Home (Supported Living)	1
Parents Home	1
Relatives Home	1
Grand Total	447

House Bill 1411

Client Informed Choice

Background Checks/Disqualifying Crimes

What is House Bill 1411?

House Bill 1411 seeks workgroup recommendations on ways to lessen criminal history barriers to employment for Long-term care workers. Specifically, recommendations on how clients can hire a trusted individual whose disqualifying crimes prevent them from being hired.

What direction has the Legislature provided to DSHS?

The Department of Social and Health Services (DSHS) will convene a workgroup to discuss a process which would allow a client to make an informed choice to hire a trusted person to provide care, although, that individual is automatically disqualified from having unsupervised access to clients due to their criminal record under the current rule.

What is the history of HB 1411?

An individual with an automatically disqualifying conviction, pending charge, or negative action cannot be hired by a client, regardless of the wishes of the client.

DSHS has rules in place that determine who can have unsupervised access to children, vulnerable adults, or individuals with mental illness or developmental disabilities. Within those rules is a list of crimes and pending charges that are automatically disqualifying. Some of the listed disqualifying crimes are time limited. Once the defined amount of time has passed, the person may be allowed to work in a position with access to minors and vulnerable adults depending on the results of an employer review called a Character, Competence and Suitability review.

In July 2021, some of the automatically disqualifying crimes were modified and new time parameters were added.

Selling Marijuana to a person under RCW 69.500.401	After 3 years or more have passed between the most recent conviction and the date the background check is processed
Theft in the first degree under RCW 9A.56.030 after 10 years or more have passed between the most recent conviction and the date the background check is processed	After 10 years or more have passed between the most recent conviction and the date the background check is processed
Robbery in the second degree under RCW.9A.56.210	After five years or more have passed between the most recent conviction and the date the background check is processed
Extortion in the second degree under RCW 9A.36.021	After five years or more have passed between the most recent conviction and the date the background check is processed
Assault in the second degree under RCW 9A.36.021	After five years or more have passed between the most recent conviction and the date the background check is processed
Assault in the third degree under RCW 9A.36.031	After five years or more have passed between the most recent conviction and the date the background check is processed.

House Bill 1411
Client Informed Choice
Background Checks/Disqualifying Crimes

Who will be represented in the HB 1411 Workgroup?

- DSHS
- Community-based agencies representing criminally disqualified individuals, unpaid caregivers, consumers of personal care, individuals with disabilities (or their representatives)
- Tribal Partners
- Advocacy groups representing minority and immigrant populations
- Representatives from the Ombuds office, Area Agencies on Aging, Attorneys General, SEIU, Medicaid, and the Consumer-Directed Employer program.

What are the goals of the Workgroup?

- Include the following topics as part of the discussion on “informed choice”:
 - Protecting vulnerable adults/client safety
 - Client Direction
 - Racial Equity
 - Cultural competence
 - Economic consequences of unpaid caregiving on caregivers and people receiving care
 - Categories of eligible workers (family, friend, trusted individuals, or others)
 - Disqualifying crimes, if any
 - Mechanisms for consideration (attestation, petition, other)
 - Workforce development

What will the workgroup deliver to the legislature?

- DSHS will deliver a report by December 1, 2022, with workgroup recommendations for:
- A process of “informed choice”
- Additional workforce ideas
- Recommendations for how to communicate changes to clients and individual providers

What are the role and responsibilities of the Work Group?

- Provide a 1-2 sentence introduction to the workgroup at the first meeting
- Provide questions and/or concerns to the facilitator or group
- Attend scheduled meetings or provide a representative if you cannot attend a meeting
- Consistently balance the goals of client safety with expansion of the workforce

**HEALTH HOME
CARE COORDINATION ORGANIZATION AGREEMENT (CCOA)
TRIBAL ADDENDUM**

[NAME OF TRIBE] (“Tribe”) holds a Health Home Care Coordination Organization agreement (“CCOA”) with the [NAME OF LEAD ORGANIZATION] (“Lead Organization”) through which Tribe will receive reimbursement for Health Home services provided to eligible Medicaid clients enrolled in the Tribe’s Health Home program.

1. Purpose

The purpose of this Addendum is to recognize special terms and conditions of federal law and regulations that apply to CCOAs with Tribes. To the extent that any provision of the CCOA is inconsistent with any provision of this Addendum, the provisions of this Addendum will control.

2. Definitions

For purposes of the CCOA and this Addendum, the following terms and definitions shall apply:

- (a) “Contract health service” has the meaning given in the Indian Health Care Improvement Act (IHCIA) Section 4(5), 25 U.S.C. §1603(5).
- (b) “Indian” has the meaning given in 25 C.F.R. §900.6.
- (c) “Indian Tribe” has the meaning given in the IHCIA Section 4(14), 25 U.S.C. §1603(14)
- (d) “Tribal Organization” has the meaning given in the IHCIA Section 4(26), 25 U.S.C. §1603(26).

3. Persons Eligible for Items and Services from Provider

- (a) The parties acknowledge that eligibility for Health Home services at the Tribe is determined by Tribal and federal law, including the IHCIA, 25 U.S.C. §1601, et seq. and/or 42 C.F.R. Part 136. Nothing in this agreement shall be construed in any way to change, reduce, expand, or alter the eligibility requirements for services for Medicaid eligible clients through the Tribe’s programs.
- (b) No term or condition of the CCOA or any addendum thereto shall be construed to require the Tribe to serve individuals who are ineligible under federal law for services from the Tribe. Lead Organization acknowledges

that pursuant to 45 C.F.R. §80.3(d), an individual shall not be deemed subjected to discrimination by reason of his/her exclusion from benefits limited by federal law to individuals eligible for services from the Tribe. The Tribe acknowledges that other nondiscrimination provisions of federal law may apply.

4. Hiring and Employment Practices

The Tribe may give preference in its hiring and employment practices to members of the Tribe or other Indian Tribes (including for purposes of this Section Tribes previously but not currently recognized by the federal government) or their descendants, who have met all requirements for that position, including applicable federal law and tribal law and policy.

5. Applicability of Other Federal Laws

Federal laws and regulations affecting the Tribe include, but are not limited to, the following:

- (a) Indian Self Determination and Education Assistance Act (ISDEAA), 25 U.S.C. § 450 et seq.;
- (b) Indian Health Care Improvement Act (IHCIA), 25 U.S.C. § 1601 et seq.; (including without limitation pursuant to the IHCIA Section 206(e)(3), 25 U.S.C. § 1621e(e)(3), regarding recovery from tortfeasors)
- (c) Federal Tort Claims Act (FTCA), 28 U.S.C. §§ 2671-2680;
- (d) Federal Medical Care Recovery Act, 42 U.S.C. §§ 2651-2653;
- (e) Privacy Act, 5 U.S.C. § 552a, 45 C.F.R. Part 5b; and
- (f) Health Insurance Portability and Accountability Act (HIPAA), 45 C.F.R. Parts 160 and 164.

6. Non-Taxable Entity

The Tribe is a non-taxable entity and shall not be required by the CCOA or this Addendum to collect or remit any federal, state, or local tax.

7. Insurance and Indemnification

The Tribe shall not be required to obtain or maintain professional liability insurance to the extent the Tribe's Health Home program is covered by the FTCA pursuant to federal law (Public Law 101-512, Title III, § 314, as amended by Public Law 103-138, Title III, § 308 (codified at 25 U.S.C. § 450f note); and 25 C.F.R. Part 900, Subpart M; 25 U.S.C. §458aaa-15(a); and 42 C.F.R. §137.220). Nothing in the CCOA shall be interpreted to authorize or obligate the Tribe or any employee of the Tribe to operate outside the scope of employment of such employee.

8. Licensure of Health Care Professionals

Section 221 of the IHClA, 25 U.S.C. § 1621t, exempts a health care professional employed by the Tribe from the licensing requirements of the state in which the Tribe performs services, provided the health care professional is licensed in any state. The parties recognize and agree that these federal laws apply to the health care professionals employed by the Tribe, who therefore shall not be required to hold a Washington state license in order for the Tribe to receive payments under the CCOA.

9. Dispute Resolution

In the event of any dispute arising under the CCOA, the parties agree to meet and confer in good faith to resolve any such disputes before resorting to any other process identified in the CCOA. Both parties will continue, without delay, to carry out their respective responsibilities under the CCOA that are not affected by the dispute.

If the parties are unable to resolve the dispute by meeting and conferring in good faith, either party may submit a request to the Health Care Authority for technical assistance.

10. Governing Law

The CCOA shall be governed and construed in accordance with federal law of the United States and, to the extent an issue is not addressed by federal law, in accordance with the laws of the State of Washington governing interpretation of contracts.

11. Medical Quality Assurance Requirements

Any medical quality assurance requirements imposed by the Lead Organization on its Medicaid providers shall be subject to Section 805 of the IHClA, 25 U.S.C. §1675 in their application to Provider.

12. Claims Format

The Lead Organization shall process claims from the Tribe in accordance with Section 206(h) of the IHClA, 25 U.S.C. § 1621e(h), which does not permit an issuer to deny a claim submitted by a Tribe based on the format in which the claim is submitted if the format used complies with that required for submission of such claims under Title XVIII of the Social Security Act or recognized under Section 1175 of such Act.

13. Payment of Claims.

The Lead Organization shall pay claims from the Tribe at the applicable Indian Health Service (IHS) rate for Health Home services, which is equal to the IHS

outpatient encounter rate published annually in the federal register, and in accordance with federal law, including Section 206 of the IHCA (25 U.S.C. §1621e), and 45 C.F.R., Part 156, Subpart E.

14. Sovereign Immunity

- (a) Except as specified in this Section, nothing in the CCOA or this Tribal Addendum shall constitute a waiver by the Tribe of federal or tribal sovereign immunity or otherwise diminish the Tribe's sovereign rights, privileges, and immunities.
- (b) The Tribe agrees to a limited waiver of its sovereign immunity for the sole purpose of allowing Lead Organization to pursue recovery of any possible overpayments made by Lead Organization to the Tribe.
- (c) For purposes of this Section, the term "overpayment" has the same meaning as defined in RCW 41.05A.010, as now existing or as later may be amended.
- (d) The Lead Organization will send written notification to the Tribe and to the Health Care Authority in the event that the Lead Organization identifies a potential overpayment from the Lead Organization to the Tribe. The notification will (i) supply all details of the potential overpayment; (ii) include documentation explaining why the Lead Organization concluded that an overpayment exists; (iii) explain the manner in which the Lead Organization proposes to recover the potential overpayment; and (iv) remind the Tribe of its right to invoke the dispute resolution provisions of Section 9 of this addendum if the Tribe disagrees with the Lead Organization's conclusions.

15. Ownership of Material

- (a) All materials of unique cultural significance shall be owned solely by the Tribe unless otherwise expressly agreed in the CCOA.
- (b) Materials created by the Tribe which the Tribe uses to perform the CCOA (including without limitation books, computer programs, documents, films, pamphlets, reports, sound reproductions, studies, surveys tapes and/or training materials) shall be owned by the Tribe, regardless of whether the materials are paid for in whole or in part by the Lead Organization, except when specific materials have been expressly identified within the CCOA as belonging to the Lead Organization.
- (c) If the parties agree within the CCOA that certain materials will be owned by the Lead Organization, then the Tribe agrees that the materials so identified will either be deemed, to the extent applicable under 17 U.S.C.A. Section 101, "works made for hire," or the Tribe will assign the Lead Organization all rights, title, and interests in and to such materials.

16. Signature Block

The person signing this CCOA Tribal Addendum on behalf of the Tribe warrants that he/she has legal authority to bind the Tribe. The person signing this CCOA Tribal Addendum on behalf of the Lead Organization warrants that he/she has legal authority to bind the Lead Organization.

TRIBE LEGAL NAME	
SIGNATURE	DATE
FULL NAME (PRINTED)	TITLE

LEAD ORGANIZATION LEGAL NAME	
SIGNATURE	DATE
FULL NAME (PRINTED)	TITLE

**HEALTH HOME
CARE COORDINATION ORGANIZATION AGREEMENT (CCOA)
TRIBAL ADDENDUM**

[NAME OF TRIBE] (“Tribe”) holds a Health Home Care Coordination Organization agreement (“CCOA”) with the [NAME OF LEAD ORGANIZATION] (“Lead Organization”) through which Tribe will receive reimbursement for Health Home services provided to eligible Medicaid clients enrolled in the Tribe’s Health Home program.

1. Purpose

The purpose of this Addendum is to recognize special terms and conditions of federal law and regulations that apply to CCOAs with Tribes. To the extent that any provision of the CCOA is inconsistent with any provision of this Addendum, the provisions of this Addendum will control.

2. Definitions

For purposes of the CCOA and this Addendum, the following terms and definitions shall apply:

- (a) “Contract health service” has the meaning given in the Indian Health Care Improvement Act (IHCIA) Section 4(5), 25 U.S.C. §1603(5).
- (b) “Indian” has the meaning given in 25 C.F.R. §900.6.
- (c) “Indian Tribe” has the meaning given in the IHCIA Section 4(14), 25 U.S.C. §1603(14)
- (d) “Tribal Organization” has the meaning given in the IHCIA Section 4(26), 25 U.S.C. §1603(26).

3. Persons Eligible for Items and Services from Provider

- (a) The parties acknowledge that eligibility for Health Home services at the Tribe is determined by Tribal and federal law, including the IHCIA, 25 U.S.C. §1601, et seq. and/or 42 C.F.R. Part 136. Nothing in this agreement shall be construed in any way to change, reduce, expand, or alter the eligibility requirements for services for Medicaid eligible clients through the Tribe’s programs.
- (b) No term or condition of the CCOA or any addendum thereto shall be construed to require the Tribe to serve individuals who are ineligible under federal law for services from the Tribe. Lead Organization acknowledges

that pursuant to 45 C.F.R. §80.3(d), an individual shall not be deemed subjected to discrimination by reason of his/her exclusion from benefits limited by federal law to individuals eligible for services from the Tribe. The Tribe acknowledges that other nondiscrimination provisions of federal law may apply.

4. Hiring and Employment Practices

The Tribe may give preference in its hiring and employment practices to members of the Tribe or other Indian Tribes (including for purposes of this Section Tribes previously but not currently recognized by the federal government) or their descendants, who have met all requirements for that position, including applicable federal law and tribal law and policy.

5. Applicability of Other Federal Laws

Federal laws and regulations affecting the Tribe include, but are not limited to, the following:

- (a) Indian Self Determination and Education Assistance Act (ISDEAA), 25 U.S.C. § 450 et seq.;
- (b) Indian Health Care Improvement Act (IHCIA), 25 U.S.C. § 1601 et seq.; (including without limitation pursuant to the IHCIA Section 206(e)(3), 25 U.S.C. § 1621e(e)(3), regarding recovery from tortfeasors)
- (c) Federal Tort Claims Act (FTCA), 28 U.S.C. §§ 2671-2680;
- (d) Federal Medical Care Recovery Act, 42 U.S.C. §§ 2651-2653;
- (e) Privacy Act, 5 U.S.C. § 552a, 45 C.F.R. Part 5b; and
- (f) Health Insurance Portability and Accountability Act (HIPAA), 45 C.F.R. Parts 160 and 164.

6. Non-Taxable Entity

The Tribe is a non-taxable entity and shall not be required by the CCOA or this Addendum to collect or remit any federal, state, or local tax.

7. Insurance and Indemnification

The Tribe shall not be required to obtain or maintain professional liability insurance to the extent the Tribe's Health Home program is covered by the FTCA pursuant to federal law (Public Law 101-512, Title III, § 314, as amended by Public Law 103-138, Title III, § 308 (codified at 25 U.S.C. § 450f note); and 25 C.F.R. Part 900, Subpart M; 25 U.S.C. §458aaa-15(a); and 42 C.F.R. §137.220). Nothing in the CCOA shall be interpreted to authorize or obligate the Tribe or any employee of the Tribe to operate outside the scope of employment of such employee.

8. Licensure of Health Care Professionals

Section 221 of the IHClA, 25 U.S.C. § 1621t, exempts a health care professional employed by the Tribe from the licensing requirements of the state in which the Tribe performs services, provided the health care professional is licensed in any state. The parties recognize and agree that these federal laws apply to the health care professionals employed by the Tribe, who therefore shall not be required to hold a Washington state license in order for the Tribe to receive payments under the CCOA.

9. Dispute Resolution

In the event of any dispute arising under the CCOA, the parties agree to meet and confer in good faith to resolve any such disputes before resorting to any other process identified in the CCOA. Both parties will continue, without delay, to carry out their respective responsibilities under the CCOA that are not affected by the dispute.

If the parties are unable to resolve the dispute by meeting and conferring in good faith, either party may submit a request to the Health Care Authority for technical assistance.

10. Governing Law

The CCOA shall be governed and construed in accordance with federal law of the United States and, to the extent an issue is not addressed by federal law, in accordance with the laws of the State of Washington governing interpretation of contracts.

11. Medical Quality Assurance Requirements

Any medical quality assurance requirements imposed by the Lead Organization on its Medicaid providers shall be subject to Section 805 of the IHClA, 25 U.S.C. §1675 in their application to Provider.

12. Claims Format

The Lead Organization shall process claims from the Tribe in accordance with Section 206(h) of the IHClA, 25 U.S.C. § 1621e(h), which does not permit an issuer to deny a claim submitted by a Tribe based on the format in which the claim is submitted if the format used complies with that required for submission of such claims under Title XVIII of the Social Security Act or recognized under Section 1175 of such Act.

13. Payment of Claims.

The Lead Organization shall pay claims from the Tribe at the applicable Indian Health Service (IHS) rate for Health Home services, which is equal to the IHS

outpatient encounter rate published annually in the federal register, and in accordance with federal law, including Section 206 of the IHClA (25 U.S.C. §1621e), and 45 C.F.R., Part 156, Subpart E.

14. Sovereign Immunity

- (a) Except as specified in this Section, nothing in the CCOA or this Tribal Addendum shall constitute a waiver by the Tribe of federal or tribal sovereign immunity or otherwise diminish the Tribe's sovereign rights, privileges, and immunities.
- (b) The Tribe agrees to a limited waiver of its sovereign immunity for the sole purpose of allowing Lead Organization to pursue recovery of any possible overpayments made by Lead Organization to the Tribe.
- (c) For purposes of this Section, the term "overpayment" has the same meaning as defined in RCW 41.05A.010, as now existing or as later may be amended.
- (d) The Lead Organization will send written notification to the Tribe and to the Health Care Authority in the event that the Lead Organization identifies a potential overpayment from the Lead Organization to the Tribe. The notification will (i) supply all details of the potential overpayment; (ii) include documentation explaining why the Lead Organization concluded that an overpayment exists; (iii) explain the manner in which the Lead Organization proposes to recover the potential overpayment; and (iv) remind the Tribe of its right to invoke the dispute resolution provisions of Section 9 of this addendum if the Tribe disagrees with the Lead Organization's conclusions.

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SIGNATURE	DATE
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STATE OF WASHINGTON
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
Aging and Long-Term Support Administration
Adult Protective Services Division
PO Box 45600, Olympia, WA 98504-5600

March 3, 2022

Dear Tribal Leader,

Subject: Adult Protective Services Multi-State Conference

The Department of Social and Health Services (DSHS), Aging and Long-Term Support Administration (AL TSA), Adult Protective Services (APS) Division, is excited to share details about our upcoming multi-state APS all staff conference and to provide tribes an opportunity to send staff to this event.

This day-long conference will be held on Tuesday, May 3, 2022, in the greater Vancouver, Washington area. We have 10 slots that we would like to open up to tribes as an opportunity for you to send your APS/Social Services staff to this event. These slots will be provided on a first come basis. The conference itself will be free to tribes; however, tribes will be responsible for their own travel and accommodations.

The conference will include APS leaders and staff from Alaska, Idaho, Oregon, Montana, and Washington. The conference agenda will include a welcome from each state, a keynote on 'Everyday Ethics – Practical Ethical Decision Making for Protective Services' and breakout sessions to include bias busting, enhanced cognitive interviewing and self-neglect basics.

If you are interested in registering for this conference, please contact Vicky Gawlik, APS Office Chief by email victoria.gawlik@dshs.wa.gov, no later than Friday, March 25, 2022. Conference details and any additional information will be sent to the first 10 registrants by April 1.

If you have questions, please contact Vicky Gawlik at (360) 725-2615 or by email victoria.gawlik@dshs.wa.gov.

Sincerely,

Kathy Morgan, Director
Adult Protective Services Division

DSHS: *Transforming Lives*

cc: Bill Moss, Assistant Secretary, AL TSA
Tim Collins, Senior Director, DSHS OIP
Marietta Bobba, Tribal Affairs Administrator, AL TSA
IPAC Delegates