



PERMANENT ADMINISTRATIVE ORDER

OHP 4-2025

CHAPTER 409

**OREGON HEALTH AUTHORITY
HEALTH POLICY AND ANALYTICS**

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CONTACT: Joseph Sullivan
503-559-4945
joseph.a.sullivan@oha.oregon.gov

500 Summer St NE
Salem, OR 97301

Filed By:
Pete Edlund
Rules Coordinator

RULES:

409-039-0010, 409-039-0020, 409-039-0030, 409-039-0040, 409-039-0050, 409-039-0060, 409-039-0070, 409-039-0090, 409-039-0100, 409-039-0120

AMEND: 409-039-0010

RULE TITLE: Definitions

NOTICE FILED DATE: 09/23/2025

RULE SUMMARY: Added new defined terms for "Bill Rate," "Per Diem Stipend," and "Wage Rate."

RULE TEXT:

The following definitions apply to OAR 409-039-0000 through 409-039-0120:

- (1) "Activities of daily living" means self-care activities that must be accomplished by an individual to meet his or her daily needs, but do not necessarily occur on a daily basis.
- (2) "Agency Margin" means the amount represented as a percentage of the bill rate, including any costs not paid directly to the Personnel. This includes, but is not limited to, administrative costs, contracting fees, employee costs, margin, profit.
- (3) "Authority" means Oregon Health Authority.
- (4) "Bill rate" means the hourly wage rate plus fees, taxes, other supplemental pay and Agency Margin charged to the client, exclusive of per diem stipends.
- (5) "Certified medical assistant" means an individual who is certified through the American Association of Medical Assistants as a certified medical assistant and performs administrative and clinical tasks including taking and recording vital signs, preparing patients for examinations, drawing blood, giving vaccines, recording medical histories of patients, updating and filing patient medical records, and other administrative and clinical tasks.
- (6) "Certified nursing assistant" means an individual who is certified as a certified nursing assistant by the Oregon State Board of Nursing as provided in ORS 678.440 to ORS 678.448.
- (7) "Direct caregiver" means a person who provides assistance with activities of daily living or assistance with personal care tasks, household and supportive services, or medication services.
- (8) "Emergency" has the meaning given the term in ORS 401.025.

- (9) "Emergency Waiver" refers to the process outlined in OAR 409-039-0050(1).
- (10) "Employment agency" has the meaning given that term in ORS 658.005.
- (11) "Facility" means an in-home care agency as defined in 443.305; facility with a memory care endorsement facility as described in ORS 443.886; residential care facility as defined in ORS 443.400; or a skilled nursing facility as defined in ORS 442.015 that engages a temporary staffing agency to provide personnel to deliver health care services or assistance with activities of daily living to clients, patients, or residents of the facility.
- (12) "Home care worker" has the meaning given that term in ORS 410.600.
- (13) "Home health agency" has the meaning given for that term in ORS 443.014.
- (14) "Hospital" has the meaning given for that term in ORS 442.015.
- (15) "In-home care agency" has the meaning given for that term in ORS 443.305.
- (16) "Indian Health Care Provider (IHCP)" means an Indian health program operated by the Indian Health Service (IHS) or by an Indian Tribe, Tribal Organization, or an Urban Indian Organization (otherwise known as an I/T/U) as those terms are defined in the Indian Health Care Improvement Act (25 U.S.C. § 1603).
- (17) "Indian Health Program" means any IHS facility, any federally recognized tribe or tribal organization, or any Federally Qualified Health Center (FQHC) with a 638 designation.
- (18) "In good standing" means the status of a holder of a license, certification or registration that is not suspended, revoked, expired, resigned or lapsed.
- (19) "Licensed practical nurse" means:
- (a) An individual who is licensed as a licensed practical nurse by the Oregon State Board of Nursing as provided in ORS 678.040 and ORS 678.050; or
- (b) A non-Oregon individual who is licensed and in good standing as a licensed practical nurse in another state if approved by the Oregon State Board of Nursing, as provided by ORS 678.031, to practice as a licensed practical nurse in this state on a single, temporary assignment of not to exceed 90 days and renewable for not to exceed 90 days (the "90-Day Nurse Licensure Exception").
- (20) "Non-Emergency Waiver" refers to the process outlined in OAR 409-039-0050(2).
- (21) "Per Diem Stipend" refers to a daily payment intended to cover the costs of lodging, meals and incidental expenses incurred by Personnel while on assignment.
- (22) "Personal support worker" has the meaning given that term in ORS 410.600.
- (23) "Personnel" means:
- (a) A registered nurse, licensed practical nurse, certified medical assistant, certified nursing assistant or direct caregiver who provides health care services or assistance with activities of daily living to clients, patients or residents of a facility; or
- (b) A registered nurse or certified nursing assistant who provides health care services to patients for or on behalf of a hospital that engages the temporary staffing agency with which the registered nurse or certified nursing assistant is associated.
- (24) "Program" means the Temporary Health Care Staff Rate Setting Program in the Health Policy and Analytics Division of the Oregon Health Authority.
- (25) "Program website" means the Authority's website for the Temporary Health Care Staff Rate Setting Program, currently located at <https://www.oregon.gov/oha/hpa/hp-pco/pages/rate-setting.aspx>.
- (26) "Registered nurse" means:
- (a) An individual who is licensed as a registered nurse by the Oregon State Board of Nursing as provided in ORS 678.040 and ORS 678.050; or
- (b) A non-Oregon individual who is licensed and in good standing as a registered nurse in another state if approved by the Oregon State Board of Nursing, as provided by ORS 678.031, to practice as a registered nurse in this state on a single, temporary assignment of not to exceed 90 days and renewable for not to exceed 90 days (the "90-Day Nurse Licensure Exception").
- (27) "Service date" means the calendar day on which temporary personnel provide health care services at a hospital or

facility.

(28) "Temporary staffing agency" means:

(a) An entity that operates in this state for the purpose of providing temporary work to personnel providing health care services or assistance with activities of daily living for or on behalf of hospitals or facilities that engage the temporary staffing agency.

(b) "Temporary staffing agency" does not include:

(A) A staff arrangement established by an entity solely for use by the entity, or by any entity associated with the entity, and in which the only costs are salaries paid to individuals who perform work;

(B) An individual who provides the individual's services on a temporary basis;

(C) An employment agency;

(D) Home health agencies licensed under ORS 443.015;

(E) In-home care agencies licensed under ORS 443.315; or

(F) Home care workers and personal support workers listed on the home care registry.

(29) "Wage Rate" means the hourly pay rate received by the Personnel, exclusive of Agency Margin, Per Diem Stipend and other supplemental pay.

STATUTORY/OTHER AUTHORITY: ORS 676.716

STATUTES/OTHER IMPLEMENTED: ORS 676.695 - 676.725

AMEND: 409-039-0020

RULE TITLE: Scope and Applicability; Exceptions

NOTICE FILED DATE: 09/23/2025

RULE SUMMARY: Updated terminology from "rates" to "maximum bill rates."

RULE TEXT:

These rules apply to temporary staffing agencies, facilities, and hospitals, except as provided below:

- (1) These rules do not apply to Indian Health Care Providers or Indian Health Programs.
- (2) A temporary staffing agency engaged by a hospital to provide 25 or fewer personnel in a single licensed care setting may charge to and receive from a hospital, rates that exceed the maximum bill rates set under OAR 409-039-0040. This 25 or fewer exception applies collectively to all personnel provided by a temporary staffing agency for each single licensed care setting. This applies:
 - (a) Per licensed facility, and
 - (b) Per work order or contract.

STATUTORY/OTHER AUTHORITY: ORS 676.716

STATUTES/OTHER IMPLEMENTED: ORS 676.695 - 676.725

AMEND: 409-039-0030

RULE TITLE: Health Professions (Personnel) Covered

NOTICE FILED DATE: 09/23/2025

RULE SUMMARY: Updated terminology from "rates" to "maximum bill rates."

RULE TEXT:

(1) Facilities: For facilities, the maximum bill rates established in OAR 409-039-0040 apply to the following categories of personnel:

- (a) Registered nurse,
- (b) Licensed practical nurse,
- (c) Certified medical assistant,
- (d) Certified nursing assistant, and
- (e) Direct caregiver who provides health care services or assistance with activities of daily living to clients, residents, or patients.

(2) Hospitals: Maximum bill rates apply to a registered nurse or certified nursing assistant providing health care services to patients.

STATUTORY/OTHER AUTHORITY: ORS 676.716

STATUTES/OTHER IMPLEMENTED: ORS 676.695 - 676.725

AMEND: 409-039-0040

RULE TITLE: Maximum Rates for a Hospital or Facility

NOTICE FILED DATE: 09/23/2025

RULE SUMMARY: Updated Table 1 with CY2026 maximum rates and added a multi-year effective date framework for 2025, 2026, and 2027+.

RULE TEXT:

(1) The maximum bill rates a Temporary Staffing Agency may charge to or receive from hospitals and facilities, as described in Section 3 of this rule:

(a) Are based on the most recently available wage data from the Oregon Employment Department and include any applicable fringe benefits, charges for administrative and contract fees and other special charges; and

(b) Bear a reasonable relationship to this wage data from the Oregon Employment Department.

(2) The differences in the maximum bill rates established in this rule are based on the following factors:

(a) The minimum wages in geographic regions of this state;

(b) Shift differentials;

(c) Holiday pay;

(d) Type of licensed care setting;

(e) Relevant state and federal regulatory requirements;

(f) Personnel with specialty training; and

(g) Information obtained through consultation with temporary staffing agencies and their representatives and providers of long-term care services, acute care services, and primary care services, or representatives of the providers described in this paragraph.

(3) The maximum bill rates established under this Section include the maximum Agency Margin rate a temporary staffing agency can charge for each respective position. The maximum Agency Margin is 34.2%.

(4) Maximum Bill Rates for a Hospital or Facility are effective as follows:

(a) For calendar year 2025, maximum bill rates are effective starting January 1, 2025, and apply to rates negotiated on or after January 1, 2025.

(b) For calendar year 2026, maximum bill rates are effective starting January 1, 2026, and apply to rates negotiated on or after January 1, 2026.

(c) For calendar year 2027 and later, maximum bill rates will be published in the fourth quarter of the prior year and are effective January 1st of each year for service dates on or after January 1st.

(5) Calendar year 2026 maximum bill rates are listed in 409-039-0040 Table 1.

STATUTORY/OTHER AUTHORITY: ORS 676.716

STATUTES/OTHER IMPLEMENTED: ORS 676.695 - 676.725

409-039-0040: Maximum Rates for a Hospital or Facility, Table 1

Personnel Type	Maximum Rates	Maximum Rates (Holiday and Overtime)
RN (Hospital)	\$127.35	\$191.02
RN (Other Facilities)	\$113.06	\$169.59
LPN/LVN (Other Facilities)	\$75.94	\$113.90
CMA (Other Facilities)	\$41.73	\$62.60
CNA (Hospitals and Other Facilities)	\$41.78	\$62.67
Direct Caregiver (Other Facilities)	\$37.62	\$56.43

AMEND: 409-039-0050

RULE TITLE: Waivers to Charge More than the Maximum Bill Rates

NOTICE FILED DATE: 09/23/2025

RULE SUMMARY: Added clause clarifying that the maximum agency margin cannot be exceeded, even with a waiver.

RULE TEXT:

A temporary staffing agency, hospital, or facility may apply for a waiver of the maximum bill rates described in ORS 676.716 in either of the following two circumstances.

(1) Emergency Waiver. A hospital, facility or temporary staffing agency that intends to engage at a rate higher than a maximum rate established under ORS 676.716, in order to respond to an Emergency or state of emergency, may request an Emergency Waiver of the maximum bill rates pursuant to the process outlined in OAR 409-039-0060 in the following circumstances:

(a) There is an Emergency;

(b) A state of emergency is declared pursuant to ORS 401.165; or

(c) The Governor declares a public health emergency pursuant to ORS 433.441.

(2) Non-Emergency Waiver: A temporary staffing agency, hospital, or facility may apply to the Authority for a Non-Emergency Waiver of the maximum bill rates pursuant to the process outlined in OAR 409-039-0070 if the applicant clearly demonstrates to the Authority that:

(a) It has made reasonable, good faith efforts to stay within the maximum bill rates;

(b) It has exhausted all other possibilities to stay within the maximum bill rates; and

(c) An acute incident has occurred, or an imminent event is anticipated, that the applicant expects will substantially and negatively impact access to care.

(3) Waivers approved by the authority permit a Temporary Staffing Agency to exceed the maximum bill rate for a certain period of time. Maximum Agency Margin must not exceed the percentage specified in OAR 409-039-0040(3).

STATUTORY/OTHER AUTHORITY: ORS 676.722

STATUTES/OTHER IMPLEMENTED: ORS 676.695 - 676.725

AMEND: 409-039-0060

RULE TITLE: Application Process and Review of Emergency Waiver Requests

NOTICE FILED DATE: 09/23/2025

RULE SUMMARY: Updated terminology from "rates" to "maximum bill rates."

RULE TEXT:

- (1) A hospital, facility, or temporary staffing agency requesting to waive the maximum bill rate established in OAR 409-039-0040 for circumstances outlined in OAR 409-039-0050(1) must submit a request for an Emergency Waiver to the Authority.
- (2) An Emergency Waiver request required to be filed under Section (1) of this rule will be submitted using the form available at the Program Website.
- (3) An initial request submitted to the Authority requesting an Emergency Waiver will be automatically approved and issued by the Authority upon submission.
- (4) An Emergency Waiver automatically approved and issued under Section (3) of this rule is valid for 90 calendar days and may be renewed. Upon expiration of the Emergency Waiver, the temporary staffing agency, hospital, or facility must comply with the maximum bill rates established in OAR 409-039-0040 unless a renewal is timely requested and approved by the Authority pursuant to Section (5) of this rule.
- (5) An Emergency Waiver waiving the maximum bill rates established in OAR 409-039-0040 for circumstances outlined in OAR 409-039-0050(1) may be renewed and issued to a hospital, facility, or temporary staffing agency that possesses a license, certification or registration in good standing to operate in Oregon. A temporary staffing agency, hospital, or facility may submit a request to renew an Emergency Waiver under this Section for an additional 90 calendar day period.
- (a) The Authority will approve or deny a request to renew an Emergency Waiver within three (3) business days after such request is received by the Authority.
- (b) Such request must be made no sooner than 10 business days before, or no later than four (4) business days prior to, the expiration date of the Emergency Waiver.
- (c) For the purposes of this rule, a request to renew an Emergency Waiver that is filed with the Authority on or after 4:00 p.m. on a weekday, or on a Saturday, Sunday, or legal holiday, will be considered received on the next following business day.
- (6) Upon approval of an Emergency Waiver under this rule, a temporary staffing agency engaged by a hospital or facility for which an emergency waiver is issued under this rule may charge to or receive from the hospital or facility rates consistent with the Emergency Waiver.

STATUTORY/OTHER AUTHORITY: ORS 676.722

STATUTES/OTHER IMPLEMENTED: ORS 676.695 - 676.725

AMEND: 409-039-0070

RULE TITLE: Application Process and Review of Non-Emergency Waiver Requests

NOTICE FILED DATE: 09/23/2025

RULE SUMMARY: Updated terminology from "rates" to "maximum bill rates."

RULE TEXT:

- (1) A Non-Emergency Waiver waiving the maximum bill rates established in OAR 409-039-0040 for circumstances outlined in OAR 409-039-0050(2) may be issued to a hospital, facility, or temporary staffing agency that possesses a license, certification or registration in good standing to operate in Oregon. A hospital, facility, or temporary staffing agency requesting such waiver must submit a request for a Non-Emergency Waiver to the Authority.
- (2) A Non-Emergency Waiver request required to be filed under Section (1) of this rule will be submitted using the form available at the Program Website.
- (3) A Non-Emergency Waiver requested may be for a period of 30, 60 or 90 calendar days. A temporary staffing agency, facility, or hospital may request to renew an approved Non-Emergency Waiver.
- (a) A request to renew a Non-Emergency Waiver must be filed with the Authority no sooner than 25 business days before, and no later than twelve (12) business days before, the approved Non-Emergency Waiver is set to expire.
- (b) Upon expiration of the Non-Emergency Waiver, the temporary staffing agency, hospital, or facility must comply with the maximum bill rates established in OAR 409-039-0040 unless a renewal is timely requested and approved by the Authority.
- (4) The Authority will approve or deny a request for a Non-Emergency Waiver made pursuant to Section (1) of this rule or a request to renew an approved Non-Emergency Waiver pursuant to Section (3) of this rule within ten (10) business days after request is received by the Authority.
- (5) For the purposes of this rule, a request to renew an Emergency Waiver that is filed with the Authority on or after 4:00 p.m. on a weekday, or on a Saturday, Sunday, or legal holiday, will be considered received on the next following business day.
- (6) A temporary staffing agency, hospital, or facility for which a Non-Emergency Waiver is approved under this rule may charge and/or pay rates consistent with the terms of the Non-Emergency Waiver.
- (7) Upon expiration of the Non-Emergency Waiver, or renewed Non-Emergency Waiver, the temporary staffing agency, hospital, or facility must comply with the maximum bill rates established in OAR 409-039-0040.

STATUTORY/OTHER AUTHORITY: ORS 676.722

STATUTES/OTHER IMPLEMENTED: ORS 676.695 - 676.725

AMEND: 409-039-0090

RULE TITLE: Annual Evaluation of Maximum Rates

NOTICE FILED DATE: 09/23/2025

RULE SUMMARY: Added clause referring violations to the Health Licensing Office (HLO) for investigation.

RULE TEXT:

- (1) The Authority will annually evaluate the maximum rates established under OAR 409-039-0040 and may adjust these maximum rates based on changes in the labor market, the wage data described in ORS 676.716, and other factors the authority considers relevant, including temporary staff wages, bill rates, and agency margin.
- (2) In evaluating and adjusting the maximum rates established under OAR 409-039-0040, the Authority will solicit feedback from the same entities consulted in the creation of the initial rates, as outlined in OAR 409-039-0040.
- (3) The Authority will refer violations of ORS 676.695 to 676.725 and these rules, including the maximum bill rates, maximum agency margin and/or waivers to the Authority's Health Licensing Office for investigation and disciplinary action in accordance with ORS 676.710, 676.713, and 676.725.

STATUTORY/OTHER AUTHORITY: ORS 676.716

STATUTES/OTHER IMPLEMENTED: ORS 676.695 - 676.725

AMEND: 409-039-0100

RULE TITLE: Data Requests

NOTICE FILED DATE: 09/23/2025

RULE SUMMARY: Updated terminology from "rates" to "maximum bill rates."

RULE TEXT:

(1) In furtherance of the Authority's annual evaluation of the maximum bill rates pursuant to OAR 409-039-0090, the Authority may request information from temporary staffing agencies to assess and evaluate the maximum bill rates established under OAR 409-039-0040.

(2) A temporary staffing agency must respond to all requests from the Authority under this rule within 45 calendar days from the date such request is issued.

STATUTORY/OTHER AUTHORITY: ORS 676.716

STATUTES/OTHER IMPLEMENTED: ORS 676.695 - 676.725

AMEND: 409-039-0120

RULE TITLE: Information Sharing and Use of Data

NOTICE FILED DATE: 09/23/2025

RULE SUMMARY: Updated terminology; clarified sharing of information with the Authority's Health Licensing Office (replacing "OHA's" with "the Authority's")

RULE TEXT:

(1) If a temporary staffing agency, facility, or hospital that files documents, materials, information, or data with the Authority believes such information may be considered confidential and exempt from public disclosure under the Oregon Public Records Law, ORS 192.311 to 192.478, such entity filing the confidential information must provide a redaction log that provides a reasonably detailed statement of the grounds on which confidentiality is claimed, citing the applicable statutory basis for confidentiality of each portion.

(2) The Authority may use a confidential document, material, information, or data in administering these rules. In order to assist in the performance of the Authority's duties, the Authority may authorize sharing a confidential document, material, information, or data or other information, as appropriate, among the administrative divisions and staff offices of the Authority and the Authority's Health Licensing Office.

STATUTORY/OTHER AUTHORITY: ORS 676.716

STATUTES/OTHER IMPLEMENTED: ORS 676.695 - 676.725