

Frequently Asked Questions (FAQ)

HB 2665: Maximum Rate Setting for Temporary Healthcare Staff

1. Overview of House Bill 2665

Q1: What is House Bill 2665?

A: House Bill (HB) 2665 directs the Oregon Health Authority (OHA) to adopt rules and set maximum rates for temporary healthcare staff providing direct care within hospitals and facilities by January 1, 2025.

[Read more about HB 2665 here](#)

Q2: Who does HB 2665 impact?

A: Within Facilities defined as an in-home care agency as defined in ORS 443.305, a facility with a memory care endorsement as defined in 443.886, a residential care facility as defined in 443.400 or a Skilled Nursing Facility as defined in 442.015 categories of personnel impacted are:

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

Within Hospitals as defined in ORS 442.015 personnel impacted are a registered nurse or certified nursing assistant providing health care services to patients.

Excludes: APRNs & Nurse Managers

Q3: Why did OHA create this program and set maximum rates?

A: HB 2665 was passed by the Oregon Legislature to address the unsustainable and volatile costs of temporary healthcare staffing that were straining hospitals and facilities, particularly following the COVID-19 pandemic. The program's goal, at the direction of this legislation, is to stabilize the healthcare workforce market, protect healthcare facilities from exorbitant costs, ensure patient access to care, and provide fair, data-driven compensation for temporary staff.

2. Rate Setting Process

Q4: What is the process for setting maximum rates?

A: OHA establishes maximum rates based on feedback from temporary staffing agencies, various data collection (OED, BLS and partner data), and environmental scans. The process includes:

1. Establishing base wages from BLS and OED data.
2. Applying regional adjustments.
3. Including compensation alignment factors to reflect differences between permanent and temporary staff wages.

[Learn more about the Rate Setting Process here](#)

Q5: What data sources does OHA use to set the maximum rates?

A: The legislation directs OHA to set rates that bear a reasonable relationship to the most recently available wage data. OHA's methodology uses federal Bureau of Labor Statistics (BLS) data and Oregon Employment Department (OED) wage data as its foundational, objective baseline. We then apply Oregon-specific adjustments, including regional cost factors and compensation alignment factors, to align the rates with the state's market conditions. This process is designed to balance fair pay for temporary staff with fiscal sustainability for healthcare providers as well as temporary staffing agencies.

Q6: Why are some rates lower than previous years?

A: Rates are recalculated annually using the most recent wage data from the Bureau of Labor Statistics (BLS) and Oregon Employment Department (OED), as the legislation requires. This data shows market wages have changed since the peak of the pandemic, which is reflected in the calculated rates.

Q7: For the purpose of reporting and these rules, how is "bill rate" defined?

A: For the purposes of this program, the "bill rate" is defined as the maximum hourly wage rate plus fees and agency margin that a temporary staffing agency can charge a facility for a temporary worker's services, exclusive of per diem stipends. It is designed to encompass the worker's wage, the agency's margin, and all other costs (e.g., payroll taxes, benefits provided by the agency). However, to ensure transparency and prevent loopholes, per diem stipends for meals and incidentals must be excluded from the bill rate cap and reported separately. Reasonable and actual costs for travel and housing may be included in the bill rate, but must still remain under the set maximum if included.

3. Specific Rates and Calculations

Q8: What are the maximum rates for different healthcare roles?

A: The Oregon Health Authority sets maximum bill rates for temporary healthcare staff. These rates are adjusted annually based on the methodology outlined in our rules.

Please see the official, most current rate table on our website [Link to Rate Table Page](#).

Q9: How are holiday and overtime rates calculated?

A: Holiday and overtime rates are calculated as 150% of the non-holiday maximum rate, ensuring fair compensation for extended working hours.

4. Waivers, Complaints, and Investigations

Q10: Who can apply for rate waivers?

A: Impacted Facilities, Hospitals, and Temporary Staffing Agencies can all apply for rate exceptions through a waiver process designed by OHA. Specific conditions for waivers will be outlined in the rule-making process.

Q11: Can an agency agree to a margin lower than the maximum cap, even if a waiver is approved?

A: Yes. The rule states that the agency margin must remain "at or below" the specified percentage. Agencies are always free to negotiate a lower margin with a facility to better support worker wages or for other business reasons, even when operating under a waiver.

Q12: If a clinician works in both a covered setting (like a hospital) and a non-covered setting under the same license, how does the waiver process work?

A: Waivers are specific to the licensed facility and setting covered by HB 2665. The maximum rates apply only to hours worked in the covered setting. A waiver would only be necessary for hours worked in the covered setting if you intend to exceed the maximum rate. We recommend describing the specific situation in detail when applying for a waiver.

Q13: What is the complaint and investigation process?

A: OHA will handle complaints related to maximum rates through its Health Licensing Office (HLO), which will investigate violations and determine the appropriate response. The specific actions will be based on the nature of the violation.

Q14: What are the potential penalties for violating the maximum rate rules?

A: The Health Licensing Office (HLO) investigates complaints. If a violation is found, disciplinary actions can include civil penalties of up to \$500 per day, per violation, with each staffing assignment considered a separate violation. In serious or repeated cases, the HLO can pursue actions that affect the agency's state license through a formal contested case hearing process.

Q15: Will investigations and violations be made public?

A: The investigation process itself is confidential. However, if a contested-case hearing is held or a final order is issued regarding disciplinary action (such as a fine or license sanction), those proceedings and outcomes are public record under Oregon law (ORS 183).

5. Exceptions to Maximum Rates

Q16: Are there exceptions to the maximum rate requirements for hospitals with fewer temporary staff?

A: Yes, HB 2665 provides an exception under OAR 409-039-0020, allowing hospitals to exceed the maximum rates when a temporary staffing agency supplies 25 or fewer personnel in a single licensed care setting. This exception applies:

- Per licensed facility, and
- Per work order or contract.

This means that temporary staffing agencies engaged by a hospital to provide 25 or fewer personnel may charge rates above the set maximum for each single licensed care setting. The exception does not apply to Indian Health Care Providers or Indian Health Programs.

6. Future Adjustments and Observations

Q17: Will the maximum rates change in the future?

A: OHA will review the maximum rates annually. Adjustments will depend on healthcare staffing market trends, cost data, and economic conditions at the time of the review.

7. Additional Considerations

Q18: What flexibility do staffing agencies and facilities have in negotiating rates?

A: While the maximum rates serve as a ceiling, TSAs and healthcare facilities have the flexibility to negotiate rates below the maximum rate cap based on specific needs and contract conditions.
