



New Health Professionals & Support Services Award 2010

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FAQs

1. What is the Health Professionals and Support Services Award 2010?

The new healthcare industry Award is supervised by the Australian Fair Pay Commission under New national standards.

2. What is this new Australian Fair Pay and Conditions Standard?

The Workplace Relations Act 1996 (WR Act) introduced a new Federal minimum standard called The "National Employment Standards". The Standard provides minimum entitlements to most employees in five key areas: rates of pay, maximum hours of work, annual leave, personal leave and parental leave. Watch out – if you breach the Standard, you may face up to a \$33,000 penalty per breach.

3. What are the minimum wage rates I have to pay my staff?

The Australian Fair Pay Commission has been established to determine and adjust minimum rates of pay and casual loadings pursuant and these underpin the new national industry Awards. Similar unprecedented Awards are being introduced to all industries from the legal, accounting, sporting and private sector industries adding to the increase in the price for goods and services.

The new Health Professionals and Support Services Award 2010 comes into effect on 1st January 2010, the most significant but not limited issues are as follows:

1. EMPLOYER PENALTY - \$33,000 per breach

- Penalty of up to \$33,000 per employee breach! The person most likely to report a practice is an aggrieved employee.

2. EDUCATION & DISCLOSURE

- All staff, including the practice manager need to be classified under the new "catch all" staff Award provisions. There is greater emphasis on the fact that if you want higher pay you should undertake more formal education externally. If you want a pay rise see below for more information;
- The Awards must be clearly accessible electronically or in the lunch room so everybody knows the basis of their pay (see attachment);
- Practices cannot force staff to sign contracts that contravene the Award, in the absence of an agreement that allows Award variations, the complex Award applies;
- You must consult all staff and discuss changes if hours are going to be altered, and mitigate its impact on individuals where possible.

3. ORDINARY HOURS DEFINITION EXPANDED – (no more penalty rates)

- Ordinary hours:

Private Medical and Pathology Practice only (others 6:00am to 6:00pm Monday to Friday.) 5.5 day practice Monday to Friday and Saturday 8:00am to 1:00pm.

7:00am to 9:00pm – new expanded definition from 6:00am to 6:00pm. This reduces after hour penalty rates which is a saving for practices working extended hours and needs to be treated as an over award payment if practices continue to pay time and a half. There is no award requirement to pay time and a half penalty rates after 5:30 pm, subject to shift work provisions.

For Saturday part and full time workers the rate is 1.5 of the ordinary rate, casual staff 1.75 and not casual 1.25 loading.

7 day practice Monday to Sunday

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For Saturday part and full time workers the loading rate is 1.25 and for Sunday it is 1.5.

4. AVERAGE 38 HOURS PER WEEK MANDATORY – UNREASONABLE HOURS PROHIBITED

“Employers must not require or request their employees to work more than 38 hours per week, plus “reasonable additional hours”.

- Full time average must be 38 hours per week, in a fortnight or over a four week period;
- Not to work more than 10 hours a day or overtime over 2.4 hours a day;
- Time books need to be kept, even for practice managers;
- Reasonable “additional” hours are deemed pursuant to the National Employment

Standards

Factors to be taken into consideration when determining what is reasonable, with the burden of proof on the employer are:

- a) any risk to employee health & safety due to additional hours, employee’s personal circumstances including family situation are to be taken into consideration
- b) the needs of the workplace if the employee is entitled to overtime or penalty levels of remuneration for working excess hours;
- c) notice if any, given by the employer to work additional hours;
- d) notice given by the employee of intention to refuse working of additional hours;
- e) usual patterns of work in the industry or sector employee works within;
- f) nature of employees role & level of responsibility;
- g) additional hours are in accordance with average modern award;
- h) and any other relevant matter

5. FULL TIME, PARTTIME & CASUAL STAFF – FULL TIMERS ARE PREFERRED

- The employer must inform who if their staff are employed full time, part time or casual:
- Full time staff are rostered on average for 38 hours a week;
- Part time are less than 38 hours that are predictable and pre-agreed;
- Casual staff are employed on an hourly basis which is unpredictable plus 25% loading

Part time Staff

- Move to full time staff where possible, avoiding part time and casual especially – ensure staff work to rules, otherwise large overtime penalties(see overtime below) arise during normal work hours;
- You cannot change rosters unless in case of an emergency within 7 days before the rostered shift;
- No time and a half penalty rates apply only 15% if worked up to 9pm – this should reduce overtime claims but you may lose your part time workforce

Casual Staff

- Casual staff receive an additional 25% of the loaded rate – convert casuals into permanent staff as they could be deemed permanent because they are regularly rostered – no flexibility is allowed in the Award to remain as a permanent casual as in some State Awards. Permanent casual staff paid at a loaded 25% rate leaves the practice open to being sued for under payment of wages such as leave entitlements including annual and sick leave.

6. ALL PRACTICE SUPPORT STAFF AFFECTED INCLUDING PRACTICE MANAGERS

- All staff including, practice managers are subject to these Awards – an emphasis is on formal education in order to support higher pay. The following is a guideline outlining where your employees may belong. Clearly many practices pay above Award rates, but this does not automatically exempt staff from additional overtime, allowance or penalty payments. Classification is a critical first step process.

There are pay points based on working 1,824 hours per annum in a position. As there are multiple pay points within each class, we have taken the top pay point in each classification. Staff members need to demonstrate further applied study to go beyond Level 2. There are 9 Levels in total.

Maximum Award based on annual full time classification suggestions:

Up to:

- Level 1 Reception/Clerical/Medical Typist \$30,160
- Level 2 Reception/Medical Typist/Clerical/Administration \$31,460
- Level 3* not administration/clerical \$32,760 (*Course attendance e.g. Certificate III may be required and knowledge applied to role)
- Level 4* not administration/clerical/secretary \$33,155 (*Course attendance e.g. Certificate III may be required and knowledge applied to role)
- Level 5* second in charge/office administrator \$34,320 (*Course attendance e.g. Certificate III may be required and knowledge applied to role)
- Level 6* second in charge/office administrator/senior secretary \$36,244 (*Course attendance e.g. Certificate III may be required and knowledge applied to role)
- Level 7* Practice Manager/Business Development Manager \$36,920 (*Course attendance e.g. Diploma may be required and knowledge applied to role)

- Level 8* Practice Manager/Business Development Manager \$42,120 (*Course attendance e.g. undergraduate advanced courses may be required and knowledge applied to role. Must work autonomously, strategically and is less operational than Level 7).
- Level 9* Practice Manager/Business Development Manager \$44,824 (*Course attendance e.g. undergraduate advanced courses may be required and knowledge applied to role. Has the Level 8 standard and can solve complex legal compliance and regulatory issues where there are no clear guidelines).

Note the Award also specifies classifications for allied health see the Award for further information.

7. NEW ALLOWANCE ON TOP OF BASE AND ABOVE AWARD SALARIES/WAGES

- New set of allowances from heat, uniform clothing, dry cleaning to nausea and 24 hour on call allowances are available to your support staff, and are increased with the Consumer Price Index annually. These are in addition to any above Award payments, unless included in a signed employment contract (see below). Practices may need to reconsider the real benefits of paying above Award wages as this may or may not lead to a wage freeze and capping of wages.

The following allowances apply:

1. Blood check – out of pocket re-imbusement;
2. Clothing and equipment - out of pocket re-imbusement for uniforms or the lesser of \$1.23 per shift or \$6.24 per week in addition to the laundry set rate which is the lesser of \$0.32 per shift or \$1.49 per week. This works out at circa \$444 p.a. per employee on average;
3. Damaged Clothing - Out of pocket re-imbusement except where the employee is negligent;
4. Board and Lodging - Weekly wages reduced by a set rate deduction if employer pays for board \$20.40 and food \$12.70;
5. Heat Allowance (if above 46C) - Paid 20 min break every 2 hours which may be set as an hourly loading rate. A minimum loading rate for the week applies for staff employed pre 1991 > 40 C/0.05% & 45C/0.06%;
6. Meal Allowance - \$10 in addition to overtime > 1 hour and \$9.00 > 4 hours;
7. Nausea Allowance (offensive work) - 0.05% of the standard hourly rate and a minimum 0.27% loading rate for the week applies;
8. Occasional Interpreters Allowance (not full time) - Set loaded hourly rate of 0.11% per occasion and a maximum of 1.27% of the standard hourly rate per week;
9. On call Allowance - 24/7 weekly and weekend hourly loaded rate of 2.16% per hour week days and 4.31% for weekends This works out at circa \$800 to \$1000 p.a. per employee on average;
10. Telephone Allowance - out of pocket re-imbusement;
11. Tool Allowance - set rate per week;
12. Travelling and Transport Allowance – set rate 74c per kilometre, a log book is required;
13. District Allowance in WA & NT (ceasing in 2014).

8. PAID MEAL & TEA BREAKS

- Unpaid 30-60 minute lunch break applies;
- Minimum 10 minute paid tea breaks apply each 4 hour period, with 2 in an 8 hour period;

9. OVERTIME (un-rostered)

- Time and half for the first 2 hours and double time thereafter;
- Public Holidays are double time and a half;
- Double time applies for all un-rostered Sundays, if rostered then 1.5 penalty applies for permanent staff. See shift allowance, which is in substitution of the Shift Allowance below;
- Part Time employees who work beyond their predictable and agreed hours will receive overtime at time and a half for the first 2 hours and double time thereafter;

- If working more than 10 hours the employee must have a break of 10 hours between shifts without loss of pay. If not then double time applies for the entire shift;
- Recall to overtime after leaving – a minimum of 2 hours must be paid at overtime rates;
- 20 min break after each 4 hours of work;
- The employee and not the employer can elect to take overtime in lieu of payment.

10. SHIFTWORK – 15% PENALTY RATE

- 15% penalty rate applies for rostered ordinary work beginning before 6:00am or after 6:00pm

11. PAYMENT FOR HIGHER DUTIES

- Relieving staff must be paid for higher duties – this may cause a few arguments if you employ a “second in charge” who temporarily takes over the role of practice manager;

12. 17.5% ANNUAL LEAVE LOADING APPLIES

- Annual leave loading applies to all permanent staff except shift workers whose weekend penalties are included.

13. NEW REDUNDANCY RULES

- Need to pay 4 weeks’ notice if terminating. It is no longer two weeks or as mutually agreed;
- Staff transferred to lower paid duties are entitled to redundancy payments;
- Terminated staff, are permitted one day with proof of attendance to a job search allowance for every week the notice period applies.

14. TRANSITIONAL ARRANGEMENTS

- Existing AWA and practices that are not a constitutional corporation are not affected by the Awards i.e. you do not trade under a Pty Ltd name, via a trust or in your own name.
- You cannot make over award payments and contract out of penalties unless appropriate employee written consent is given and the permissible Award variations are limited.
- New agreements need to be in place to avoid default Award provisions and new systems need to be established to cope with the new Award conditions.
- Nurses have a separate Award – we will report on this soon.
- Doctors currently remain Award free except training program requirements for registrars.
- All employees whether part of an Award or not are affected by the National Employment Standards in particular the 38 hour rule. Employers excluded are partnerships, sole traders and non corporate trustees of trusts.

WHAT TO DO NEXT?

1. DON'T IGNORE THE ISSUE – IT WON'T GO AWAY and IT WILL GET WORSE WITH TIME

- Up to \$33,000 per breach! The most likely person to do in a practice is an aggrieved employee.
- Practices need to budget for higher wages and new implementation costs of up to \$10k.

2. DETERMINE OPTIMAL SYSTEMS THEN EMPLOY STAFF ACCORDINGLY

- In 80% of practices we benchmark we see that staff productivity can be increased by 10 to 20% without increasing staff. Ascertain whether your practice is operating efficiently. Carefully analyse
- Optimal staff rosters under the new Awards. Focus on better systems and higher staff productivity do more with less, then assess job roles, experience and qualifications of staff and hours required to complete tasks. The better the system the fewer experienced staff required.
- If not, consider your options of new work or letting go of staff. Practices should seriously start to consider “out counselling” non-performing staff before the new Awards kick in. Offer staff the total roster hours to work out their new hours and be flexible.

3. IS YOUR PRACTICE MANAGER WORKING EXCESSIVE HOURS?

If your practice manager is regularly working over 38 hours a week, consider removing them from lower responsibility roles such as the front desk and budget for a second in charge or an understudy. Furthermore, consider providing additional formal training to your practice manager and focus him or her on becoming more strategic and less operational. Clearly this will be determined by the size of your practice.

4. ABSORB AWARD CONDITIONS via ABOVE AWARD PAYMENTS USING CONTRACTS

The basis for absorbing any of the new allowances and penalty rates is determining the correct Award classification for every staff member. Job descriptions are important. You are allowed to pay above Award rates but the practice must state what this is for and have this signed off in an employment agreement otherwise these additional entitlements will still apply and must be paid.

The practice should provide individually signed and written business cases to staff, not under duress, to show their over award payments and conditions making them better off. Prepare individual business cases. If you force staff to sign you have no legal protection from an underpayment of wages claims.

You must obtain signed consent from your staff otherwise it will not work. Make sure all employment agreements line by line address the Award obligations – general statements such as this “over award payment will cover all your penalty, allowance and overtime benefits” is not sufficient. This needs to be detailed in the employment agreement. Contact us for template agreements including job descriptions which are available for purchase.



FOR FURTHER INFORMATION

Assistance with employment Agreements:

Health & Life Pty Ltd – National Accountants and Practice Management Consultants, T: 1800 077 222 (toll free) for template agreements including job descriptions which are available for purchase. The templates are legal documents and are not suited to all structures so Health & Life cannot sell them direct without a telephone consultation, each practice will have different types of employment structures.



See website for Awards:

<http://www.fairwork.gov.au/Pay-leave-and-conditions/Awards/Pages/default.aspx?role=employees>

Due to the amount of information contained in these award changes, Melbourne East GP Network is circulating an Expression of Interest to ascertain if GPs and Practice Managers would be interested in attending an information session regarding these award changes.

Please refer to the enclosed Expression of Interest flyer and fax back to the GP Network if you would be interested in attending.

Date and times will be confirmed by return fax.

In the meantime should you have any immediate concerns or questions regarding this information please do not hesitate to contact your GP Network.

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