STATE OF NEW YORK
DEPARTMENT OF LABOR
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Albany, New York 12240

JAMES T. DILLON
Executive Deputy Commissioner of Labor

July 8, 1997

Mr. Robert H. Attmore
Deputy Comptroller
Division of Management Audit
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Office of the State Comptroller
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Albany, New York 12236

OFFICE OF THE STATE COMPTROLLER
JUL 14 1997
ROBERT H. ATTMORE
DEPUTY COMPTROLLER

Dear Mr. ~~Attmore~~: Bob

On April 9, 1997, the Office of State Comptroller (OSC) issued audit report 95-S-21, regarding the comparison of New York City payroll records with the Department of Labor's unemployment insurance (UI) records. The audit covered the period April 1, 1994, through June 30, 1995. Section 170 of the Executive Law requires that I report to you within 90 days after receipt of the audit regarding what steps were taken to implement recommendations set forth in this audit, and, where the recommendations are not being implemented, the reasons therefore.

The first recommendation set forth in the report is that the Department determine the appropriateness of the benefits paid to the 6,300 individuals OSC reported as receiving New York City paychecks and UI benefits in the same weeks. The Department's preliminary evaluation indicates that OSC has greatly overstated the potential overpayments it discovered through the record comparison. The OSC comparison apparently did not fully take into account 1) the time lag occurring between dates of work and the check dates for some City employees, 2) the eligibility of employees for benefits during weeks of partial work, and 3) the adjusting entries the Department made to the unemployment insurance files.

The Department is working with officials of the New York City Administrative Services Office and the New York City Board of Education on a detailed review of a random sample of 250 of the individuals cited by OSC. We anticipate completing this review by August 15, 1997. The results will then be used to determine the actions that should be taken with regard to the other individuals cited by OSC. The target date for completion of the entire process is October 15, 1997.

The second recommendation is that the Department begin overpayment recoupment procedures for all payments determined to be inappropriate. The Department will issue overpayment determinations to all individuals who received benefits when they were not entitled and will aggressively pursue collection action through all legally available means. Prosecution action will be pursued in those cases where the willful overpayment warrants such action. It should be noted that we have already determined that a limited number of individuals on the list have had an overpayment determination issued as the result of prior computer crossmatches done with the wage records on file with the New York State Department of Taxation and Finance. Collection action has already begun on these cases.

In recommendation three, OSC suggests that the Department refer to proper investigative authorities any inappropriate payments determined to be willful violations of State Labor Law. The Department has initiated a program to aggressively pursue prosecution of willful overpayment cases. The Department will pursue prosecution under this program for any cases where such action is determined to be appropriate.

The fourth recommendation is that the Department periodically match the unemployment insurance benefit payment file and the City payroll file. Depending on the results of the examination of the records supplied by OSC, the Department and the City will evaluate the most appropriate and cost-effective method of instituting a computer crossmatch of Department UI benefit records and the City payroll files. The volume of overpayments detected and the cost of implementing the crossmatch program will be taken into consideration in this process.

The Department's crossmatch program has been intensified for the detection of overpayments with all employers including the City. Upon the passage of enabling legislation, the Department will begin matching records supplied through the New Hire Program.

Recommendation five is that the Department use its normal collection procedures to collect overpaid UI benefits from City employees identified in the audit report. The Department has and will continue to pursue its normal collection procedures to recover overpayments from City employees.

The sixth recommendation is that the Department match the City payroll files to the UI benefit overpayment file. As indicated previously, if the results of the in-depth examination of the City payroll records result in a significant number of overpayments and it is cost-effective to do so, the Department will continue to pursue the establishment of an appropriate computer crossmatch system with the City.

The OSC listing of addresses on the City payroll file for individuals who had overpayments and were determined to be City employees was examined by Department staff. It was determined that the number of new addresses that could be obtained was not significant.

In the seventh recommendation, OSC requests that the Department seek an opinion from the United States Department of Labor (USDOL) as to whether Federal Law would prohibit New York City from collecting overpaid UI through a salary offset system. OSC further recommends that, if such a system is prohibited, the Department seek waivers, statutory amendments, or regulatory changes. The Department's Counsel's Office is in the process of asking for an opinion from USDOL. After receipt of the opinion, the Department will analyze all relevant factors and determine the appropriate course of action. Your office will be advised of the results of our analysis.

The eighth recommendation is that the Department redesign the UI Benefit Overpayment File to include the employer identification number and the full benefit year end. Although we recognize that implementation of this recommendation would produce certain conveniences to those who work with the overpayment system, we do not plan to immediately implement the recommendation for several reasons. First, implementing the recommendation would result in a duplication of data items on different file structures and would require, contrary to the audit report's wording, a significant investment in programming effort. Additionally, the Department is in the midst of several major computer system changes. The Department must be able to focus its systems analysis and data programming efforts on conversion of its systems in order to address the following: meet software compliance requirements with the approach of the year 2000; convert the UI system to accept remote initial claims; redesign the workforce development system; and process data related to tax consolidation legislation, UI reform proposals, and wage reporting legislation. Once these changes have been successfully completed, the Department will be in a position to reevaluate the recommendation.

We anticipate that the overpayment system will be impacted by some of these changes. As new systems are developed that impact the overpayment files, any cost-effective improvements identified will be incorporated into the changes. In the meantime, however, since the information needed by Department staff is readily available, we are not in a position at this time to allocate the resources required to implement this recommendation.

The final recommendation is to pursue legislation that would allow the Department to file warrants against claimants who owe the State for benefit overpayments. The Department submitted such legislation during the 1997 legislative session as it has for many years.

If you have any questions regarding this report, please call Mark B. Mitchell, Director of Internal Audit, at 457-9016.

Sincerely,

James T. Dillon
Acting Commissioner

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