



STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

November 1, 2011

Ms. Colleen C. Gardner
Commissioner
Department of Labor
State Office Campus
Building 12, Room 506
Albany, NY 12240

Re: Report 2011-BSE-3A-005

Dear Commissioner Gardner:

This report summarizes findings and recommendations resulting from: (1) our Office's ongoing audit of Department of Labor (DOL) payment requests and related payments for Unemployment Insurance Benefits (UI) during the period January 1, 2010 through December 31, 2010; (2) a statistical analysis of claimants receiving UI payments processed by DOL during the period January 1, 2010 through September 30, 2010; and (3) the identification of overpayments based on a match of certain DOL files with records of deceased individuals and of New York State employees.¹ The objective of our examinations and analysis was to determine whether payment requests and payments were appropriate and in accordance with applicable Federal and State laws and DOL regulations.

A. Results of Examination

For the period January 1, 2010 through December 31, 2010, our examination identified 1,510 inappropriate payment requests and payments totaling almost \$1.6 million. This includes \$950,496 in overpayments made by DOL and over \$627,000 in potential payments that would have been paid over the life of the UI claim had DOL not taken corrective action based on our findings.

In addition to our daily audit of UI payment requests, we selected and analyzed a statistical sample from a population of almost 1.2 million UI claimants receiving \$7.4 billion in payments for the first nine months of the examination period. The purpose of the analysis was to determine the total amount of overpayments in the entire population of claimant payments made during that time period. Based on this analysis, we project DOL could have processed \$7.2 million in overpayments to these claimants.

¹ We performed our examination in accordance with the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution, as well as Article II, Section 8, and Article VII, Section 111 of the State Finance Law and Article 18, Section 550 of the State Labor Law.

We also identified \$3,772 in inappropriate payments to 11 claimants after their date of death. Further, we identified 102 newly hired New York State (NYS) employees that owed \$146,508 to DOL for UI overpayments. During this same period, DOL recovered \$462,569 from employees identified by our past matches of NYS employees.

We shared a draft report with DOL officials and incorporated their response in this report (see Appendix A). In their response, officials described actions taken in relation to our recommendations. A State Comptroller comment on the response is attached as Appendix B.

B. Background and Methodology

DOL administers the Unemployment Insurance Program, which consists of the UI Benefit, Trade Re-adjustment Allowance (TRA) and Shared Work programs. The UI Benefit program provides benefit payments to workers who are unemployed through no fault of their own and are ready, willing and able to work. The TRA program provides aid to workers who lose their jobs or whose hours of work and wages are reduced as a result of increased imports. The Shared Work program provides an alternative to employers so they don't have to layoff full-time employees by providing benefits to employees working reduced hours. Workers who exhaust their initial UI benefits may be eligible for an extension of UI benefit payments through supplemental UI benefit programs – the Emergency Unemployment Compensation and Extended Benefit programs. All benefit payment requests are subject to audit by the State Comptroller prior to payment.

To accomplish our objective, we selected benefit payment requests each day for examination based on risk, using “filters” embedded in the DOL payment system. In addition, our examination included other tests designed to identify conditions not readily found by our filters. These tests were performed after payment of the benefit. The results are used to identify and recover any overpayments and to prevent future overpayments. During our examination period, 59 million payments, totaling more than \$9.5 billion, were made to claimants for the UI, Emergency Unemployment Compensation and Extended Benefit programs. Of the total, we selected 46,806 payment requests or related payments for examination. This report summarizes the results of our examinations over the period.

We also selected and analyzed a statistical sample of claimants receiving UI payments from January 1, 2010 through September 30, 2010. In addition, we matched certain DOL files and other files to identify (i) payments processed for recently deceased claimants and (ii) newly hired New York State employees who owe DOL money for outstanding benefit overpayments.

Finally, we followed up on recommendations made in our prior audit report to determine whether or not DOL implemented recommendations made.

C. Details of Findings***Daily Audit of Payments***

Our examination identified 1,510 inappropriate payment requests and payments totaling almost \$1.6 million that either did not comply with applicable Federal and State laws and DOL regulations or were processed in error. These included the following general categories: incorrect rate adjustments; payment requests from multiple programs; payment requests exceeding the maximum number of days allowed by law; duplicate Shared Work payment requests; and various processing errors. Specifically, we identified:

- 419 erroneous rate adjustments resulting in \$212,077 in overpayments, of which we stopped \$123,660 before payment. Based on our findings, DOL corrected the rates, preventing an additional \$606,755 in overpayments over the life of the claims.
- 345 payment requests totaling \$55,128 for claimants inappropriately collecting benefits from multiple programs in the same week. Of this amount, we stopped \$1,698 in payments to claimants.
- 393 payment requests totaling \$130,121 for claimants who were paid more than the four effective days of benefits allowed in the same week, of which we stopped \$1,956 from being paid to the claimants. We also identified a DOL computer programming error that allowed payments to claimants exceeding the four-day limit. DOL estimates this error resulted in \$454,302 in overpayments.
- 29 duplicate Shared Work payment requests totaling \$3,404. Of these, we stopped \$1,203 in payments to claimants.
- 324 overpayments to claimants totaling \$95,464 related to other categories, including: payments to 145 claimants that were not totally unemployed when they received benefits (\$42,039); 171 duplicate payments (\$29,403 in overpayments, of which \$6,791 was stopped prior to payment); and payments to eight non-citizens unauthorized to work in the United States (\$24,022). We also prevented \$21,108 in future payments to these eight claimants.

In response to our recommendation to establish and implement controls to prevent overpayments resulting from the types of errors identified in this report, DOL began to use a more timely duplicate payment report to identify possible overpayments. In addition, DOL's Information Technology Division has begun the process of identifying the programming required in the Legacy system to prevent: a benefit payment transaction of more than 4 effective days in the same week, a claimant receiving more than their weekly benefit rate, or payments for multiple programs within the same week.

Estimated Total Overpayments

Based on our analysis of the statistical sample from a population of almost 1.2 million UI claimants receiving \$7.4 billion in payments processed by DOL for the period January 1, 2010 through September 30, 2010, we project DOL could have approved over \$7.2 million in overpayments during the first nine months of our examination.

Recovered Overpayments to Deceased UI Claimants

We performed a match between the DOL UI Benefit Payment File and the Social Security Administration database. We found, and DOL confirmed, that 11 claims were paid (\$3,772) after the claimants' date of death because someone other than the claimant certified the eligibility to collect UI benefits. Since overpayments are recouped by offsetting future UI benefits to claimants, and these claimants are deceased, it is unlikely DOL will recoup these overpayments.

To address this issue, DOL has initiated steps with the Social Security Administration to obtain expedited access to social security numbers. In addition, they also contacted the Department of Health's Vital Records unit to initiate an agreement to access death records. The intent of these actions is to cross match the information resulting from these agreements with UI claimant data to minimize future occurrences of paying benefits to deceased claimants. This will also help minimize situations where family members fraudulently claim for the deceased claimants.

Recovered Overpayments to New York State Employees

We also matched the DOL UI Benefit Overpayment File to the New York State Payroll File to identify newly hired New York State employees that owe DOL money. During the period of our examination, we identified 102 newly hired employees that owed \$146,508 to DOL for UI overpayments. During this same period, DOL recovered \$462,569 from employees we identified in prior matches.

DOL officials stated they use a variety of methods to recover overpayments to claimants. This includes sending overpayment collection letters to claimants, offsetting UI Benefits due, and referring cases to the Department of Taxation & Finance for collection. In addition, DOL participates in the U.S. Department of Treasury Offset Program to collect overpayments through federal refund offset.

Review of Previous Recommendations

In response to the recommendations from our previous examination of UI payment activity (Report 2009-BSE-3A-004 covering April 1, 2009 through December 31, 2009), DOL officials stated they planned to implement various controls to improve the overpayment issues we identified. This included (i) reminding staff to follow appropriate procedures, (ii) determining if supervisors can use existing reports to identify when staff perform edit overrides, (iii) reviewing

procedures for additional clarification and training when needed, and (iv) generating a report to identify duplicate payments.

As a result of these actions we did find a reduction in duplicate Shared Work payments and payments to non-citizens unauthorized to work in the United States. However, we continue to identify many of the same conditions in the current examination period that led to overpayments in the previous period. DOL officials should continue to identify opportunities to improve controls in their existing UI system. We also recognize that DOL will be implementing a UI System Improvement Project in 2012 and that project may correct many of these conditions.

Recommendations

1. *Establish and implement controls to prevent overpayments resulting from the types of errors identified in this report, e.g. exception reports or system edits, to identify duplicate payments and payments exceeding maximum allowable days.*
2. *Ensure all changes to computer programs are made accurately.*
3. *Recoup overpayments identified in the examination from claimants, as appropriate.*

We request you provide a response to this report by November 30, 2011. We thank the management and staff of the Department of Labor for the courtesies and cooperation extended to our auditors.

Sincerely,

Bernard J. McHugh
Director of State Expenditures

Enclosures: Appendix A
Appendix B

cc: Carl Boorn
Mary Batch
Timothy Burleski



New York State Department of Labor

Andrew M. Cuomo, Governor

Colleen C. Gardner, Commissioner

September 30, 2011

Bernard J. McHugh
Director of State Expenditures
110 State Street
Albany, NY 12236

Dear Mr. McHugh:

This is in response to your letter dated June 28, 2011, regarding Draft Report 2011-BSE-3A-005 containing: (1) OSC's ongoing audit of Department of Labor (DOL) payment requests and related payments for Unemployment Insurance Benefits (UI) during the period January 1, 2010 through December 31, 2010; (2) a statistical analysis of claimants receiving UI payments processed by DOL during the period January 1, 2010 through September 30, 2010; and (3) the identification of overpayments based on a match of certain DOL files with records of deceased individuals and New York State employees.'

The Department of Labor for this same time period, January 1, 2010 through December 31, 2010 successfully processed 59 million payments, totaling more than \$9.5 billion dollars at an accuracy level of 99.97%. This is based upon OSC's audit sample and the inappropriate payments identified in this report. The Department of Labor continues to strive towards a 100% accuracy level and appreciates OSC's assistance in the UI payment reviews and feedback provided in this report.

Below are OSC Recommendations and the Department of Labor's Responses.

OSC Recommendation

1. *Establish and implement controls to prevent overpayments resulting from the types of errors identified in this report, e.g. exception reports or system edits to identify duplicate payments and payments exceeding maximum allowable days.*

DOL Response

We developed, and as of January 2011 began to use, a more timely duplicate payment report to identify possible overpayments. In addition, DOL's Information Technology Division has begun the process of identifying the programming required in the Legacy system to prevent a benefit payment transaction of more than 4 effective days in the same week or a claimant receiving more than their weekly benefit rate or payments for multiple programs within the same week.

Our Benefit Quality Control Unit will now include a review of benefit rate changes to detect manual calculation errors and assist in training needs.

Recovered Overpayments to Deceased UI Claimants

OSC stated they performed a yearly match and confirmed 18 claimants collected \$8,053 after their date of death. However, the back-up for the 18 shows 5 are from 2009, 11 are from 2010 and 2 are from 2011. We believe this is not yearly and is misleading as it is outside the scope of the review.

<p>Comment 1</p>

To address this issue the Department has already initiated steps with the Social Security Administration to develop an agreement that will provide expedited access to social security numbers. In addition, we have also contacted the Department of Health's Vital Records unit to initiate an agreement to access death records. Once finalized, the intent is to cross match the information resulting from these agreements with UI claimant data to minimize future occurrences of paying benefits to deceased UI claimants. This will help to also minimize situations where family members fraudulently claim for the deceased UI claimants. However, it is important to note, that in the cases of fraud, once identified, we already prosecute and take steps to recover these funds.

OSC Recommendation

2. *Ensure all changes to computer programs are made accurately.*

DOL Response

The computer programming issue referred by OSC is related to the release of UI payments which were erroneously sent to a holding file of EUC payments in June of 2010. The holding file was to accumulate the EUC payments held until legislation was passed to extend the EUC period. Programming was done to accumulate the EUC payments into the holding file and when legislation was passed a process would be run to release these payments from the holding file.

The process to accumulate the EUC payments affected the release of regular UI payments and they were also accumulated into the holding file. These payments were not being reflected in either the paid or pending transactions. Claimants therefore were able to certify for the week ending June 6, 2010 twice. A solution was developed to process the regular UI payments as well as eliminate the duplicate certifications from the payment transaction file the following evening. However, the fix to pull the duplicate transactions was run prematurely and did not include duplicates that occurred from 5 pm when the program fix was run to 12 am when the batch program ran.

These payments were identified and sent to UID to set up overpayments on these transactions.

Placing EUC records in a holding file did occur again in December 2010 because DOL was waiting for legislation to pass to extend the dates to pay EUC. When this process was put into place the non EUC payments were handled correctly and the error indicated above did not re-occur.

OSC Recommendation

3. *Recoup overpayments identified in the examination from claimant, as appropriate.*

DOL Response

The Department of Labor uses a variety of methods to recover overpayments to claimants. In 2010, 535,890 overpayment collection letters were sent to claimants. DOL received \$35,548,618 in cash repayments (including State Tax Offsets) and offset UI Benefits due in the amount of \$24,423,909. We referred 77,500 cases to Tax & Finance under the State Withholding Offset Program. This resulted in the receipt of \$12,904,489 in tax intercepts.

In September of 2010 we initiated TOP (Treasury Offset Program) and mailed 80,200 notices to claimants with fraudulent overdue debts, advising of pending referral to the IRS. As of August 2011, we have received \$27,725,055.67. We will have totals for 1/1/11-12/31/11 at the end of this calendar year.

In addition, we will utilize all available options to recoup the overpayments that were identified in this examination from claimants.

If you have any comments please contact Carl Boorn, Director Unemployment Insurance Division (518) 457-2177.

Sincerely,


Colleen C. Gardner

Cc: Carl Boorn
Mary Batch
Timothy Burleski

State Comptroller Comments on Auditee Response

1. We agree with the DOL's response and have adjusted the numbers in the final report.