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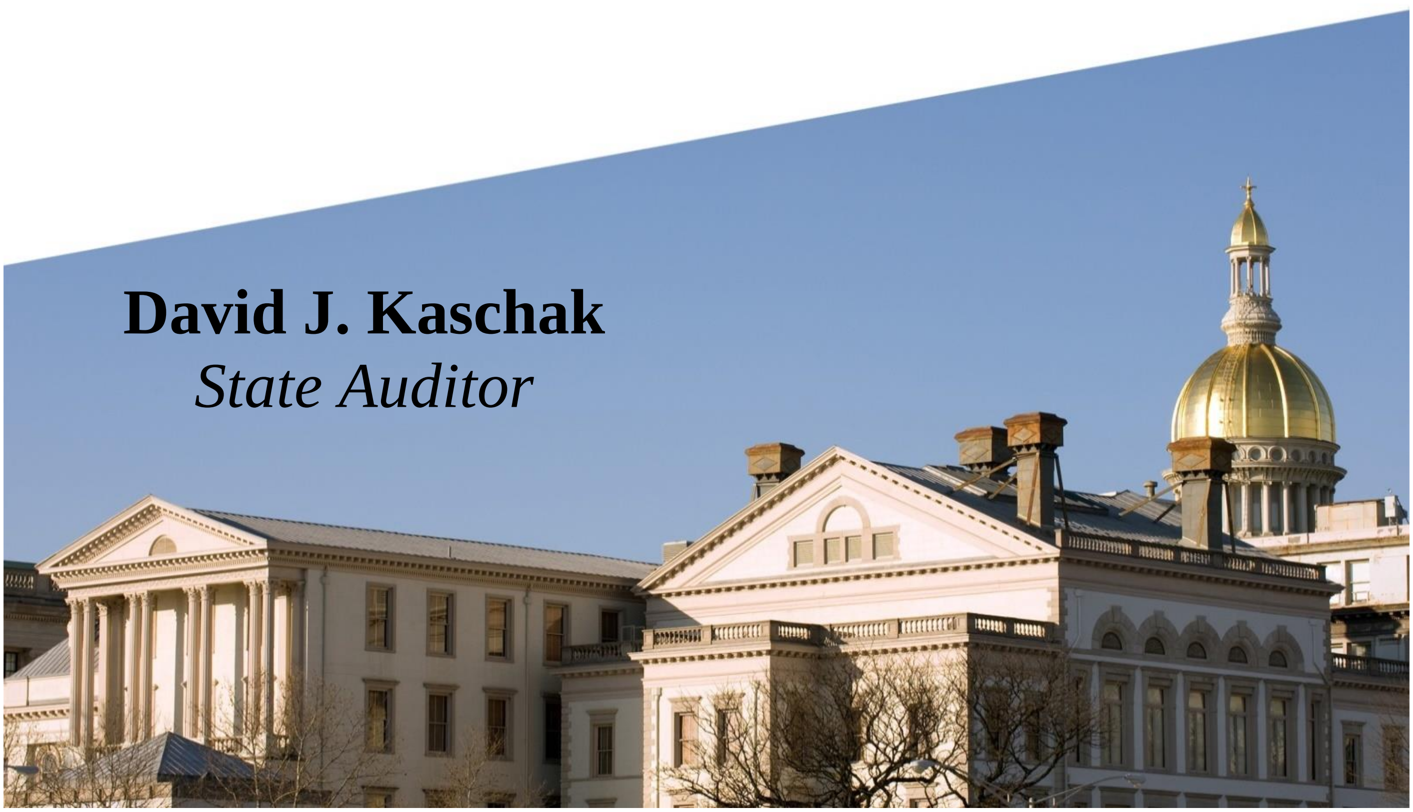
Department of Labor and Workforce Development
Division of Unemployment Insurance

July 1, 2019 to January 31, 2023



David J. Kaschak
State Auditor

NEW JERSEY STATE LEGISLATURE
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The Honorable Nicholas P. Scutari
President of the Senate

The Honorable Craig J. Coughlin
Speaker of the General Assembly

Ms. Maureen McMahon
Executive Director
Office of Legislative Services

Enclosed is our report on the audit of the Department of Labor and Workforce Development, Division of Unemployment Insurance for the period of July 1, 2019 to January 31, 2023. If you would like a personal briefing, please call me at (609) 847-3470.

Brian M. Klingele
Assistant State Auditor
September 27, 2023

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Scope

We have completed an audit of the Department of Labor and Workforce Development (department), Division of Unemployment Insurance (division) for the period July 1, 2019 through January 31, 2023. Our audit included financial activities accounted for in the state's General Fund and the Unemployment Compensation Fund. In addition, federally funded unemployment insurance programs were included in our analyses of overall claims, the call center, and the Shared Work Program (SWP). The scope of our audit focused on activities related to the processing and payment of unemployment insurance (UI) claims but did not include a determination of specific claimant eligibility to receive UI benefits.

From July 1, 2019 through September 4, 2021, there were 2.9 million UI claims submitted, and 1.7 million of those claims received benefits totaling more than $17.7 billion. Excluding Federal Pandemic Unemployment Compensation (FPUC) benefits, the average UI claim was for 28 weeks totaling $9,847.

Our office also performed an audit of the department's unemployment systems, which was issued on November 16, 2022.

Objectives

The objectives of our audit were to determine whether internal controls over the review and processing of UI claims were adequate to ensure proper and accurate payment and whether the department was in compliance with applicable laws and regulations. These objectives included an analysis of the processing of UI claims prior to and during the COVID-19 Pandemic (pandemic) to determine how the division's operations were impacted.

This audit was conducted pursuant to the State Auditor's responsibilities as set forth in Article VII, Section I, Paragraph 6 of the State Constitution and Title 52 of the New Jersey Statutes.

Methodology

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

In preparation for our testing, we studied legislation, the administrative code, policies of the department, the call center contract, the SWP marketing contract, and a briefing document by the Roosevelt Institute pertaining to the SWP. Provisions we considered significant were documented, and compliance with those requirements was verified by interviews of key personnel, review of department documentation, analysis of department data, and our testing. We reviewed financial trends and interviewed department personnel to obtain an understanding of the programs and the internal controls. In order to achieve our objectives, we performed various tests and analyses, as we determined necessary. Additional detail regarding our methodology and work performed can be found in the Appendix, as well as in the findings section when testing resulted in a reportable condition.

A nonstatistical sampling approach was used. Our samples were designed to provide conclusions on our audit objectives as well as internal controls and compliance. Sample populations were sorted, and transactions were judgmentally and randomly selected for testing. Because we used a nonstatistical sampling approach for our tests, we cannot project the results to the respective populations.

Data Reliability

We assessed the reliability of the department's mainframe Local Office Online Payment System (LOOPS) by performing various analyses of the data and interviewing department officials knowledgeable about the data. We also assessed the reliability of nonmonetary determinations information in the Salesforce system. We determined that the data were sufficiently reliable for the purposes of this report.

Certain other data in our report were used to provide background information. Data used for this purpose were obtained from the best available sources. *Government Auditing Standards* do not require us to complete a data reliability assessment for data used for this purpose.

Conclusions

We found the division's internal controls over the review and processing of UI claims were adequate, and the division was in compliance with applicable laws and regulations. However, in making these determinations, we identified weaknesses in the division's monitoring of the call center contract, marketing of the SWP, request for proposal of collection and disbursement services, and closing of nonmonetary adjudication cases. In addition, our analysis of the significant number of UI claims beginning March 2020 and its impact on the division's operations is presented as an observation before the audit findings in the report.

Background

The UI program provides financial support to people who lose their jobs through no fault of their own. To qualify for New Jersey UI benefits, an individual must meet all of the eligibility requirements of the New Jersey Unemployment Compensation Law. Those who meet the requirements may receive benefits for up to 26 weeks during a one-year period. To be eligible for UI benefits in 2022, the claimant must have earned at least $240 per week during 20 or more weeks in covered employment during the base year period or at least $12,000 in total covered employment during the base year period. These eligibility amounts were $220 per week or at least $11,000 in 2021; $200 per week or at least $10,000 in 2020; and $172 per week or at least $8,600 in 2019. The funds to pay these benefits come from contributions paid by employers and employees. The benefits partially replace wages to help unemployed workers meet their financial obligations while looking for employment.

The Unemployment Compensation Fund accounts for contributions of employers and employees for unemployment compensation and amounts credited or advances made by the federal government. After consideration is given to any claim for refund of overpayment of contributions, the remainder is then transferred to the Treasurer of the United States and is credited to the State of New Jersey Unemployment Trust Fund. Drawdowns against the State of New Jersey Unemployment Trust Fund are made by requests submitted to the Treasurer of the United States on an as-needed basis, whereby amounts are transferred back to the Unemployment Compensation Fund and then disbursed to workers entitled to receive unemployment benefits.

On March 27, 2020, the Coronavirus Aid, Relief, and Economic Security (CARES) Act was signed into law. The CARES Act expanded the states' ability to provide UI for many workers impacted by the pandemic, including workers who were not typically eligible for UI benefits.

According to department personnel, historically about 10 percent of New Jersey UI claims filed are determined to be improper. This percentage is likely to be higher for Pandemic Unemployment Assistance (PUA) claims, which provided UI benefits to self-employed workers, independent contractors, and others who were not typically eligible for benefits. UI claims eligibility for the PUA program was not included in our audit scope because it was a temporary, federally funded program. PUA claim data is included in the division's reporting of UI suspicious claims and improper benefits paid totals because the department's mainframe is unable to separate PUA claim data from these totals. For fiscal year 2021, the division's estimated loss for suspicious claims filed was 6.9 percent. The division estimated 283,980 suspicious claims totaling $3.39 billion, of which 19,880 were paid claims totaling $232.7 million. For fiscal year 2020, the division's estimated loss for suspicious claims filed was 25.3 percent. The division estimated 75,000 suspicious claims totaling $130.0 million, of which 19,000 were paid claims totaling $32.9 million. From March 1, 2020 through May 16, 2022, the division identified 413,934 social security numbers that were associated with suspicious claim activity. The department is part of a task force with other state and federal agencies to assist with investigative efforts of UI fraud. Agencies participating in the task force include, but are not limited to, the New Jersey Division of Criminal Justice and the Federal Bureau of Investigation.

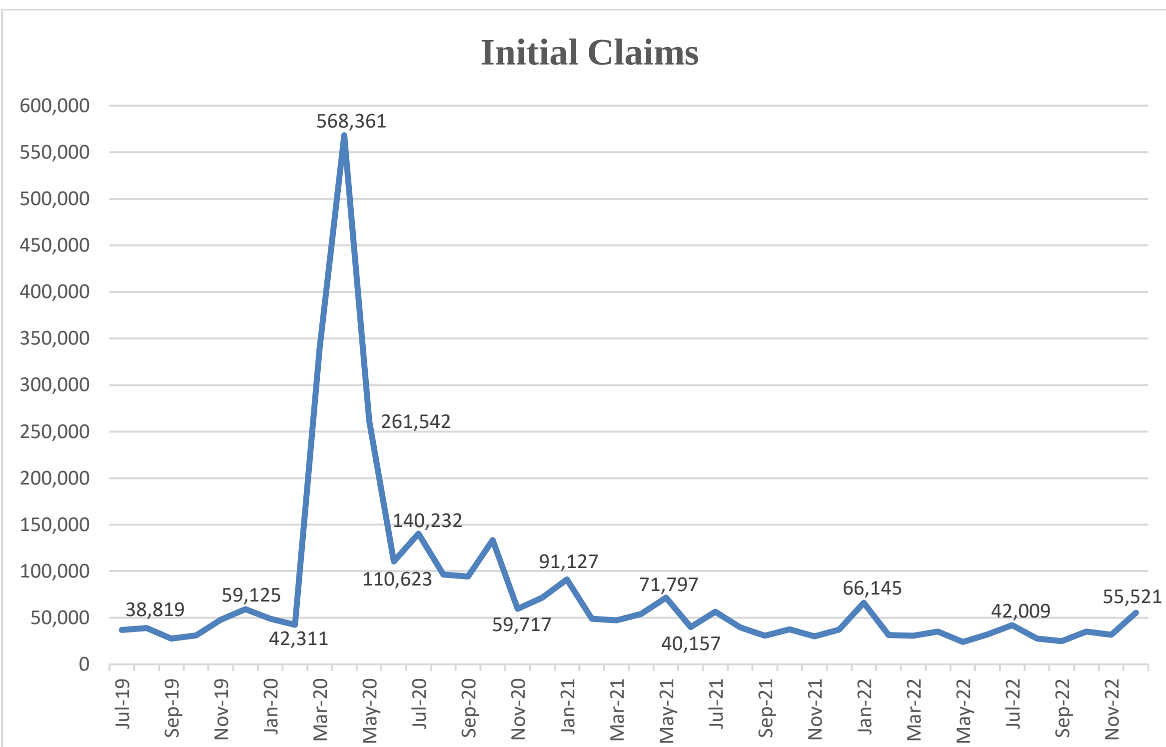
Observation

The Pandemic's Impact on the Division's Operations and How the Division Responded

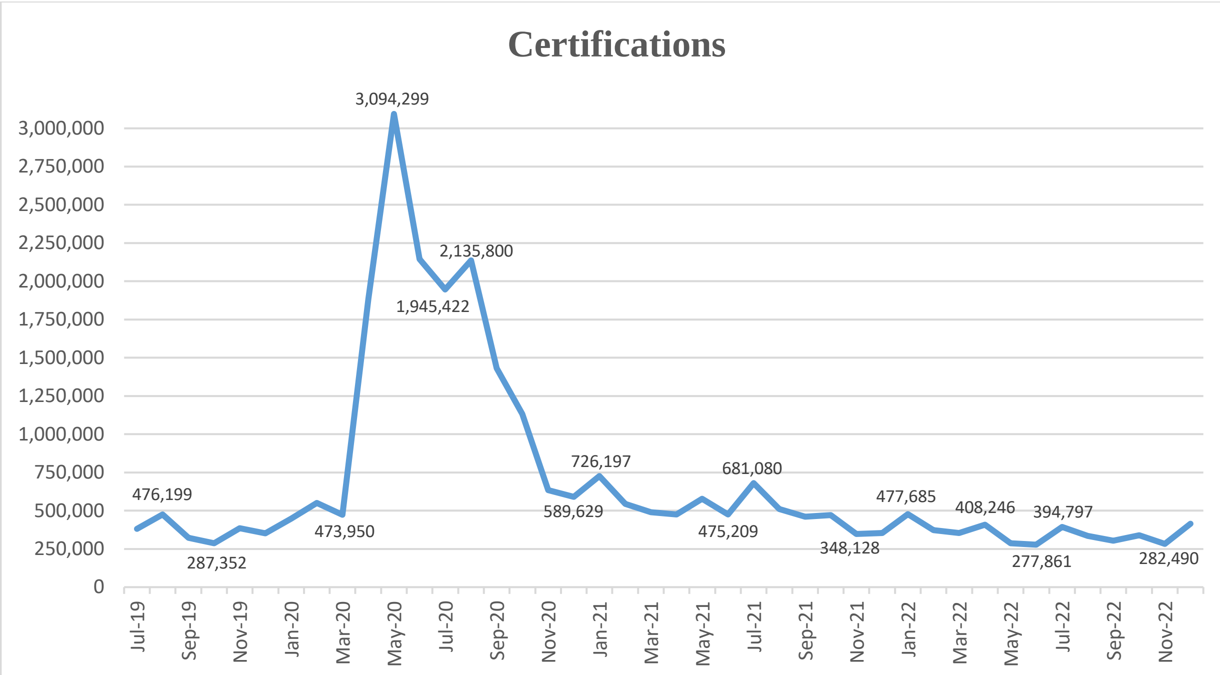
The onset of the pandemic in early 2020 and the related public health measures taken to control its spread resulted in significant levels of job loss across the nation. The economic effects of the pandemic drastically impacted the operations of state unemployment systems. A United States Government Accountability Office (GAO) report issued June 2022 titled *Unemployment Insurance: Pandemic Programs Posed Challenges, and DOL Could Better Address Customer Service and Emergency Planning* (GAO-22-104251) examined six selected states and noted shortages of experienced staff, untimeliness of claim payments, and persistent customer service problems such as long call wait times. New Jersey was not one of the states selected. During our audit, we noted the division encountered similar issues, including first payment promptness and a claim adjudication backlog.

Initial Claims

The pandemic caused an unprecedented surge in initial UI claim filings, creating a significant increase in calls to the division. Initial claims measure emerging unemployment, while certifications measure the number of persons claiming UI benefits. The following graphs show the New Jersey initial and certification claims activity from July 2019 through December 2022 according to the United States Department of Labor (USDOL):



Source: USDOL



Source: USDOL

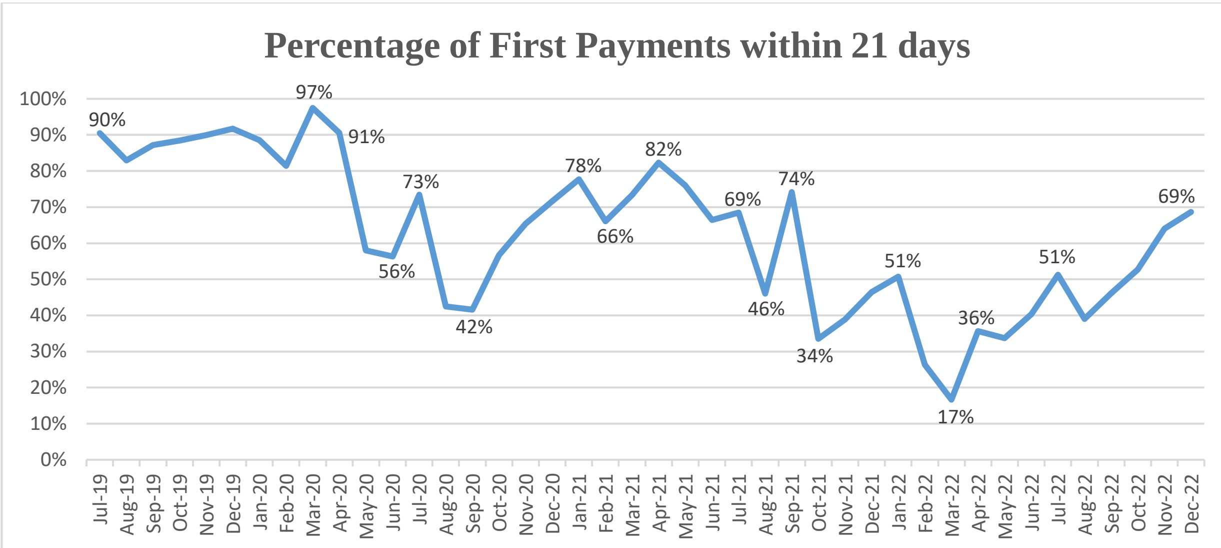
Comparing the eight-month period prior to March 2020 to the initial eight-month period of the pandemic, there was a 425 percent increase in the number of initial claims filed and a 345 percent increase in certifications. The following table provides a comparison of initial and certification claims in eight-month increments, with the final period being ten months:

Time Period (filed week ended)	Initial Claims	Certifications	Total Claims
07/06/2019 to 02/29/2020	332,335	3,200,108	3,532,443
03/07/2020 to 10/31/2020	1,744,339	14,241,103	15,985,442
11/07/2020 to 06/26/2021	484,574	4,511,589	4,996,163
07/03/2021 to 02/26/2022	329,004	3,676,295	4,005,299
03/05/2022 to 12/31/2022	338,355	3,400,705	3,739,060
Total Claims	**3,228,607**	**29,029,800**	**32,258,407**

First Payment Promptness

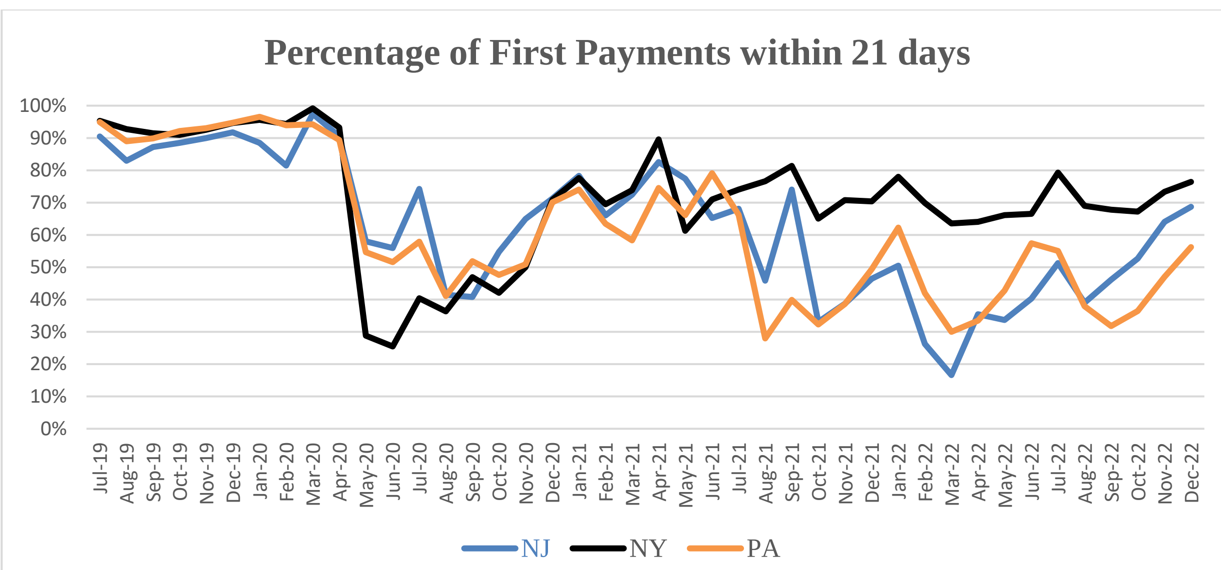
The USDOL first payment promptness core measure Acceptable Level of Performance (ALP) states that 87 percent of all first payments should be made within 21 days after the week ending date of the first compensable week in the benefit year, with certain exceptions. New Jersey had difficulty meeting the first payment promptness requirement for many years prior to the pandemic. For federal reporting years 2014 through 2018, the division only met the requirement for the months of July and December 2018. The division made process changes that improved first payment promptness resulting in the division meeting the reporting requirement for 8 of the

10 months between July 2019 and April 2020, with percentages ranging from 81.4 percent to 97.5 percent. After the unprecedented surge in initial UI claim filings, the division had not met the 87 percent reporting requirement from May 2020 through December 2022. Below are the first payment promptness percentages for July 2019 through December 2022:



Source: USDOL

From April 2020 through December 2022, New Jersey averaged 66.7 percent of first payments made within 21 days compared to the national average of 62.9 percent. For comparison purposes, below are the first payment promptness percentages for New Jersey, New York, and Pennsylvania from July 2019 through December 2022:



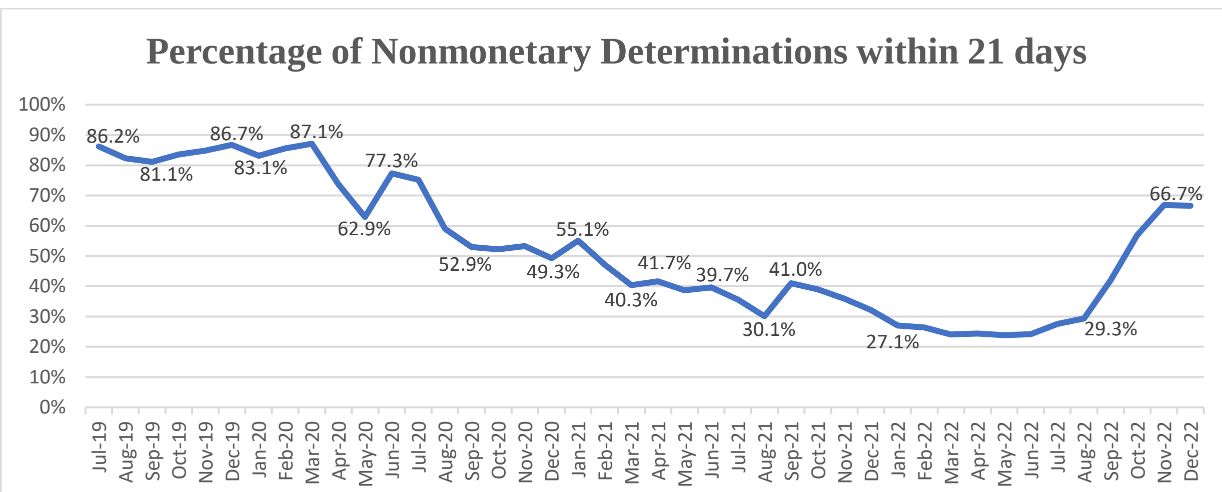
Source: USDOL

Adjudication Backlog

Adjudication is the process in which the division has additional questions about a claim when making a benefit eligibility determination. According to division personnel, the largest backlog of open adjudication cases waiting for an eligibility determination was approximately 200,000 cases in calendar year 2020. There were approximately 105,000 open cases as of September 2021; 91,000 as of December 2021; 60,000 as of February 2022; and 30,000 as of May 2022. To address the backlog of adjudication cases and the loss of claim examiners owing to promotion and retirement, the division began hiring examiners in June 2020 and hired approximately 100 examiners throughout the pandemic.

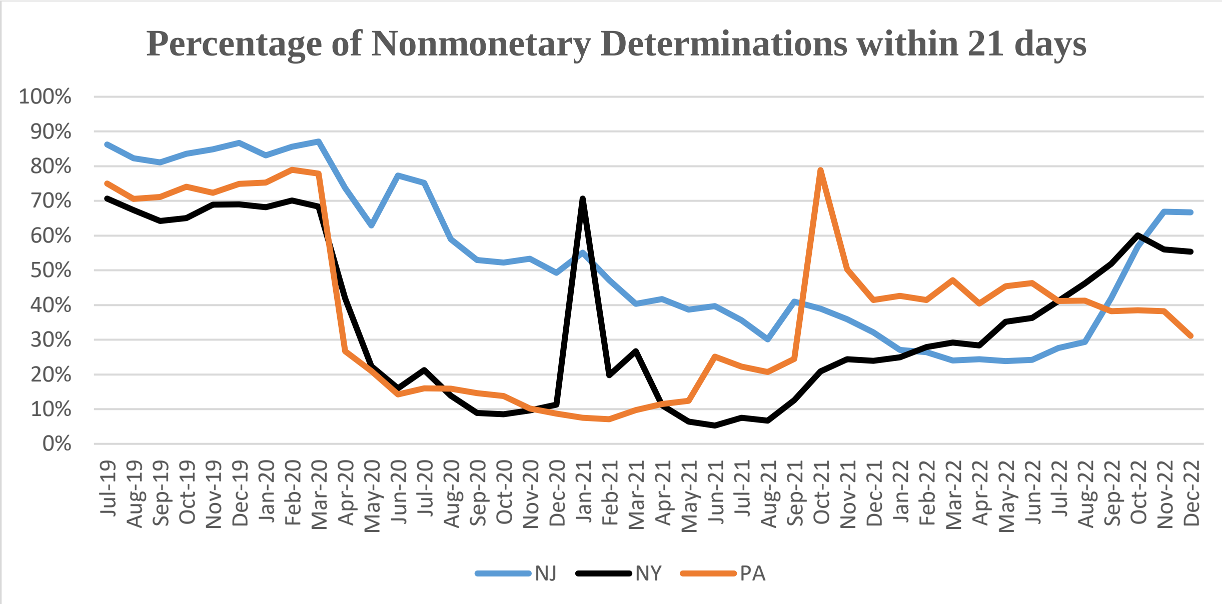
Nonmonetary Determination Time Lapse

A nonmonetary determination is a determination of eligibility regarding a specific issue or circumstance other than monetary eligibility that may affect benefit eligibility, such as quitting a job or being discharged for misconduct. The USDOL UI nonmonetary determination time lapse core measure ALP requirement states that 80 percent of nonmonetary determinations should be made within 21 days of the date of detection of any nonmonetary issue that has the potential to affect a claimant's benefits rights. The division met the 80 percent requirement from July 2019 through March 2020 but did not meet the requirement from April 2020 through December 2022. Below is the total monthly percentage of nonmonetary determinations made within 21 days for July 2019 through December 2022:



Source: USDOL

From April 2020 through December 2022, New Jersey averaged 44.3 percent of nonmonetary determinations made within 21 days compared to the national average of 48.6 percent. For comparison purposes, the chart on the next page illustrates the total monthly percentages of nonmonetary determinations made within 21 days for New Jersey, New York, and Pennsylvania from July 2019 through December 2022:



Source: USDOL

Staffing

The department temporarily reassigned employees internally to assist with UI functions, including the processing of claims; other UI-related functions, such as work typically completed by the Division of Information Technology and the Office of Research and Information; and work specifically related to the CARES Act. Retired division employees were rehired and dedicated to UI operations and UI information technology-related functions. The retired employee headcount was 18 full-time employees (FTE) as of June 30, 2020, and 30 FTE as of June 30, 2021. In July 2020, there were 76 Department of the Treasury, Division of Taxation employees who were temporarily reassigned to the division to work various part-time schedules equal to approximately 20 FTE. Below are the total FTEs and headcounts of internally reassigned division employees:

DOL FTEs

	UI Functions				
Date	UI Claims	Other UI-Related Functions	CARES Act Functions	Total FTEs	Total Headcount
3/1/2020	4.9	39.6	-	44.5	68
6/30/2020	46.8	22.1	64.5	133.4	356
6/30/2021	70.9	20.2	41.3	132.4	235

Fraud Prevention

In the months following the emergence of the pandemic, the department implemented a number of measures to strengthen its anti-fraud efforts. On September 4, 2020, the department and the New Jersey Office of Information Technology (OIT) implemented a data observability fraud tool to assist in the prevention of UI fraud by identifying unusual trends in UI data, specifically suspicious claim activity. This enhanced the department's review of initial and continued weeks claims (certifications). During the early operation of the fraud tool, only web-based claims were being tested. The commonality reports were manually reviewed, and suspicious claims were suspended two to three times per week. In October 2020, automation of the fraud tool was implemented, and by November the tool was operating seven days a week and suspicious claims were suspended daily.

In March 2021, the department implemented a third-party identity proofing and verification tool. This tool enables claimants to verify their identity online using a self-service application to submit a social security card, driver's license, and other forms of identification. Claimants also have the option of completing the identification process via a live video conference session.

In April 2021, the department was able to build and customize a risk-based analysis (RBA) score for all claims, whether the claim is filed by phone or through a web-based portal. According to the department, web-based claims accounted for approximately 85 percent of the claim population, and the RBA implementation reduced the false-positive claim suspension, thereby reducing delays while increasing overall fraud identification accuracy. In June 2021, the department implemented a working dashboard for investigative employees to allow for the continuous monitoring of claims. Additionally, during fiscal year 2021, the department dedicated a Cyber Fraud Investigations unit to combat suspicious claim activity.

During the pandemic, several other states found issues related to improper payments made to incarcerated individuals. One state reported it paid over $140 million in unemployment claims to more than 20,000 individuals who did not appear to be eligible for UI benefits because they were incarcerated. We did not find this to be an issue in New Jersey because the division had controls in place prior to the pandemic to help prevent improper payments to incarcerated individuals.

Contracted Call Center Metrics

The department contracted with a call center to expand the division's capability to address the significant increase in the number of calls received by the division's three call centers. The contractor began call center operations in June 2020 and was responsible for handling and assisting claimants with the filing of their initial claims and answering high-level unemployment-related inquiries.

We analyzed select key metrics of the call center contractor's Call Performance reports from June 2020 through April 2022. These metrics included the total number of inbound calls, calls answered, lines busy, and calls abandoned (inbound calls that entered the queue but were disconnected before speaking to a call agent). We noted a considerable spike in lines busy from

June 2020 through August 2020 before declining until June 2021 and then steadily increasing through September 2021. From June 2020 through April 2022, there was a total of 8,183,114 inbound calls, with 3,053,685 (37 percent) calls answered, 3,060,230 (37 percent) calls that encountered a busy line, and 448,665 (6 percent) calls abandoned.

Findings

Contracted Call Center

The call center contractor did not meet contract standards and requirements.

The call center contract services began operating on June 17, 2020 and continued through June 16, 2022. The division informed us there was no need for the contract to continue beyond June 2022 because the call volume was projected to be handled and managed by the division's three call centers. Total expenditures for the call center contract were $51.8 million. A liquidated damages clause was not included in the call center contract.

The USDOL, Employment and Training Administration (ETA), UI Program Letter No. 12-01, Section 5a states that many functions relating to the unemployment compensation (UC) program are inherently governmental and, therefore, may not be outsourced. Such functions include determining whether an individual will receive UC, the determination of employer liability and experience ratings, and the determination of adjudicated claims. Federal regulations did not allow contractor call agents to work directly on claims in any manner that would contribute to the determination of benefits. Contractor call agents were required to escalate all calls that required assistance for determination of benefits to the division.

Annual Customer Surveys

The contractor was required to annually survey customers regarding their satisfaction with call center services and provide an annual report to the division. The contract stated the goal was to initially meet an 85 percent customer satisfaction level with a continuing goal to increase customer satisfaction by 5 percent each year during the term of the contract. We requested the two annual surveys for calendar year 2020 and 2021 and found the contractor never produced any surveys regarding customer satisfaction levels.

Reconciliation of Monthly Call Performance Report

According to Department of the Treasury Circular No. 14-08-DPP, the appointed state contract manager is responsible for the overall management and administration of a state contract. The duties and responsibilities related to managing a state contract include communicating with the contractor, reviewing all contractor invoices, and ensuring the contractor is paid only for services rendered and goods delivered. A division employee was assigned as the call center's state contract manager.

The call center contractor submitted monthly invoices to the division that included a monthly call performance report identifying numerous daily metrics the contractor was responsible for reporting on a weekly basis. The performance metrics included, but were not limited to, the following: the total number of calls, referral calls (escalated calls), abandoned calls, answered calls and speed of answered calls, the number of times and duration of time all lines on the system were busy, and the average handle time. The daily total numbers of inbound answers, callback dials, and backdate dials equals the total number of monthly billable calls. According to management, the division monitors the vendor's call volume daily through its access to the vendor's call system; however, the division did not maintain support documenting its monitoring. As a result, we were unable to determine if the division reconciled the monthly call performance report, including the total number of billable calls, detailed in the contractor's invoices.

Contracted Call Center Operational Standards

Call Escalations

At the onset of the pandemic, the division received 4.7 million calls, and it estimated the anticipated number of potential calls would increase by 25 percent given the pending caseload of approximately 1 million claims. Escalation is the term used to define calls referred by the call center requiring resolution by one of the division's claim adjusters, who are federally authorized to work on existing claims. The contractor was required within the first three months of operation to respond and resolve 80 percent of calls received without transfer or referral to the division, with 83 percent resolved within six months, and 85 percent resolved within the first year. The contractor was expected to continuously increase this percentage during the term of the contract, but the contract did not specify the amount of the increase.

The contractor provided the division with monthly contractor call performance reports, which should have included daily call center statistics. We obtained the reports for the period June 2020 through April 2022 (23 months) to analyze escalation data and noted these statistics were not included in the reports for March, May, June, and September 2021. Furthermore, we found that the contractor only resolved 55 percent of calls after three months, 60 percent after six months, and 67 percent after one year, all of which were below the contract requirement. We also found that the contractor resolved 78 percent of calls for the first 10 months of the second year of operation. For the 19 months that the contractor reported escalation data, the contractor resolved approximately 73 percent of calls in total. The highest percentage of calls resolved during the term of the contract was 80 percent, which occurred for July and August of 2021. The chart on the next page summarizes call escalation data:

# of Months	Date	Monthly Calls Answered	Monthly Call Escalations	% of Calls Escalated	% of Monthly Calls Resolved
1	Jun-20	41,501	24,728	60%	40%
2	Jul-20	166,605	76,292	46%	54%
3	Aug-20	176,677	71,530	40%	60%
4	Sep-20	144,840	54,254	37%	63%
5	Oct-20	135,662	46,810	35%	65%
6	Nov-20	125,463	39,427	31%	69%
7	Dec-20	151,760	42,272	28%	72%
8	Jan-21	154,390	40,034	26%	74%
9	Feb-21	146,178	32,849	22%	78%
10	Mar-21	198,245	-	-	-
11	Apr-21	238,442	62,125	26%	74%
12	May-21	240,113	-	-	-
13	Jun-21	273,532	-	-	-
14	Jul-21	251,724	50,049	20%	80%
15	Aug-21	245,221	48,242	20%	80%
16	Sep-21	205,164	-	-	-
17	Oct-21	199,326	41,711	21%	79%
18	Nov-21	252,026	61,497	24%	76%
19	Dec-21	268,038	59,834	22%	78%
20	Jan-22	215,256	51,859	24%	76%
21	Feb-22	212,422	45,111	21%	79%
22	Mar-22	232,866	48,474	21%	79%
23	Apr-22	170,234	42,350	25%	75%

Average Speed of Answer

The average speed of answer (ASA) is the daily average time a call spends in the queue before being answered by a call agent. The contract operational standard for the daily ASA was not to exceed 10 minutes. We reviewed 663 days from June 17, 2020 through April 30, 2022 (excluding 20 observed holidays) and found that 431 days (65 percent) had an ASA time exceeding 10 minutes. We also found there were 72 days (11 percent) that had an ASA time exceeding 30 minutes, with the highest ASA exceeding 49 minutes. For 8 of the 23 months reviewed (35 percent), we found the monthly ASA exceeded 20 minutes, which was double the contract standard. The highest monthly ASA was 32 minutes in February 2021. The chart on the next page summarizes our results:

Date	# of days ASA did not exceed 10 minutes	% of days ASA did not exceed 10 minutes	# of days ASA exceeded 10 minutes	% of days ASA exceeded 10 minutes	Monthly ASA
Jun-20	2	14%	12	86%	0:21:01
Jul-20	1	3%	29	97%	0:25:35
Aug-20	1	3%	30	97%	0:24:06
Sep-20	7	24%	22	76%	0:12:34
Oct-20	0	0%	31	100%	0:20:41
Nov-20	1	3%	28	97%	0:20:00
Dec-20	1	3%	29	97%	0:20:33
Jan-21	2	7%	27	93%	0:23:52
Feb-21	0	0%	28	100%	0:32:25
Mar-21	2	6%	29	94%	0:28:14
Apr-21	5	17%	24	83%	0:17:33
May-21	7	23%	23	77%	0:14:42
Jun-21	8	27%	22	73%	0:13:13
Jul-21	8	28%	21	72%	0:14:49
Aug-21	6	19%	25	81%	0:14:58
Sep-21	4	14%	25	86%	0:14:03
Oct-21	9	29%	22	71%	0:10:30
Nov-21	25	86%	4	14%	0:05:19
Dec-21	28	100%	0	0%	0:02:38
Jan-22	29	100%	0	0%	0:04:29
Feb-22	27	100%	0	0%	0:02:11
Mar-22	31	100%	0	0%	0:00:47
Apr-22	28	100%	0	0%	0:00:47
Totals	232	35%	431	65%	

Call Abandon Rate

The operational contract standard for the call abandon rate was not to exceed five percent of total calls received. We reviewed 663 days from June 17, 2020 through April 30, 2022 (excluding 20 observed holidays) and found that 527 days (79 percent) had an abandon rate exceeding five percent. We found there were 273 days (41 percent) with an abandon rate exceeding 10 percent, which was double the contract standard. The highest daily abandon rate was 31 percent on June 17, 2020, the call center's first day in operation. For 6 of the 23 months reviewed (26 percent), the daily abandon rate exceeded five percent the entire month. The average abandon rate for all 663 days was nine percent. The chart on the next page summarizes abandoned call data:

Date	# of days Abandon Rate did not exceed 5%	% of days Abandon Rate did not exceed 5%	# of days Abandon Rate exceeded 5%	% of days Abandon Rate exceeded 5%	Average Monthly Abandon Rate
Jun-20	0	0%	14	100%	15%
Jul-20	0	0%	30	100%	11%
Aug-20	0	0%	31	100%	12%
Sep-20	3	10%	26	90%	8%
Oct-20	0	0%	31	100%	10%
Nov-20	0	0%	29	100%	11%
Dec-20	0	0%	30	100%	10%
Jan-21	1	3%	28	97%	10%
Feb-21	1	4%	27	96%	11%
Mar-21	2	6%	29	94%	13%
Apr-21	4	14%	25	86%	12%
May-21	6	20%	24	80%	10%
Jun-21	7	23%	23	77%	9%
Jul-21	5	17%	24	83%	11%
Aug-21	3	10%	28	90%	11%
Sep-21	4	14%	25	86%	10%
Oct-21	5	16%	26	84%	8%
Nov-21	9	31%	20	69%	8%
Dec-21	8	29%	20	71%	7%
Jan-22	9	31%	20	69%	8%
Feb-22	13	48%	14	52%	5%
Mar-22	28	90%	3	10%	2%
Apr-22	28	100%	0	0%	2%
Totals	136		527		

Call Monitoring of Inaccurate Information

The fourth and final operational contract standard was that no more than five percent of responses by call agents should contain inaccurate information. The contractor was also required to submit a weekly ad hoc call monitoring report that tracked call details, including whether or not the call agent accurately advised the claimant. The weekly monitoring reports include only the select calls that were monitored in real time or reviewed after the call occurred. The weekly reports are not cumulative of all calls received for the week. We found the division did not have a process in place for determining if the contractor was meeting the five percent contract standard.

We sampled call monitoring reports for three months (November 2021, February 2022, and April 2022), totaling 4,021 call agent responses, to determine the percentage of inaccurate information advised by a call agent to a claimant. Of the 4,021 call agent responses, there were 311 responses for which a call agent did not conclude whether inaccurate information was provided to a claimant. For November 2021, we found that 72 of 610 call agent responses (12 percent) contained inaccurate information. For February 2022, we found that 88 of 1,251 call agent responses (7 percent) contained inaccurate information. For April 2022, we found that 153 of 1,849 call agent responses (8 percent) contained inaccurate information. These percentages exceeded the five percent threshold.

Recommendation

We recommend the department monitor any future call center contract standards and requirements to ensure the proper handling of calls and customer satisfaction levels. A liquidated damages clause could incentivize contractors to meet contract standards.

Shared Work Program

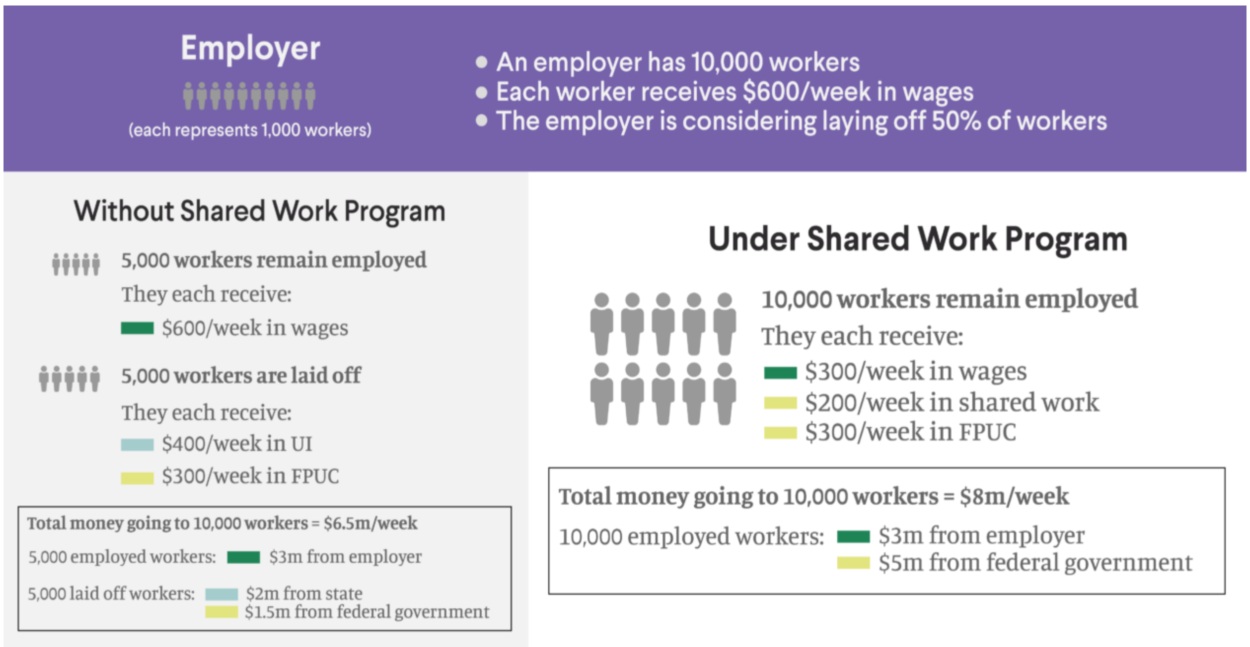
The division was not timely in marketing the Shared Work Program (SWP), which provides employers an alternative to employee layoffs.

On January 17, 2014, the governor signed the short-time unemployment benefit legislation (P.L.2001, c 154) allowing employers to reduce hours while employees receive some unemployment benefits through an SWP. The benefits payable to employees under an approved SWP are intended to be in lieu of layoffs. The purpose of the program is to stabilize the employer's work force during a period of economic disruption by permitting the sharing of the work remaining after a reduction in total hours of work. An employer who has at least 10 employees may apply to the division for approval to provide an SWP. Employers must complete an SWP application, which certifies to the division that the aggregate reduction in work hours is in lieu of layoffs, provides an estimate of the number of employees who would have been laid off in the absence of the program, and certifies that the employer will not hire additional employees while SWP benefits are being paid.

The advantages for employers under an approved SWP include: continuing to provide quality services by retaining skilled workers, allowing for trained work teams to remain intact as business improves, and avoiding the time and expense of hiring and training new employees. In addition, for some employers, the UI tax rate may be lower than if employees were completely unemployed. The advantages for employees in an SWP include: remaining employed and continuing to earn wages, retaining their health insurance and retirement benefits, and maintaining their job skills. In addition, the reduction in wages would be partially offset by UI benefits.

The CARES Act included three provisions that maximized the SWP: 100 percent federal funding for states with an already existing SWP, a pause on employer contributions, and Federal Pandemic Unemployment Compensation (FPUC) payments through September 6, 2021. The CARES Act FPUC program provided increased benefits for workers collecting UI benefits for claims effective from March 27, 2020 through September 6, 2021.

A Roosevelt Institute briefing document was issued March 23, 2021 titled *Shared Work: The Little-Known Program that Could Prevent Layoffs, Relieve State Budgets, and Boost the Economy*. The document analyzed unemployment data from the pandemic. It demonstrated the scale of potential savings to states and of additional payments to workers when states participate and encourage an SWP and offers policy recommendations. The illustration below is an example of an employer with 10,000 employees and the potential savings associated with an SWP:



Roosevelt Institute briefing, "*Shared Work: The Little-Known Program that Could Prevent Layoffs, Relieve State Budgets, and Boost the Economy"*

The briefing explains how state budget savings could have been achieved by converting just 20 percent of claims into an SWP, assuming employers laid off an average of one in five employees. The briefing also discussed how states can participate in the SWP as employers to assist in eliminating public-sector layoffs and referenced the state of Michigan:

> *"Between May 17 and July 25 of last year, 31,000 Michigan state employees—more than half the state's 48,295—took one furlough day per week, saving the state $80 million in wages and millions more in unemployment insurance payments, while supporting these workers and their families with reduced hours and increased pay (LeBlanc 2020)."*

Marketing

Prior to the pandemic, from July 14, 2019 through March 15, 2020, there was a total of 106 SWP claims totaling $760,971. The division determined it was necessary to contract with a vendor to provide useful SWP marketing deliverables to better assist in communicating with businesses during the pandemic to provide employers an alternative to employee layoffs. The USDOL, ETA, UI Program Letter No. 10-20, dated March 12, 2020, “strongly urge states to consider implementing and promoting use” of the SWP, which could prevent layoffs where possible.

On April 7, 2021, more than a year after the CARES Act was signed into law, the department advertised a mini-bid request of three deliverables needed to market the SWP. The three deliverables included a promotional video outlining the benefits of the SWP and defining the eligibility criteria, an onboarding educational webinar designed to help newly approved employers navigate participation in the SWP process, and employee-facing literature informing employees of their rights and responsibilities during their employer’s participation in the SWP. The initial purchase order of $107,575 was submitted to the vendor on August 25, 2021, which was less than two weeks before the 100 percent federal funding of the SWP expired. The promotional video and employee-facing literature were due within 45 days from the awarding of the mini-bid, while the onboarding educational webinar was due within 60 days. The SWP deliverables were not available on the department’s website until October 6, 2022, at which point the SWP was no longer 100 percent federally funded.

From June 1, 2020 through January 31, 2023, the division processed 11,765 initial SWP claims. Total SWP claims compensated during that time period totaled approximately $21.0 million.

Cost Savings

In response to the COVID-19 pandemic, in June of 2020 the Executive Branch signed a Memorandum of Agreement with a state employee union agreeing to various conditions to offset the impact of the pandemic on state revenues to avoid layoffs. This included two sets of furlough days for the union members totaling twelve days. Of the twelve furlough days, ten were eligible for unemployment benefits under the CARES Act FPUC program because they were to be taken between June 29 and July 31, 2020. The remaining two furlough days were unpaid holiday furlough days on November 27, 2020 and February 15, 2021.

We analyzed union members who were furloughed from June 29, 2020 through August 1, 2020 (earliest compensable week ending for filing of UI benefits that includes July 31, 2020) and verified that members were active union members during the periods for which UI claims were submitted. We determined there was a total of 18,245 active members who received UI benefits totaling $20,517,944. In addition, we analyzed New Jersey employers who could have potentially enrolled in the SWP by reviewing employer UI claims from April 5, 2020 through August 29, 2021 with benefit payments through September 4, 2021. We identified 973 employers with a total of 30,280 UI claims totaling $181,610,353.

The division could have utilized its resources to ensure furloughed union member claims would be cost beneficial to the state. Once the CARES Act was signed into law, the division could have established a timely marketing plan for its existing SWP to ensure timely exposure of the program among employers in New Jersey. With the CARES Act covering 100 percent of the costs, the state could have saved up to $20,517,944 by converting furloughed union members claims to the

SWP and at least $36,322,071 for the Unemployment Compensation Fund by converting 20 percent of the New Jersey employer claims.

Recommendation

We recommend the division establish timely marketing efforts for programs, such as the SWP, that provide state savings and benefit New Jersey employers and employees.

Collection and Disbursement Services

The department's Collection and Disbursement Services Request for Proposal (RFP) did not contain language requiring fraud prevention embedded chip technology for prepaid debit cards.

The Department of the Treasury, on behalf of the department, is responsible for requesting proposals from qualified financial institutions to provide banking services for the department for the establishment of 23 state accounts and the timely processing of all banking services associated with those accounts. The department's RFP applies to all prepaid debit cards issued by the banking vendor. Our audit scope only included prepaid debit cards issued for the UI program.

Claimants can choose to have their UI benefits issued to a prepaid debit card, and cards are automatically issued for claimants who do not submit direct deposit banking information during their initial claim filing. The prepaid debit cards are mailed without funds to the claimant 10 days after the division reviews the claimant's application. The reasons a claimant may not receive money on a prepaid debit card are for ineligibility of benefits, if the claim was suspended by one of the division's fraud initiatives, or if a claimant submits direct deposit banking information after filing the claim.

The most recent and current Collection and Disbursement Services RFP was awarded on July 27, 2021 and commenced on October 1, 2021 for a five-year term with the option to extend the contract for one-year periods, or any portion thereof, if deemed in the best interest of the state to do so. The RFP "requires a customized, refillable, magnetic card that must be either VISA or MasterCard branded." This language is identical to the prior RFP, which was in effect from October 1, 2013 through September 30, 2021.

A "magnetic card" has a magnetic stripe on the back of the card that includes coded personal information, which can be relatively easy for an outside party to access because the coded information on the stripe never changes. An increasingly common, more secure method of payment is a card with a magnetic stripe that also uses embedded chip technology. Embedded chip technology consists of a small computer chip embedded in the card that stores personal information and interacts with the point-of-sale system during a transaction and creates a unique transaction identification code. The generation of a unique transaction identification code for every point of sale keeps personal information more secure and better protects consumers from identity theft.

While the department's Collection and Disbursement Services RFP did not include language requiring embedded chip technology, the currently contracted banking vendor's response to the RFP stated: "counterfeiting of cards is counteracted using chips versus a magnetic stripe card, given that the magnetic stripe data is static, and the chip generates a dynamic identifier with every transaction that is validated at authorization by the processing system." All UI debit cards issued by the current banking vendor include embedded chip technology and were issued beginning May 18, 2022.

From January 2018 through May 2022, there were 627,954 magnetic stripe prepaid debit cards issued for UI benefits by the prior banking vendor, totaling approximately $4.2 billion. Embedded chip technology has been proven to be an effective fraud prevention tool. The lack of RFP language requiring embedded chip technology for UI debit cards poses a risk to the protection of UI funds.

Recommendation

We recommend the department include language requiring prepaid debit cards to contain embedded chip technology or other effective fraud prevention security features in future Collection and Disbursement Services RFPs.

Nonmonetary Adjudications

Nonmonetary adjudication cases with no response to the division's online questionnaire are not closed timely, resulting in an overstated backlog of open cases.

The adjudication process begins when a worker files a claim and an issue is identified at the time of filing that could impact the eligibility of the claim. For claimants who have an email address on file with the division, the process is referred to as an e-adjudication. Once this process is initiated, a secure web link to a questionnaire is sent to the claimant and employer (if necessary) to be completed. Prior to the pandemic, claimants had up to 10 days to complete the questionnaire before the secure link to the questionnaire expired. In October 2020, the division increased the questionnaire completion time to 21 days. The division has the authority to make a determination based on the information provided to them, or lack thereof. During the pandemic, the division was inundated with claims creating a significant backlog of open nonmonetary adjudication cases. A contributing factor to the significant backlog was the division not being adequately staffed with claim examiners.

Closed Nonmonetary Adjudication Cases

There were 399,334 nonmonetary adjudication cases closed from August 7, 2020 through May 6, 2022 that took 90 to 577 days for a determination to be made. Of the 399,334 cases, there were 40,976 cases (10 percent) that took more than 300 days for a determination to be made. We created ranges from the 90 to 577 case age days to judgmentally select our testing population of 100 cases, with 40 percent of the population being cases that took over 300 days to be closed:

Case Age Range (days)	Total # of Cases	% of Total Cases	Cases Tested	# of No Reponses of Cases Tested
90-120	84,337	21.1%	15	6
121-180	108,619	27.2%	20	9
181-300	165,402	41.4%	25	10
301-577	40,976	10.3%	40	13

Of the 100 cases tested, we found 38 claimants did not respond to the questionnaire, including 13 cases that remained open from 301 to 577 days. Of the 62 claimants who responded to the questionnaire, we found that 46 claimants (74 percent) responded to the questionnaire within two days of receiving the secure link.

Open Nonmonetary Adjudications

There were 3,924 nonmonetary adjudication cases open for 90 days or more as of May 6, 2022, with the number of days these cases remained open ranging from 90 to 329 days. We judgmentally selected 100 open cases and found that 40 claimants had not responded to the questionnaire, and these cases remained open for 90 to 250 days. Of the 60 claimants who responded to the questionnaire, we found that 33 claimants (55 percent) responded to the questionnaire within two days of receiving the secure link.

Recommendation

We recommend the division timely monitor and close nonmonetary adjudication cases with no response after the questionnaire web link expires and no determination could be made by the claim examiner, thereby allowing claim examiners to prioritize cases with responses to the questionnaire.

Appendix

Methodologies to Achieve Audit Objectives

We reviewed bank account data for dates of claims from July 1, 2019 through April 5, 2021. We judgmentally and randomly selected a total of 40 bank accounts (36 checking accounts and 4 savings accounts) and up to 5 claimants per bank account, which included a total of 186 claimants, to determine if multiple claimants received benefits to the same bank account.

We judgmentally selected two dates from the Administrative Office of the Courts (AOC) incarceration matches and one date from the Department of Corrections (DOC) incarceration matches. We selected 100 percent (47) of the matches from the October 3, 2021 and October 11, 2021 AOC data and randomly selected 100 of the 334 matches from the June 14, 2020 DOC data to determine if the division's internal control process preventing incarcerated individuals from receiving UI benefits was working properly. We also reviewed the New Jersey Internal Revenue Service (IRS) Offenders file from January 1, 2019 through October 14, 2021 and matched it to UI claims data to determine if the IRS Offenders file could provide additional information for the division related to incarcerated individuals.

We ran a query of all claims paid from July 14, 2019 through August 17, 2021 against the Department of Health Vital Statistics (VS) death records from calendar year 2006 through 2021 and noted 382 matches. We judgmentally selected 50 of the 382 claimants and compared personal identification information to the VERIS social security database and Accurint public records to determine if deceased individuals were receiving UI benefits. Additionally, we utilized LOOPS to determine if there were delays in benefits for claimants who are deceased according to VS but were determined to be alive through research.

Additionally, we identified all social security numbers (SSN) with a date of claim from March 19, 2020 through October 8, 2020 where the department's ICON verification service was disabled. This resulted in 1,143,457 unique SSNs. Then we removed all SSNs that matched to the division's fraud database leaving a total population of 1,106,705 SSNs. We sorted the SSN population from smallest to largest and completed a match of the first 299,999 SSNs to the VERIS social security database. We judgmentally selected 50 claimants matched by the two databases, where the VERIS validity of the SSN was listed as either "invalid" or "maybe" to determine if any deceased individuals were receiving benefits. We also used the match between the claims and VERIS social security databases to determine if minors were receiving benefits.

The Fraud Prevention and Risk Management unit estimated between 90 to 98 percent of emails received were related to identify theft. We judgmentally selected 101 unread fraud emails from seven different dates between August 31, 2021 through September 29, 2021 to identify the percentage of emails received related to identify theft and those where investigations were needed to be performed by the division. We also submitted a test fraud email to determine how long it would take the division to reach our submission for review.

PHILIP D. MURPHY
Governor

TAHESHA L. WAY
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State of New Jersey

DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT
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ROBERT ASARO-ANGELO
Commissioner

September 25, 2023

Brian M. Klingele, Assistant State Auditor
Office of the State Auditor
PO Box 068
Trenton, New Jersey 08625-0068

Dear Mr. Klingele:

Thank you for the opportunity to include our comments with your audit report for the New Jersey Department of Labor and Workforce Development (NJDOL), Unemployment Insurance (UI). We appreciate and agree with your conclusion that the division's internal controls over the review and processing of UI claims were adequate, and that the division was in compliance with applicable laws and regulations. We appreciate the recognition of the NJDOL's massive effort, dedication, and innovation in addressing the unprecedented volume and complexity of various Unemployment Insurance programs in effect during the Pandemic. We generally agree with the State Auditor recommendations contained in the report as they pertain to the audit period.

Please see the NJDOL responses to individual recommendations below:

Finding: Contracted Call Center – The call center contractor did not meet contract standards and requirements.

State Auditor Recommendation: We recommend the department monitor any future call center contract standards and requirements to ensure the proper handling of calls and customer satisfaction levels. A liquidated damages clause could incentivize contractors to meet contract standards.

NJDOL Response: The Department agrees to monitor any future call center contract standards and requirements to ensure the proper handling of calls and customer satisfaction levels. The Department also agrees to consider a liquidated damages clause.

In response to the findings that the vendor exceeded the contractual requirements for escalation rates and percentage of inaccurate information, the Department notes while these statements are factually accurate, they are provided without full context. We would like to highlight that during the COVID19 pandemic, federal rules and regulations regarding Unemployment Insurance changed over 30 times resulting in over 7,000 pages of guidance to review, interpret, comprehend, and implement. This was no simple task for the most seasoned UI employees, let alone new contract call center agents.

Finding: Shared Work Program – The division was not timely in marketing the Shared Work Program (SWP), which provides employers an alternative to employee layoffs.

State Auditor Recommendation: We recommend the division establish timely marketing efforts for programs, such as the SWP, that provide state savings and benefit New Jersey employers and employees.
NJDOL Response: The Department agrees and has implemented a broad marketing campaign for SWP in October 2022. NJDOL appreciates State Auditor recognition that NJDOL was able to grow SWP from $760,971 prior to the pandemic to approximately $21.0 million for the period from June 1, 2020, through January 31, 2023.

<u>Finding</u>: Collection and Disbursement Services - The department's Collection and Disbursement Services Request for Proposal (RFP) did not contain language requiring fraud prevention embedded chip technology for prepaid debit cards.

<u>State Auditor Recommendation</u>: We recommend the department include language requiring prepaid debit cards to contain embedded chip technology or other effective fraud prevention security features in future Collection and Disbursement Services RFPs.

<u>NJDOL Response:</u> Banking services contracts are managed by the Department of Treasury. The RFP issued for banking services in 2021 did not include language requiring the use of chip technology on prepaid debit cards to help mitigate fraud. However, New York Community Bank indicated in their response to the RFP on pages 8, 39 (twice) and 494 their use of chip technology on their Money Network prepaid debit card.

<u>Finding:</u> Nonmonetary Adjudications - Nonmonetary adjudication cases with no response to the division's online questionnaire are not closed timely, resulting in an overstated backlog of open cases

<u>State Auditor Recommendation</u>: We recommend the division timely monitor and close nonmonetary adjudication cases with no response after the questionnaire web link expires and no determination could be made by the claim examiner, thereby allowing claim examiners to prioritize cases with responses to the questionnaire.

<u>NJDOL Response:</u> The Division has an obligation to make a determination for cases of this type based on all available information, which, at this time, is only possible by an agent. An agent may be able to collect necessary information from other sources available to NJDOL. We will reinforce our policies by issuing reminders to staff as to the Division's proper procedures in the handling of these types of cases.

If you have any questions or concerns, please contact Theresa Vallely, Director, Office of Internal Audit at Theresa.Vallely@dol.nj.gov.

Sincerely,

Robert Asaro-Angelo
Commissioner

c: Julie Diaz
Kim Walker
Gordon V. Horvath Jr.
Kathleen Bencivengo
Ron Marino
Greg Castellani
Theresa Vallely
Irene Torunoglu
Dara Barry