

IMPROPER PAYMENTS IN THE UNEMPLOYMENT INSURANCE
PROGRAM: INELIGIBLE RECIPIENTS BASED ON INCOME

LOUISIANA WORKFORCE COMMISSION



PERFORMANCE AUDIT SERVICES

DATA ANALYTICS UNIT

MARCH 31, 2021

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AT 225-339-3800.**

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March 31, 2021

The Honorable Patrick Page Cortez,
President of the Senate
The Honorable Clay Schexnayder,
Speaker of the House of Representatives

Dear Senator Cortez and Representative Schexnayder:

This report provides the results of our evaluation of select Unemployment Insurance programs administered by the Louisiana Workforce Commission (LWC). The purpose of this evaluation was to identify potentially improper payments LWC made to individuals who appear to have been ineligible for unemployment benefits based on their income.

Our report analyzed wages reported to LWC by employers for the period of January 2020 through September 2020. In order to qualify for State and select Federal Unemployment Insurance benefits during the COVID-19 pandemic, individuals with wages reported to LWC by employers were required to have (1) been classified as an employee by their employer; (2) lost income or their job through no fault of their own; and (3) earned no more than \$247 per week from any secondary employer or source of income.

To determine an individual's eligibility for these benefits, LWC compares information submitted by the applicants to reports employers are required to file with LWC. We found that LWC made unemployment benefit assistance payments totaling approximately \$405.3 million to 97,585 individuals who do not appear to have been eligible for these programs.

LWC indicated that its ability to verify individuals' eligibility for unemployment benefits was hampered by the significant increase in the number of applications submitted during the COVID-19 pandemic and legislative action that gave employers additional time to submit their wage reports to LWC.

This report contains our findings, conclusions, and recommendations. I hope it will benefit you in your legislative decision-making process. We would like to express our appreciation to LWC for its assistance during this audit.

Respectfully submitted,

A handwritten signature in blue ink that reads "Thomas H. Cole". The signature is written in a cursive style.

Thomas H. Cole, CPA, CGMA
Temporary Legislative Auditor

THC/aa
LWC UI WAGES

Louisiana Legislative Auditor



Improper Payments in the Unemployment Insurance Program: Ineligible Recipients Based on Income Louisiana Workforce Commission

March 2021

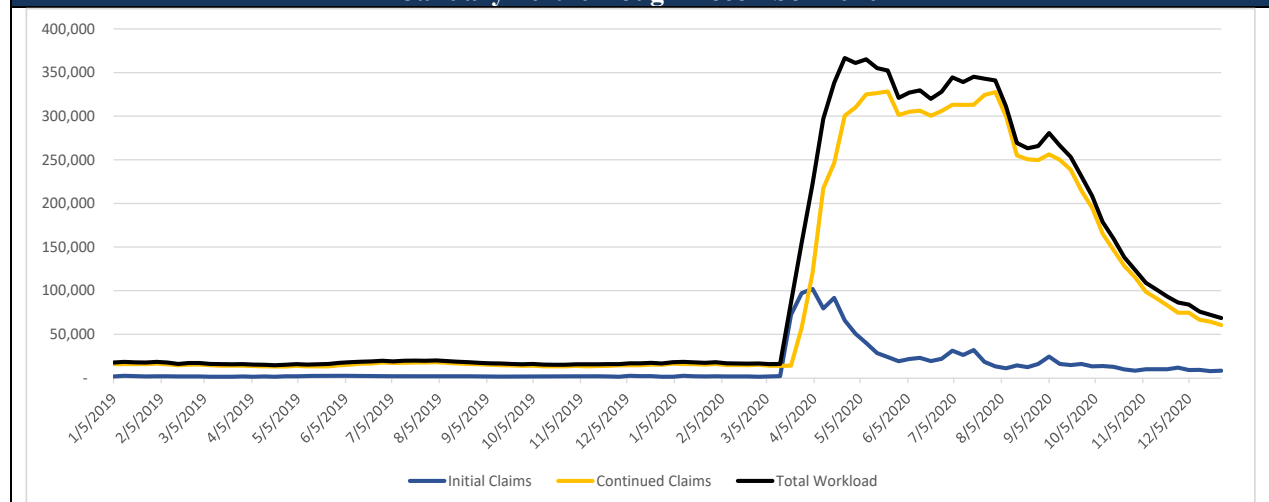
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Introduction

We evaluated the Louisiana Workforce Commission’s (LWC) Unemployment Insurance program (State UI) and federally-funded COVID-19 pandemic-related unemployment assistance programs (Federal UI) to determine if individuals who do not appear to have been eligible based on their income received unemployment benefits. We conducted this audit because of the significant increase in costs and the number of applicants for unemployment benefits during the COVID-19 pandemic, which totaled \$6.87 billion in payments for 694,391 individuals from March 28, 2020, through December 31, 2020. Louisiana’s seasonally adjusted unemployment rate grew from 5.2% in February 2020 to 13.1% in April 2020,¹ and the total number of unemployment claims increased by more than 2,000%, from 16,798 on February 29, 2020, to 366,798 on April 25, 2020.² See Exhibit 1 for the rise in initial and continued unemployment claims from January 2019 through December 2020 as a result of the COVID-19 pandemic.

UI was established by the Federal Social Security Act in 1935 to provide workers whose jobs have been terminated through no fault of their own, monetary payments for a set period of time or until they find new employment.

Exhibit 1
Initial and Continued Unemployment Claims
January 2019 through December 2020



Source: Prepared by legislative auditor’s staff using information from LWC.

¹ United States Bureau of Labor and Statistics, as of March 24, 2021.

² To further combat the spread of COVID-19 in Louisiana, Governor John Bel Edwards issued a Stay at Home Order on March 22, 2020, directing all Louisiana residents to shelter at home and limit movements outside of their homes beyond essential needs.

Also, Act 243 of the 2020 Regular Legislative Session delayed the reporting of employee wages by employers to LWC for the second quarter of calendar year 2020 (April 1, 2020, through June 30, 2020) by 45 days. Wage information is a key control used by LWC to verify income attested to by individuals applying for and already receiving unemployment benefits. In addition, our office received multiple legislative and public requests to analyze various issues within LWC’s unemployment benefit programs.

Louisiana provides weekly State UI benefits of \$10 to \$247 to unemployed individuals who lost wages or were separated from employment through no fault of their own. The amount of State UI benefits paid to an individual on a weekly basis is determined by the amount of lost wages and the amount of income received from other sources of employment. In addition, as part of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), the federal government began paying multiple forms of Federal UI benefits, including an additional \$600 in Federal UI benefits to anyone who qualified for State UI benefits. See Exhibit 2 for a summary of the number of individuals who received benefits and the amount of benefits paid out for State and Federal UI between March 28, 2020, and December 31, 2020.

Exhibit 2				
State and Federal COVID-19 Pandemic-Related Unemployment Benefits and Statistics				
March 28, 2020 through December 31, 2020				
Program Name	Description	Weekly Benefit Range	Number of Individuals	Amount
State UI	Traditional State UI program. Duration and amounts based on state law.	\$10 to \$247	479,194	\$1,414,641,392
Federal UI	Includes various Federal UI programs established by the CARES Act, other Federal legislation, or Presidential Executive Orders. The duration of these benefits varies by program.	\$10 to \$600	672,305	5,458,129,582
Total			694,391*	\$6,872,770,974
* The total number of individuals does not equal the sum of the individuals in each program since individuals can be in more than one program.				
Source: Prepared by legislative auditor’s staff using information and data from LWC.				

The objective of this audit was:

To identify potential improper payments LWC made to individuals who appear to be ineligible for Unemployment Insurance benefits based on their income.

Our results are summarized on the next page and discussed in detail throughout the remainder of the report. Appendix A contains LWC’s response to this report, and Appendix B details our scope and methodology.

Objective: To identify potential improper payments LWC made to individuals who appear to be ineligible for Unemployment Insurance benefits based on their income.

Overall, we found that LWC made approximately \$405.3 million in State and Federal UI payments to individuals who do not appear to have been eligible for these programs based on their income.³ According to LWC, the significant increase in the number of applicants due to the COVID-19 pandemic, and legislative action that gave employers additional time to submit their wage reports, affected LWC's ability to verify that the income self-reported by individuals on their applications was accurate.

Our report analyzed wages reported to LWC by employers for the period of January 2020 through September 2020. In order to qualify for State and Federal UI benefits during the COVID-19 pandemic, individuals with wages reported to LWC by employers were required to have (1) been classified as an employee by their employer; (2) lost income or their job through no fault of their own; and (3) earned no more than \$247 per week from any secondary employer or source of income. To verify eligibility, LWC compares information submitted by the applicant to quarterly wage reports from employers that detail the wages the individual earned and the months that the individual was employed to ensure the lost income reported on the individual's application is accurate. LWC also compares information submitted by the employer upon the individual's separation from employment and/or after the individual files an unemployment application to confirm that the applicant worked at that employer, that they lost wages or their job through no fault of their own, and that the amount of wages earned prior to separation is accurate.

Using quarterly wage data obtained from LWC, we identified individuals who were employed in all three months of a quarter⁴ and earned, on average, more than \$247⁵ per week during that quarter. Exhibit 3 summarizes the amount of potential improper benefits and total individuals identified as a part of our analysis by quarter.

³ The amount of potential improper unemployment benefit payments reported in this finding is likely understated, as LWC was unable to provide the LLA with data for unemployment applications submitted after August 15, 2020. We also did not analyze individuals such as self-employed or gig workers receiving Pandemic Unemployment Assistance (PUA) because they do not have wages reported to LWC.

⁴ The first quarter is comprised of January, February, and March 2020. The second quarter is comprised of April, May, and June 2020. The third quarter is comprised of July, August, and September 2020.

⁵ Applicants who earn more than \$247 of income per week are not entitled to State UI and are therefore not eligible for the Federal UI benefits included in our analysis. For our analysis, we only included those individuals who earned, on average, \$250 or more per week.

Exhibit 3 Potential Improper Benefits by Quarter		
Quarter	Benefit Amount	Number of Individuals
First (January 1, 2020, through March 31, 2020)*	\$3,916,816	18,512
Second (April 1, 2020, through June 30, 2020)	252,196,329	62,484
Third (July 1, 2020, through September 30, 2020)	149,281,877	41,780
Total	\$405,395,022	97,585**
* Includes State and Federal UI benefits beginning on March 22, 2020.		
** This represents the unique number of individuals receiving benefits from March 2020 through September 2020. The total does not equal the sum of the number of individuals in each quarter due to some individuals receiving potential overpayments in multiple quarters.		

According to LWC, the following issues contributed to these potentially improper payments:

- An increase in the number of applications for unemployment benefits during the COVID-19 pandemic led to a backlog of documentation from former and/or current employers of applicants, causing delays in LWC’s ability to work through this documentation.*** In calendar year 2019, 103,785 initial unemployment claims were filed, averaging 1,996 per week. From the week ending March 21, 2020, through April 18, 2020, 443,586 initial unemployment claims were filed, averaging 88,717 claims per week. LWC compares information submitted by the applicant to information submitted by the employer to assist in making eligibility determinations. According to LWC, it makes eligibility determinations based on the self-reported information it receives from the applicant if the employer does not provide any information. In addition, LWC stated that the increase in the number of applications led to a large volume of employer responses and paperwork to analyze. In contrast, the lack of responses from other employers, some of which temporarily closed due to stay-at-home orders enacted at the beginning of the COVID-19 pandemic, limited LWC’s ability to make eligibility determinations based on complete and verified information. As a result, LWC paid unemployment benefits totaling \$359.6 million to 96,053 individuals during the periods of March 28, 2020 through July 31, 2020, and September 16, 2020 through December 31, 2020,⁶ who do not appear to have been eligible to receive unemployment benefits. Had LWC received and reviewed employer responses in a timely manner, a portion of these funds may not have been expended by LWC. According to LWC, it did not track the number of businesses that did not respond, nor did LWC track the amount of time it took for its staff to analyze information submitted by employers.
- Act 243 of the 2020 Regular Session delayed the quarterly reporting of employee wages for the second quarter by employers to LWC from July 31, 2020, to September 15, 2020, limiting LWC’s ability to verify unemployment benefit eligibility.*** Employers are required to report employee wages to LWC one

⁶ Our analysis included unemployment benefits paid between March 28, 2020, and December 31, 2020, to individuals for the eligibility period of March 22, 2020 through September 30, 2020.

month after the end of the calendar quarter⁷ being reported. For example, employers are typically required to send wage reports for the second quarter (ending June 30th) to LWC by July 31, 2020. This wage report details all employees working at that employer, the amount of wages they earned during the quarter, and whether they were employed in each month. Although this legislation was passed to ease the burden on businesses by allowing them to do less paper work and to defer associated taxes, according to LWC, this delay limited its ability to make eligibility decisions based on complete information and to identify individuals who may no longer be eligible.⁸ As a result, LWC paid unemployment benefits totaling \$45.7 million to 26,703 individuals between August 1, 2020, and September 15, 2020, who do not appear to have been eligible to receive unemployment benefits. Had LWC received the second quarter wage reports when they were originally due (July 31, 2020), all or a portion of these funds may not have been expended by LWC.

According to LWC, it is currently working through cases identified as potential fraud and/or overpayments. When fraud and/or overpayments are identified, LWC stated that it attempts to enter into a repayment agreement with the individual. If this is not accomplished, then LWC can collect on the individual's state and/or Federal taxes.

Recommendation 1: LWC should continue to investigate individuals who appear to earn more in wages than the amount allowed and re-coup dollars as appropriate.

Summary of Management's Response: LWC agreed with this recommendation and stated that it will continue to work through instances where potential unreported income is detected and will utilize collection attempts to regain any funds that have been determined to be overpaid. See Appendix A for LWC's full response.

⁷ Calendar quarters end on March 31st, June 30th, September 30th, and December 31st.

⁸ House Labor and Industrial and Relations Committee testimony, May 20, 2020.

https://house.louisiana.gov/H_Video/VideoArchivePlayer?v=house/2020/may/0520_20_LI

APPENDIX A: MANAGEMENT'S RESPONSE



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John Bel Edwards, Governor
Ava Dejoie, Secretary

Office of the Secretary

March 23, 2021

Mr. Thomas H. Cole, CPA, CGMA
Temporary Legislative Auditor
1600 North Third Street
Post Office Box 94397
Baton Rouge, Louisiana 70804-9397

Dear Mr. Cole:

The Louisiana Workforce Commission respectfully submits its management response to the recommendation included in the March 2021 Performance Audit Services Letter.

My administration continues to work diligently to detect and investigate potential unreported earnings fraud. Your review and report identifies some of the many unprecedented challenges my administration has faced since the start of the Pandemic.

While considerable work remains, our Agency is committed to addressing every challenge. Should you have any questions or need additional information, please feel free to contact my office at 225-342-3001.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ava Dejoie", is written over the word "Sincerely,".

Ava Dejoie
Secretary

Recommendation 1: *LWC should continue to investigate individuals who appear to earn more in wages than the amount allowed and re-coup dollars as appropriate.*

The Louisiana Workforce Commission (LWC) concurs and will continue our efforts.

The Pandemic forced a drastic shift in our attention and resources to the unprecedented occurrence of identity theft and scheme related activities, which typically result in high dollar losses that are significantly more difficult to recover than unreported earnings fraud. The additional \$600 in Federal Pandemic Unemployment Compensation (FPUC) added to unemployment benefits through the CARES Act, then the additional \$300 of Lost Wage Assistance (LWA) and then FPUC reinstated at \$300 with the Continued Assistance Act that was extended with the American Rescue Plan greatly incentivized countless criminal enterprises and bad actors to take advantage of already overwhelmed state workforce agencies nationwide. We are weeks away from implementing a new identity verification system, which will greatly reduce the strain that these identity theft/scheme frauds have placed on our resources and will help us to shift more attention back to other types of fraud cases. We have already detected cases of potential unreported wage violations and will continue to work through those.

Overpayments can be considered fraud or non-fraud overpayments. If the individual intentionally fails to report earnings, these overpayments will be determined fraudulent. If the individual does not show intent, such as, attempting to report wages but may have under-reported wages while estimating earnings, these are determined to be non-fraud overpayments. During the investigation of these cases, the LWC will contact both the employer and the individual to verify dates of employment and gross earnings. The claimant will be given the opportunity to provide a statement regarding the potential incorrectly reporting or failure to report earnings.

As mentioned in your report, when unreported earnings fraud and/or overpayments are identified, the LWC does attempt to enter into a repayment agreement with the individual, and if this is not accomplished, then the LWC can collect on the individual's state and/or Federal taxes. If the individual is determined to have committed fraud, the overpayment will be assessed as such and will include an additional 25% penalty. All penalties and principal balances derived from a failure to report earnings can be offset from Federal and State taxes. In addition, an additional one year penalty is assessed that will not allow an individual to receive state UI benefits during this timeframe. Fraudulent cases can also be referred for prosecution either on the state or federal level depending on the funding sources of the payments that were fraudulently obtained.

The LWC will utilize collection attempts to regain any funds that have been determined overpaid

The LWC would also like to notate the revised Unemployment Insurance (UI) rate in April 2020 was 12.7%

APPENDIX B: SCOPE AND METHODOLOGY

This report provides the results of our data analytics unit performance audit of the Louisiana Workforce Commission (LWC). We conducted this analysis under the provisions of Title 24 of the Louisiana Revised Statutes of 1950, as amended. This audit generally covered the period March 1, 2020, through December 31, 2020, although the LLA only received unemployment insurance application data from LWC through August 15, 2020. Our audit objective was:

To identify potential improper payments LWC made to individuals who appear to be ineligible for Unemployment Insurance benefits based on their income.

The scope of our audit was less than that required by generally-accepted *Government Auditing Standards* issued by the Comptroller General of the United States. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective. To answer our objective, we performed the following audit steps:

- Obtained unemployment insurance data from LWC, including information regarding applications, claimants, and benefit payments.
- Obtained quarterly wage data from LWC to identify wages earned by unemployment insurance program applicants and beneficiaries and to determine which months those individuals were employed.
- Researched and reviewed laws, rules, regulations, executive orders, and policies regarding the administration of and eligibility for unemployment insurance benefit programs.
- Analyzed unemployment insurance data and quarterly wage data to identify individuals who earned more than the allowable amount to qualify for unemployment insurance benefit programs. Specifically, we only included individuals in our first quarter of calendar year 2020 audit results if they were continuously employed in February, March, and April 2020 and our second and third quarter of calendar year 2020 results if the individual was continuously employed in all three months of that quarter. In addition, the individual also had to earn, on average, more than \$250 per week for a 14-week period during any individual quarter, or \$3,500, to be included in our analysis.