

IMPROPER PAYMENTS IN THE UNEMPLOYMENT INSURANCE
PROGRAM: INELIGIBLE INCARCERATED RECIPIENTS

LOUISIANA WORKFORCE COMMISSION



PERFORMANCE AUDIT SERVICES

DATA ANALYTICS UNIT

APRIL 28, 2021

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LOUISIANA LEGISLATIVE AUDITOR
MICHAEL J. "MIKE" WAGUESPACK, CPA

April 28, 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:

The purpose of this audit was to identify potential improper payments the Louisiana Workforce Commission (LWC) made to incarcerated individuals who, according to LWC policy and state law, were ineligible to qualify for Unemployment Insurance (State UI) and federally-funded COVID-19 pandemic-related unemployment assistance programs (Federal UI).

We found that LWC made approximately \$6.2 million in State and Federal UI payments to 1,195 incarcerated individuals who do not appear to have been eligible for the benefits.

Our analysis looked at individuals who were incarcerated during the period of January 2020 through November 2020. Under LWC's policy, incarcerated individuals are not eligible to receive unemployment benefits because they are unable to obtain employment, which is required by state law. To verify eligibility related to incarceration status, LWC performs a weekly match of individuals receiving unemployment benefits to incarceration data from LWC's vendor's national database.

According to LWC, this database contains 99 percent of the individuals incarcerated in Louisiana. To evaluate LWC's process, we used incarceration data from the Louisiana Department of Corrections to identify individuals who were incarcerated during the same weeks LWC determined they qualified for unemployment benefits. We found 92 individuals received only one week of benefits while they were incarcerated, which may indicate LWC identified them through its weekly data match and stopped payments.

However, 1,103 individuals received unemployment benefits for more than one week, including some individuals who received payments but were incarcerated the entire period of March 2020 through November 2020, which may indicate that LWC's weekly data match of individuals receiving unemployment benefits and incarcerated individuals did not work as intended.

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President of the Senate
The Honorable Clay Schexnayder,
Speaker of the House of Representatives
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We found that 968 (81.0 percent) of the 1,195 individuals identified through this analysis qualified through the Federal UI program designed for contractors and gig (occasional) workers, which was created as a part of the Coronavirus Aid, Relief, and Economic Security (CARES) Act. Contract and gig workers' income is not reported to LWC by employers, since these individuals are not classified as employees. As a result, LWC does not have electronic wage data to use for eligibility purposes and instead must rely upon the amount of income reported by the applicant on their application for unemployment benefits in order to make eligibility determinations.

LWC indicated these potentially improper payments occurred because its data match between its unemployment benefit information and its vendor's incarceration data did not work correctly. The agency is working with its vendor to identify and resolve the issue. In addition, LWC is working through cases identified internally as potentially fraudulent and/or overpaid, as well as cases identified by the LLA and other sources. According to LWC, it is taking steps to recoup payments for cases identified as fraudulent and/or overpaid.

The report contains our findings, conclusions, and recommendations. I hope this report will benefit you in your legislative decision-making process.

We would like to express our appreciation to the Louisiana Workforce Commission for its assistance during this audit.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Mike Waguespack", with a stylized flourish extending to the right.

Michael J. "Mike" Waguespack, CPA
Legislative Auditor

MJW/aa

Louisiana Legislative Auditor

Michael J. “Mike” Waguespack, CPA



Improper Payments in the Unemployment Insurance Program: Ineligible Incarcerated Recipients Louisiana Workforce Commission

April 2021

Audit Control # 82200009

Introduction

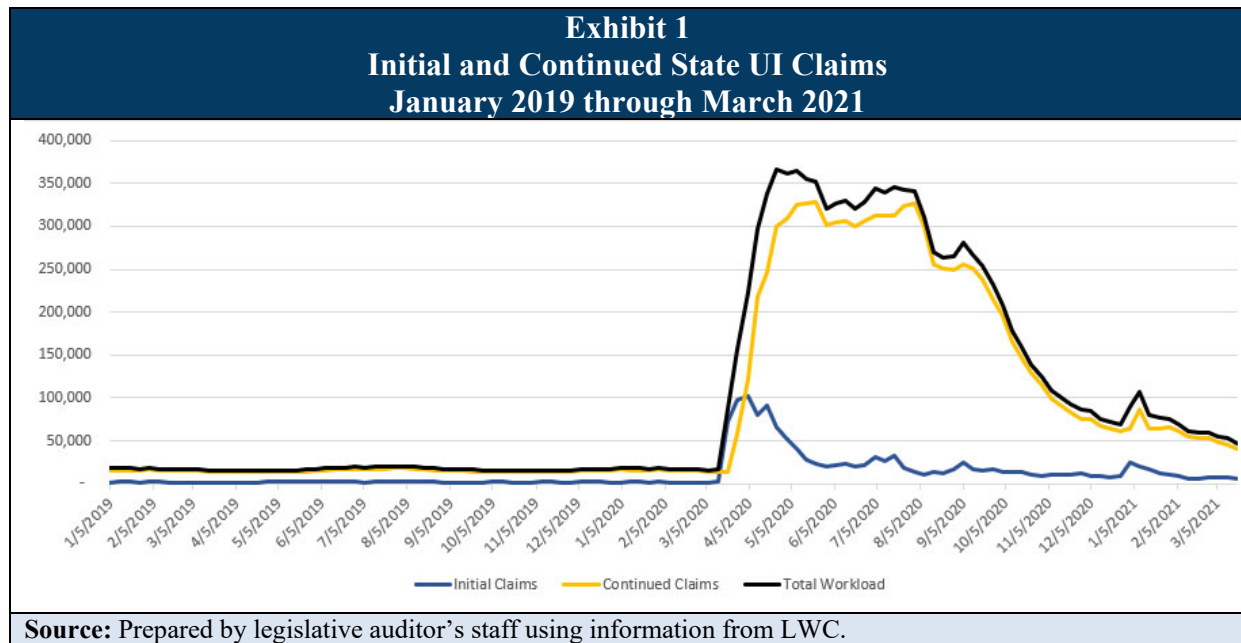
We evaluated the Louisiana Workforce Commission’s (LWC) Unemployment Insurance program (State UI) and federally-funded COVID-19 pandemic-related unemployment assistance programs (Federal UI) to determine if individuals who were incarcerated received unemployment benefits during the COVID-19 pandemic. According to LWC policy, incarcerated individuals are not eligible for unemployment benefits because they are unable to obtain employment, which state law¹ requires for individuals to be eligible for unemployment benefits. We conducted this audit because of the significant increase in costs and the number of applicants for State and Federal UI during the COVID-19 pandemic, which totaled \$8.14 billion in payments for 714,446 individuals between March 30, 2020, and March 31, 2021. Louisiana’s unemployment rate grew from 5.2% in February 2020 to 13.1% in April 2020,² and the total number of State UI claims increased by more than 2,000%, from 16,798 on February 29, 2020, to 366,798 on April 25, 2020.³ See Exhibit 1 for the rise in initial and continued State UI claims from January 2019 through March 2021 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.

¹ La. R.S. 23:1600.3(a)

² United States Bureau of Labor and Statistics, as of March 24, 2021.

³ 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, our office received numerous requests from legislators and the public to analyze various issues within LWC’s unemployment benefit programs. This report is the second in a series of reports on unemployment benefits paid during the COVID-19 pandemic. Our first report, *Improper Payments in the Unemployment Insurance Program: Ineligible Recipients Based on Income*,⁴ issued on March 31, 2021, 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 from March 2020 through September 2020.

Louisiana provides weekly State UI benefits of \$10 to \$247 to unemployed individuals who lost income 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 income and the amount of income received from other sources of employment. In addition, as a part of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), the federal government began paying multiple forms of Federal benefits, including an additional \$600 in Federal UI benefits to anyone who qualified for State UI. 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.

⁴[http://app.lla.state.la.us/PublicReports.nsf/0/171A039C44F4736E862586A900581586/\\$FILE/0002324CA.pdf?OpenElement&.7773098](http://app.lla.state.la.us/PublicReports.nsf/0/171A039C44F4736E862586A900581586/$FILE/0002324CA.pdf?OpenElement&.7773098)

Exhibit 2 State and Federal COVID-19 Pandemic-Related Benefits and Statistics March 30, 2020 through March 31, 2021				
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	492,242	\$1,501,636,779
Federal UI	Includes various Federal UI programs established by the CARES Act, other Federal legislation, or Presidential actions. The duration of these benefits varies by program.	Up to \$600	702,050	6,642,110,345
Total			714,446*	\$8,143,747,124
* 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 incarcerated individuals who were ineligible for Unemployment Insurance benefits.

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 incarcerated individuals who were ineligible for Unemployment Insurance benefits.

Overall, we found that LWC made approximately \$6.2 million in State and Federal UI payments to 1,195 incarcerated individuals who do not appear to have been eligible for these programs.⁵ According to LWC, data matches it conducts to identify incarcerated individuals receiving unemployment insurance benefits did not work properly during the COVID-19 pandemic, which contributed to these potential improper payments.

Our report analyzed individuals who were incarcerated during the period of January 2020 through November 2020.⁶ According to LWC policy, incarcerated individuals are not eligible to receive unemployment benefits because they are unable to obtain employment, which state law⁷ requires for individuals to be eligible for State and Federal UI benefits. To verify eligibility related to incarceration status, LWC performs a weekly data match of individuals receiving unemployment benefits to incarceration data from LWC's vendor's national database. According to LWC, this database contains 99% of the individuals incarcerated in Louisiana, including all of the Louisiana Department of Corrections' (DOC) state offenders housed in both state and local correctional facilities and non-state offenders in local jails, and 85% of federal incarceration data.

To evaluate LWC's process, we used incarceration data from DOC⁸ to identify individuals who were incarcerated during the same weeks in which LWC determined they qualified for unemployment benefits.⁹ Our analysis found that 92 individuals received only one week of benefits while they were incarcerated, which may indicate that LWC identified them through their weekly data match and stopped payments. However, the remaining 1,103 individuals received unemployment benefits for more than one week, including individuals who received unemployment benefits but were incarcerated the entire period of March 2020 through November 2020, which may indicate that LWC's weekly data match of individuals receiving unemployment benefits and incarcerated individuals did not work as intended. Exhibit 3 summarizes the amount of potential improper payments and the number of individuals who received unemployment benefits by duration.

⁵ 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.

⁶ While unemployment benefit payments related to the COVID-19 pandemic did not begin until March 2020, the Federal UI program designed for contractors and gig (occasional) workers, which was created as a part of the CARES Act, allowed individuals to receive benefits related to the COVID-19 pandemic for benefit weeks prior to March 2020.

⁷ La. R.S. 23:1600.3(a)

⁸ We analyzed data from the Louisiana Department of Corrections, which only contains individuals incarcerated by the state of Louisiana, including state offenders housed in state correctional facilities or housed in parish and private facilities throughout Louisiana. The LLA does not have access to federal incarceration data, and local jails do not have a uniform data system for reporting incarcerated individuals who are not in the custody of the state.

⁹ We excluded individuals who were on probation and parole or in a transitional work program from our analysis. We also excluded individuals who were transferred into the custody of another state or other select locations.

Exhibit 3 Duration of Potential Improper Benefits January 2020 through November 2020		
Category	Total Individuals	Amount
Incarcerated individuals with one week of benefits	92	\$44,111
Incarcerated individuals with more than one week of benefits	1,103	6,175,900
Total	1,195	\$6,220,011
Source: Prepared by legislative auditor’s staff using information from LWC and DOC.		

We found that 968 (81.0%) of the 1,195 individuals identified through this analysis only qualified for the Federal UI program designed for contractors and gig (occasional) workers, which was created as a part of the CARES Act. Contract and gig workers’ income is not reported to LWC by employers, since these individuals are not classified as employees. As a result, LWC does not have electronic wage data to use for eligibility purposes and instead must rely upon the amount of income reported by the applicant on their application for unemployment benefits in order to make eligibility determinations.

We provided LWC the results of our analysis, and LWC stated that it flagged the individuals identified by the LLA for further review. According to LWC, these potentially improper payments occurred because its data match between its unemployment benefit data and its vendors’ incarceration data did not work correctly. LWC stated that it is currently working with its vendor to identify and remedy the cause of this issue. In addition, LWC stated that it is currently working through cases identified internally as potentially fraudulent and/or overpaid, as well as cases identified by the LLA and other sources. 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 income taxes.

Recommendation 1: LWC should identify the cause for its incarceration data match not working properly.

Summary of Management’s Response: LWC agreed with this recommendation and stated that it will identify the cause and make enhancements.

Recommendation 2: LWC should continue to investigate individuals who appear to have been incarcerated during the periods in which they received unemployment benefits and recoup dollars as appropriate.

Summary of Management’s Response: LWC agreed with this recommendation and stated that it will continue to investigate these cases for eligibility and will refer these cases for criminal investigation and prosecution.

APPENDIX A: MANAGEMENT'S RESPONSE



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John Bel Edwards, Governor
Ava Dejoie, Secretary

Office of the Secretary

April 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:

My administration remains committed to aggressively identifying and investigating criminals who target the important economic safety net that is our unemployment trust fund. We will continue to use every tool within our arsenal to ferret out those who seek to defraud our system, including those who have stolen the identities of the incarcerated and inmates who are principals or co-conspirators to the fraudulent schemes.

We will continue interfacing with the dozens of national and state databases we use to detect and prevent fraudulent claims of unemployment compensation. What is more, since 2016, the Louisiana Workforce Commission (LWC) has cross-matched its benefit payments against a national incarceration data network hosted by Appriss, a vendor that interfaces to over 2,000 jails and DOC facilities.

The LWC continues to work diligently to resolve all issues noted in the report. To that end, the LWC respectfully submits its management responses to the reportable audit finding included in the Single Audit Report. 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 Cates", is written over a light blue circular stamp.

Ava Cates
Secretary

Recommendation 1: *The LWC should identify the cause for its incarceration data match not working properly.*

The Louisiana Workforce Commission (LWC) concurs and will identify the cause and make enhancements.

The LWC is working with its vendors to determine the root cause of the delay or absence of the cross-match identifying these individuals as incarcerated. The root cause analysis will encompass an investigation of tangential causes, including whether the Pandemic caused delays in entities timely reporting incarceration data. Likewise, the LWC is investigating potential deficiencies in Appriss' nationwide incarceration database, the incarceration intelligence solution used by the majority of state workforce agencies. Notwithstanding the root cause review, we have commenced the process of running a wrap (history) file with modified parameters to identify individuals requiring further investigation. All claims associated with the wrap file are now flagged for investigation of eligibility requirements. These cases are prioritized to ensure prompt resolution and prevention of future activity.

Recommendation 2: *LWC should continue to investigate individuals who appear to have been incarcerated during the periods in which they received unemployment benefits and re-coup dollars as appropriate.*

As you are aware, the COVID-19 pandemic has impacted all states with the highest volume of Unemployment Insurance (UI) claim applications in US history. Louisiana is only one of many states that are reengineering its operations to handle the sheer volume of individuals in dire need of assistance while implementing new, ever-changing federal programs. The LWC has been responsible for the development and implementation of numerous new federal programs, including benefit programs for groups of individuals who are typically ineligible for state UI benefits.

The Pandemic Unemployment Assistance (PUA) program is one of these programs. This program allows benefits to individuals who self-attest to eligibility based on COVID related impacts to their employment. Individuals who have no covered employer reported income are eligible for PUA if they self-certify to eligibility. In fact, the initial guidance received from USDOL for the PUA program explicitly prohibited states from requiring proof of employment as a condition of eligibility for unemployment benefits. Several months later at the behest of states and the US OIG, Congress later modified this provision to require both proof of employment and proof of identity for PUA applicants. The two new provisions are allowing states to reign in the tremendous amounts of fraud caused by the self-certification benefit programs.

The incarcerated population of individuals is a prime pool of individuals to have their identity stolen and used for fraudulent unemployment claims. These individuals are generally not in a position to monitor activity surrounding their personal identifying information. The LWC will continue investigating these cases for eligibility and will refer these cases for criminal investigation and prosecution.

Our preliminary review reveals that the majority of these cases fall in one of four categories: 1) An individual is incarcerated for a very short period of time (1-6 days) and they file for benefits not aware that they fail to meet the eligibility requirement for the week; 2) The individual files the initial claim and begins receiving benefits. They are then incarcerated and someone continues to file on their behalf; 3) The individual is aware a claim has been filed on their information and someone they know is receiving the benefits and may or may not be providing some of the benefits to the incarcerated individual; and 4) The individual is a victim of identity theft and is not aware that a claim has been filed using their information and is not receiving a monetary benefit from the claim being filed.

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 of January 1, 2020, through March 31, 2021, although the LLA only received unemployment insurance application data from LWC through August 15, 2020. In addition, due to the LLA originally requesting the incarceration data from the Louisiana Department of Corrections (DOC) in November 2020, our analysis only included those individuals incarcerated for at least one day between January 1, 2020, and November 24, 2020. Our audit objective was:

To identify potential improper payments LWC made to incarcerated individuals who were ineligible for Unemployment Insurance Benefits.

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 incarceration data from DOC to identify individuals who were incarcerated for at least one day during the COVID-19 pandemic.
- 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 obtained from LWC and incarceration data obtained from DOC to identify individuals who received unemployment insurance benefits while they were incarcerated. We excluded individuals who were on probation and parole or in a transitional work program from our analysis. We also excluded individuals who were transferred into the custody of another state or other select locations.