

IMPROPER PAYMENTS IN THE UNEMPLOYMENT INSURANCE
PROGRAM: OVERPAYMENTS AND RULE VIOLATIONS

LOUISIANA WORKFORCE COMMISSION



PERFORMANCE AUDIT SERVICES

DATA ANALYTICS UNIT

NOVEMBER 10, 2021

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

November 10, 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 the Louisiana Workforce Commission's (LWC) Unemployment Insurance program (State UI) and federally funded COVID-19 pandemic-related unemployment assistance programs (Federal UI). The purpose of this report was to identify potential overpayments or improper unemployment benefit payments LWC made to claimants.

Overall, we found that LWC made approximately \$2.9 million in payments that potentially violated unemployment benefit program rules outlined in federal and/or state law, including payments to claimants enrolled in multiple programs at the same time, payments higher than the maximum benefit amount, and duplicate payments.

According to LWC, when improper payments or overpayments are identified, an overpayment case is established for the claimant, and attempts are made to recover the funds through direct repayments, withholding of future unemployment benefits, or collection from the claimant's federal and/or state income tax refunds.

The results of our analyses identified overpayments for which, as of August 27, 2021, LWC had not established overpayment cases.

We found the following categories for these potentially improper payments:

- LWC made State and Federal UI payments to claimants who were enrolled in multiple State and Federal UI programs concurrently from March 2020 through April 2021, which is not allowed by federal law. This resulted in \$898,400 in potentially improper payments.
- LWC made payments for benefit weeks that exceeded the maximum weekly benefit amount set in state and/or federal law. This resulted in \$1,976,041 in potentially improper payments for the benefit period February 2020 through April 2021.

The Honorable Patrick Page Cortez,
President of the Senate
The Honorable Clay Schexnayder,
Speaker of the House of Representatives
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- LWC made duplicate payments to claimants for the same benefit week, which resulted in \$33,536 in potentially improper payments.

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 long horizontal flourish extending to the right.

Michael J. "Mike" Waguespack, CPA
Legislative Auditor

MJW/ch

Louisiana Legislative Auditor

Michael J. “Mike” Waguespack, CPA



Improper Payments in the Unemployment Insurance Program: Overpayments and Rule Violations Louisiana Workforce Commission

November 2021

Audit Control # 82210001

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 claimants were overpaid or improperly paid unemployment benefits during the COVID-19 pandemic. As a part of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), the Federal government created the Pandemic Unemployment Assistance (PUA) benefit program for individuals, such as contractors, gig (occasional) workers, or other individuals who are not eligible for regular State UI benefits. In addition, the Federal government enacted multiple enhanced unemployment benefit programs (enhanced benefits)¹ that supplemented the State UI and PUA unemployment programs. The following State and/or Federal UI requirements were tested as a part of our audit:

State 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.

- In Louisiana, state² and federal law³ set the amount of unemployment benefits that an individual could receive per week from State UI or PUA during the COVID-19 pandemic between \$10 and \$247, based on the amount of the individual’s lost income and income earned from other sources. In addition, individuals who were eligible to receive enhanced benefits due to various federal actions could receive a maximum enhanced benefit of \$300 or \$600 per week, depending on when they received unemployment benefits.
- According to federal law, individuals were only eligible for PUA for benefit weeks⁴ in which the individuals were not eligible to receive State UI benefits. This means that individuals could not be enrolled in and have received both State UI benefits and PUA benefits for the same benefit week.

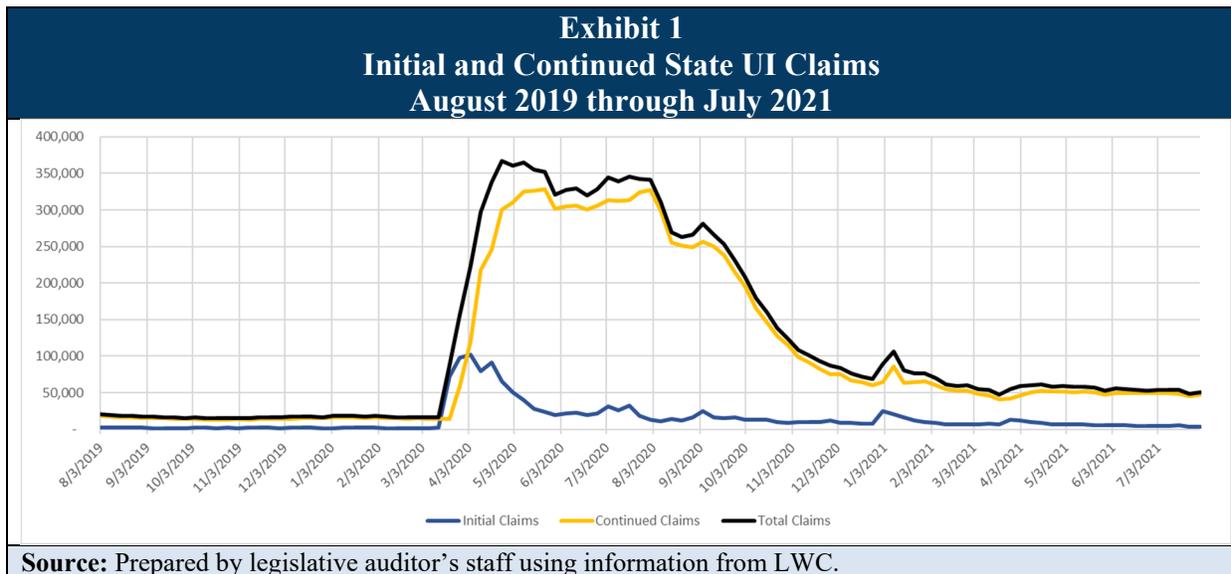
¹ Includes \$600 per week Federal Pandemic Unemployment Compensation (FPUC) for the weeks ending April 4, 2020 through July 25, 2020, \$300 per week Lost Wages Assistance Program (LWAP) for the weeks ending August 1, 2020 through September 5, 2020, and \$300 per week FPUC for the weeks ending January 2, 2021 through July 31, 2021.

² Louisiana Revised Statute (La. R.S.) 23:1474(I)

³ Title II, Section 2101(d)(1) of the CARES Act

⁴ A benefit week represents a week in which a claimant was determined by LWC to qualify 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, according to data provided by LWC, totaled \$9.83 billion in payments to 794,515 claimants from March 30, 2020, through July 31, 2021.⁵ According to LWC, it has administered 13 different unemployment benefit programs since March 2020, with each having its own rules and requirements. In addition, LWC stated that implementing the provisions of these programs was challenging because its current benefit system was designed to administer two benefit programs at a time. Louisiana’s unemployment rate grew from 5.2% in February 2020 to 13.1% in April 2020,⁶ 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, 2020.⁷ See Exhibit 1 for the rise in initial and continued State UI claims from August 2019 through July 2021 as a result of the COVID-19 pandemic.



Also, our office received numerous legislative requests to analyze various issues within LWC’s unemployment benefit programs. This report is the fourth in a series of reports we have issued on unemployment benefits paid during the COVID-19 pandemic.⁸ In addition, our office issued a financial audit report in June 2021 that found that LWC made payments to four claimants who received benefit payments from two different programs for the same weeks.⁹

⁵ On March 11, 2021, President Biden extended the COVID-19 pandemic Federal UI and enhanced benefits to September 6, 2021. However, Act No. 276 of the Louisiana Legislature’s 2021 Regular Session ended the Federal UI and enhanced benefits in Louisiana on July 31, 2021.

⁶ United States Bureau of Labor Statistics, as of March 24, 2021.

⁷ 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.

⁸ The three previous reports can be found on the LLA website at the following location:
<https://www.la.gov/reports-data/audit/audit-type/index.shtml?key=Data%20Analytics/Medicaid>

⁹ Louisiana Workforce Commission,
[https://app.la.state.la.us/publicreports.nsf/0/97ae0c68e4c128b0862586c7005d6faf/\\$file/00023b07.pdf?openement&.7773098](https://app.la.state.la.us/publicreports.nsf/0/97ae0c68e4c128b0862586c7005d6faf/$file/00023b07.pdf?openement&.7773098)

The objective of this audit was:

To identify potential overpayments or improper unemployment benefit payments LWC made to claimants.

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 overpayments or improper unemployment benefit payments LWC made to claimants.

Overall, we found that LWC made approximately \$2.9 million in payments that potentially violated unemployment benefit program rules outlined in federal and/or state law, including payments to claimants enrolled in multiple programs at the same time, payments higher than the maximum benefit amount, and duplicate payments. According to LWC, when improper payments or overpayments are identified, LWC establishes an overpayment case for the claimant and attempts to recollect the improperly paid unemployment benefits through direct repayments, withholding of future unemployment benefits, or collection from the claimant’s federal and/or state income tax refunds. The results of our analyses identified overpayments for which, as of August 27, 2021, LWC had not yet established overpayment cases. These issues are discussed in more detail below.

LWC made State and Federal UI payments to claimants who were enrolled in multiple State and Federal UI programs concurrently from March 2020 through April 2021, which is not allowed by federal law, resulting in \$898,400 in potentially improper payments. As mentioned previously, the CARES Act created the PUA unemployment benefit program for individuals, such as contractors, gig (occasional) workers, or other individuals who lost wages as a result of the COVID-19 pandemic and were not eligible for regular State UI benefits. These individuals are only eligible for PUA for weeks in which they are not eligible for regular State UI benefits, which means that individuals cannot be enrolled in and receive State UI benefits and PUA (Federal UI) benefits for the same benefit week. We analyzed LWC unemployment benefit data and found 822 claimants who were paid State UI and PUA benefits concurrently for the same benefit week, resulting in \$898,400 in potential improper payments.

According to our results, the number of weeks in which claimants were concurrently enrolled in State UI and PUA ranged from one week to 14 weeks and occurred throughout the scope of our audit. See Exhibit 2 for an example of a claimant who was concurrently enrolled in and receiving unemployment benefits from both the State UI and PUA programs under two applications. This claimant appears to have actually qualified for PUA instead of the State UI program and was potentially improperly paid State UI benefits in each week shown below.¹⁰

Exhibit 2					
Example of Concurrent Unemployment Benefits					
Benefit Week	State UI Payments	PUA Payments	Total State UI and PUA Paid	Maximum Amount Allowed for Benefit Week	Total Overpayments*
Week 1	\$220	\$107	\$327	\$107	\$220
Week 2	220	107	327	107	220
Total	\$440	\$214	\$654	\$214	\$440
*Total overpayments based on the claimant being ineligible for State UI and therefore, eligible for PUA. Source: Prepared by legislative auditor’s staff using information and data from LWC.					

¹⁰ In this example the claimant received both State UI and PUA under two applications and was paid the \$600 weekly Federal enhanced benefits twice (\$1,200 total) during Week 1 and Week 2.

We found that these payments were made to claimants in overlapping weeks, resulting in payments to the claimant for multiple unemployment benefit programs for the same benefit week. According to LWC, it has identified and established overpayment cases for some instances where claimants received unemployment payments for multiple unemployment programs in the same benefit week. However, LWC has not yet established overpayment cases for the claimants identified in this analysis. LWC stated that this is a known issue and that they are working to establish overpayments on claimants affected by this issue.

LWC made payments for benefit weeks that exceeded the maximum weekly benefit amount set in state and/or federal law, resulting in \$1,976,041 in potentially improper payments for the benefit period February 2020 through April 2021. According to state law,¹¹ the maximum weekly State UI benefit an individual can receive is \$247, and federal law¹² also limits the maximum weekly PUA benefit in Louisiana to \$247. Various federal actions also set the maximum weekly unemployment benefit amounts for federal enhanced benefit programs at \$300 and \$600 during the COVID-19 pandemic. This means that individuals cannot be paid benefits in excess of these maximum allowable amounts for any one benefit week. See Exhibit 3 for a summary of the maximum amounts of benefits an individual could receive during the COVID-19 pandemic.

Exhibit 3			
Maximum Allowed Weekly Unemployment Benefits in Louisiana			
February 2, 2020 through July 31, 2021			
Eligible Benefit Periods	State UI or PUA	Enhanced Benefit	Total
February 2, 2020 – March 28, 2020	\$247	\$0	\$247
March 29, 2020 – July 31, 2020	\$247	\$600	\$847
August 1, 2020 – September 5, 2020	\$247	\$300	\$547
September 6, 2020 – December 27, 2020	\$247	\$0	\$247
December 28, 2020 – July 31, 2021*	\$247	\$300	\$547
*While COVID-19 pandemic benefits expire at the Federal level on September 6, 2021, Act No. 276 of the Louisiana Legislature’s 2021 Regular Session ended these benefits in Louisiana on July 31, 2021. Source: Prepared by legislative auditor’s staff using information and data from LWC.			

Although payments for one benefit week should not exceed these amounts, we identified \$1,976,041 in potential overpayments to 3,067 claimants during the benefit period February 2, 2020, through April 24, 2021, who were paid benefits which exceeded the maximum potential amounts allowed under these programs based on the number of weeks the claimants received unemployment benefits. Exhibit 4 shows examples of the maximum amount a claimant should have been paid for a benefit week versus the amount that the claimant was actually paid for that benefit week.

¹¹ La. R.S. 23:1474(I)

¹² Title II, Section 2101(d)(1) of the CARES Act

Exhibit 4 Examples of Claimants Receiving Overpayments					
Claimant	Weekly Benefit Amount	Weeks Received Enhanced UI Benefits	Maximum Amount Allowed for Benefit Period	Total Benefits Paid	Total Potential Overpayment
Claimant 1	\$600	17	\$10,200	\$13,200	\$3,000
Claimant 2	\$300	6	\$1,800	\$3,600	\$1,800
Source: Prepared by legislative auditor’s staff using information and data from LWC.					

According to LWC, it has identified and established overpayment cases for some instances where claimants received unemployment payments that exceed the maximum amount allowed per week. However, as of August 27, 2021, LWC had not yet established overpayment cases for the claimants identified in this analysis. LWC stated that it is working to establish overpayments on claimants affected by this issue.

In addition, LWC made duplicate payments to claimants for the same benefit week, resulting in \$33,536 in potentially improper payments. We analyzed unemployment benefit payment data and found instances where there were duplicate records in the data. In these instances, it appears that the same payment was made multiple times, causing the claimant to receive benefits in excess of the maximum weekly amount allowed, resulting in potential improper payments of \$33,536 to 53 claimants. According to LWC, this is a known issue, and it is working to establish overpayments on claimants affected by this issue.

Recommendation 1: LWC should establish controls to ensure that individuals do not receive payments for the same benefit week under multiple State UI and other programs.

Summary of Management’s Response: LWC agreed with this recommendation and stated that the internal controls addressing this issue already exist. See Appendix A for LWC’s full response.

Recommendation 2: LWC should establish controls to ensure that it does not pay more than the maximum allowable amount for any one week of unemployment benefits for any benefit program.

Summary of Management’s Response: LWC agreed with this recommendation and stated that the internal controls addressing this issue already exist. See Appendix A for LWC’s full response.

Recommendation 3: LWC should establish controls to ensure that it does not make duplicate payments for unique individual transactions.

Summary of Management’s Response: LWC agreed with this recommendation and stated that the internal controls addressing this issue already exist. See Appendix A for LWC’s full response.

Recommendation 4: LWC should investigate instances in which it appears to have made potential improper payments and re-coup dollars as appropriate.

Summary of Management's Response: LWC agreed with this recommendation. See Appendix A for LWC's full response.

APPENDIX A: MANAGEMENT'S RESPONSE



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John Bel Edwards, Governor
Ava Dejoie, Secretary

Office of the Secretary

November 2, 2021

Mr. Michael J. Waguespack, CPA
Legislative Auditor
Post Office Box 94397
Baton Rouge, Louisiana 70804-9397

Mr. Waguespack,

The Louisiana Workforce Commission (LWC) respectfully submits its response to *Improper Payments in the Unemployment Insurance Program: Overpayments and Rule Violations*.

My administration remains committed to ensuring the integrity of the Unemployment Insurance (UI) program. We acknowledge that there is work to be done to improve upon our overall effectiveness and we will continue our efforts to provide the best services possible to the citizens of Louisiana. To be clear, the findings at issue in this report occurred during a time of extraordinary challenges, as the COVID-19 pandemic brought into sharp focus the complexities of the laws, rules, and regulations governing the Unemployment Insurance (UI) program.

As a result of the pandemic, Louisiana's unemployment rate more than doubled from February 2020 to April 2020, and the total number of UI claims increased by an astonishing 2000% within the same time period. No state UI program was properly equipped to handle such a sudden increase in claims. Yet, in addition to the astronomical increase in claims, LWC was also tasked with immediate implementation of numerous federal CARES Act benefit programs. Beginning in early 2020 and continuing into 2021, LWC administered and/or implemented regular state UI benefits as well as Pandemic Emergency Unemployment Compensation (PEUC), Pandemic Unemployment Assistance (PUA), Federal Pandemic Unemployment Compensation (FPUC), Mixed Earners Unemployment Compensation (MEUC), Extended Benefits (EB), Lost Wage Assistance (LWA), and Disaster Unemployment Assistance (DUA) for four hurricanes and two other severe weather events.

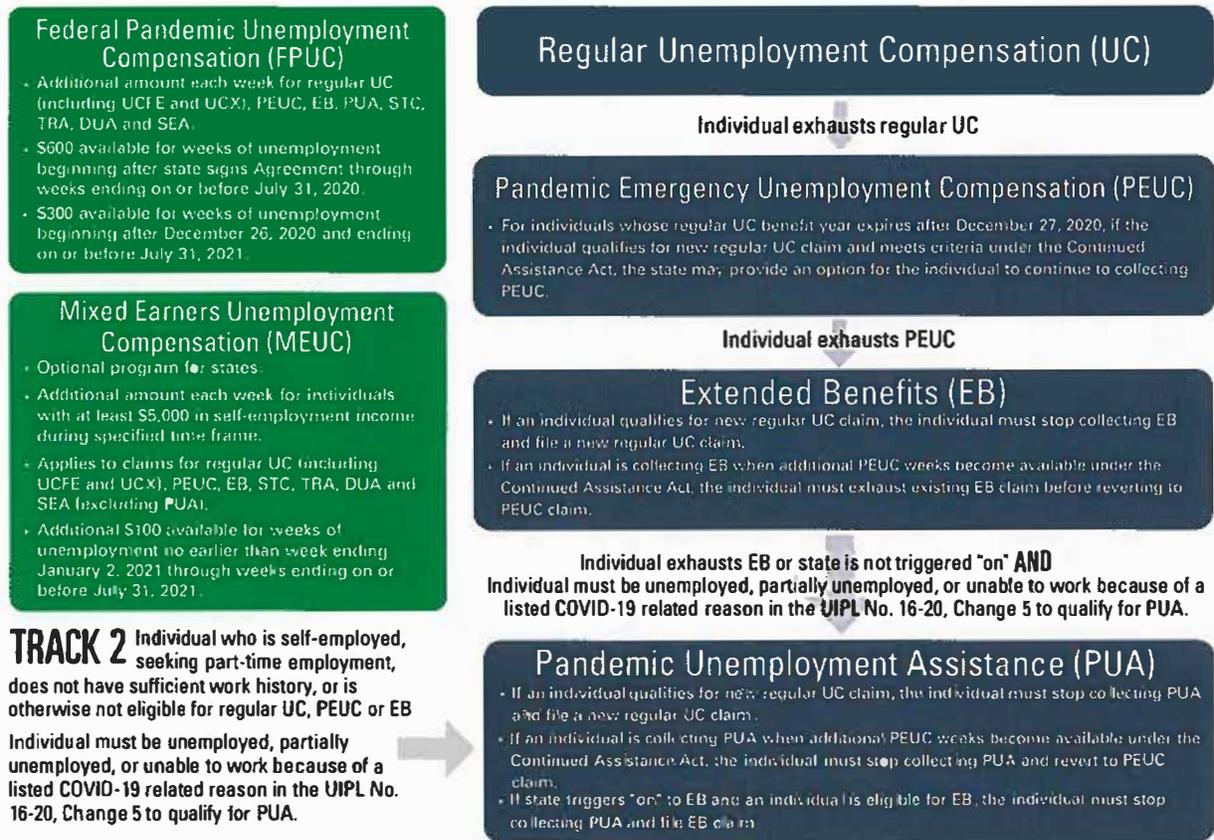
Five of the above programs were created in response to the pandemic and meant to assist those unemployed suddenly as a direct result of the impact of COVID-19. These programs were not initially equipped with the safeguards that typical state UI programs provide. States were given little time and guidance to implement these programs while also managing a record-breaking surge in claims and multiple disasters.

The United States Department of Labor (USDOL) is responsible for providing guidance to the states for implementation and administration of the various CARES Act programs. To offer a broader perspective of the timeline within which LWC had to implement the programs, the CARES Act was signed in to law on March 27, 2020. The first general guidance and FPUC guidance from USDOL was received on April 4, 2020. The first PUA guidance was received on April 5, 2020 and the first PEUC guidance was received on April 10, 2020. The first pandemic-related benefit payments were made on April 13, 2020. LWC had no choice but to act quickly in order to get claimants the relief they desperately needed. Typical implementation of benefit programs would take an average of approximately four to six months. However, given the dire need, such a delay was not an option. Had LWC followed the normal implementation procedures to ensure 99.9% program accuracy, our citizens would have suffered tremendous financial hardship.

Consider as well that, throughout the COVID-19 pandemic, USDOL guidance has been in a constant state of flux, with significant updates and changes still being made to this day. The issues that have arisen as a result of these completely new benefit programs are not unique to the State of Louisiana. Every state that has administered these programs through the UI system has encountered similar challenges. Therefore, it is important to note that the findings highlighted in this report are the result of a once-in-a-century benefit program for individuals who otherwise would not meet the eligibility requirements of the UI program. It is for this reason that I will attempt to shed some light on the UI application process.

As your report states, there is a “single application” for UI benefits. Federal law requires that state workforce agencies determine an applicant ineligible for regular state unemployment benefits prior to determining her or him eligible for PUA benefits. An individual who is otherwise eligible for state unemployment could be disqualified under state unemployment for not being able and available for work, and then considered for those same weeks under PUA. Thus, two distinct claims are established to account for changes in benefit program entitlement based on an applicant’s weekly certifications. The mere existence of a UI claim and PUA claim for a single applicant is not necessarily an indicator of an improper payment and/or rule violation. The below chart illustrates the claims process:

Last Updated: July 31, 2021



As depicted in the chart, an eligibility determination must cycle through all the programs for a final determination of program eligibility. Further, in addition to the initial program eligibility, continued eligibility must be recalculated at each quarter change for federal claims. These quarter changes occurred in April 2020, July 2020, October 2020, January 2021, April 2021 and July 2021. Moreover, some individuals’ state UI eligibility changed on a week-by-week basis, which complicates eligibility determinations and introduces the possibility of overpayments being made.

Overpayments are a normal occurrence, even under typical UI operating circumstances. When coupled with the rapid implementation of multiple new programs without the benefit of the usual extensive test controls in place to ensure accuracy and efficiency, the reality is that mistakes are inevitable. However, once an overpayment is established, LWC works hard to recoup those funds through various methods in order to ensure that all available funds are disbursed to those entitled to them.

As stated in the audit report, LWC has paid nearly \$10 billion since the onset of the COVID-19 pandemic. We take our responsibility to provide relief to the individuals entitled to the benefit programs we are tasked with administering very seriously. While we strive to ensure that we do so effectively and within the confines of the law, we acknowledge that mistakes are made and we will work earnestly to rectify the \$2.9 million in payments that potentially violated the employment benefit program rules.

The findings presented in this report offer an opportunity for us to learn what processes work best under extraordinary circumstances and what potential problems may arise. To that end, LWC reaffirms its commitment to continue to make enhancements to the administration of the Unemployment Insurance program.

Should you have any questions or need additional information, please feel free to contact my office at 225-342-3001.

Sincerely,



Ava Cates
Secretary

Recommendation 1: *LWC should establish controls to ensure that individuals do not receive payments for the same benefit weeks under multiple State UI and other programs.*

The Louisiana Workforce Commission (LWC) concurs. The internal controls addressing this specific issue already exist.

Recommendation 2: *LWC should establish controls to ensure that it does not pay more than the maximum allowable amount for any one week of unemployment benefits for any program.*

The Louisiana Workforce Commission (LWC) concurs. The internal controls addressing this specific issue already exist.

Recommendation 3: *LWC should establish controls to ensure that it not make duplicate payments for individual unique transactions*

The Louisiana Workforce Commission (LWC) concurs. The internal controls addressing this specific issue already exist.

Recommendation 4: *LWC should investigate instances in which it appears to have made potential improper payments and re-coup dollars as appropriate.*

The Louisiana Workforce Commission (LWC) concurs.

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 covered the unemployment benefit eligibility period of February 2, 2020, through April 24, 2021. Our audit objective was:

To identify potential overpayments or improper unemployment benefit payments LWC made to claimants.

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 benefits data from LWC, including information regarding applications, claimants, benefit payments, established overpayments, and transferred unemployment benefits.
- Researched and reviewed state and federal laws, rules, regulations, executive orders, and policies regarding the administration of and eligibility for unemployment insurance benefit programs.
- Analyzed unemployment benefits data from LWC to determine if claimants received payments for multiple benefit programs for the same benefit week. Removed instances from our results if LWC had established an overpayment case on the unemployment claim prior to August 27, 2021.
- Analyzed unemployment benefits data from LWC to determine if claimants received payments in excess of the maximum amount allowed based on the amount of time the claimant was enrolled in a particular unemployment benefit program and the length of the program. Removed instances from our results if LWC had established an overpayment on the unemployment claim prior to August 27, 2021.
- Analyzed unemployment benefits data from LWC to determine if claimants received payments for duplicate payments for the same benefit week in excess of the maximum amount allowed for any one benefit week. Removed instances from our results if the duplicate payments did not exceed the maximum allowed weekly benefit amount or if LWC had established an overpayment on the unemployment claim prior to August 27, 2021.
- Sent results to LWC for review to determine why these issues occurred and incorporated feedback into the report draft.