

**Report 20-28
December 2020**

Processing Certain Unemployment Insurance Claims

Department of Workforce Development

STATE OF WISCONSIN



Legislative Audit Bureau ■

Processing Certain Unemployment Insurance Claims

Department of Workforce Development

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STATE OF WISCONSIN | Legislative Audit Bureau

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Joe Chrisman
State Auditor

December 14, 2020

Senator Robert Cowles and
Representative Samantha Kerkman, Co-chairpersons
Joint Legislative Audit Committee
State Capitol
Madison, Wisconsin 53702

Dear Senator Cowles and Representative Kerkman:

Under the provisions of 2019 Wisconsin Act 185, we have completed a review of the Department of Workforce Development's (DWD's) administration of aspects of the Unemployment Insurance program, including those related to processing certain claims filed by individuals for program benefits.

As of October 10, 2020, DWD had paid 493,504 of the 662,731 individuals (74.5 percent) who had filed initial claims for regular program benefits since March 15, 2020. The remaining individuals had not been paid because, for example, DWD had denied their claims or had not yet resolved them. The average amount of time that DWD took to pay regular program benefits for initial claims filed in August 2020 was considerably less than it took to pay benefits for claims filed in March 2020.

To determine whether individuals are statutorily eligible to receive program benefits, DWD may place initial claims into adjudication. It placed into adjudication the initial claims of 514,026 individuals who filed them from March 15, 2020, through October 10, 2020. This included 96,623 individuals with initial claims still in adjudication as of October 10, 2020. In adjudication, issues involving employers that had discharged individuals took considerably longer to resolve than some other types of issues.

To determine how DWD processed initial claims, we selected a statistically significant random sample of 268 individuals who filed initial claims for regular program benefits from March 15, 2020, through April 11, 2020, but had not been paid them as of June 20, 2020. Our review found that DWD was responsible for 11.0 of the 13.0 weeks it took, on average, to resolve the initial claims of 250 of these 268 individuals. For example, DWD was responsible for time that elapsed before it requested information it needed from individuals and employers.

At the time of our review, DWD planned additional efforts to pay program benefits in a timely manner. In doing so, we recommend that DWD use the results of our analyses, which indicate the length of time it takes to resolve common issues and the extent to which issues were not resolved because time elapsed.

We appreciate the courtesy and cooperation extended to us by DWD. A response from the Transition Director of DWD follows our report.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Joe Chrisman'.

Joe Chrisman
State Auditor

JC/DS/ss

Unemployment Insurance Administration ■

DWD administers the UI program, which pays monetary benefits to certain individuals who have lost their jobs.

The Department of Workforce Development (DWD) administers the Unemployment Insurance (UI) program, which pays monetary benefits to certain individuals who have lost their jobs. To be eligible for program benefits, individuals typically must:

- have been employed in Wisconsin and provide a valid Social Security number;
- have earned a minimum amount of wages from eligible employment in at least two of the previous five calendar year quarters; and
- not have been terminated for cause or quit employment, although statutes allow exceptions for an individual to receive benefits after quitting employment, such as because child care was unavailable.

After individuals file initial claims for program benefits, they must file weekly claims to continue receiving them. The amount of weekly benefits an individual is paid through the regular program is based on the amount of wages earned in the last five calendar year quarters and currently ranges from \$54 to \$370.

In March 2020, the federal *Coronavirus Aid, Relief, and Economic Security* (CARES) Act created additional unemployment benefits, including those provided through the:

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- Federal Pandemic Unemployment Compensation program, which paid individuals an additional \$600 per week from March 29, 2020, through July 25, 2020;
- Pandemic Unemployment Assistance program, which provides up to 39 weeks of benefits from February 2, 2020, through December 26, 2020, to self-employed and other individuals who are ineligible for benefits provided through other UI programs; and
- Pandemic Emergency Unemployment Compensation program, which provides an additional 13 weeks of unemployment benefits from March 29, 2020, through December 26, 2020, to certain individuals who remain unemployed after their regular benefits end.

DWD indicated that it:

- began making Federal Pandemic Unemployment Compensation payments on April 29, 2020;
- began accepting Pandemic Unemployment Assistance applications on April 21, 2020, and began making payments on May 21, 2020; and
- began accepting Pandemic Emergency Unemployment Compensation applications on June 24, 2020, and began making payments on June 25, 2020.

2019 Wisconsin Act 185, which was enacted in April 2020, requires the Legislative Audit Bureau to use risk-based criteria to review selected programs affected by Act 185 and selected expenditures made with funds authorized by Act 185. In report 20-5, we completed a limited-scope review of DWD's reported overpayment of program benefits in late-April 2020. In report 20-13, we reviewed DWD's management of the program's call centers, through which some individuals file initial claims for benefits. In our current review, we determined:

- the extent to which DWD had as of October 10, 2020, paid all individuals who had filed initial claims for regular program benefits since March 15, 2020, and the length of time it took to pay them;
- the number of DWD and other staff who worked as program adjudicators; and

- the reasons that some individuals who had filed initial claims for regular program benefits from March 15, 2020, through April 11, 2020, had not been paid them as of June 20, 2020.

Initial Claims for Regular Program Benefits

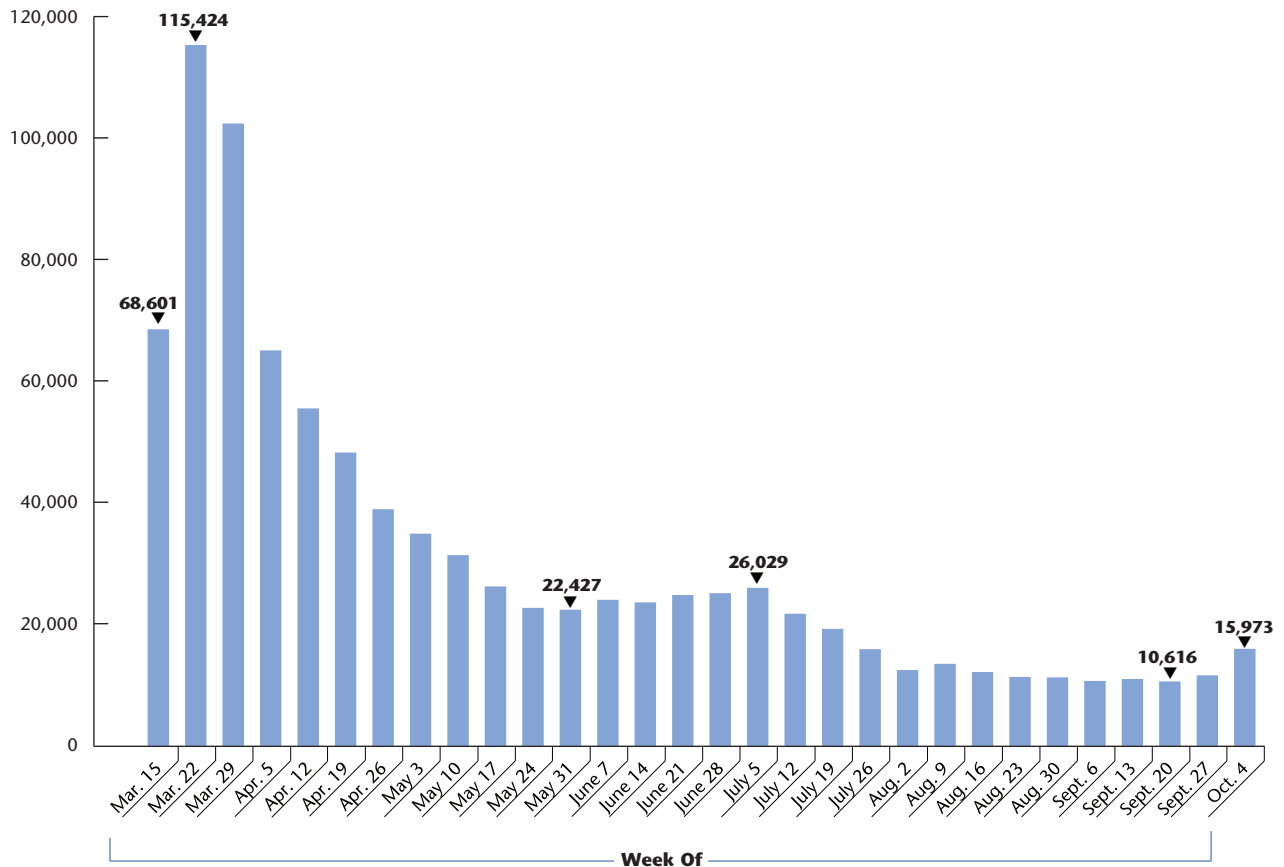
From March 15, 2020, through October 10, 2020, 662,731 individuals filed 933,564 initial claims for regular program benefits.

From March 15, 2020, through October 10, 2020, 662,731 individuals filed 933,564 initial claims for regular program benefits. Individuals may file multiple initial claims if, for example, they stopped filing weekly claims because they regained employment, subsequently become unemployed, and then filed new initial claims.

As shown in Figure 1, the number of initial claims for regular program benefits increased significantly in March 2020. During the week of March 22, 2020, individuals filed 115,424 initial claims. In subsequent weeks, the number of initial claims decreased considerably.

Figure 1

Number of Initial Claims for Regular Program Benefits, by Week¹



¹ According to DWD's data.

Payment of Regular Program Benefits

As of October 10, 2020, DWD had paid 493,504 of the 662,731 individuals (74.5 percent) who had filed initial claims for regular program benefits since March 15, 2020.

As of October 10, 2020, DWD had paid 493,504 of the 662,731 individuals (74.5 percent) who had filed initial claims for regular program benefits since March 15, 2020, but it had not paid the remaining 169,227 individuals (25.5 percent). DWD may not have paid these individuals because it had not yet resolved their claims, it had denied their claims, or the individuals had withdrawn their claims. The data we obtained from DWD did not indicate the reasons why DWD did not pay these claims.

DWD paid 53.2 percent of initial claims in two calendar weeks or less, but it took more than five weeks to pay 24.7 percent of these claims.

As shown in Table 1, DWD paid 685,497 initial claims for regular program benefits to the 493,504 individuals who filed them from March 15, 2020, through October 10, 2020. DWD paid 53.2 percent of these initial claims in two calendar weeks or less, but it took more than five weeks to pay 24.7 percent of these claims.

Table 1

Length of Time for DWD to Pay Initial Claims for Regular Program Benefits¹

Claims Filed from March 15, 2020, through October 10, 2020

	Number of Claims	Percentage of Total
Claims Paid In:		
1 Week or Less	211,431	30.8%
1 to 2 Weeks	153,344	22.4
2 to 3 Weeks	80,096	11.7
3 to 4 Weeks	41,223	6.0
4 to 5 Weeks	30,353	4.4
More than 5 Weeks	169,050	24.7
Total	685,497	100.0%

¹ According to DWD's data.

We determined the average number of days that DWD took to pay initial claims for regular program benefits that individuals filed from the week of March 15, 2020, through the week of August 30, 2020. We excluded claims filed in subsequent weeks because it is likely that insufficient time had lapsed for DWD to pay a number of these claims. Our analysis includes only those claims that DWD had paid as of October 10, 2020.

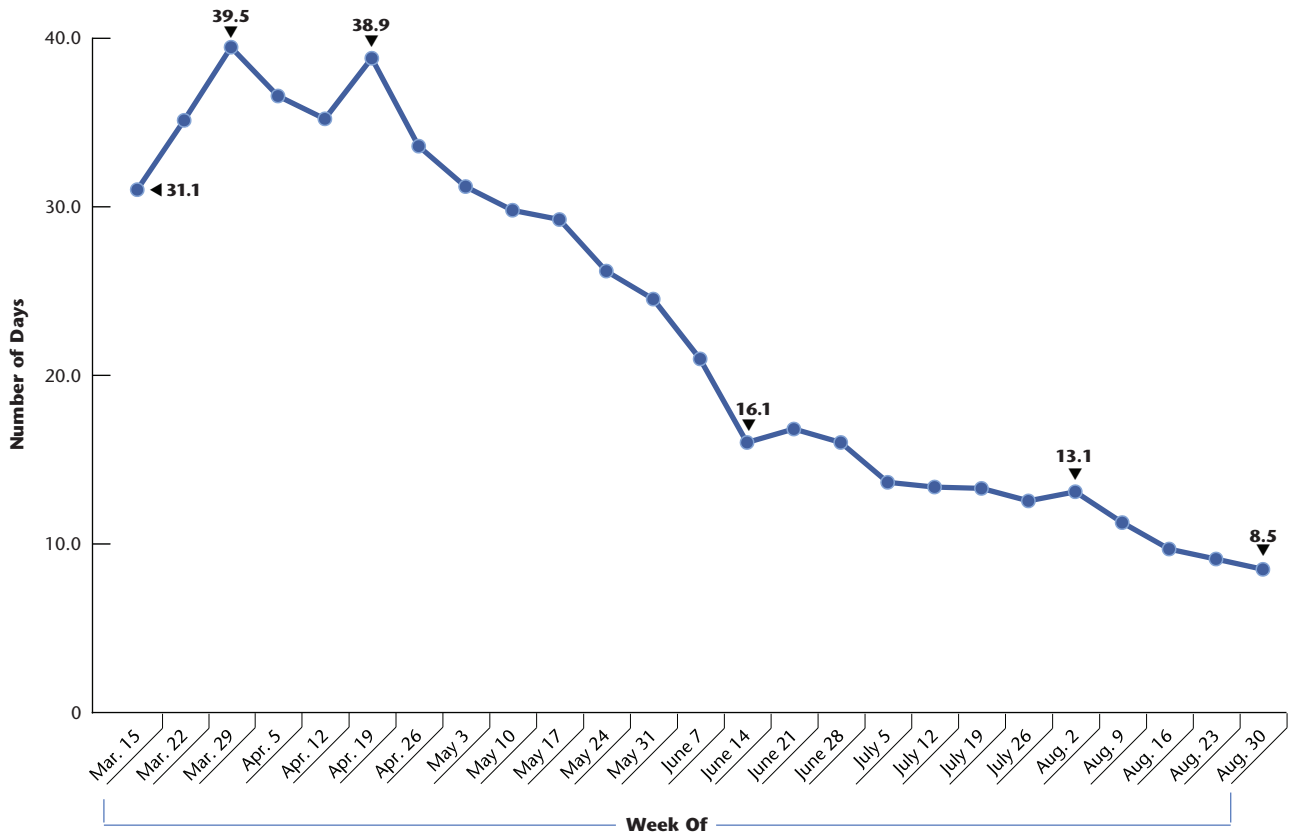
The average amount of time that DWD took to pay regular program benefits for initial claims declined considerably over time.

As shown in Figure 2, the average amount of time that DWD took to pay regular program benefits for initial claims filed in August 2020 was considerably less than the average amount of time it took to pay benefits for claims filed in March 2020. DWD took an average of 39.5 days to pay benefits for initial claims filed during the week of March 29, 2020, and an average of 8.5 days to pay benefits for initial claims filed during the week of August 30, 2020.

Figure 2

Average Amount of Time DWD Took to Pay Initial Claims for Regular Program Benefits, by the Week the Claims Were Filed¹

Claims Filed from the Week of March 15, 2020, through the Week of August 30, 2020



¹ According to DWD's data.

Benefit payments are typically directly deposited into the bank accounts of individuals or loaded onto prepaid debit cards that are mailed to individuals and can be reloaded with additional benefits. Payments may be reduced if, for example, an individual chose to have state and federal taxes withheld, owed child support, previously received an overpayment of benefits, or previously committed programmatic fraud.

Individuals were paid an average net weekly payment of \$225 in regular program benefits.

We determined the average weekly amount of regular program benefits that individuals were paid from March 15, 2020, through October 10, 2020. As shown in Table 2, individuals were paid an average net weekly payment of \$225. DWD paid 54.7 percent of weekly claims within one day of when individuals filed them. During the week of October 4, 2020, DWD paid 73.6 percent of weekly claims within one day.

Table 2

Average Weekly Payments for Regular Program Benefits, per Individual¹
 March 15, 2020, through October 10, 2020

	Amount
Gross Payment	\$229
Reduction	(4)
Net Payment	\$225

¹ According to DWD's data.

Adjudication of Initial Claims

To determine whether individuals are statutorily eligible to receive program benefits, DWD relies on information provided by individuals and their employers. If this information does not allow DWD to determine whether individuals met the statutorily prescribed eligibility criteria, DWD places the initial claims into adjudication. For example, if an individual indicated that he or she quit a job but subsequently obtained a new job from which the individual was laid off, that individual may or may not be eligible for program benefits. During adjudication, DWD does not pay program benefits but instead determines whether individuals are eligible to receive the benefits and, if so, the amounts they should receive.

DWD may place initial claims into adjudication if, for example, information indicates that individuals:

- quit their jobs or were discharged by their employers;
- earned too little employment income in the prior 18 months to qualify for program benefits;
- failed to register as being available to work;

- reported income that differs from what their employers reported for them;
- are unable or unavailable to work full-time, including because of physical disabilities or enrollment in educational programs;
- are taking leaves of absence from work; or
- previously withdrew claims, were denied claims, or were suspended from the program for committing programmatic fraud.

DWD placed into adjudication the initial claims of 514,026 of the 662,731 individuals (77.6 percent) who filed claims from March 15, 2020, through October 10, 2020.

We found that DWD placed into adjudication the initial claims of 514,026 of the 662,731 individuals (77.6 percent) who filed claims from March 15, 2020, through October 10, 2020. DWD may place a given claim into adjudication because of multiple issues. As of October 10, 2020, 96,623 of the 514,026 individuals (18.8 percent) still had initial claims in adjudication.

DWD's data indicate that it took 22.1 days, on average, to resolve each adjudication issue associated with initial claims filed from March 15, 2020, through October 10, 2020. However, it took longer to resolve some types of issues than others. Among the most-common types of issues, which accounted for 57.4 percent of all issues, it took an average of:

- 75.8 days to resolve issues related to employers who discharged individuals;
- 31.4 days to resolve issues related to individuals who had quit their jobs;
- 9.5 days to determine whether individuals had earned enough income in the prior 18 months to qualify for program benefits; and
- 8.2 days to determine whether individuals had registered as being available to work.

Program Adjudicator Staffing

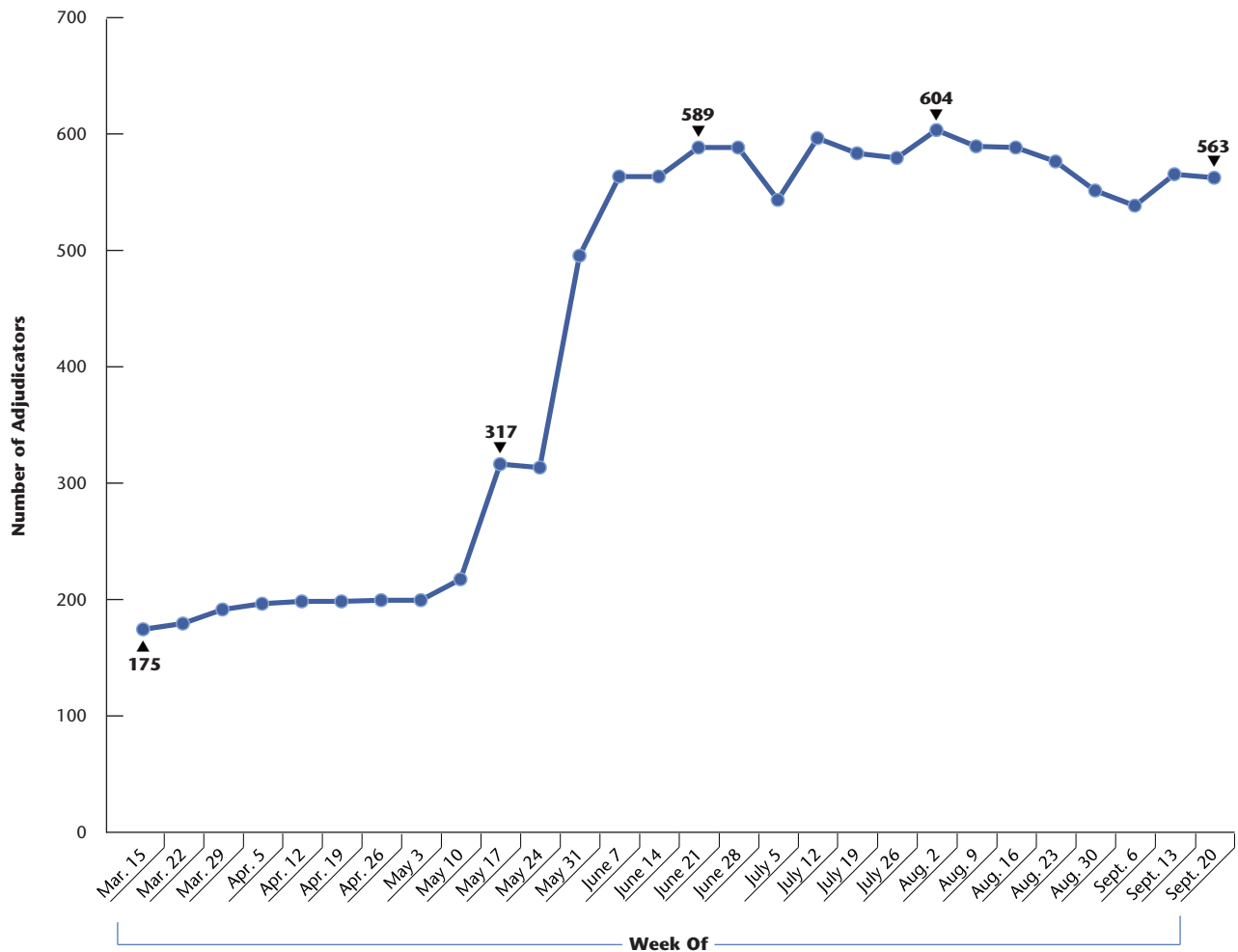
In report 20-13, we found that DWD had increased the number of staff working in the program's three call centers, through which some individuals file initial claims for program benefits. In our current review, we determined changes in the number of program adjudicators from March 2020 to September 2020.

The total number of adjudicators increased from 175 during the week of March 15, 2020, to 563 during the week of September 20, 2020.

DWD’s program adjudicators resolve claims placed into adjudication. To help resolve the large number of claims placed into adjudication beginning in mid-March 2020, DWD hired additional adjudicators, temporarily reassigned staff from other DWD divisions and other state agencies to work as adjudicators, and contracted with a firm to provide staff to work as adjudicators. As shown in Figure 3, the total number of adjudicators increased from 175 during the week of March 15, 2020, to 563 during the week of September 20, 2020.

Figure 3

Program Adjudicators, by Week¹
 March 15, 2020, through September 26, 2020



¹ According to DWD’s information. Includes DWD’s own adjudicators, temporarily reassigned staff from other DWD divisions and state agencies, and contracted staff.

DWD's information indicates that:

- the number of DWD's adjudicators increased from 175 during the week of March 15, 2020, to 280 during the week of September 20, 2020;
- the number of staff temporarily reassigned from other DWD divisions increased from 6 during the week of March 22, 2020, to 63 during the week of September 20, 2020; and
- the number of staff temporarily reassigned from other state agencies increased from 16 during the week of May 10, 2020, to 35 during the week of September 20, 2020.

In May 2020, DWD contracted with Nelnet to provide at least 100 staff to work as adjudicators.

On May 14, 2020, DWD contracted with Nelnet, a firm, to provide at least 100 staff to work as adjudicators. The number of contracted staff working as adjudicators increased from 118 during the week of May 31, 2020, to 185 during the week of September 20, 2020. Documentation provided by DWD indicated that Nelnet billed \$3.6 million for services it provided from June 2020 through September 2020, including services related to adjudication, training, and language translation and interpretation.

DWD indicated that two weeks of training were provided to the temporarily reassigned staff and the contracted staff before they began working as adjudicators. DWD indicated that this training allowed these individuals to resolve common types of issues that result in claims being placed into adjudication. DWD's own adjudicators handled complex and less-common issues that required greater expertise.

From March 15, 2020, through September 26, 2020, DWD's own permanent adjudicators worked an average of 3.3 hours of overtime per week.

From March 15, 2020, through September 26, 2020, DWD's own permanent adjudicators worked an average of 3.3 hours of overtime per week. From September 28, 2020, through October 23, 2020, DWD required certain adjudicators to work at least 10 hours per week of overtime. DWD indicated that it required this overtime, in part, because the amount of voluntarily worked overtime had declined over time.

File Review of Initial Claims

In order to obtain more-detailed information about how DWD processed initial claims, we randomly selected a sample of 268 individuals who had filed initial claims for regular program benefits over the four-week period from March 15, 2020, through April 11, 2020, but had not been paid them as of June 20, 2020.

Because the size of our sample is statistically significant, we can reasonably expect that the results of our review are representative of all individuals who had filed initial claims during this four-week period but had not been paid program benefits as of June 20, 2020.

We reviewed DWD’s case files for each of these individuals, but we analyzed only the initial claims filed during this four-week period by these individuals. Our review considered appeals filed by individuals who disagreed with how DWD decided their initial claims and the length of time it took to resolve these appeals.

As of November 2020, DWD had resolved the initial claims of 250 of the 268 individuals (93.3 percent) in our file review.

As shown in Table 3, our file review found that DWD had resolved the initial claims of 250 of the 268 individuals (93.3 percent) as of November 2020. DWD’s data indicate that 70 of the 144 individuals whose initial claims DWD had denied subsequently filed new claims after April 11, 2020. As of October 10, 2020, 34 of those 70 individuals were paid program benefits.

Table 3

File Review: Status of Initial Claims¹

For 268 Individuals Who Filed Initial Claims from March 15, 2020, through April 11, 2020

Claim Status	Number of Individuals	Percentage of Total
Resolved		
Claims Denied ²	144	53.7%
Claims Paid	103	38.4
Claims Withdrawn	3	1.1
Subtotal	250	93.3
Unresolved		
Waiting for DWD to Take Action	14	5.2
DWD Decisions Were Appealed	4	1.5
Subtotal	18	6.7
Total	268	100.0%

¹ Based on the information available in DWD’s case files at the time of our file review.

² As of October 10, 2020, 70 of these 144 individuals had filed new claims, including 34 individuals who were paid program benefits.

It took an average of 13.0 weeks to resolve the initial claims of the 250 individuals.

As shown in Table 4, we estimate that it took an average of 13.0 weeks to resolve the initial claims of the 250 individuals in our file review. We estimate that it took an average of 11.5 weeks to deny the claims of the 144 individuals and an average of 15.5 weeks to pay program benefits to the 103 individuals. We included weekend days in our analysis.

Table 4

File Review: Estimated Amount of Time to Resolve Initial Claims¹
 For 250 Individuals Who Filed Initial Claims from March 15, 2020, through April 11, 2020

Claim Status	Number of Individuals	Average Number of Weeks		
		Minimum	Average	Maximum
Claims Denied	144	0	11.5	31.5
Claims Paid	103	10.5	15.5	28.0
Claims Withdrawn	3	0	2.0	3.5
Total	250	0	13.0	31.5

¹ Based on the information available in DWD’s case files at the time of our file review.

DWD was responsible for 11.0 of the 13.0 weeks (84.6 percent) that it took, on average, to resolve the initial claims of the 250 individuals.

We estimate that DWD was responsible for 11.0 of the 13.0 weeks (84.6 percent) that it took, on average, to resolve the initial claims of the 250 individuals. For example, DWD was responsible for time that elapsed before it requested information it needed from individuals and employers, and for time that elapsed after it had the information necessary to pay or deny program benefits but did not do so. In contrast, DWD was not responsible for time that elapsed while it waited for individuals and employers to provide information it had requested.

Our file review found more than 950 instances when DWD was responsible for time elapsing while it processed the initial claims of the 268 individuals. The 268 individuals each experienced, on average, more than 3.5 instances when DWD was responsible for time elapsing during initial claims processing. A given claim could have multiple instances if, for example, time elapsed before DWD requested information from individuals or employers, and then additional time elapsed after DWD received the information.

As shown in Table 5, we estimate that the average amount of time it took DWD to resolve a given issue for the 268 individuals was

6.0 weeks. We found that the three most-common issues accounted for more than 90.0 percent of all issues and involved instances when:

- DWD had not resolved issues even though it had the information to do so, and an average of 5.5 weeks elapsed for each such instance;
- DWD had not requested information it needed from individuals, and an average of 6.5 weeks elapsed for each such instance; and
- DWD had not requested information it needed from employers, and an average of 8.5 weeks elapsed for each such instance.

Table 5

File Review: Estimated Amount of Time Attributable to DWD, by Reason^{1, 2}
 For 268 Individuals Who Filed Initial Claims from March 15, 2020, through April 11, 2020

Reason ³	Average Number of Weeks
Time elapsed because DWD had not:	
Resolved issues even though it had the information to do so	5.5
Requested needed information from individuals	6.5
Requested needed information from employers	8.5
Taken action regarding an appeal of a DWD decision	2.5
Informed individuals it had resolved their initial claims	4.0
Paid program benefits after resolving initial claims	1.5
Taken any action before resolving issues	5.0
Overall	6.0

¹ Based on the information available in DWD’s case files at the time of our file review.

² The 268 individuals each experienced, on average, more than 3.5 instances when DWD was responsible for time elapsing during initial claims processing.

³ Shown from most-common to least-common reason.

Some individuals were paid program benefits only after 75 days or more had elapsed because DWD did not take prompt action.

Our file review found that some individuals were paid program benefits only after 75 days or more had elapsed because DWD did not take prompt action. For example:

- One individual submitted an initial claim on April 7, 2020, and was first paid benefits 92 days

later on July 8, 2020. DWD took a total of 84 days before twice requesting information it needed from the individual.

- A second individual submitted an initial claim on April 11, 2020, and was first paid benefits 76 days later on June 26, 2020. DWD did not take any action before paying these benefits.

Our file review found that DWD did not always quickly determine that individuals were ineligible for program benefits. For example:

- One individual submitted an initial claim on April 3, 2020, and was determined to be ineligible for benefits 94 days later on July 6, 2020. DWD took a total of 35 days before requesting information it needed from the individual and an employer.
- A second individual submitted an initial claim on April 6, 2020, and was determined to be ineligible for benefits 135 days later on August 19, 2020. A total of 130 days passed before DWD requested information it needed from the individual and an employer, and then subsequently before DWD denied the benefits.
- A third individual submitted an initial claim on March 20, 2020, and was determined to be ineligible for benefits on April 15, 2020. On April 30, 2020, the individual appealed DWD's decision, which was overturned on August 10, 2020. The individual was paid benefits 143 days after submitting the initial claim. A total of 69 days passed before DWD denied the benefits, even though it did not request any information before doing so, and then subsequently before DWD responded to the appeal.

Although DWD reduced the average length of time it took to pay initial claims for regular program benefits, it had not yet resolved a number of claims that had been filed in recent months. At the time of our review, DWD planned additional efforts to pay program benefits in a timely manner, including by partnering with Google Cloud to review claims and electronically contact individuals and employers. In undertaking such efforts, DWD should use the results of our analyses, which indicate the length of time it takes to resolve common issues and the extent to which issues were not resolved

because time elapsed. Considering these results can help DWD to focus its efforts.

Recommendation

We recommend the Department of Workforce Development:

- *use the results of our analyses to inform its efforts to pay program benefits in a timely manner; and*
- *report to the Joint Legislative Audit Committee by January 15, 2021, on the status of its efforts to implement this recommendation.*

Pandemic Unemployment Assistance Program

To determine eligibility for benefits under the Pandemic Unemployment Assistance program, the U.S. Department of Labor requires DWD to determine that individuals are ineligible for benefits under the regular program. We reviewed DWD's administration of certain aspects of the Pandemic Unemployment Assistance program.

Self-Certification of Information

Certain individuals are eligible for Pandemic Unemployment Assistance program benefits if they lost their jobs, are partially unemployed, or temporarily cannot work because of certain COVID-19 pandemic-related reasons. For example, individuals may be eligible if they have been diagnosed with the COVID-19 virus or are caring for family members diagnosed with the virus. They may also be eligible if they provide substantial financial support to households because the household heads died from the virus. When filing initial claims, individuals self-certify to DWD that they are experiencing one of these reasons and may provide additional information about their income. Because such individuals may not have worked for employers, DWD typically cannot ask employers to verify information provided by the individuals. DWD indicated that if information provided by individuals appears to be questionable or inconsistent, it may request additional information.

DWD's adjudication manual for the Pandemic Unemployment Assistance program specified actions to be taken during adjudication. However, we found that the manual did not:

- provide guidance on the circumstances when DWD should request additional information from

individuals who indicated they are providing substantial financial support to households because the household heads died from the virus;

- indicate the types of documents individuals must provide to verify their claims; or
- indicate how adjudicators should evaluate the information and determine eligibility for program benefits.

DWD should include additional guidance in its adjudication manual for the Pandemic Unemployment Assistance program.

DWD should include additional guidance in its adjudication manual for the Pandemic Unemployment Assistance program. The manual should provide guidance on the circumstances when DWD should request additional information from individuals who indicated they are providing substantial financial support to households because the household heads died from the virus, the types of documents individuals must provide to verify their claims, and how adjudicators should evaluate the information and determine eligibility for program benefits.

Recommendation

We recommend the Department of Workforce Development:

- *include additional guidance in its adjudication manual for the Pandemic Unemployment Assistance program; and*
- *report to the Joint Legislative Audit Committee by January 15, 2021, on the status of its efforts to implement this recommendation.*

Eligibility Notifications

The Department of Labor requires states to identify individuals who are potentially eligible for Pandemic Unemployment Assistance program benefits, including individuals who were denied or found ineligible for regular program benefits beginning on February 2, 2020. States must provide such individuals with written notification of their potential eligibility for Pandemic Unemployment Assistance program benefits and instructions on how to file for such benefits.

DWD indicated that it had contacted some, but not all, of the individuals who are potentially eligible for Pandemic Unemployment Assistance program benefits. DWD indicated it was in the process of contacting all individuals who have been denied or found ineligible for regular program benefits.

DWD should identify and contact all individuals denied or found ineligible for regular program benefits since February 2, 2020.

DWD should identify all individuals denied or found ineligible for regular program benefits since February 2, 2020. After doing so, DWD should provide these individuals with written notification of their potential eligibility for Pandemic Unemployment Assistance program benefits and instructions for filing for such benefits.

Recommendation

We recommend the Department of Workforce Development:

- *identify all individuals who are potentially eligible for Pandemic Unemployment Assistance program benefits and provide them with written notification of their potential eligibility and instructions for filing for such benefits; and*
- *report to the Joint Legislative Audit Committee by January 15, 2021, on the status of its efforts to implement this recommendation.*

Fraud Detection and Prevention

DWD is statutorily required to report annually to the Unemployment Insurance Advisory Council on its activities related to detecting and prosecuting program fraud in the previous calendar year. In report 14-15, we found that DWD overstated the amount of overpayments resulting from intentional misrepresentation that it recouped by not specifying the years in which it had identified all recouped overpayments. As a result, we recommended that DWD specify in its annual reports the years in which it had identified all recouped overpayments. In our current audit, we reviewed DWD's most-recent annual report to the Council in March 2020 and found that DWD had complied with our recommendation.

DWD uses multiple methods to detect and prevent programmatic fraud, including by comparing information provided by individuals with employment, immigration, and incarceration records. In June 2020, DWD implemented new methods, including an updated web-based form individuals can use to report suspected fraud, updated web-based information about identity theft, and an updated website with fraud-related information from the Department of Labor.

To detect and prevent fraud in the Pandemic Unemployment Assistance program, the Department of Labor requires states to take certain actions, such as comparing information in benefit claims to quarterly wage records and the National Directory of New Hires,

which is a database of wage and employment information. DWD indicated that it has implemented all actions required by the Department of Labor.

The Department of Labor strongly recommends that states take additional actions, such as implementing data analysis tools developed by the National Association of State Workforce Agencies, which is a national organization representing such agencies in all 50 states. These tools allow states to match information in benefit claims against similar information in other states and to share information with other states about fraudulent activities. DWD indicated that it shares information with other states on fraudulent activities and anticipates beginning to use additional data analysis tools in the coming months.

■ ■ ■ ■

Response ■

December 10, 2020

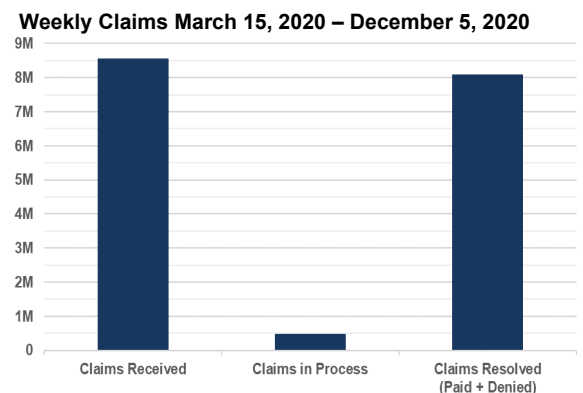
State Auditor Joe Chrisman
22 East Main St. Suite 500
Madison, WI 53703

Dear State Auditor Chrisman,

Thank you for the Legislative Audit Bureau's review of the Department of Workforce Development's (DWD) administration of aspects of the Unemployment Insurance (UI) program, including those related to processing certain claims filed by individuals for program benefits. We appreciate and accept your recommendations to continue improving the timely resolution of claims.

Before responding directly to your recommendations, we believe it valuable to offer additional context on the challenges that resulted in the data you provide in your report, as well as the progress that has been achieved. The widespread impact of the COVID-19 pandemic on our state and its workers resulted in an unprecedented number of UI claims being filed in an extraordinarily short period of time. State and federal law changes and new federal programs that offer much-needed support to Wisconsin residents added new challenges to an already complicated system. Despite being hamstrung by outdated technology and inflexible state statutes, DWD's staff, including those reassigned from across state service, new hires, and contracted personnel, have made tremendous progress in resolving claims.

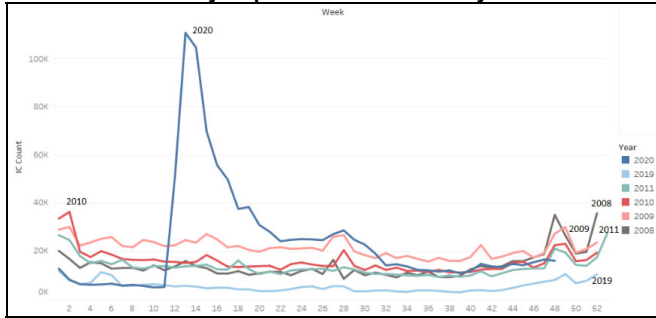
Between March 15 and December 5, 2020, UI has paid 566,265 individuals over \$4.84 billion and has resolved 94.45 percent of all claims. In that same period, UI has received 1,078,208 initial claims. For comparison, DWD received 287,022 initial claims over the entire year in 2019. The Department received a 982.19% increase in initial claims filed in the week ending March 21, 2020 over the previous week. DWD has received more than 8.56 million weekly claims since March 15, 2020, compared with the 7.2 million claims it handled during the four-year span from 2016 to 2019.



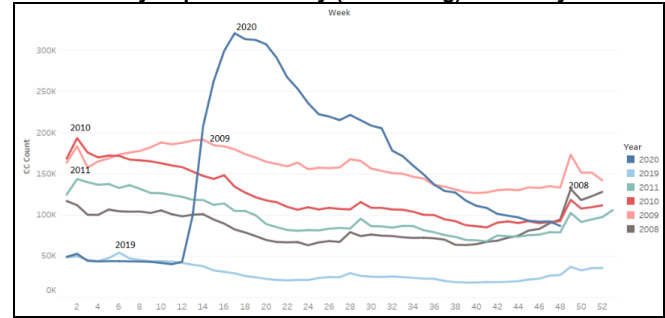
Perhaps an even more striking comparison is with the Great Recession. The highest numbers of Initial Claims and Weekly Claims filed during the Great Recession, 36,000 and 194,000 respectively, occurred in January 2010, more than two years after the Recession began in December 2007. In contrast, we saw this year's peak of 111,000 initial claims filed within the first week and the peak of 321,000 weekly claims within six weeks of the pandemic hitting Wisconsin employers. While DWD had in place both a "surge plan" to respond to seasonal spikes in claims and a "recession plan" to respond to large yet typically gradual increases in claims (similar to that seen in the Great Recession), neither were sufficient or predictive to deal with this unprecedented type of situation.

We continue to learn from this experience to implement data-informed strategies. By improving our systems, staffing, and processes, we will make more timely benefit determinations for the people of Wisconsin.

Federally Reported Initial Claims by Year



Federally Reported Weekly (Continuing) Claims by Year



Recommendation 1: DWD use the result of our analyses to inform its efforts to pay program benefits in a timely manner and report to the Joint Legislative Audit Committee (JLAC) by January 15, 2021 on the status of its efforts to implement this recommendation.

The information in your analysis reflects many of the lessons learned throughout the pandemic and the Department will certainly use it to help inform our continued actions to make more timely benefit determinations. We look forward to sharing our progress with JLAC in January.

Broadly, the data provided in your report accurately reflects the struggles that Wisconsin's UI system, like every other state in the nation, faced in responding to the unprecedented number of claims caused by the global pandemic due to our state's antiquated technology and complicated and inflexible laws. We do not dispute that the pandemic caused delays in the processing of claims due to the volume of work required. We do, however, find that the way the report portrays certain activities as delays or inactions based on a certain point in time may provide an incomplete representation of the activities involved in processing a claim. The categories used in Table 5 were established by your team and so may not correlate directly with our processes and do not offer a baseline for what the standard length of time should be to complete these processes. We did not have sufficient time to review all 268 individuals included in your sample, but it appears that while some timelines associated with your categories may be improved through administrative efficiencies, others may be outside the control of the Department.

Nevertheless, the main point that it has taken too long for some individuals to receive their determinations is undisputed. DWD is steadfastly working to resolve all eligibility determinations so that it can resume its timely administration of claims while also implementing long-term changes to prevent and prepare for any similar crises in the future. In the short-term, we have partnered with Google Cloud to provide expedited review of UI and Pandemic Unemployment Assistance (PUA) claims to assist in processing claim payment determinations. Google Cloud's service uses predictive analytics based on historical data to shorten adjudication decision-making, which will allow DWD to release payments to eligible claimants faster. We are also working with Google to implement systems that allow claimants to send and receive secure electronic communications and that allow claimants and employers to upload documents rather than relying on mail and fax. We have all seen the consequences of deferred action under the last administration so are proud of the many steps being taken under Governor Evers' leadership to modernize our UI system.

To assist you and members of the JLAC in your evaluation of past and future actions, we wanted to provide additional context on what is involved in the processing of a UI claim. The process involved to resolve a claim may take a variety of paths, depending on whether a monetary benefit entitlement can be established and if and when a question of eligibility is raised. Each step in the process and every area of the UI program saw incredible increases in demand, which required significant staffing increased and operational efficiencies, therefore, the normal process for all claims, described as follows, was subject to delay.

The first step is determining whether an applicant qualifies monetarily for benefits, meaning that (s)he has worked sufficient hours and earned sufficient wages in the first four of the five most recently completed calendar quarters, counting from the quarter in which the initial claim is filed. If the applicant does not have enough wages to qualify monetarily using those quarters, the department then considers the four most

recently completed calendar quarters prior to the week the initial claim is filed. If a monetary benefit entitlement can be established due to a lack of or missing wage credits, the system sends a request to both the claimant and employer. If there is no response after 14 days, DWD will issue a non-qualifying determination.

Once a claimant is determined to have met the basic monetary qualifications, the department reviews any other eligibility issues. Any answer given on a claim raising a question regarding a person's eligibility creates an issue that must be fully investigated before benefits may be paid; this is referred to as the adjudication process. Adjudication is the investigation and resolution of eligibility issues raised on unemployment insurance claims. Under normal conditions, the issue requiring adjudication is considered timely if resolved within 21 days of the date that issue arose. However, as workload increases, timeliness becomes more difficult to achieve.

Eligibility issues arise from several places including the initial claim, weekly claim, employer contact, claimant contact, and tips from the public. Adjudication is a manual process that requires interested parties be provided due notice to respond to the eligibility issue. If the issue being investigated is a discharge, UI often sends a letter to the employer before the claimant's interview to find out the employer's perspective of why the claimant was discharged, what prior incidents, if any, were also a factor, if progressive discipline was used, etc. The adjudicator may also follow-up the letter with a telephone call for clarification. The claimant can then respond to the specific allegations the employer has made when (s)he gives a statement. These requests for fact-checking allow 2-7 days for response.

The process is also cumbersome (and inherently causes delay) because any documents submitted by claimants or employers must currently be submitted either by mail or by fax. (At its initial rollout, all documentation to verify wages for purposes of determining Pandemic Unemployment Assistance benefits also had to be submitted via mail.) All mail received had to then be triaged, scanned, and processed. From April 1 to October 12, 2020 DWD staff processed over 660,000 batches of claimant and employer faxes and mail. During the same time period in 2019, 193,000 batches were processed.

As you mention, each state administers a separate UI program with state-specific laws and rules, while also following certain guidelines established by federal law. Individual state laws impact each state's administration of its UI program, especially the amount of time it may take to resolve an individual claim. From 2011-2018, a series of state laws were passed that complicated the unemployment process and slowed the time it takes for unemployed workers to receive their benefits. For example, Wisconsin laws surrounding substantial fault and quit exceptions certainly impact the number of eligibility issues related to separations and the complexity of investigations during the adjudication process required to determine eligibility.

Wisconsin and some other states also apply "proportional charging," where all separations occurring in the base period (the past 18 months) must be investigated to determine employer charging. Other states may only charge the most recent or principal employer, while still other states may charge employers in inverse chronological order. In Illinois, for example, they adjudicate the last employer through the chargeable employer. The chargeable employer is the last employer for whom the claimant worked for at least 30 days. In many cases that employer is the last employer, so they would stop there and not have to investigate any other separations as those employers would not be interested parties to the claim—unlike in Wisconsin. Given the anecdotal understanding that some of the sectors hardest hit by the pandemic, namely tourism and hospitality, employ workers who often work multiple jobs and experience high turnover, investigating all separations from every employer over the course of 18 months can be quite time consuming.

Assigning an adjudication of a claim is traditionally done on a first-come first-serve basis by issue type. How soon an adjudicator can address later cases is contingent on completion of earlier cases assigned. Given the incredible volume of claims filed in such a short amount of time, it took significant time before someone could be assigned to review a claim that was filed later in the pandemic, even if it was filed in only a matter of days later.

If a determination is made to approve a claim, the claim is automatically transferred to the accounting department to be paid. Payment is typically made either by direct deposit or by a debit card within two business days. Given system constraints, some cases are not able to be automatically processed and require manual payment processing by the Adjustment and Special Processing section. For example, if a claimant worked for a school during the school year and has reasonable assurance of returning in the same capacity in the next school year, wages earned during the school year cannot be used to pay benefits during the break period. This person will end up having a monetary with those wages, and a monetary without those wages. This affects both the amount of benefits the claimant will receive and the charging of the employers. All parts of the example are a wholly manual process. In addition, every PUA application must be manually addressed, reviewed, and set up in the system. After that manual set up is completed, the payments of PUA benefits is automated. However, any adjustments needed, again, require manual work.

If the employer or the claimant disagree with the determination issued by the adjudicator, they have the right to file an appeal and it must be postmarked or received within 14 days of the date on which the determination was issued. When the appeal is received by DWD, it is then scheduled for a hearing. DWD mails (through U.S. Mail) the involved parties a hearing notice at least six days in advance of the scheduled hearing. At the hearing, testimony is heard and exhibits may be presented. After the hearing, the appeal tribunal will review all testimony and exhibits, decide how the unemployment insurance law applies to the facts, and issue a written decision de novo, meaning that it does not defer to the initial determination. This is the last step for UI, as any future appeals are filed with the Labor & Industry Review Commission and, ultimately, to the courts.

We share this more complete picture of the claims resolution process to allow you to understand how the increase in adjudicators, including vendor staff, has been helpful in processing claims, but it was necessary to address staffing at every level of the process (see table below). Even with the support of Governor Evers, our sister agencies, administrative rule waivers, legislative assistance through Act 185, and expedited training modules, the effort required to recruit, hire, train, and onboard nearly 1,300 staff, while still dealing with complex eligibility laws and outdated systems that require inefficient processes, has been substantial. While we are in the process of implementing short-term, cost-effective technological solutions that will improve operational efficiencies until a full update and modernization of our benefits and tax systems is in place, we encourage the Unemployment Insurance Advisory Council and ultimately the Legislature to consider additional long-term changes during its budget and legislative deliberations in the coming session, as has been urged by Governor Evers.

DATE	UI RESOURCE ADJUDICATION STAFF	UI CALL CENTER STAFF	ALL OTHER UI RESOURCE STAFF	TOTAL UI RESOURCE STAFF
March 14, 2020	174	62	268	504
December 7, 2020	536	761	503	1,800
<i>DWD Permanent, LTE, and Project Staff</i>	268	133	396	797
<i>Temporarily Reassigned Staff</i>	48	53	9	110
<i>Vendor Staff</i>	220	575	98	893

Recommendation 2: Department of Workforce Development include additional guidance in its adjudication manual for the Pandemic Unemployment Assistance (PUA) program and report to the Joint Legislative Audit Committee (JLAC) by January 15, 2021 on the status of its efforts to implement this recommendation.

DWD accepts this recommendation to update its adjudication manual for PUA to provide adjudicators additional guidance on the circumstances when DWD should request additional information from individuals who indicated they are providing substantial financial support to households because the household heads died from the virus, the types of documents individuals must provide to verify their claims, and how adjudicators should evaluate the information and determine eligibility for program benefits.

The staff and contracted personnel currently assigned to adjudicate PUA claims have substantial experience in adjudicating UI benefit issues. They currently apply the knowledge from that experience, as well as the guidance provided in the UI adjudication manual, when evaluating information and document to determine eligibility for PUA. However, to improve transparency and the appearance of consistency in PUA determinations, we will offer additional guidance in the PUA manual.

Recommendation 3: Department of Workforce Development identify all individuals who are potentially eligible for Pandemic Unemployment Assistance program benefits and provide them with written notification of their potential eligibility and instructions for filing for such benefits and report to the Joint Legislative Audit Committee (JLAC) by January 15, 2021 on the status of its efforts to implement this recommendation.

DWD accepts this recommendation to notify additional individuals who may be eligible for Pandemic Unemployment Assistance (PUA) benefits. To date, DWD has updated various pages on its website, posted on its social media pages, and issued press releases notifying the public about the availability of the program, eligibility requirements, and how to apply. Further, when staff issue a denial for regular UI benefits or for Pandemic Emergency Unemployment Compensation, staff provide notice about claimants' potential eligibility for PUA benefits in the determination letter and provide instructions on how to apply.

Again, thank you for your review of DWD's administration of the UI program. We look forward to continuing to work with you to improve our services to the people of Wisconsin.

Sincerely,

A handwritten signature in black ink, appearing to read 'Amy Pechacek', written in a cursive style.

Amy Pechacek
Transition Director
Department of Workforce Development