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November 15, 2021

KERRI L. HUNTER, CPA
—
STATE AUDITOR

Members of the Legislative Audit Committee:

This report contains the results of a performance audit of unemployment insurance benefits administered by the Department of Labor and Employment. The audit was conducted pursuant to Section 2-3-103, C.R.S., which authorizes the State Auditor to conduct audits of all departments, institutions, and agencies of state government, and Section 2-7-204(5), C.R.S., which requires the State Auditor to annually conduct performance audits of one or more specific programs or services in at least two departments for purposes of the SMART Government Act. The report presents our findings, conclusions, and recommendations, and the responses of the Department of Labor and Employment.

Government Auditing Standards allow for information that is considered sensitive in nature, such as detailed information related to unemployment insurance benefits fraud, to be omitted, if the omission is disclosed because of the potential damage that could be caused by the misuse of this information. We consider the specific technical details of the Fraudulent Unemployment Claims finding, and the related recommendation and responses, to be sensitive in nature and not appropriate for public disclosure. We have provided the details of this finding, recommendation, and responses to management and to the Legislative Audit Committee in a separate, confidential report. The finding with omitted information includes a disclosure of the omission.

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REPORT HIGHLIGHTS



UNEMPLOYMENT INSURANCE BENEFITS

PERFORMANCE AUDIT, NOVEMBER 2021

DEPARTMENT OF LABOR AND EMPLOYMENT

KEY CONCERN

The Department of Labor and Employment (Department) did not prevent about \$73 million in payments on 8,200 likely fraudulent and potentially fraudulent unemployment insurance benefits (benefits) claims from March 2020 through April 2021, and did not track customer complaints or resolve them timely.

KEY FINDINGS

- During the COVID-19 pandemic, unemployment in Colorado and nationwide led to an increase in claims for benefits. For example, the Department received 1,100 percent more claims in Calendar Year 2020 than it received in Calendar Year 2019.
- The audit identified \$73.1 million in likely or potentially fraudulent benefits payments between March 1, 2020 and April 30, 2021, for 8,200 claims that each had one or more attributes indicating fraud, including:
 - ▶ \$3.87 million paid on behalf of 1,065 individuals who were deceased.
 - ▶ \$5.04 million paid on behalf of 696 individuals who were incarcerated.
 - ▶ \$101,630 paid to 18 claimants who did not appear eligible because they were not of working age.
 - ▶ \$18.5 million paid to 2,919 claimants who had suspicious bank account information associated with their claims.
 - ▶ \$45.78 million paid to 3,308 claimants whose claims had multiple indicators of fraud, such as suspicious email, foreign internet protocol (IP), and/or mailing addresses.
- The Department had no evidence to show that it had resolved 196,066 out of 266,284 (73 percent) claimant requests for assistance with their fraud holds. The Department took an average of 7 weeks to address issues raised in the 70,134 fraud hold assistance requests that it documented as resolved.
- The Department lacks effective complaint management processes to track and resolve problems that claimants report, resulting in complaints not being resolved timely or at all. The Department did not track most complaints at the beginning of the pandemic, and did not begin tracking complaints about contracted call center staff until February 2021.

BACKGROUND

- The key purposes of unemployment benefits are to stabilize the economy during periods of high unemployment, help unemployed Coloradans maintain their purchasing power, and support workers who lose their jobs [Section 8-70-102, C.R.S.].
- The Department processes claims for unemployment benefits and pays benefits to claimants.
- In Calendar Year 2020, about 852,000 Coloradans received unemployment benefits payments totaling \$6.9 billion, and in Calendar Year 2021, about 577,000 had received payments totaling \$4.6 billion as of October 2021.

KEY RECOMMENDATIONS

- Improve fraud detection, prevention, and investigation methods.
- Investigate each claim that the audit identified as likely or potentially fraudulent, and refer them to prosecution and recover inappropriate payments, as appropriate.
- Implement processes to investigate and address claimants' requests for assistance with benefits fraud holds in a timely manner, and document resolutions to all requests for assistance.
- Track, investigate, and resolve complaints from customers; analyze aggregate complaint data to identify ongoing problems; and take corrective action to address the problems identified, as appropriate.

The Department of Labor and Employment agreed with the audit recommendations.



CHAPTER 1

OVERVIEW

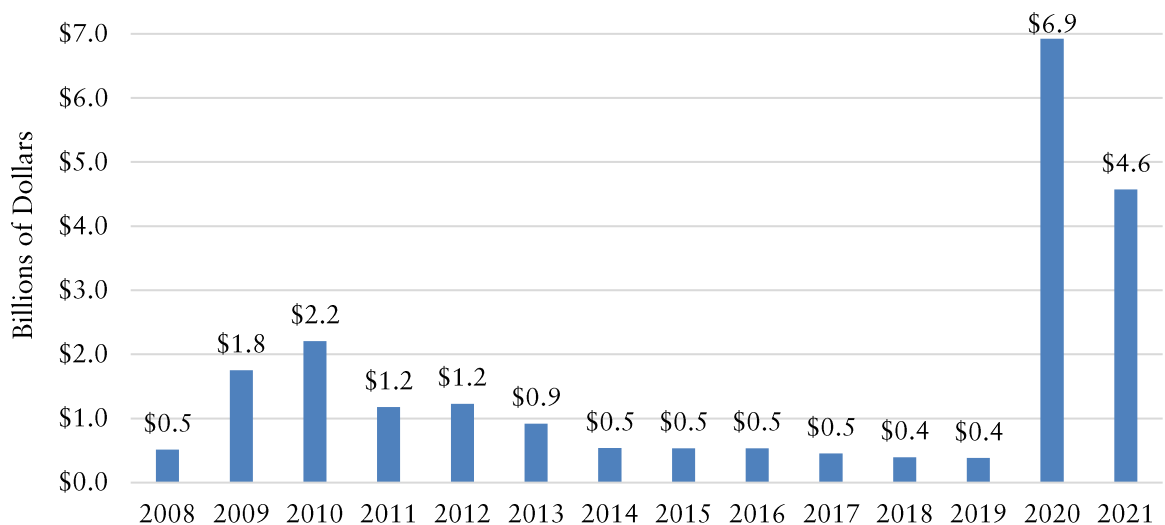
State unemployment insurance programs provide temporary financial assistance (unemployment benefits or benefits) to workers who lose their employment through no fault of their own. Federal law and regulations establish a mechanism for states to provide unemployment benefits to individuals and broad eligibility requirements such as requiring individuals to be able and available to work [20 C.F.R. Sections 601-656; 26 U.S.C. Sections 3301-3311; and 42 U.S.C. Sections 501-506, 1101-1111, and 1321-1324]. Each state determines specific requirements for eligibility, benefit payment amounts, and the length of time benefits are available to an individual.

COLORADO'S UNEMPLOYMENT INSURANCE PROGRAM

In Colorado, the key purposes of unemployment insurance benefits are to stabilize the economy during periods of high unemployment, help unemployed Coloradans maintain their purchasing power, and support workers who lose their jobs [Section 8-70-102, C.R.S.]. The Department of Labor and Employment (Department) administers unemployment insurance benefits in Colorado. The Department helps Coloradans who have lost their jobs by providing temporary wage replacement through benefits payments.

According to the Department, about 852,000 Coloradans received benefits payments in Calendar Year 2020, and about 577,000 Coloradans received payments in Calendar Year 2021 as of October 2021. EXHIBIT 1.1 shows trends in total benefits payments to Coloradans since Calendar Year 2008.

**EXHIBIT 1.1. COLORADO UNEMPLOYMENT BENEFITS PAYMENTS
CALENDAR YEARS 2008 THROUGH 2021
(AS OF OCTOBER 9, 2021)**



SOURCE: Colorado Department of Labor and Employment.

Due to the COVID-19 pandemic (pandemic), the Department paid \$6.9 billion in unemployment benefits in 2020, an increase of 1,625 percent compared to the \$400 million it paid in 2019.

BENEFITS ELIGIBILITY

When an individual applies for unemployment benefits, they are called a claimant and the application is called a claim. To be eligible for unemployment benefits, the Colorado Employment Security Act [Sections 8-70-101, et seq., through 8-82-101, C.R.S.] and state rules and regulations [7 CCR 1101-2] require that claimants:

- **HAVE RECENT EARNED WAGES.** A claimant must have earned at least \$2,500 in wages from an employer who withheld taxes from the claimant's paycheck and reported their income on a W-2 tax form during 4 consecutive calendar quarters within the last 5 calendar quarter periods, known as the base period. Statute provides further restrictions on eligibility for those who received severance, pension payments, or worker's compensation during the base period [Sections 8-70-142(1)(a)(1) and (c); and 8-73-110(1)(a), (3)(B), (4), and 112, C.R.S.].
- **BE UNEMPLOYED THROUGH NO FAULT OF THEIR OWN.** Claimants who are fired for good cause or who voluntarily quit their jobs are generally not eligible for unemployment insurance benefits. However, if claimants quit employment due to harassment, reduced wages, or an unsafe work environment, they may qualify for benefits.
- **BE ABLE, AVAILABLE, AND WILLING TO ACCEPT WORK.** Claimants are typically not eligible for benefits if they cannot work due to illness or injury; are not available due to reasons such as lack of transportation or childcare responsibilities; or refuse an offer to work at an equal or higher skill level than their previous employment.
- **SEEK EMPLOYMENT.** Colorado's unemployment insurance program requires claimants to continue to search for employment each week to receive benefits.

To receive unemployment benefits, an individual must submit a claim to the Department and request payment. The Department reviews claims and determines eligibility based on established criteria.

TYPES OF BENEFITS

During the pandemic, Colorado provided two types of unemployment benefits, state benefits and federal benefits, which have different eligibility requirements and number of weeks of payments, as described below.

STATE FUNDED BENEFITS. Colorado typically offers two types of state unemployment benefits:

- **REGULAR BENEFITS** are available to all eligible claimants for up to 26 weeks. Individuals who are eligible for regular benefits are typically traditional employees and not self-employed or working under contract.
- **EXTENDED BENEFITS**, also known as state extended benefits, are available beyond 26 weeks and when unemployment in Colorado exceeds certain thresholds, such as above 5 percent for the insured unemployment rate [Sections 8-75-101 and 108, C.R.S.]. Extended benefits were available from August to November 2020 due to higher unemployment during the pandemic.

In Colorado, the maximum payment for regular and extended benefits that an eligible claimant could receive each week ranged from \$618 to \$649 from July 2019 through June 2021, and has been \$700 since July 2021. However, the federal government provided funding for additional benefits payments during the pandemic, to provide emergency federal financial assistance to unemployed workers, as described below.

FEDERALLY FUNDED PANDEMIC BENEFITS. According to the Congressional Research Service, the pandemic has led to a significant increase in unemployment in every state. In April 2020, the national

unemployment rate peaked at almost 15 percent, which was a level not seen since data collection started in 1948. To address this unprecedented level of unemployment, from March 2020 through September 2021, federal laws such as the 2020 Coronavirus Aid, Relief, and Economic Security (CARES) Act, added new federally funded benefits for certain types of workers and new supplemental benefits for individuals who had exhausted regular unemployment benefits. Any individual eligible for regular benefits must claim them before claiming federally funded pandemic benefits. The new pandemic-time benefits that have been available to Colorado claimants are as follows:

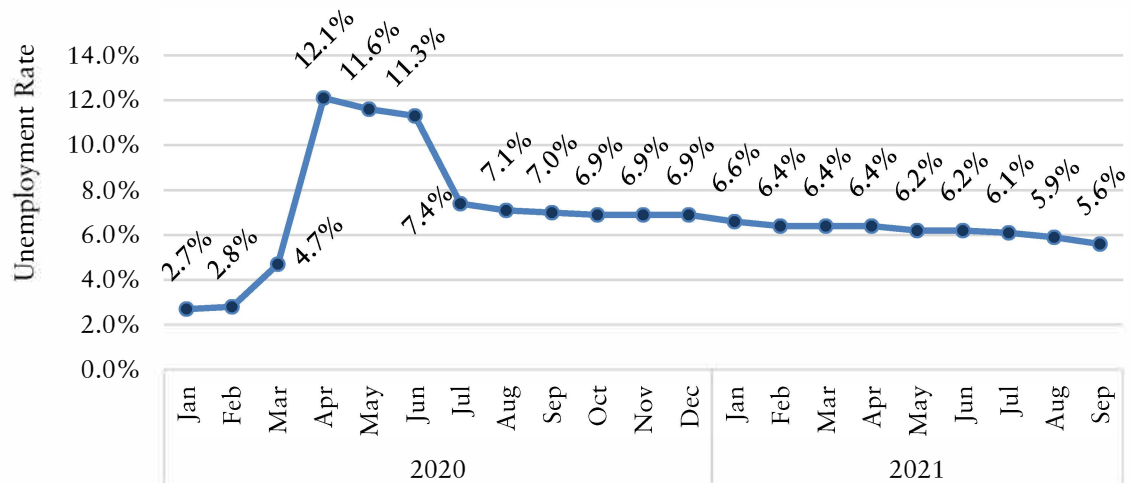
- **PANDEMIC EMERGENCY UNEMPLOYMENT COMPENSATION (PEUC)** provides an additional 53 weeks of regular benefits to individuals who have exhausted their regular benefits.
- **PANDEMIC UNEMPLOYMENT ASSISTANCE (PUA)** provides up to 79 weeks of a new type of unemployment benefits to self-employed individuals, independent contractors, those with limited work history, and other individuals who were not traditionally eligible for unemployment insurance benefits, but are unable to work as a direct result of the pandemic.
- **FEDERAL PANDEMIC UNEMPLOYMENT COMPENSATION (FPUC)** provided a \$600 supplemental payment for weekly benefits to eligible individuals for up to 4 months from late March through July 2020, and a \$300 weekly benefit from December 2020 to September 6, 2021.
- **LOST WAGES ASSISTANCE** provided eligible claimants receiving benefits a supplemental \$300 weekly payment from the end of July 2020 to the beginning of September 2020, when FPUC payments were not active. Eligibility was limited to individuals who were unemployed or partially unemployed due to the pandemic and received at least \$100 in weekly benefits from late July to early September 2020.
- **MIXED EARNER UNEMPLOYMENT COMPENSATION (MEUC)** was enacted federally in late December 2020 and was in place through

September 6, 2021. Individuals were eligible if they both claimed regular benefits as a former traditional employee and also made more than \$5,000 in self-employment income in the year before the pandemic. Because any individual eligible for regular benefits must claim the regular benefits first, MEUC is meant to assist in making up for lost self-employment income by providing \$100 per week as a supplement to the regular benefits. Colorado implemented MEUC in August 2021 and claimants can apply retroactively for benefits back to December 2020.

COLORADO'S RESPONSE TO PANDEMIC UNEMPLOYMENT

As shown in EXHIBIT 1.2, the percentage of Colorado's workforce that was unemployed during the pandemic increased significantly beginning in March 2020, and peaked at 12.1 percent in April 2020.

**EXHIBIT 1.2. COLORADO UNEMPLOYMENT RATE
AS A PERCENTAGE OF THE WORKFORCE
JANUARY 2020 THROUGH SEPTEMBER 2021**



SOURCE: Office of the State Auditor analysis of Department of Labor and Employment data on unemployment rates.

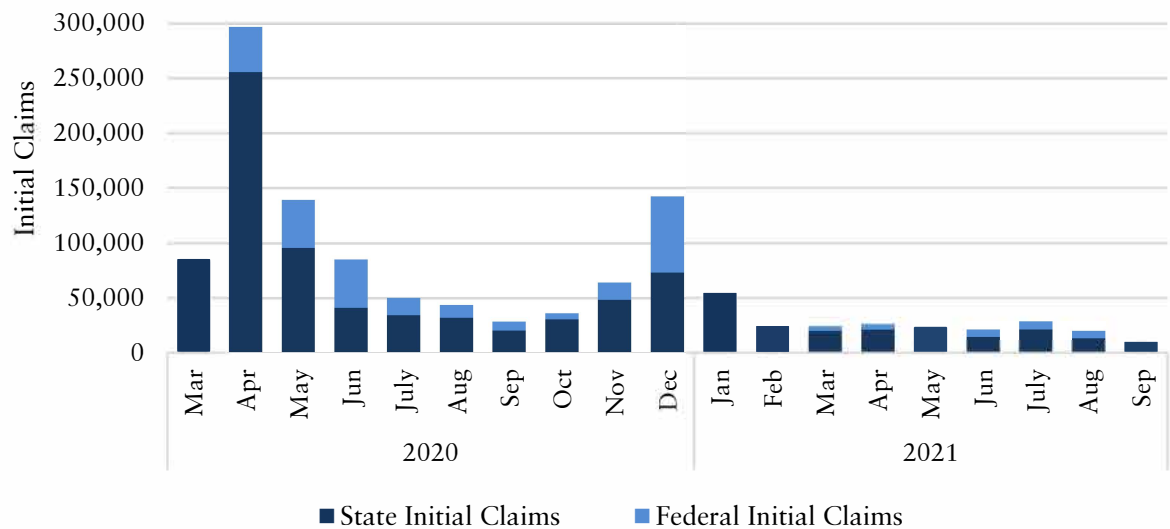
Early in the pandemic, the federal government asked states to loosen some requirements for unemployment benefits. In response, in March

2020, the Governor issued Executive Order D-2020-012, which suspended certain eligibility requirements and streamlined claim processing, among other changes. For example, the Executive Order directed the Department to process claims and distribute benefit payments within 10 days of receipt of the application, to the extent practicable, beginning March 20, 2020 and ending August 6, 2021. In addition, Executive Order D-2020-012 was extended and modified multiple times, and suspended the following statutory requirements that are relevant to this audit:

- That benefit recipients actively seek work [Section 8-73-107(1)(g)(1), C.R.S.]. This requirement was suspended from March 20, 2020, through January 31, 2021.
- That the Department notify interested parties, such as employers, upon receipt of a claim and before paying benefits [Section 8-74-102(1), C.R.S.]. This requirement was suspended from March 20, 2020, through August 6, 2021.
- The 1 week unpaid waiting period to receive benefits [Section 8-73-107(1)(d), C.R.S.]. This requirement was suspended from March 20, 2020, through September 4, 2021.

The increase in unemployment during the pandemic and the corresponding loosening of eligibility requirements have led to a significant increase in claims and benefits payments processed by the Department. For example, the Department received about 104,220 new claims for the week ending April 11, 2020, which is more than the total number of claims filed in Calendar Year 2019. EXHIBIT 1.3 shows the claims volume for individuals' first unemployment claims in Colorado during the pandemic.

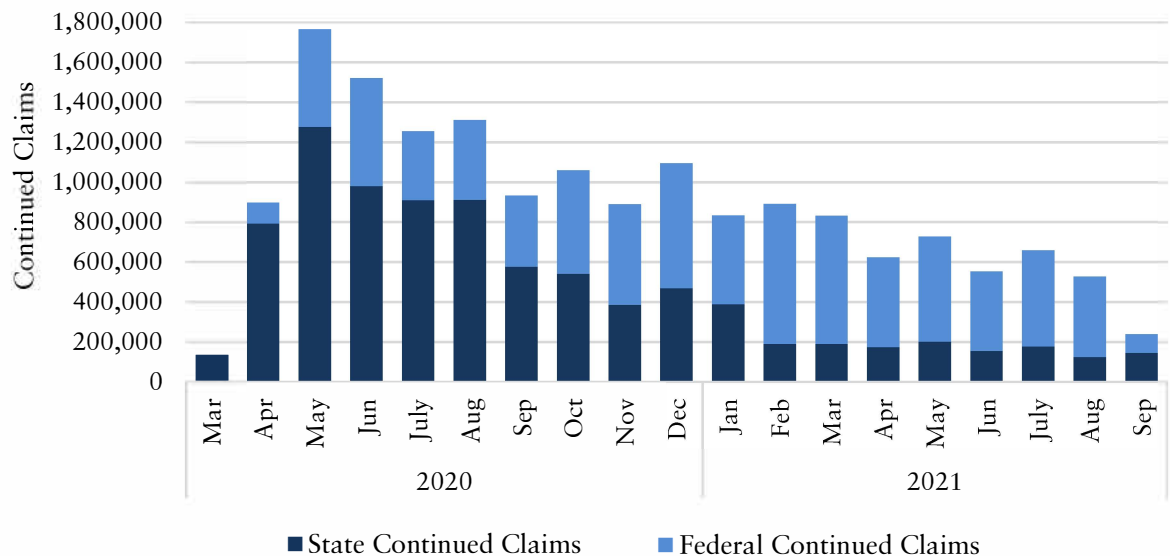
**EXHIBIT 1.3. INITIAL CLAIMS FOR UNEMPLOYMENT
MARCH 2020 THROUGH SEPTEMBER 2021**



SOURCE: Office of the State Auditor analysis of Department of Labor and Employment data.

EXHIBIT 1.4 shows the continued unemployment claims, or those that followed the initial claims, from March 2020 through September 2021.

**EXHIBIT 1.4. CONTINUED UNEMPLOYMENT CLAIMS
MARCH 2020 THROUGH SEPTEMBER 2021**



SOURCE: Office of the State Auditor analysis of Department of Labor and Employment data.

Continued unemployment claims peaked in May 2020 at about 1.8 million. As of the end of September 2021, continued unemployment claims totaled about 240,460.

ADMINISTRATION

In Fiscal Year 2021, the Department employed about 484 full-time equivalent (FTE) staff within its Unemployment Insurance Division, to work in the following areas:

- **BENEFIT SERVICES** provides customer service to inform claimants of their responsibilities and rights and answer questions about unemployment insurance; determines claimants' eligibility for benefits; helps ensure timely payments to claimants; and prevents, detects, and recovers overpayments.
- **OPERATIONS SUPPORT** investigates and refers fraud cases for criminal prosecution, conducts quality reviews of benefit-related and employer-tax-related functions to ensure compliance with federal and state unemployment requirements, identifies and addresses the causes of improper payments, and maintains correspondence and reports.
- **EMPLOYER SERVICES** determines employers' liability, assigns tax rates and collects taxes from employers, and conducts audits of employers to ensure they classify workers and pay taxes properly.
- **APPEALS** holds hearings on decisions issued by Benefits Services, Operations Support, and Employer Services, that are appealed by a claimant, employer, or other related party.

During the pandemic, the Department also contracted for additional services and staff, including a third-party call center, claims processing professionals, and fraud analytics experts, which are discussed further in Chapters 2 and 3.

At the federal level, the United States Department of Labor (USDOL) sets broad policy for the administration of unemployment insurance, oversees states' compliance with federal requirements, distributes funding from payroll taxes to states for benefit payments and administration, monitors state performance, and provides technical assistance to states.

KEY DEPARTMENT IT SYSTEMS

- **COLORADO UNEMPLOYMENT BENEFITS SYSTEM (CUBS)** was the legacy information technology (IT) system that the Department used to accept unemployment benefits applications and process claims from Calendar Years 1986 through 2020. In 2016, the Department contracted with a vendor to create a new IT system and was planning to transition from CUBS to the new system in April 2020. However, when the pandemic hit, the Department delayed the transition for regular benefits claims, and continued using CUBS to process regular claims until January 2021.
- **MYUI+** is the new unemployment benefits claims IT system created by the Department's vendor, Deloitte. The Department implemented a basic version of this new system in April 2020 to process PUA claims only. The Department experienced multiple IT and program delays, and ultimately implemented advanced system functionality in January 2021 to process all regular benefits claims.
- **ID.ME** is a national IT company and platform that the Department began using in January 2021 to verify the identities of claimants as required by federal law [Continued Assistance for Unemployed Workers Act, December 2020]. ID.me uses multi-factor identification, such as requiring individuals to submit two forms of identification and submit their picture, before their initial claim can be filed. In some cases, ID.me requires individuals to provide a live video to verify their identities. In Colorado, 85 percent of the individuals who verify their identity using ID.me do so by submitting materials without any ID.me staff supervision. The remaining 15 percent interact with trained ID.me staff in a video chat to complete

the identity verification process because their identity paperwork is not easily verifiable.

According to the Department, when it began using ID.me, there were high wait times for the subset of individuals who needed to verify their identities through live video because several states simultaneously required large numbers of new claimants to complete identity verification using ID.me. Specifically, as of September 2021, the Department reports the average wait time for an individual to complete identity verification with ID.me staff help is about 7 minutes.

FUNDING

Colorado provides benefit payments to claimants using revenue from federal and state taxes on employee wages that employers pay, as follows:

- **FEDERAL TAX.** For Calendar Years 2020 and 2021, most employers in the state paid a federal tax rate of 0.6 percent on the first \$7,000 in wages paid to an employee, or a maximum of \$42. The federal tax rate is 6 percent on wages up to \$7,000 paid to an employee each year, but because Colorado complies with certain federal requirements, employers in the state can receive an offset credit up to 5.4 percent. Federal tax revenue is used to pay for administration, loans to states, the federal portion of extended benefits, and federal grants provided to states, such as for implementation of new federal programs. This federal tax revenue is provided to states as federal grant revenues under Assistance Listing number 17.225, Unemployment Insurance; the State's compliance with the related compliance requirements are tested by the Office of the State Auditor as part of the Statewide Single Audit.
- **COLORADO STATE TAX.** For Calendar Years 2020 and 2021, employers' standard state tax rate was 1.7 percent on the first \$13,600 of employee wages, although the rate varied depending on

an employer's experience rating (i.e., how frequently the employer has laid off workers) and industry. The state tax revenue from employers is used to pay for regular state benefits.

State unemployment tax revenues flow to Colorado's Unemployment Insurance Trust Fund (UITF), and the Department draws funds from the UITF to pay state regular benefits; these funds are not allocated through the state appropriations process. The new federal benefits outlined above, as well as state extended benefits during the pandemic, were federally funded and did not rely on revenues from the State's UITF. However, Colorado is still responsible for paying regular unemployment benefits from the UITF. In June 2019, the UITF for Colorado had a \$1.1 billion balance, which had dropped to \$0 by August 2020 due to the spike in unemployment claims. As a result, Colorado began borrowing from the federal government in August 2020 to fund the State's regular benefits payments. As of October 2021, Colorado's federal loan balance totaled \$1.01 billion. Chapter 2 includes more information on the UITF.

AUDIT PURPOSE, SCOPE, AND METHODOLOGY

We conducted this performance audit pursuant to Section 2-3-103, C.R.S., which authorizes the State Auditor to conduct audits of all departments, institutions, and agencies of the state government, and Section 2-7-204(5), C.R.S., the State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act. Audit work was performed from March 2021 through October 2021. We appreciate the cooperation and assistance provided by Department management and staff during this audit.

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

reasonable basis for our findings and conclusions based on our audit objectives.

Given the significant increase in unemployment claims, loosening of requirements, and new federal benefits that created vulnerabilities for fraudulent claims, the objectives of this audit were to evaluate the extent to which the Department has paid unemployment benefits for potentially fraudulent claims, and assess the overall effectiveness of the Department's customer service assistance for claimants. This audit did not review Department processes for collecting unemployment insurance taxes from employers, the Department's claims adjudication processes, or appeal processes. The audit also did not review the Department's general controls for paying benefits or collecting overpayments because these controls are reviewed by the Statewide Financial Audits.

To accomplish our audit objectives, we performed the following audit work:

- Reviewed Colorado and federal statutes, rules, regulations, executive orders, and guidance relevant to unemployment insurance benefits.
- Reviewed national and state data on unemployment insurance claims and unemployment benefits fraud.
- Analyzed aggregate Department data on paid and unpaid unemployment benefits claims between March 1, 2020, and April 30, 2021, which included information on all claims submitted and benefits payments made, as well as claims identified by the Department as potentially fraudulent.
- Compared Department claims data to data from other Colorado state agencies, including the Department of Public Health and Environment's death record data from January 2015, through June 7, 2021, and the Department of Corrections' incarceration records from March 2020, to April 20, 2021.

- Analyzed Department data on the fraud holds applied to benefits payments, also known as program integrity holds, from July 20, 2020, to July 18, 2021.
- Worked with a contractor, BKD, LLP, to identify indicators of unemployment benefits fraud and conduct analytics to identify likely fraudulent claims paid by the Department from March 2020, through April 2021.
- Analyzed data on unemployment-related calls that the Department and its contracted call center received from March 2020, through April 2021; the Department's contract with the call center; and call center staffing.
- Analyzed all unemployment-related complaint data on file at the Department for complaints received from February 22, 2021, to April 30, 2021.
- Reviewed the Department's SMART Government Act performance plans for Fiscal Years 2021 and 2022.
- Interviewed staff from the Department, its MyUI+ and fraud analytics contractor, its ID.me vendor, and its contracted call center.

As required by auditing standards, we planned our audit work to assess the effectiveness of those internal controls that were significant to our audit objectives. We describe details about the audit work supporting our findings and conclusions, including any deficiencies in internal control that were significant to our audit objectives, in the remainder of this report.

A draft of this report was reviewed by the Department. We have incorporated the Department's comments into the report where relevant. The written responses to the audit recommendations and the related implementation dates are the sole responsibility of the Department.

CHAPTER 2

UNEMPLOYMENT INSURANCE BENEFITS FRAUD

The two main types of fraud related to unemployment insurance benefits (unemployment benefits or benefits) are: (1) benefits fraud, when an individual misrepresents their earnings or employment to obtain benefits, and (2) identity fraud, when someone uses a stolen identity to obtain benefits. According to the Department of Labor and Employment (Department), there were few unemployment insurance fraud cases in Colorado and other states before the pandemic, and those cases were primarily benefits fraud.

During the COVID-19 pandemic (pandemic) that began in March 2020 and has continued during this audit, unemployment insurance fraud cases have increased significantly nationwide, mostly through the prevalence of identity fraud. For example, the United States Department of Labor's (USDOL) website notes that states have seen a surge in identity fraud unemployment claims filed by organized crime and criminals who purchase stolen personal identifying information on the "dark web" and use the stolen information to apply for benefits [USDOL website, August 2021]. In January 2021, USDOL's Inspector General estimated there will ultimately be \$87 billion in improper payments nationwide from the Coronavirus Aid, Relief, and Economic Security (CARES) Act unemployment provisions, with a significant portion attributable to fraud.

States have also reported unprecedented fraud related to unemployment benefits during the pandemic. For example, in May 2021, Ohio reported that it had paid \$462 million in fraudulent claims; in August 2021, Kansas reported that it had paid \$380 million in fraudulent claims; in September 2021, Arizona reported that it had paid \$4.4 billion in fraudulent claims; and for Calendar Year 2020, Washington reported \$647 million in payments due to unemployment fraud, of which 99 percent was linked to identity fraud. In September 2021, Colorado reported that it had identified and confirmed \$28.9 million in unemployment benefits fraud. The Department has also worked with financial institutions to have them recover an additional \$35 million that will require further Department investigation before it can confirm the payments as fraudulent. The Department has reported that it continues to identify potential fraudulent claims and investigate them to confirm fraud.

Government Auditing Standards allow for information that is considered sensitive in nature such as detailed information related to unemployment insurance benefits fraud to be issued through a separate "classified or limited use" report because of the potential damage that could be caused by the misuse of this information. We consider some specific and technical aspects of this chapter along with the recommendations and responses to be sensitive in nature and not

appropriate for public disclosure. Therefore, some of the details of this chapter, recommendations, and responses have been provided to the Department in a separate, confidential report.

PANDEMIC POLICIES CREATED OPPORTUNITY FOR FRAUD

Following the outbreak of COVID-19, state and federal changes in unemployment insurance aimed to provide rapid assistance to unemployed people and expand the eligibility for unemployment insurance. However, these changes created fraud vulnerabilities in the unemployment insurance system. Specifically:

- **USDOL GUIDANCE ENCOURAGED AND A GOVERNOR’S EXECUTIVE ORDER REQUIRED EXPEDITED PAYMENT.** At the beginning of the pandemic, USDOL issued guidance to states encouraging them to pay unemployment claims as quickly as possible to address the large number of suddenly unemployed people. Similarly, Colorado’s Governor issued Executive Order D-2020-012 on March 20, 2020, instructing the Department to pay benefits within 10 days of receiving a claim. Before the pandemic, the Department took 4 to 6 weeks to process claims before paying benefits, which allowed time for Department staff to contact employers and verify claimant employment and wages. To meet the new timeliness requirements, from March 2020 through early August 2021, the Department did not conduct employment and wage checks before paying benefits. According to the Department, due to the volume of claims that it received during the pandemic, it took up to several months after payment for the Department to conduct employment and wage verification on regular state unemployment claims (regular claims), but it screened these claims for potential fraud and certain issues, such as duplicate claims, before paying them.

Executive Order D-2021-125, issued by the Governor on August 6, 2021, discontinued the mandate to pay benefits within 10 days, and since this date, the Department has returned to conducting

employment and wage checks before paying claims. As of the end of our audit in October 2021, the Department reported that it had resolved more than 450,000 issues related to employment and wage checks for claims in its backlog of claims that had been submitted prior to August 6, 2021, and needed these checks. However, the Department reported to us that it still has to resolve 90,000 of these types of issues for paid claims submitted during the pandemic. The Department reported that claims may have more than one issue, and Department staff are tracking and resolving the issues related to claims. Therefore, the Department cannot give us an estimate of the amount of benefits that it paid on claims that have outstanding issues.

- **DUEL IT SYSTEMS COMPLICATED FRAUD PREVENTION.** Prior to the start of the pandemic, the Department had planned to retire its legacy IT system used to process unemployment claims, the Colorado Unemployment Benefits System (CUBS), in April 2020, but did not replace it entirely until January 2021. CUBS did not have the functionality to conduct the advanced fraud analytics that are currently in the new system, MyUI+, nor did CUBS have the functionality to place automated holds on benefits payments due to suspected fraud. From the beginning of the pandemic through early January 2021, the Department continued processing and paying regular claims using CUBS, and used its new system to process federal Pandemic Unemployment Assistance (PUA) claims. The Department only processed PUA claims in the new system because, initially in the pandemic, PUA claims were the fraud target and the significant increase in the number of claims filed disrupted the full rollout of the new system. On January 10, 2021, the Department began using the new system to process regular claims, as well.
- **SOME FEDERAL DIRECTIVES FOR PUA HINDERED FRAUD PREVENTION.** From March 2020 to December 2020, the CARES Act and federal guidance for PUA required states to allow claimants to self-certify that they were eligible to receive benefits. States could not require PUA claimants to provide employment documentation. Although the

federal intent of allowing self-certification was to provide benefits to unemployed contract or other untraditional workers quickly, it made PUA benefits a target for fraud. The USDOL Inspector General published an alert in May 2020 warning that the self-certification sufficiency “renders the PUA program highly vulnerable to improper payments and fraud” [USDOL Inspector General Report 19-20-002-03-315].

In addition, the CARES Act permitted claimants to backdate PUA claims to their date of unemployment, as far back as January 27, 2020. In practice, this meant a claimant’s first payment could be significantly larger than their weekly payments in the future. In June 2020, the Department noticed a trend in fraudulent PUA claims with significant backdating and, as a result, began limiting backdating to 1 week. In order to comply with federal requirements, the Department allowed claimants to contact the Department directly to request backdating of more than 1 week. In December 2020, Congress amended PUA requirements by both requiring PUA claimants to submit documentation and limiting backdating.

DEPARTMENT FRAUD DETECTION AND PREVENTION TOOLS

Between November 2015—more than 4 years prior to the start of the pandemic—and October 2021, at the end of our audit test work, the Department implemented a number of processes and systems to detect and prevent unemployment benefits and claimant identity fraud, as described below. The Department added many of these processes to address the large increase in potentially fraudulent claims that it began receiving during the pandemic.

- **FRAUD ANALYTICS OF CLAIM CHARACTERISTICS.** In June 2020, the Department was aware of about 10 indicators of a fraudulent claim, such as the use of a fake Social Security number, and began working with its contractor, Deloitte, to use MyUI+ to analyze PUA claims to identify any that had characteristics matching at least one of the 10

indicators. If a claim has one or more fraud indicators, the Department's system automatically stops all payments to the claimant by placing a temporary program integrity hold, or fraud hold, on the claimant's benefits payments, so that Department staff can determine whether the claim and claimant are legitimate. If the Department determines that the claim and claimant are legitimate, it releases the fraud hold and pays the claim. If the Department determines that the claim and claimant are illegitimate, it will place a permanent fraud hold on the claim and claimant. From June 2020 to January 2021, the Department did not analyze regular claims to determine whether they had these indicators because regular claims were processed in the Department's legacy IT system, CUBS, which did not have the functionality to analyze the claims for the indicators. Regular claims were subject to other fraud prevention tools as discussed below, but were not subject to the automatic fraud indicators until January 2021.

According to the Department, since implementing the initial fraud indicators, it has added new indicators and revised its indicators to better identify potentially fraudulent claims. By January 2021, when the Department began to process both regular and PUA claims using the new system, MyUI+, the Department had about 50 fraud indicators that it used to analyze all types of claims to identify fraud. By August 2021, the Department had between 60 and 70 fraud indicators. The Department applies the indicators to all active claims nightly. From June 2020—when the Department began using fraud indicators—to September 30, 2021, the Department placed fraud holds on a total of 2,310,740 claims that had one or more fraud indicators, and the Department had removed 600,140 of these holds as of September 2021. The Department may remove a fraud hold if the Department revises its indicator and releases claims in aggregate, if the claimant verifies their identity through ID.me (see below), or if the Department investigates the claim and determines it is legitimate. If a claim no longer has any fraud indicators, the Department pays the claim.

In order for the Department to maintain confidentiality of the specific fraud indicators that it monitors for unemployment benefits payments, the Department would not provide specific information on all of the fraud indicators to the audit team for review as part of our audit.

- **ID.ME IDENTITY VERIFICATION.** The Department began contracting with the online portal ID.me in January 2021 to verify claimants' identity. ID.me requires each claimant to pass a document verification and biometrics screening before the Department will begin paying the claimant benefits. To pass ID.me document verification, each claimant must provide a combination of primary identification documents, such as a driver's license or state-issued ID, and secondary identification documents, such as a utility bill or bank statement. To pass ID.me biometric screening, each claimant must take a live picture of themselves to verify that they are who they purport to be, so that the Department can verify they are not a fraudster taking a picture of someone else's picture. Claimants whose biometrics cannot be automatically verified by ID.me or who do not have the necessary documents must video chat with an ID.me agent. Because ID.me involves a "liveness" check, wherein a claimant must submit a live selfie or video chat with an ID.me agent, ID.me helps prevent a fraudster from stealing a claimant's identity and using it to obtain benefits fraudulently. The Department also relies on ID.me to prevent a claimant from using a deceased person's identity in order to fraudulently claim benefits. Since implementing the use of ID.me in January 2021 through September 30, 2021, ID.me has verified the identities of 366,660 Colorado unemployment insurance claimants.
- **SOCIAL SECURITY NUMBER CHECKS.** A claimant must have a valid Social Security number to receive unemployment benefits. For regular claims filed prior to the pandemic through January 2021, the Department had the ability to search a claimant's Social Security number through an interface with the Social Security Administration (SSA). The Department could use the search function for an individual claimant, but not all claimants or claims in aggregate. For

PUA claims processed from June 2020 through January 2021, the Department utilized a third-party vendor, Experian, to validate Social Security numbers because the SSA would not allow its system to interface with both the Department's CUBS and new system. Since the Department was using both systems between March 2020 and January 2021, the Department maintained its CUBS interface with SSA's system. The MyUI+ system, which was implemented in January 2021, applies an automated Social Security number check with the SSA to all claims.

- **DEATH RECORD MATCHES AND CHECKS.** Since 2016, the Department has contracted with Accurant, a third-party vendor that maintains a database of death records drawn from the SSA Death Master File, credit reporting agencies, and 15 individual states, to search its database for a specific claimant when there is a question of whether the claimant is legitimate.

Additionally, as noted previously, in April 2021, the Department began requiring all claimants to complete an ID.me liveness check to verify their identity through real-time photos and videos when submitting their initial claim for benefits. This liveness requirement prevents fraudsters from using deceased people's information to submit an initial claim for benefits.

- **INCARCERATION DATA MATCHES.** Since November 2015, the Department has contracted with a third-party vendor, Appriss, for nationwide incarceration data, including federal, state, and local incarcerations, but not Colorado Department of Corrections data. Incarcerated claimants are not able and available to work, and therefore, are ineligible to receive benefits. The Department sends Appriss a file weekly with information from the claimants who had been paid unemployment benefits in the preceding 4 weeks. Appriss crossmatches the names of individuals receiving unemployment benefits with names in the incarceration data and informs the Department of any matches, which are investigated by Department staff. From April 2012 to March 2020, the Department also

contracted with On Point Technology, LLC, to provide Colorado Department of Corrections data.

- **REVIEWS TO ENSURE CLAIMANTS ARE OF WORKING AGE.** The Department conducts confidential analytics to identify claimants who are not of working age.
- **ONGOING FRAUD AWARENESS COMMUNICATION WITH CLAIMANTS.** Throughout the pandemic, the Department has communicated with claimants about fraud, how to prevent it, and how to report it, such as by sending emails to claimants, adding notes to claimants' MyUI+ accounts that they view when logging into their account, and posting information on the Department's website and social media pages, such as Facebook.
- **MULTI-FACTOR AUTHENTICATION.** Each claimant creates an account in MyUI+ in order to apply for unemployment benefits. In August 2021, the Department added multi-factor authentication to MyUI+ accounts, which requires each claimant to enter two passwords—an account password and a one-time random code shared via text or an authenticator app—before they can access their account. Multi-factor authentication prevents a fraudster from accessing a legitimate claimant's unemployment claim and changing information in their account without the claimant's knowledge.
- **UNEMPLOYMENT INSURANCE INTERSTATE CONNECTION NETWORK.** For decades, the Department has participated in the Interstate Connection Network (Network), which is funded by USDOL. The Network provides telecommunications infrastructure to transfer unemployment insurance data between states. States can request and receive real-time data on claims or claimants with wages in another state, among other information.
- **INTEGRITY DATA HUB.** Between 2016 and 2017, the Department began accessing the fraud prevention tools in the Integrity Data Hub (Hub), a resource for states established by USDOL and operated by

the National Association of State Workforce Agencies (NASWA). The Hub operates fraud prevention tools that the Department uses such as the Suspicious Actor Repository. This Repository consolidates states' information on characteristics of fraudulent and suspicious claims, such as suspicious claimant Internet Protocol (IP), email, and mailing addresses. The Repository sends the Department alerts that it uses to inform its fraud indicators, and the Department provides the Repository information on confirmed fraudulent cases in Colorado.

Although the Department reported that, as of September 2021, it had identified \$29.8 million paid in fraudulent unemployment benefits, it could not provide a breakdown of the number of claims or payments identified as potentially fraudulent using each of the various checks, data matches, and processes described above.

FRAUD INVESTIGATIONS

The Department has staff responsible for unemployment fraud investigations that review claims with fraud indicators to determine whether they are fraudulent. If the Department determines that a claim is fraudulent, the Department may refer the perpetrator to the state Attorney General, Colorado Bureau of Investigation, USDOL Inspector General, or other authorities for further investigation or prosecution. The Department reported to us in September 2021, that it has more than 130 active criminal investigations about fraudulent unemployment claims. Several of these investigations involve dozens or hundreds of claims, and some involve claims in multiple states and, therefore, may not be prosecuted in Colorado. The Department also told us in September 2021, that the \$35 million in suspected fraud that the financial institutions have recovered will need to be investigated and confirmed in accordance with USDOL requirements [UIPL 16-20].

Despite the numerous steps that the Department has taken to prevent and detect fraudulent unemployment claims, our audit identified potentially fraudulent claims that the Department did not identify, as

well as improvements that the Department should make to better mitigate and address the risk of fraud. Altogether, we identified \$73,123,710 in likely or potentially fraudulent claims that the Department paid, which the Department did not identify as fraud prior to our audit work. Unemployment benefits fraud is a high-risk area for the State, which the Department will need to continue to combat using additional fraud prevention controls. The remainder of this section includes our findings and recommendations related to fraud detection and prevention.

FRAUDULENT UNEMPLOYMENT CLAIMS

From March 1, 2020, through April 30, 2021, the period of our review, the Department received more than 4 million claims for unemployment benefits. As of mid-May 2021, the Department had paid about 842,000 of the claims (21 percent), totaling almost \$8.7 billion. According to the Department, the remaining 3.2 million claims had not been paid at that time because the Department was waiting on the claimant to take a required action, the Department had confirmed that they were fraudulent, or had placed fraud holds on the claims while further investigation occurred. EXHIBIT 2.1 groups the 4 million claims into three status categories: (1) those for which the Department had not identified any indication of fraud, (2) those for which the Department had identified one or more fraud indicators and had a fraud hold on the claim as of May 13, 2021, and (3) those that the Department had confirmed to be fraudulent.

EXHIBIT 2.1. STATUS OF UNEMPLOYMENT BENEFITS CLAIMS
MARCH 1, 2020, THROUGH APRIL 30, 2021
(AS OF MID-MAY 2021)

STATUS PER DEPARTMENT DATA	ALL CLAIMS SUBMITTED (UNPAID AND PAID) ¹	PAID CLAIMS	PAYMENTS
No Fraud Identified	2,367,180 (59 percent)	626,270 (74 percent)	\$7,649,031,070 (88 percent)
Fraud Hold Awaiting Investigation ²	1,619,090 (40 percent)	207,550 (25 percent)	\$1,009,271,810 (11 percent)
Fraudulent claims confirmed by Department investigation	47,650 (1 percent)	8,180 (1 percent)	\$31,188,020 (1 percent)
TOTAL	4,033,920	842,000 (21 percent of all claims)	\$8,689,490,900

SOURCE: Office of the State Auditor analysis of Department of Labor and Employment claims data, as of mid-May 2021.

¹ Includes unpaid claims awaiting some type of action by a claimant, such as ID.me verification, before they can be paid.

² The Department identified these claims as having one or more fraud indicators. For some of these claims, the Department identified fraud indicators after partial payment was made such as because the claimant provided the Department new information that triggered a fraud indicator or because the Department implemented a new indicator.

WHAT WAS THE PURPOSE OF THE AUDIT WORK, HOW WERE THE RESULTS MEASURED, AND WHAT AUDIT WORK WAS PERFORMED?

The purpose of the audit work was to identify potentially fraudulent claims that the Department paid.

The Department has a responsibility to prevent and detect fraud based on the following:

- Unemployment insurance operates under a state-federal partnership, so the Department must follow federal statute and USDOL guidance. Following the passage of the CARES Act, in April 2020, the USDOL Inspector General urged USDOL and state agencies, including the Department, to have sufficient systems or methods to prevent fraudulent unemployment insurance payments [USDOL Inspector General Report 19-20-001-03-315, April 21, 2020]. Examples of fraud prevention methods include comparing claims data with incarceration records and checking whether claims are submitted using foreign IP addresses [Unemployment Insurance Program Letter 23-20]. In May 2020, USDOL reminded states that the Social Security Act requires all unemployment insurance benefits programs to have “methods of administration to protect against improper payments and fraud,” to receive federal funding [Unemployment Insurance Program Letter 23-20].

According to USDOL, commonly known indicators of fraud for unemployment claims include:

- ▶ Claimants listed in public records as deceased.
- ▶ Claims with fake or stolen Social Security numbers.
- ▶ Claimants listed in public records as incarcerated.
- ▶ Claimants who submit a claim using a foreign IP address or an IP address associated with multiple claimants.

- ▶ Claimants who file claims in many states using the same identification.
- According to Colorado statute, unemployment benefits can be denied if the claim is fraudulent [Section 8-73-108(3)(d), C.R.S.]. Furthermore, the State Controller requires state agencies, including the Department, to follow the U.S. Government Accountability Office's Green Book, which states, "Management should consider the potential for fraud when identifying, analyzing, and responding to risks" [Principle 8.01]. The Department's Fiscal Years 2021 and 2022 Performance Plans had a goal to enhance unemployment insurance system fraud identification processes to reduce improper payments and fraud.

We contracted with the firm BKD, LLP, with expertise in fraud analytics to help us identify approximately 25 indicators of unemployment claim fraud. We then worked with our contractor to analyze the Department's data for the about 842,000 unemployment claims paid between March 1, 2020, and April 30, 2021 (the audit period), and focused on the approximately 626,270 paid claims that the Department had not identified as fraudulent to determine if any had indicators of fraud. The audit team reviewed both the Department's claims that had never had a fraud hold and were paid, and those for which the Department placed and removed a fraud hold at some point and had paid.

In order to identify fraudulent claims, we conducted and worked with our contractor to conduct, the following audit work:

- **DEATH RECORD CHECKS.**
- **INMATE CHECKS.**
- **CLAIMANT AGE REVIEW.**
- **MULTIPLE FRAUD INDICATORS REVIEW.** Using the approximately 25 indicators of fraud that we identified with our contractor, we

reviewed the Department's paid claims data to identify claimants and claims that are likely fraudulent.

- **BANK ACCOUNT REVIEW.**

WHAT PROBLEMS WERE IDENTIFIED?

Overall, we identified 8,200 unduplicated claims totaling \$73,123,710 in likely or potentially fraudulent payments between March 1, 2020, and April 30, 2021; these claims involved 7,959 claimants.

THE LIKELY FRAUDULENT paid claims that we identified have one or more attributes that indicate a high likelihood of being fraudulent because there is no explanation for why a legitimate claimant would have these characteristics, such as a deceased person's Social Security number.

THE POTENTIALLY FRAUDULENT paid claims that we identified were submitted by claimants who had suspicious bank account numbers. We considered these claims to be possibly fraudulent, instead of likely fraudulent, because the claims had one characteristic that indicated that they were fraudulent, but there are explanations for why a legitimate claimant's claims would have this characteristic.

We considered the total 8,200 claims and \$73,123,710 in payments to be "likely" and "potentially" fraudulent because an absolute conclusion of fraud would require a Department investigation of each claim and claimant.

LIKELY FRAUDULENT CLAIMS

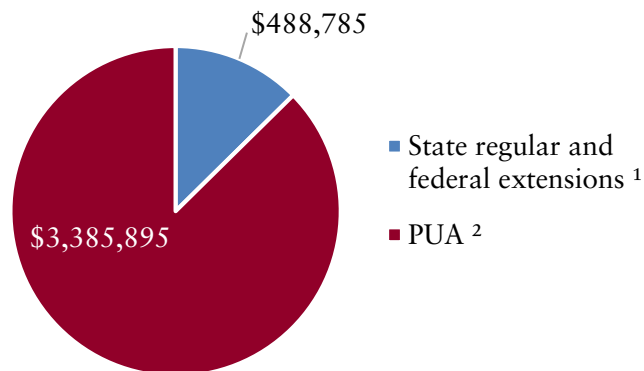
The likely fraudulent claims that we identified are as follows:

- **\$3.87 MILLION PAID TO 1,065 DECEASED CLAIMANTS.** We identified death record matches for 1,069 claims totaling \$3,874,680 that had been submitted by 1,065 claimants. The 1,069 claims we identified

included some claimants who had been deceased for years before receiving the benefits payments we reviewed, and other claimants who died while receiving benefits payments, but kept receiving them.

As shown in EXHIBIT 2.2, the likely fraudulent payments of unemployment benefits to deceased claimants were primarily for PUA claims.

EXHIBIT 2.2. LIKELY FRAUDULENT PAYMENTS
TO DECEASED CLAIMANTS, BY PROGRAM TYPE
MARCH 2020 THROUGH APRIL 2021



SOURCE: Office of the State Auditor analysis of Department of Labor and Employment claims data and Department of Public Health and Environment death record data.

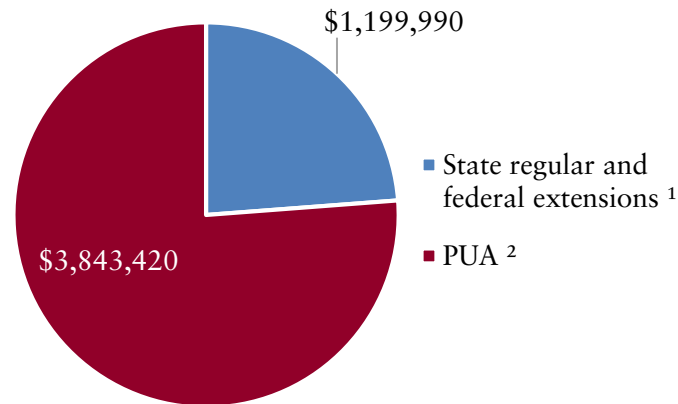
¹ Includes state regular claims and Pandemic Extended Unemployment Compensation. We identified no state extended benefits payments made to claimants in this analysis.

² Includes only payments for Pandemic Unemployment Assistance benefits.

- **\$5.04 MILLION PAID ON BEHALF OF 696 INCARCERATED CLAIMANTS.** We identified \$5,043,410 for 709 claims paid to 696 claimants who were listed as incarcerated in Colorado Department of Corrections' records.

As shown in EXHIBIT 2.3, the likely fraudulent payments of unemployment benefits on behalf of the incarcerated claimants who we identified were primarily for PUA claims.

**EXHIBIT 2.3. LIKELY FRAUDULENT PAYMENTS
TO INCARCERATED CLAIMANTS, BY PROGRAM TYPE
MARCH 2020 THROUGH APRIL 2021**



SOURCE: Office of the State Auditor analysis of Department of Labor and Employment claims data and Department of Corrections data.

¹ Includes state regular claims, state extended benefits, and Pandemic Extended Unemployment Compensation.

² Includes only payments for Pandemic Unemployment Assistance benefits.

- **\$101,630 PAID TO 18 CLAIMANTS WHO WERE LIKELY NOT OF WORKING AGE TO BE ELIGIBLE.**

POTENTIALLY FRAUDULENT CLAIMS

We also identified \$18.5 million paid to 2,919 claimants who are potentially fraudsters because they had suspicious bank account information associated with their claims. These claims had one characteristic that indicated that they were possibly fraudulent, but there are explanations for why a legitimate claimant may have claims with this characteristic.

The Department looked at a sample of 18 of the 2,919 claimants who we identified as a result of our testwork. Department staff reviewed the sample and reported that they determined that six of the 18 instances were not fraud, and the remaining were fraud or were still under investigation.

CLAIMS WITH MULTIPLE INDICATORS OF FRAUD

We also identified paid claims that had multiple indicators of fraud, which makes them more likely to be fraudulent.

- **\$52.7 MILLION PAID TO CLAIMANTS WITH MULTIPLE INDICATORS OF FRAUD.** We identified 4,171 claimants who were paid \$52,682,870 for 4,354 claims that are likely fraudulent because these claims had characteristics with multiple fraud indicators.
 - ▶ **CLAIMANTS WHO ARE CONNECTED TO AT LEAST 20 OTHER CLAIMANTS.** Among the 4,354 claims that we identified with multiple indicators of fraud, 4,017 claims (92 percent) involved claimants who are connected to at least 20 other claimants, based on certain characteristics.

Included within these 4,354 claims are 869 claims, totaling \$6,920,540 in payments, that we had identified as likely or potentially fraudulent through the application of other fraud indicators that were discussed previously in this finding.

WHY DID THESE PROBLEMS OCCUR?

The likely and potentially fraudulent claims that the audit identified were paid by the Department for a number of reasons, as described in the following sections.

PAYMENTS TO DECEASED CLAIMANTS

The Department did not have sufficient internal controls and fraud analytics in place to identify likely fraudulent claims paid on behalf of deceased claimants, like those that we identified.

In addition, the Department did not require all claimants to complete a liveness check through ID.me until April 2021. From January 2021 to

April 2021, the Department only used ID.me for claimants who had a fraud hold. In April 2021, the Department told all claimants to verify their identities using ID.me, and thereafter, the Department has required each claimant to verify their identity using ID.me before receiving benefits for their initial claim.

PAYMENTS TO INCARCERATED CLAIMANTS

The Department did not have sufficient internal controls and fraud analytics to identify likely fraudulent claims paid on behalf of incarcerated claimants, like those that we identified.

In addition, the Department lacked incarceration checks on PUA claims. The Department did not conduct any incarceration record checks for PUA claims paid from the start of PUA in April 2020 through January 2021, unless the claimant had previously applied for regular benefits. According to the Department, it did not conduct these checks because the Department was attempting to process and pay PUA claims quickly, and adding the Appriss check to the PUA claims process would have delayed PUA implementation.

PAYMENTS TO CLAIMANTS WHO WERE NOT OF WORKING AGE

The Department did not have sufficient internal controls and fraud analytics to identify likely fraudulent claims paid on behalf of claimants who were not of working age, like those that we identified.

PAYMENTS TO CLAIMANTS WITH SUSPICIOUS BANK ACCOUNTS

The Department did not have sufficient internal controls and fraud analytics to identify likely fraudulent claims paid on behalf of claimants who have suspicious bank account information related to their claims, like those that we identified.

- For the sample of 18 claimants that we identified and the Department subsequently reviewed, Department staff reported the following based on its review:
 - ▶ For six claimants, the Department identified their claims as potentially fraudulent before we received the data in April 2021, investigated them, and determined they were not fraudulent.
 - ▶ For 11 claimants, the Department identified their claims as potentially fraudulent after April 30, 2021, when we received the data.
 - ▶ For one claimant, the Department did not identify the claim as potentially fraudulent and reports that the claimant's current bank account is not suspicious.

PAYMENTS TO CLAIMANTS WITH MULTIPLE FRAUD INDICATORS

We were unable to determine why the Department paid claims with multiple fraud indicators. Without a full investigation of each claim we identified as likely fraudulent, the Department cannot tell us why it did not identify these claims as fraudulent or whether they are fraudulent.

WHY DO THESE PROBLEMS MATTER?

DEPARTMENT MAY HAVE TO PAY BACK FUNDS TO THE FEDERAL GOVERNMENT. The Department has the responsibility to prevent and detect fraud in unemployment benefits claims. According to federal law and state statute, the Department must have procedures in place to deter individuals from claiming unemployment benefits fraudulently [42 USC 503 (a)(1) and Section 8-72-109, C.R.S.]. If the USDOL determines that the Department's procedures are inadequate, it may have to repay the federal government for the funds paid on fraudulent claims.

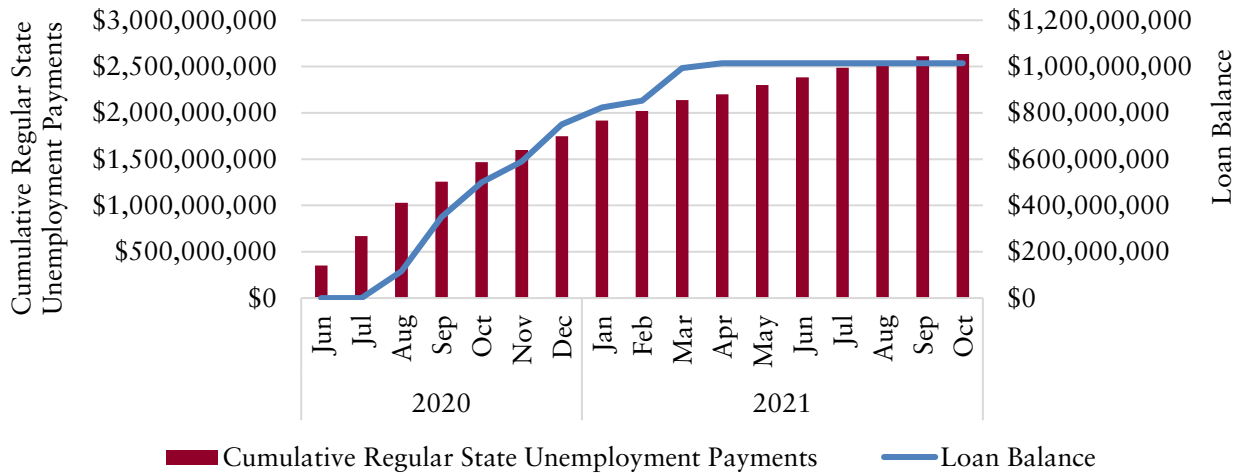
WASTE OF TAXPAYER FUNDS. We found an additional \$61.7 million in likely fraudulent benefits and \$18.5 million in potentially fraudulent

benefits. The Department told us that it might take years before it has final statewide and nationwide totals for fraudulent payments. The fraudulent payments we found are summarized in EXHIBIT 2.4.

EXHIBIT 2.4. LIKELY AND POTENTIAL FRAUDULENT UNEMPLOYMENT BENEFIT PAYMENTS, IDENTIFIED BY AUDIT MARCH 2020 THROUGH APRIL 2021		
PROBLEM IDENTIFIED	NUMBER OF PAID CLAIMS	DOLLAR AMOUNT PAID
LIKELY FRAUDULENT CLAIMS		
Claims paid to apparently deceased individuals	1,069	\$3,874,680
Claims paid to apparently incarcerated individuals	709	\$5,043,410
Claims paid to claimants not of working age	18	\$101,630
Claims paid to claimants with multiple fraud indicators	4,354	\$52,682,870
TOTAL LIKELY FRAUD ¹	6,150	\$61,702,590
POTENTIALLY FRAUDULENT CLAIMS		
Claims paid to claimants with suspicious bank account information	2,967	\$18,520,550
TOTAL POTENTIAL FRAUD ¹	2,967	\$18,520,550
TOTAL UNDUPLICATED LIKELY AND POTENTIAL FRAUD IDENTIFIED BY AUDIT	8,200	\$73,123,710
SOURCE: Office of the State Auditor analysis of the Department of Labor and Employment's claims data.		
¹ Totals include duplication among analyses.		

When the Department pays fraudulent unemployment claims, public funds are wasted. Colorado provides regular state benefit payments to unemployed individuals using tax revenue that employers pay based on employee wages, and provides federal benefits and extensions using federal tax dollars. Colorado's trust fund is called the Unemployment Insurance Trust Fund (UITF). When the Department pays fraudulent regular state unemployment claims, Colorado's UITF is depleted unnecessarily. As of October 29, 2021, Colorado's UITF had a federal loan for \$1.01 billion to help cover its UITF deficit. As EXHIBIT 2.5 shows, Colorado's UITF federal loan grew during the pandemic along with the volume of continued unemployment claims.

**EXHIBIT 2.5. COLORADO UNEMPLOYMENT INSURANCE
TRUST FUND LOAN BALANCE AND
CUMULATIVE REGULAR STATE UNEMPLOYMENT PAYMENTS
STARTING JUNE 2020 THROUGH OCTOBER 2021**

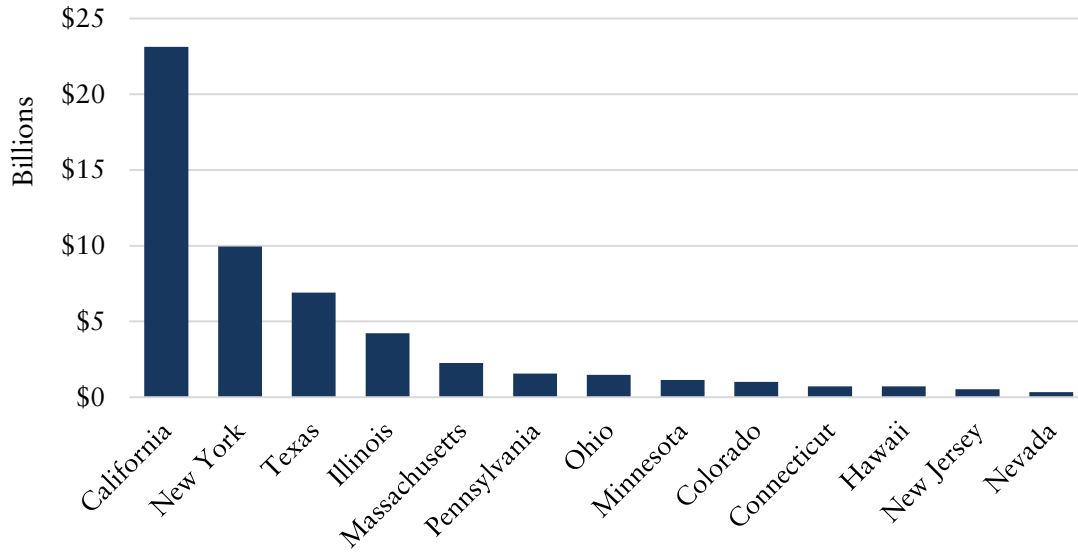


SOURCE: Department of Labor and Employment's chart data and U.S. Department of Treasury fiscal data.

Furthermore, the UITF deficit can affect employers because statute requires Colorado to add a surcharge to the base tax rate on wages paid by employers when there is a UITF deficit [Section 8-76-102.5(7)(a), C.R.S.]. Senate Bill 20-207 prevents these surcharges from taking effect for Calendar Years 2021 and 2022, but a solvency surcharge may be added in 2023.

All of the states, including Colorado, that had federal loans to cover their UITF deficits as of July 2021, are shown in EXHIBIT 2.6.

**EXHIBIT 2.6. COMPARISON OF UNEMPLOYMENT INSURANCE TRUST FUND
FEDERAL LOANS FOR STATES WITH LOANS
(AS OF JULY 2021)**



SOURCE: U.S. Department of Treasury and Labor data.

RECOMMENDATION 1

The Department of Labor and Employment (Department) should improve its detection and prevention of unemployment insurance fraud by:

- A Improving internal controls as recommended in the confidential report.
 - i. Improving internal controls as recommended in the confidential report.
 - ii. Improving internal controls as recommended in the confidential report.
- B Improving internal controls as recommended in the confidential report.
 - i. Improving internal controls as recommended in the confidential report.
- C Investigating each of the likely and potentially fraudulent claims that the audit identified and referring them for prosecution and collection, as appropriate.
- D Improving internal controls and making necessary changes as recommended in the confidential report.
- E Ensuring that the Department enhances its fraud indicators by employing any used by the audit that are not currently used by the Department, to help identify likely and potentially fraudulent claims.
- F Improving internal controls as recommended in the confidential report.

RESPONSE

DEPARTMENT OF LABOR AND EMPLOYMENT

A AGREE. IMPLEMENTATION DATE: JANUARY 2023.

The Division agrees with these recommendations and will improve internal controls as recommended in the confidential report.

i. AGREE. IMPLEMENTATION DATE: DECEMBER 2021.

The Division agrees with these recommendations and will improve internal controls as recommended in the confidential report.

ii. AGREE. IMPLEMENTATION DATE: JANUARY 2023.

The Division agrees with these recommendations and will improve internal controls as recommended in the confidential report.

B AGREE. IMPLEMENTATION DATE: DECEMBER 2022.

The Division agrees with these recommendations and will improve internal controls as recommended in the confidential report.

i. AGREE. IMPLEMENTATION DATE: DECEMBER 2022.

The Division agrees with these recommendations and will improve internal controls as recommended in the confidential report.

C AGREE. IMPLEMENTATION DATE: DECEMBER 2021.

The Department will investigate each of the likely and potentially fraudulent claims that the audit identified and refer them for

prosecution and collection as appropriate. This effort is already underway.

D AGREE. IMPLEMENTATION DATE: DECEMBER 2023.

The Division agrees with these recommendations and will improve internal controls as recommended in the confidential report, in addition to the current tools utilized by the Division.

E AGREE. IMPLEMENTATION DATE: DECEMBER 2021.

The Department will not comment on whether or not the fraud indicators included in this audit are or are not currently included or will or will not be implemented in our program in the future. Unemployment Insurance (UI) programs across the country must exercise extreme caution in identifying the specific types of fraud indicators employed to not provide potential fraudsters with information that may be used to perpetrate more fraud within Colorado's UI program and those of other states. Therefore, the Department commits to continuing to work diligently internally and with vendors to implement best practices to target all fraud activity in our system and address evolving criminal schemes as they are identified. The Department will include the audit findings and fraud indicators in its consideration of future changes.

F AGREE. IMPLEMENTATION DATE: MARCH 2022.

The Division agrees with these recommendations and will improve internal controls as recommended in the confidential report.

FRAUD HOLDS ON CLAIMS

When the Department identifies a claim with characteristics that are indicators of fraud, it places a fraud hold (also known as a program integrity hold) on the claimant's unemployment benefits payments. For each fraud hold, the Department has to determine if the claimant is filing a legitimate or fraudulent claim. The steps that the Department takes to resolve a fraud hold differ depending on the characteristics of the claim that caused the Department to question its legitimacy in the first place. The Department could also place a fraud hold on a claim if the Department determines that someone had stolen another person's identity and used it to claim benefits, and then the person whose identity was stolen also applies for benefits. In this situation, the Department would place a fraud hold on both claims until it could conduct an investigation to determine whether one, or none, of the claimants is legitimate. As discussed earlier in the Chapter, if the Department determines that someone has applied for benefits fraudulently, then the Department places a permanent fraud hold on that individual's claims and payments, and refers the claimant to law enforcement. Between March 2020 and April 2021, the Department put permanent fraud holds on payments for 30,142 claimants.

When a claimant disagrees with the Department's decision to place a fraud hold on their claim, they can either call the Department or complete an online form on the Department's website to report that they need assistance removing the hold. There is no limit to the number of times a claimant may submit a request for assistance with a fraud hold. According to the Department, in January 2021, when ID.me was implemented, it began telling all claimants who reported an issue with a fraud hold to verify their identity using ID.me before the hold could be removed. When a claim has indicators of fraud that cannot be resolved with ID.me identity verification, Department staff contact the claimant via email and schedule a call back, investigate the issue, and remove the hold if staff determine that the claimant is legitimate and the

claim is not fraudulent. The Department must be careful not to disclose the reason for specific fraud holds to individuals who request assistance in case those individuals are fraudsters.

The Department maintains a database of information on requests for assistance with fraud holds (database), which includes the claimant's identification number, date of request for assistance, and a unique number identifying each request for assistance. According to Department data, from July 20, 2020, through June 18, 2021, the Department received 266,284 requests for assistance with fraud holds from 154,216 claimants. The Department placed a total of 2,310,741 fraud holds on claims from June 2020 through September 2021.

HOW WERE THE RESULTS OF THE AUDIT WORK MEASURED AND WHAT WAS THE PURPOSE OF THE AUDIT WORK?

Federal regulations and the USDOL require agencies that administer unemployment benefits to pay claims promptly to help unemployed individuals [U.S. Social Security Act Section 303(a)(1), and 20 CFR 640.3(a)]. Specifically, to receive administrative grants for its unemployment insurance program, each state must provide "such methods of administration ... to ensure full payment of unemployment compensation when due" and "when due" is defined as "with the greatest promptness that is administratively feasible." This means that states must have methods to ensure that eligible claimants are paid unemployment benefits promptly when determined eligible, and that ineligible claimants are not paid. Additionally, in March 2020, Colorado's Governor issued an Executive Order directing the Department to expedite unemployment benefits processing and distribution of payments to ensure displaced workers, as a result of the impacts of COVID-19, will begin receiving such payments within 10-days of the receipt of the filing of their completed applications to the

extent possible [Executive Order D-2020-012]; this requirement ended August 6, 2021.

The USDOL also requires unemployment benefits agencies not to pay or to stop paying fraudulent claims as soon as they are identified [USDOL Unemployment Insurance Letter 04-01]. Therefore, the Department has two competing priorities when it comes to paying claimants—paying claims promptly and stopping fraud promptly. These competing priorities mean that sometimes the Department puts fraud holds on unemployment benefits payments to legitimate claimants because the claims have one or more indicators of fraud. However, to comply with requirements to pay benefits timely, the Department should have processes to ensure that claimants who request assistance with fraud holds are assisted timely so that payments on legitimate claims are not delayed. As such, the purpose of the audit work was to assess the Department’s response to claimants who requested assistance with a fraud hold.

WHAT AUDIT WORK WAS PERFORMED, WHAT PROBLEMS WERE IDENTIFIED, AND WHY DO THEY MATTER?

We reviewed Department data for the 266,284 instances when a claimant submitted a request for assistance about a fraud hold from July 20, 2020, through June 18, 2021. Overall, Department data showed that most requests for assistance with fraud holds had not been resolved as of June 2021, and those that were, were not resolved timely.

Specifically, we found that the Department did not document any information to indicate that there was a resolution for 196,066 of the 266,284 requests for assistance with fraud holds (73 percent). Of the 70,218 requests for which the Department had some type of resolution information documented in its database, such as a resolution date, a note that a fraud hold was removed, or note that a permanent fraud hold was in place due to confirmed fraud, only 40,568 had information on how the request was resolved. EXHIBIT 2.7 summarizes the

information that the Department documented regarding the resolution of the requests for assistance with a fraud hold.

**EXHIBIT 2.7. SUMMARY OF DEPARTMENT INFORMATION ON
RESOLUTIONS OF CLAIMANT REQUESTS
FOR HELP WITH FRAUD HOLDS
JULY 20, 2020, THROUGH JUNE 18, 2021**

RESOLUTION INFORMATION DOCUMENTED BY DEPARTMENT	COUNT OF REQUESTS FOR ASSISTANCE	PERCENTAGE OF REQUESTS
No resolution or resolution date was documented	196,066	73%
Resolution and resolution date were documented	40,568	15%
Only a resolution date was documented	29,608	11%
Only a resolution was documented	42	<1%
TOTAL	266,284	100%

SOURCE: Office of the State Auditor analysis of Department of Labor and Employment's fraud holds data.

The Department told us that it believes that it resolved 192,865 of the 196,066 requests that did not have a documented resolution because the Department had notified the claimants from these requests that they needed to verify their identities with ID.me, and the Department's MyUI+ system automatically clears fraud holds after claimants pass ID.me verification. However, the Department did not document in its database a resolution or date of a resolution for any of the requests that the Department believes it resolved, nor did it track that the fraud holds were resolved in its database.

The Department documented both the date that a claimant requested assistance with a fraud hold and the date it resolved the issue for only 70,134 of the 266,284 fraud hold requests (26 percent); therefore, we could only determine how long it took the Department to resolve fraud hold issues for these requests. According to Department data, it took an average of 7 weeks (49 days) to resolve the issues for these requests, and the range was 0 to 333 days. EXHIBIT 2.8 summarizes the information the Department documented on the timeliness of resolving these requests for assistance with fraud holds.

EXHIBIT 2.8. SUMMARY OF FRAUD HOLD RESOLUTION TIMEFRAMES REPORTED BY THE DEPARTMENT JULY 20, 2020, THROUGH JUNE 18, 2021		
RESOLUTION TIMEFRAME DOCUMENTED BY DEPARTMENT	NUMBER OF REQUESTS FOR ASSISTANCE	PERCENTAGE OF REQUESTS
Same Day Resolution	4,804	7%
1 to 7 Days	19,032	27%
8 to 30 Days	6,463	9%
31 to 60 Days	21,419	31%
61 to 120 Days	11,445	16%
121 to 180 Days	3,049	4%
181 to 210 Days	3,246	5%
210 Days+	676	1%
TOTAL	70,134	100%
SOURCE: Office of the State Auditor analysis of Department of Labor and Employment's fraud holds data.		

When the Department does not resolve fraud holds or provide claimants timely assistance with them, legitimate claimants do not receive unemployment benefits. Additionally, when the Department does not provide claimants timely assistance, the claimants contact the Department more frequently and take up the limited Department resources available to assist all claimants. Department data shows that claimants with fraud holds frequently request assistance more than once due to delays in having their request resolved. We identified almost 52,000 claimants with a fraud hold between July 2020 and June 2021, who submitted a request for assistance more than once. For example, one claimant with a fraud hold submitted 112 requests for assistance over a 46-day period. According to Department data, this individual's hold was resolved 63 days, or two months, after they initially requested help.

WHY DID THIS PROBLEM OCCUR?

The Department has not established policies, procedures, or processes to ensure fraud holds are resolved timely. For example, we found the following:

- **LACK OF WRITTEN POLICIES, PROCEDURES, OR PROCESSES.** The Department does not have written policies, procedures, or processes for providing claimants assistance, investigating fraud holds, documenting how claimants have been assisted in having their holds resolved, or when the resolution occurred. Documenting information about when and how the claimant was helped for each request, including duplicates, would allow the Department to identify who has been assisted and when, who still needs to be helped, and whether all requests have been resolved. For example, the Department has not established a process for staff to review pending requests for assistance to ensure that all claimants receive help with resolving their fraud hold. In fact, the Department takes no action on repeat requests for assistance beyond sending the claimant an email with a link to complete ID.me repeatedly. The Department has also not set benchmarks or provided its staff guidance on appropriate timeframes for assessing requests for assistance with fraud holds, such as within a certain number of days or weeks, to help ensure assistance is provided timely.
- **LACK OF AUTOMATED TRACKING AND MONITORING TOOLS.** Department staff told us that the database it uses to track fraud holds lacks the functionality needed to identify the resolutions of requests for assistance. The Department stated that every time a claimant requests help with a hold, the Department's database links the duplicate request to the initial request. However, when the Department resolves the first reported request, the database only updates that the initial request is resolved, and does not change the status of duplicate requests submitted by the same claimant to reflect that it has been resolved. As a result, the Department cannot easily differentiate a new request for assistance on a fraud hold from a

duplicate request on a previously resolved request from the same individual. In addition, the Department has not developed a process to monitor whether requests for assistance with fraud holds have been resolved. For example, the Department has no process to verify that the claimants who are directed to ID.me to verify their identity were able to resolve their fraud hold. The Department did not have a report showing information on these requests for assistance until the Department created a report during the audit at our request.

RECOMMENDATION 2

The Department of Labor and Employment (Department) should ensure that it addresses claimants' requests for assistance regarding unemployment insurance benefits fraud holds in a timely manner by:

- A Developing and implementing written policies and procedures for providing claimants assistance and investigating fraud holds in a timely manner, documenting the resolutions and timeliness of resolutions, and monitoring the timeliness of Department assistance.
- B Identifying and implementing an information technology solution, or other method, to track and monitor duplicate requests for assistance with fraud holds, and their resolutions.

RESPONSE

DEPARTMENT OF LABOR AND EMPLOYMENT

- A AGREE. IMPLEMENTATION DATE: MARCH 2022.

The Department agrees with this finding and will develop and implement written policies and procedures for providing claimants assistance by investigating fraud holds on time, including documenting the manner and timeliness of resolutions of all requests for assistance with holds and developing and implementing timeliness benchmarks for providing assistance. These procedures will be written and will go into effect by March 31, 2022.

- B AGREE. IMPLEMENTATION DATE: MARCH 2022.

The Department will also identify and implement an information technology solution or other methods, to track when duplicate requests for assistance with fraud holds are resolved and monitor

requests to ensure they are resolved. This will be implemented by March 31, 2022.



CHAPTER 3

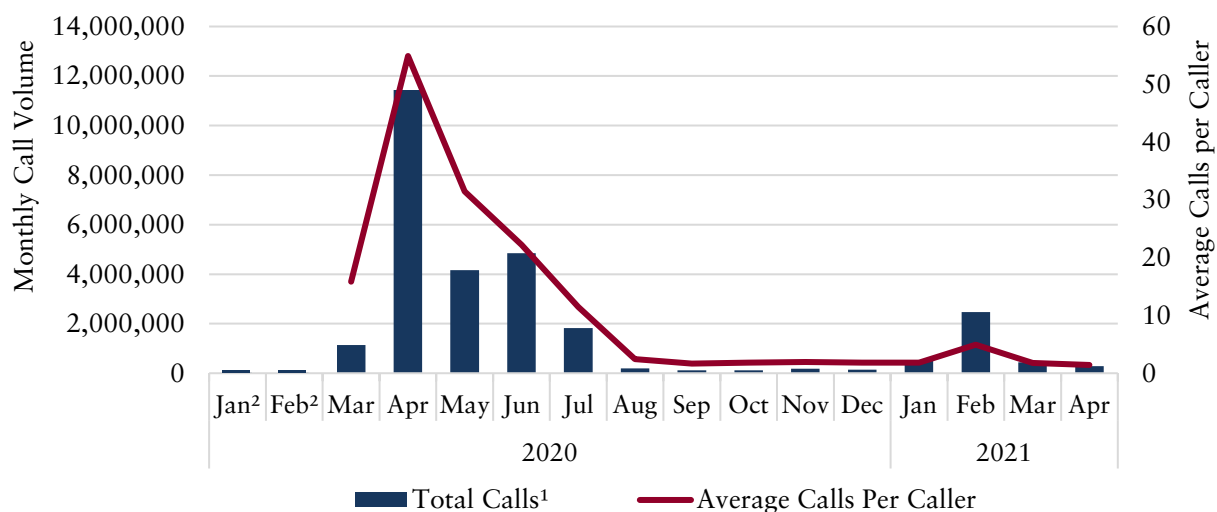
CUSTOMER SERVICE

Due to the COVID-19 pandemic (pandemic), from March 2020 to April 2021, the Department of Labor and Employment (Department) experienced an 1,100 percent increase in the number of individuals submitting claims for unemployment insurance benefits (unemployment benefits or benefits) compared to Calendar Year 2019. Even as late as May 2021, the Department was receiving 3 times the number of monthly unemployment benefits claims as it did in 2019.

The Department has several methods of providing customer service to individuals who need information on or assistance with unemployment benefits. The Department uses information technology to provide general information. For example, the Department provides a website with information about how to apply for and claim unemployment insurance benefits, and with answers to frequently asked questions; and Department staff answer questions from the general public via social media, such as on the Department's Facebook page. Additionally, in July 2020, the Department launched virtual assistant technology that provides callers automated information about 90 frequently asked questions or an opportunity to schedule a call back from a customer service representative. As of October 2021, the virtual assistant can answer 143 frequently asked questions. The Department plans to add more frequently asked questions and virtual assistant functionality by June 30, 2022, to better address callers' questions.

The Department also provides customer service by phone for claimants who have specific questions or concerns related to unemployment benefits, and for individuals who want to personally speak with someone. The Department has an internal call center through which Department staff have traditionally answered inbound calls from individuals who need help filing a claim for unemployment benefits or who have a question or complaint. According to Department data, early in the pandemic, around March 2020, calls to the Department's internal call center increased significantly due to a sharp rise in unemployment in Colorado and new federal unemployment programs that temporarily expanded unemployment eligibility. EXHIBIT 3.1 shows the increase in calls related to unemployment benefits from January 2020, before the pandemic, through April 2021. When calls to the Department peaked in April 2020, each customer called the internal call center an average of 55 times.

EXHIBIT 3.1. TOTAL INBOUND CALLS¹ AND AVERAGE CALLS PER UNIQUE CALLER JANUARY 2020 THROUGH APRIL 2021



SOURCE: Office of the State Auditor analysis of Department of Labor and Employment inbound call data.

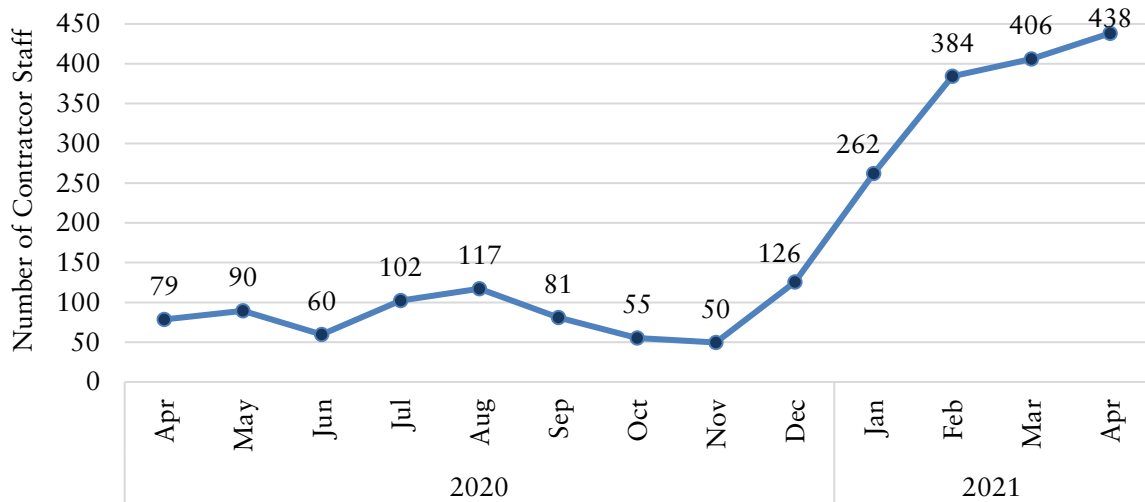
¹ Inbound calls include all calls answered, including when callers received a busy signal.

² The Department did not have data on the average calls per caller for January and February 2020.

The Department reported to us that, in March 2020, it did not have adequate staffing to process the increased number of unemployment benefits applications and claims, or adequate phone lines and staff to address the rapid increase in calls. The Department reports that it only had about 65 staff members to answer calls in March 2020. To provide additional phone lines and staff to answer calls, in April 2020, the Department began contracting with a private call center company, Conversion Calls, which operates using its own phone system, phone lines, and staff.

EXHIBIT 3.2 shows the number of staff that Conversion Calls (contracted staff) employed to answer calls on behalf of the Department from April 2020 through April 2021.

**EXHIBIT 3.2. MONTHLY AVERAGE CONTRACT STAFFING FOR
UNEMPLOYMENT BENEFITS CONTRACTED CALL CENTER
APRIL 2020 THROUGH APRIL 2021**

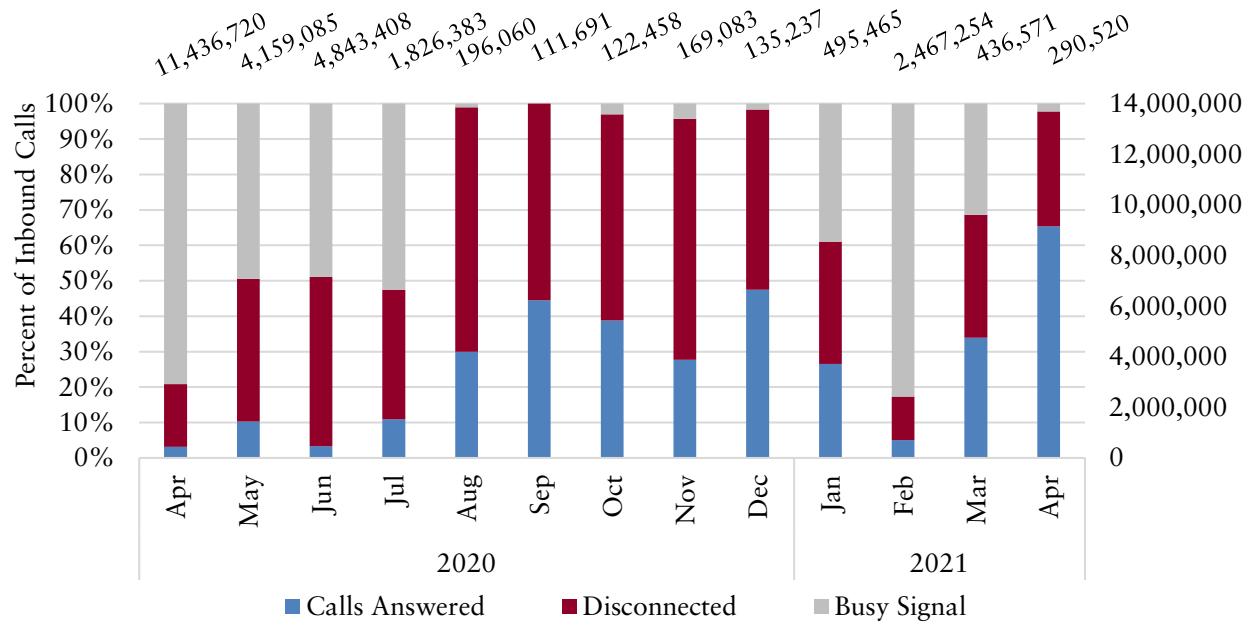


SOURCE: Office of the State Auditor analysis of data from the Department of Labor and Employment's contracted call center.

Conversion Calls handles simple customer service calls, such as helping individuals complete and submit a claim for unemployment benefits. However, these contracted staff refer more complex calls, such as about a potentially fraudulent claim filed in their name, to Department customer service staff to handle.

Despite contracting with a call center, at times during the pandemic the Department has had difficulty addressing the volume of calls received. As a result, more than 95 percent of inbound callers between April and July 2020, did not have their call answered, were disconnected while in the queue, or received a busy signal. EXHIBIT 3.3 shows the number of calls that the Department and its contractor received from April 2020 through April 2021, including the percentage that were answered, disconnected while waiting in the queue, or resulted in a busy signal for the caller.

**EXHIBIT 3.3. UNEMPLOYMENT-RELATED INBOUND CALLS ANSWERED, DISCONNECTED IN QUEUE, OR THAT RESULTED IN BUSY SIGNALS
APRIL 2020 THROUGH APRIL 2021**



SOURCE: Office of the State Auditor analysis of data from the Department and its contracted call center.

The Department's previous contract with Conversion Calls ended on October 31, 2021. The Department told us that it continues to see call volumes in excess of what it feels its current internal staff can handle, despite having increased its internal call center staffing to 170. The Department stated that it had planned to transition its call center operations to a new in-house team, which would perform a similar role to that which Conversion Calls performed during the pandemic. However, the Department was unable to recruit adequate staffing to establish this new team in time for the end of the contract with Conversion Calls. As a result, the Department competitively bid a contract for external call center services and signed a new contract with Conversion Calls in October 2021.

As the Department has developed a plan to address ongoing call volume, we do not have a recommendation related to how the Department could better handle the unprecedented call volume it received. However, we found that the Department needs to improve its customer service and operations related to addressing complaints from

customers, whether they are handled by a contractor or internally by Department staff. The remainder of this section includes our finding and recommendation related to complaint management.

COMPLAINT MANAGEMENT

As the State agency responsible for helping people who have lost their jobs by providing them temporary wage replacement through unemployment benefits, the Department told us that it receives various types of complaints from individuals who are seeking unemployment benefits. For example, the Department receives complaints from individuals who do not like the ID.me identification verification process, have concerns about the dollar amount of benefits they receive or the timing of their benefits, or have concerns about call center customer service and wait times.

To submit a complaint related to unemployment benefits or related processes, from July 2020 to May 2021, individuals could call the Department's call center contractor, Conversion Calls, and request a call back from a Department or Conversion Calls' staff member via a virtual assistant; wait in the queue to speak with a Conversion Calls' call center agent; or email the Department. During this timeframe, the Department's internal call center was not accepting any live inbound calls. In February 2021, the Department added an online complaint form on its website for individuals to submit a complaint specifically about contracted call center staff. In May 2021, in addition to contract staff answering inbound calls, the Department's internal call center also began answering inbound calls from customers, which could include complaints.

According to Department staff, they handle complaints about unemployment benefits internally as needed, and forward complaints that specifically relate to call center staff behavior, such as staff unprofessionalism, to Conversion Calls for resolution as the contractor deems appropriate. According to the Department, Conversion Calls reports the actions it takes on these complaints to the Department.

WHAT WAS THE PURPOSE OF THE AUDIT WORK AND HOW WERE THE RESULTS MEASURED?

The purpose of the audit work was to evaluate the Department's processes for managing all types of unemployment benefits-related complaints from claimants and potential claimants based on the following:

- **STATE AGENCIES THAT SERVE THE PUBLIC, SUCH AS THE DEPARTMENT, SHOULD MONITOR AND RESOLVE COMPLAINTS.** According to the Department's 2021 Performance Plan, it strives to provide the best customer service, operating in the most efficient way possible. As a state agency that serves the public, it is reasonable to expect that the Department would have complaint management processes that include consistent methods to track, investigate, and resolve complaints in a manner that ensures they do not reoccur. According to U.S. Executive Order 12862 on Customer Service Standards, which applies to federal agencies, it is a best practice for government agencies to provide services in a manner that seeks to meet customer service standards, including making complaint reporting methods easily accessible for those who may wish to file a complaint and providing a means to address complaints. As an entity that uses federal funds to administer its unemployment program and to provide unemployment benefits, this is a best practice the Department could benefit from applying to its own operations. Additionally, according to the Department's 2021 and 2022 Performance Plans, staff within its Division of Unemployment Insurance (Division) are responsible for providing efficient maintenance and retention of unemployment benefits related correspondence, which would include complaints.
- **AS A BEST PRACTICE, MANAGEMENT SHOULD USE QUALITY COMPLAINT DATA TO IMPROVE OPERATIONS.** Complaint management is an essential component of customer service because it can help the Department gather valuable insight from claimants and help identify

changes needed to improve service delivery and operations, and increase customer satisfaction. In Colorado, the State Controller requires all state agencies to follow the U.S. Government Accountability Office's (GAO) Standards for Internal Control, known as the Green Book, which requires management to "use quality information to achieve the entities' objectives" and "make informed decisions and evaluate the entity's performance in achieving key objectives and addressing risks" [Section 13, GAO Green Book]. Based on the Green Book guidance, we would expect the Department to maintain and use complaint information to help it identify operational risks and achieve its objectives related to providing unemployment benefits. Additionally, according to the National Performance Review Best in Business Study, it is a best practice for government agencies to analyze and use data for continuous improvement, because agencies "can't improve what [they] don't measure" [Federal Benchmarking Consortium Study Report, 1997]. For example, the Department can improve operations by collecting data on complaints, analyzing common topics or themes, and using the analysis to identify and address systemic problems.

WHAT AUDIT WORK WAS PERFORMED, WHAT PROBLEMS WERE IDENTIFIED, AND WHY DO THESE PROBLEMS MATTER?

Overall, we found that the Department does not have effective complaint management processes that address the concerns of claimants and potential claimants, including problems that they may experience when applying for and receiving unemployment benefits. Specifically, we found:

- **THE DEPARTMENT DOES NOT COLLECT OR MAINTAIN DATA ON ALL COMPLAINTS RECEIVED.** We requested Department data on all complaints that both the Department and its call center contractor

had received from January 2020 through April 2021. The Department reported to us that it did not have any data on the complaints that it received that were unrelated to its contracted call center, such as claimant complaints about their benefits, processes for claiming benefits, or the Department's staff and internal call center. According to Department staff, the Department also does not keep information on any complaints received through phone calls or email.

Further, the Department did not have data on any complaints related to its contracted call center that it received prior to February 22, 2021, and did not have any data on complaints that Conversion Calls received directly. The Department only had data for the 4,864 complaints that it received through its online form for call center complaints between February 22, 2021, and April 30, 2021, which did not represent complete data for March and April 2021.

When the Department does not have data on all complaints, it does not know the reason for or subject of the complaints, how many it has received, or whether they have been addressed. For example, the Department does not have complete information on the various issues the public is facing when applying for unemployment benefits or submitting claims for benefits, and cannot leverage that data to resolve and prevent recurring issues.

- **THE DEPARTMENT TOOK NO ACTION TO RESOLVE MOST COMPLAINTS THAT IT HAD TRACKED.** We reviewed the only complaint data that the Department had available—the data for the 4,864 complaints related to its call center and received through the online form—and found that the Department did not resolve, or require its contractor to resolve, 3,977 of them (82 percent). Department staff told us that nothing was done with most of the online form complaints because they related to topics other than the contracted call center staff's behavior.

We analyzed the information that the Department had for these 3,977 unaddressed online complaints, which was a text narrative of each complaint, and confirmed that they did not relate to contracted call center staff behavior; many of them related to a variety of other unemployment benefits and customer service issues that warranted resolution. For example, 691 of the unaddressed online complaints related to long hold times when claimants called for help with submitting a claim, 561 related to claimants having trouble accessing benefits, and 220 related to claimants' calls getting disconnected from calls with the Department or the contracted call center.

When the Department does not resolve complaints or require its contractor to resolve complaints, it cannot ensure that the problems are addressed in a manner that prevents reoccurrence. Some of the complaints were from individuals who had submitted a claim for unemployment benefits, but had not received the amount of benefits that they thought they should have received. According to the Department's Fiscal Years 2021 and 2022 Performance Plans, the Division should provide unemployment benefits in a fair, timely, accurate, and efficient manner to the citizens of Colorado to stabilize the workforce and minimize the impact of unemployment on the state's economy. Unresolved complaints about benefits could ultimately affect not only the claimants, but the State's economy when individuals do not have funds available to purchase the goods and services they need.

- **DEPARTMENT LACKS DATA ON ACTIONS TAKEN AND TIMELINESS OF COMPLAINT RESOLUTION.** Not only did the Department not document actions taken to resolve all complaints unrelated to its contracted call center, but the Department had no evidence that the contractor took action to resolve 326 of the 887 (37 percent) online complaints that the Department had tracked as resolved from February 2021 to April 2021. Based on Department documentation, the contractor reported to the Department that it resolved 561 complaints by coaching, monitoring, or firing the employee who was the subject of the complaint.

In addition, we found that the Department tracked the timeliness of the contractor's actions to resolve complaints for only 28 of the 887 (3 percent) complaints that the contractor reported as having been resolved. For these 28 complaints, we determined that the contractor resolved them within 2 days of receipt.

When there is no evidence that most complaints are resolved timely or at all, the Department cannot ensure that its contractor or staff provide appropriate customer service, and delays in resolving complaints reduce the Department's ability to prevent the problems from reoccurring.

- **THE DEPARTMENT DOES NOT UTILIZE COMPLAINT FEEDBACK TO MAKE IMPROVEMENTS.** We found that the Department does not analyze the limited complaint data that it maintains to understand the feedback that claimants and potential claimants are providing or the common or ongoing problems that they may be experiencing. According to Department staff, they feel they know the types of complaints that individuals have about unemployment benefits, and have other processes to identify problems such as by communicating with staff and monitoring the functionality of systems, so the staff have not analyzed or used information on customer complaints to identify and make improvements.

When the Department does not analyze complaint data, it may be slow to identify or fail to identify process problems that may only be readily apparent from the claimant perspective. For example, 220 of the unresolved complaints received through the online complaint form referenced claimants being disconnected while waiting in the call center queue. This included 44 complaints from individuals who said they were on hold for over 2 hours and then were disconnected. The Department told us that it thought most disconnected calls were likely due to the individuals getting enough information on the pre-recorded audio played during the hold time that they no longer needed to stay on hold. However, the many complaints suggest that

the individuals did not choose to disconnect, and perhaps they were disconnected by staff or the Department's or Conversion Calls' phone system.

In addition, if the Department had reviewed the limited complaint data that it maintained, it might have identified one problem that we identified by looking at the data. From the complaint data, we saw that a few individuals said that they did not receive the callbacks from Department or call center staff that they were promised, and as a result, they called the call center multiple times. If the Department had reviewed the online complaints and saw the issue with the Department or call center staff not making requested callbacks, it could have taken steps to address this problem, which may have reduced the number of inbound calls. Based on the Department's call center data, we identified 40,133 individuals who called the call center more than 100 times in a single day between March and July 2020, in an attempt to get help.

WHY DID THESE PROBLEMS OCCUR?

LACK OF COMPLAINT MANAGEMENT POLICIES AND PROCEDURES. Neither prior to or during the pandemic has the Department had written complaint management policies or procedures to track, investigate, and resolve complaints related to unemployment benefits or the Department's internal call center; the Department only has an informal, unwritten process to collect complaints about Conversion Calls' staff behavior and forward those complaints to the contractor. For example, the Department has no policies or procedures to document or resolve the complaints that it receives through phone calls and emails that are unrelated to call center staff. In fact, one Department staff told us that they stopped collecting complete information on complaint resolutions from the online form in March 2021 when they became overwhelmed by the number of complaints coming into the Department and they were unclear whether the Department was planning to do anything with the complaint data.

The Department also does not have any provisions in its contract with Conversion Calls requiring the contractor to track or resolve the complaints that Conversion Calls receives directly. To the extent that the Department contracts with an entity for a call center function, in the future, it should ensure that the contract with the entity requires the contractor to track and maintain all complaint data and report the information to the Department.

LACK OF PROCESS TO ANALYZE AND UTILIZE AGGREGATE COMPLAINT DATA. The Department has not developed a process to analyze the types of complaints received or complaint data in aggregate, and use that information to improve its business processes. For example, the Department could assign staff to analyze aggregate complaint data to identify trends that indicate ongoing problems, such as with benefits payments or claimants being disconnected from calls. These Department staff could also provide regular updates on complaint trends to management so that it can ensure that complaints are being resolved timely, take corrective action when needed, and identify areas for improvement that the Department may not identify without reviewing feedback from claimants.

RECOMMENDATION 3

The Department of Labor and Employment (Department) should improve the Division of Unemployment Insurance's complaint management by:

- A Developing and implementing policies and procedures for tracking, investigating, and resolving all complaints timely, and maintaining data about the resolutions.
- B Ensuring that any future contracts for call center services require the contractor to maintain data on all complaints that the contracted call center receives, and report the information to the Department.
- C Analyzing aggregate complaint data periodically to identify common complaints and ongoing problems, identify areas for improvement, report the results to management, and take corrective action as appropriate.

RESPONSE

DEPARTMENT OF LABOR AND EMPLOYMENT

- A AGREE. IMPLEMENTATION DATE: MARCH 2022.

The Department commits to developing and implementing policies and procedures for tracking, investigating, and resolving all complaints timely and maintaining data about the resolutions. We will target this to go into effect by March 31, 2022.

B AGREE. IMPLEMENTATION DATE: OCTOBER 2021.

The Department commits to ensuring that any future contracts for call center services require the contractor to track and maintain data on all complaints that the contracted call center receives and provide this information to the Department. The Department recently awarded a call center contract in late October 2021, and this language was included.

C AGREE. IMPLEMENTATION DATE: MARCH 2022.

The Department commits to developing and implementing a process to analyze aggregate complaint data periodically to identify common complaints and ongoing problems, identify areas for improvement, report the results to management, and take corrective action as appropriate. We will target this to go into effect by March 31, 2022.