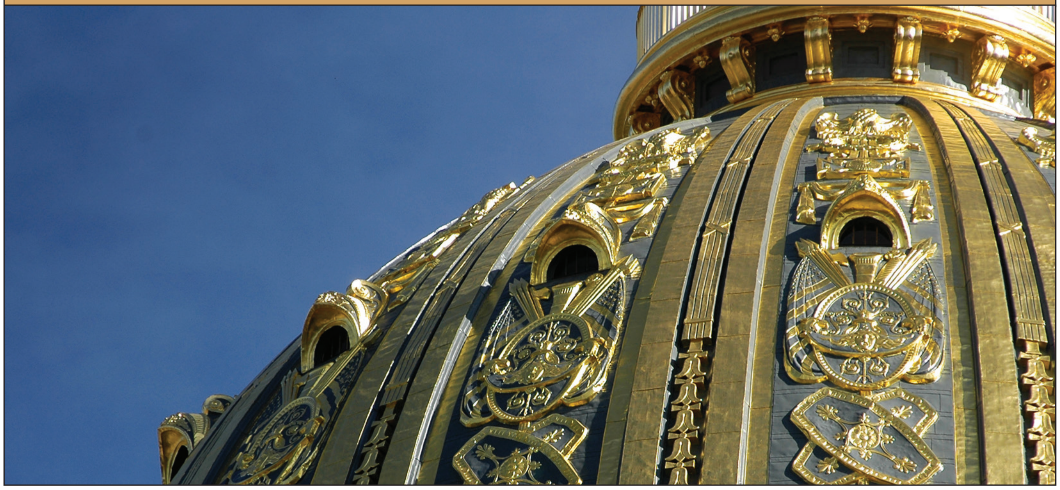


December 2021
PE 21-14-648

SPECIAL REPORT

WORKFORCE WEST VIRGINIA UNEMPLOYMENT CLAIMS DATA

REPORT OVERVIEW

WorkForce West Virginia Paid Nearly $83 Million in Fraudulent Unemployment Claims During the COVID-19 Pandemic

WEST VIRGINIA LEGISLATIVE AUDITOR
PERFORMANCE EVALUATION & RESEARCH DIVISION

JOINT COMMITTEE ON GOVERNMENT OPERATIONS

JOINT COMMITTEE ON GOVERNMENT ORGANIZATION

WEST VIRGINIA LEGISLATIVE AUDITOR

PERFORMANCE EVALUATION & RESEARCH DIVISION

Building 1, Room W-314
State Capitol Complex
Charleston, West Virginia 25305
(304) 347-4890

Aaron Allred
Legislative Auditor

John Sylvia
Director

Jill Mooney
Research Manager

Christopher F. Carney
Senior Research Analyst

CONTENTS

EXECUTIVE SUMMARY

Pursuant to West Virginia Code §4-2-5, the legislative auditor directed the Performance Evaluation and Research Division to conduct an information report on the surge of fraudulent unemployment claims that resulted from the COVID-19 pandemic, and that were paid by WorkForce West Virginia. The objective of this report was to provide information on the unprecedented number of unemployment claims filed in response to the COVID-19 pandemic, the amount paid in fraudulent claims, and the causes for many fraudulent claims being paid.

Frequently Used Acronyms

CARES – Coronavirus Aid, Relief, and Economic Security Act 2020
FPUC – Federal Pandemic Unemployment Compensation Program
PEUC – Pandemic Emergency Unemployment Compensation Program
PUA – Pandemic Unemployment Assistance Program
OIG – U.S. Department of Labor's Office of Inspector General
UI – Unemployment Insurance
USDOL – U.S. Department of Labor
WorkForce – WorkForce West Virginia

Report Highlights:

Issue 1: WorkForce West Virginia Paid Nearly $83 Million in Fraudulent Unemployment Claims During the COVID-19 Pandemic

- The total number of unemployment claims processed by WorkForce as a result of the COVID-19 pandemic increased from 52,816 in CY 2019 (pre-pandemic) to 457,399 in CY 2020.
- WorkForce's claims process was not designed for the unprecedented number of claims received, and the allowance of self-certification of PUA claims.
- Consequently, WorkForce paid nearly $83 million in fraudulent unemployment claims during CY 2020.
- Unemployment insurance agencies throughout the country had similar experiences.
- WorkForce did not employ cross-matching mechanisms with other agencies for fraud detection/prevention.
- WorkForce has implemented a fraud unit, a cross-match unit, and an investigations unit in addition to developing partnerships with various state agencies to cross-match data and to identify "bad actors."

ISSUE 1

WorkForce West Virginia Paid Nearly $83 Million in Fraudulent Unemployment Claims During the COVID-19 Pandemic

As of November 13, 2021, West Virginia received almost $1.8 billion from the nearly $700 billion in federal Coronavirus Aid, Relief, and Economic Security (CARES) Act 2020 funding for unemployment assistance that was in response to the large number of individuals unable to work as a result of the COVID-19 pandemic, and the need to reduce the spread. The CARES Act created the Pandemic Unemployment Assistance (PUA) program. This temporary program provided up to 39 weeks of unemployment assistance to classes of workers not normally eligible for regular unemployment compensation, such as those who were self-employed or worked part-time. In addition, PUA allowed eligibility for people if they were not considered able and available to work for reasons related to the COVID-19 pandemic, without the typical verifications required for regular unemployment benefits. Specifically, CARES originally allowed self-certification of employment as sufficient for eligibility. This meant that self-employed people applying for PUA could self-certify their employment or attest that they were able and available to work but unemployed due to the COVID-19 pandemic simply by checking a box on the unemployment application.

The CARES Act created the Pandemic Unemployment Assistance (PUA) program. This temporary program provided up to 39 weeks of unemployment assistance to classes of workers not normally eligible for regular unemployment compensation, such as those who were self-employed or worked part-time.

The CARES Act also included the Federal Pandemic Unemployment Compensation (FPUC) program that allowed people receiving regular unemployment or PUA benefits to have their weekly benefit amount increased by $600. The initial FPUC program ended on July 31, 2020. However, the program was first extended as a result of the Continued Assistance for Unemployed Workers act of 2020 on December 27, 2020. The extended program paid eligible applicants an extra $300 benefit per week instead of the original $600. The program was extended once again by the American Rescue Plan Act of 2021 in March of 2021 which ended on June 19, 2021 by executive order from the governor.[1]

According to the U.S. Department of Labor's (USDOL) Office of Inspector General (OIG), as of January 2, 2021, federal funding to states for the PUA, FPUC, and PEUC programs totaled $392 billion.

Additionally, the Pandemic Emergency Unemployment Compensation (PEUC) program allowed people who had exhausted their regular unemployment benefits to claim benefits for an additional 13 weeks. The PEUC program was also extended by the Continued Assistance for Unemployed Workers act of 2020 and the American Rescue Plan Act of 2021 which ended on June 19, 2021. According to the U.S. Department of Labor's (USDOL) Office of Inspector General (OIG), as of January 2, 2021, federal funding to states for the PUA,

[1] *West Virginia Governor Executive Order No. 12-21.*

FPUC, and PEUC programs totaled $392 billion.[2]

The Number of Unemployment Claims Increased Significantly as a Result of the COVID-19 Pandemic

Table 1 shows West Virginia's total number of regular unemployment claims, PUA, and PEUC claims submitted in calendar years (CY) 2019 and 2020. As a result of the COVID-19 pandemic, regular unemployment claims in West Virginia increased from 52,816 in CY 2019 to 244,448 in CY 2020. In addition, another 212,951 claims were filed for PUA and PEUC claims in CY 2020 as a result of the COVID-19 pandemic. This large increase in claims overwhelmed the WorkForce staff and the agency's capability to properly review and process the claims.

As a result of the COVID-19 pandemic, regular unemployment claims in West Virginia increased from 52,816 in CY 2019 to 244,448 in CY 2020.

Table 1
Regular Unemployment, PUA, and PEUC Claims
CY 2019 and CY 2020

	CY 2019	CY 2020
Regular Unemployment Claims	52,816	244,448
PUA Claims	N/A	179,351
PEUC Claims*	N/A	33,600
Total	**52,816**	**457,399**

Source: WorkForce West Virginia. Unaudited by PERD.
**The PEUC program provides an additional 13 weeks to regular unemployment benefits.*

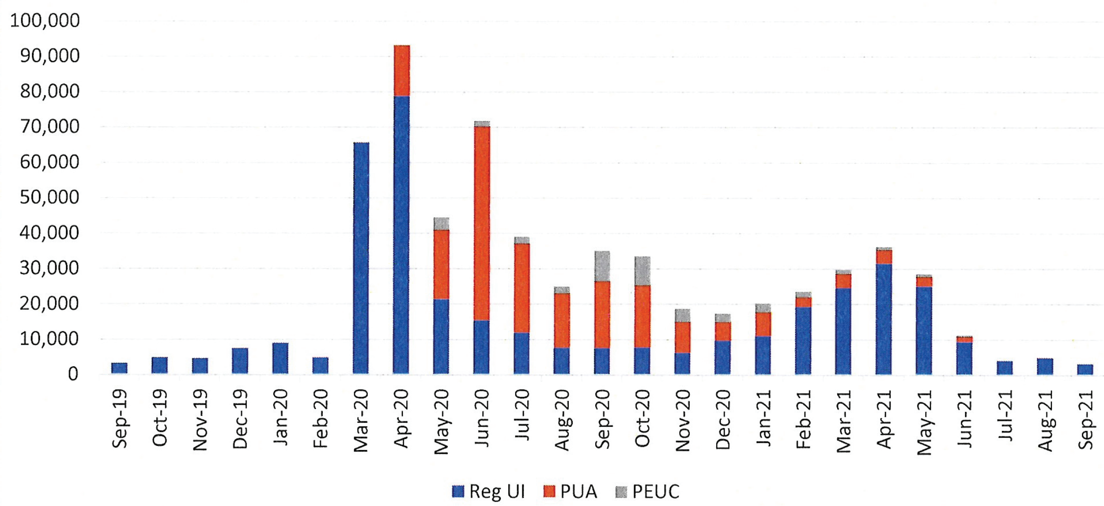
Figure 1 shows monthly unemployment claims data for regular unemployment claims, PUA, and PEUC claims received by WorkForce from September 2019 through September 2021. Figure 1 illustrates how significant the increase in regular unemployment claims was at the onset of the COVID-19 pandemic. This increase was precipitated by a state-of-emergency declaration, and later a stay-at-home order issued by the governor in March 2020 that resulted in a decline in economic activity in various industries, which led to an unprecedented number of unemployment claims as many workers were being laid off or unemployed. For example, the average number of regular unemployment claims that were filed from September 2019 to February 2020 was 5,550 claims per month. However, in March 2020, initial claims for regular unemployment skyrocketed to 65,537, and further increased to 78,692 in April 2020. Also, in April 2020, the federal government instituted

The average number of regular unemployment claims that were filed from September 2019 to February 2020 was 5,550 claims per month. However, in March 2020, initial claims for regular unemployment skyrocketed to 65,537, and further increased to 78,692 in April 2020.

[2] *U.S. Department of Labor Office of Inspector General May 28, 2021 report COVID-19: States Struggled to Implement CARES Act Unemployment Insurance Programs. Report number: 19-21-004-03-315, summary page.*

Pandemic Unemployment Assistance which added 14,239 initial claims. April 2020 was the apex of initial unemployment claims with a total of 92,945 claims. Following April 2020, initial unemployment claims began to drop and most of the claims filed were for PUA and PEUC. According to the USDOL, the unemployment rate for West Virginia increased from 5.3 percent in March 2020 to a high of 15.6 percent in April 2020. In comparison, the unemployment rate for the rest of the U.S. increased from 4.4 percent in March 2020 to a high of 14.8 percent in April 2020.

Figure 1
Monthly Regular Unemployment, PUA, and PEUC Claims Received by WorkForce September 2019 to September 2021



Source: WorkForce West Virginia. Unaudited by PERD.

Nearly $83 Million Was Paid in Fraudulent Unemployment Claims Because WorkForce's Claims Process Was Not Designed for the Unprecedented Number of Claims and the Self-Certification of the PUA

As Figure 1 indicates, WorkForce was faced with an unprecedented number of unemployment claims consisting of two distinct unemployment insurance programs: 1) Regular Unemployment, and 2) Pandemic Unemployment Assistance, which was new to WorkForce. The agency did not have sufficient administrative capacity, technology, fraud prevention, and improper-payment detection to properly process the large volume of claims from both unemployment programs. Other states also experienced similar fraudulent activity in their unemployment insurance programs. Prior to the COVID-19 pandemic, WorkForce reviewed regular unemployment claims manually. This manual review process could not keep up with the volume of claims. Also, WorkForce's claims process did not have an automated "fraud unit" for regular unemployment claims,

The agency did not have sufficient administrative capacity, technology, fraud prevention, and improper-payment detection to properly process the large volume of claims from both unemployment programs.

and fraud prevention was a manual and mostly reactive process due to a relatively low level of ID theft fraud activity. Moreover, WorkForce's manual claims process was not designed to process PUA claims which were unique in that they allowed self-certification of employment, and the US Department of Labor discouraged placing stops on claimants that self-certified their employment. The agency indicated that it implemented the PUA program in 10 days. In addition, WorkForce was under the directive of the USDOL to pay claims as quickly as possible.

Soon after WorkForce had implemented its PUA program, it began to identify a high level of fraud as unemployment claims were being paid. WorkForce stated:

> *Automated fraud detection and prevention controls began to be implemented in early spring 2020…. With the development of the new system to accept and pay PUA claims, security measures were not in place when initial payments were issued. This was before the level of fraud was clear and the US Department of Labor (USDOL) had discouraged placing stops on claimants that had self-certified….*
>
> *…. State unemployment benefit fraud prevention was challenging due to the limitations of the technology used to process claims and the overwhelming volume of claims. To deliver better service to claimants the state employed an "auto-entry" policy which allowed claims filed to be entered into the system immediately. After auto-entry was initiated, staff continued to view claims, but again could not keep up with the volume. Social Security Verification was and remains a part of the claimant verification process, but was somewhat challenged at the time…. Its effectiveness was inhibited because most of the fraud claims filed had accurate information with SSN's matching names, birth dates, etc. which made them more difficult to identify.*
>
> *…. Stops were placed on State Unemployment benefit claims from the on-set of the pandemic but… if the claimant self-certified in PUA we were directed by the DOL to not stop payment… once it was the level of fraud was clear, WFWV did begin to place stops on claims that were identified as suspicious.*

Once WorkForce realized the level of fraud that was taking place, it established security measures in an effort to try to stop the fraudulent activity. WorkForce implemented its "fraud unit" along with automated fraud detection and prevention controls in the spring of 2020. Eventually,

WorkForce's manual claims process was not designed to process PUA claims which were unique in that they allowed self-certification of employment, and the US Department of Labor discouraged placing stops on claimants that self-certified their employment.

Once WorkForce realized the level of fraud that was taking place, it established security measures in an effort to try to stop the fraudulent activity.

the USDOL and many state Unemployment Insurance programs became aware of the extent of fraud and added documentation requirements for claimants self-certifying.

According to WorkForce, nearly $83 million in fraudulent unemployment claims was paid in CY 2020 (see Table 2), with the large majority coming from the pandemic-related programs, PUA and FPUC.

According to WorkForce, nearly $83 million in fraudulent unemployment claims was paid in CY 2020 (see Table 2), with the large majority coming from the pandemic-related programs, PUA and FPUC. PUA represents benefits individuals received based on previous income reported. According to WorkForce, the regular PUA benefits could not be more than the State's maximum weekly benefit rate for regular unemployment compensation, which is $424 in West Virginia. The minimum weekly PUA payment was limited at $158. However, the FPUC represents the extra $600 per week benefit claimants received in addition to their regular unemployment or PUA benefit. The $600 FPUC payments initially began April 4, 2020 and ended July 25, 2020. The difference in amounts is a result of the $600 FPUC payments being higher than the regular unemployment benefit or regular PUA benefit given the number of claims received. Nearly $82 million related to the federal pandemic assistance funds were paid in CY 2020 for fraudulent claims for individuals who self-certified their own employment.

Table 2
Fraudulent Regular Unemployment and PUA
Number of Claims and Dollars Paid
CY 2020

	Number of Fraudulent Claims	Dollar Amount Paid
Regular Unemployment	10,533	$797,645
Regular Pandemic Unemployment Assistance (PUA) & Federal Pandemic Unemployment Compensation (FPUC)	12,441	(PUA) $23,042,322 (FPUC) $58,882,220
Total	**22,974**	**$82,722,187**

Source: WorkForce West Virginia. Unaudited by PERD.

Other States Also Experienced Similar Fraudulent Activity in Their Unemployment Insurance Programs

The increase of fraudulent unemployment claims activity related to the COVID-19 pandemic and the surge of claims occurred in every state across the country, not just in West Virginia. According to the OIG, the USDOL and states struggled to properly and timely implement the three key CARES Act UI programs (PUA, FPUC, and PEUC) primarily because states' information technology systems were not modernized, staffing resources were insufficient to manage the increased number of new claims, and according to state officials, guidance from the USDOL was untimely and unclear.[3] Many states did not perform required and recommended improper payment detection, 40 percent of states did not perform required cross-matches, and 38 percent did not perform required payment recovery activities.[4] Furthermore, 42 percent of states did not report CARES Act UI program overpayments to USDOL as required. States that did report overpayments, understated the total amount by an estimated 89 percent.[5] As a result, as of January 2, 2021, the OIG estimated at least $39.2 billion in improper payments, including fraud, were at risk of not being detected and recovered.[6] However, in an October 6, 2021 updated letter, the OIG indicated that the total could be as high at $87.3 billion.[7]

According to the OIG, the USDOL and states struggled to properly and timely implement the three key CARES Act UI programs (PUA, FPUC, and PEUC) primarily because states' information technology systems were not modernized, staffing resources were insufficient to manage the increased number of new claims, and according to state officials, guidance from the USDOL was untimely and unclear.

Table 3 shows examples of several states with the estimated amounts it paid in fraudulent unemployment benefits since March of 2020.[8] The examples indicate that across the country, state UI programs were not prepared to handle the large surge of unemployment claims that resulted from the COVID-19 pandemic and were vulnerable to fraud.

Table 3
Examples of States' Estimates of Fraudulent UI Benefits Paid Since March 2020

State	Estimate Amount Paid in Fraudulent UI Benefits
California	$11-$29 Billion
New York	$1 Billion
Washington	$600 Million
Maryland	$501 Million
Ohio	$477 Million
West Virginia*	$82.7 Million

Source: U.S. Department of Labor, Ohio Department of Job and Family Services, and WorkForce West Virginia.
**For CY 2020, as of April 29, 2021.*

As of January 2, 2021, the OIG estimated at least $39.2 billion in improper payments, including fraud, were at risk of not being detected and recovered. However, in an October 6, 2021 updated letter, the OIG indicated that the total could be as high at $87.3billion.

[3]*Ibid., summary page.*
[4]*Ibid., summary page.*
[5]*Ibid., summary page.*
[6]*Ibid., summary page.*
[7]*U.S. Department of Labor, Office of Inspector General October 6, 2021 update letter: DOL-OIG Oversight of the Unemployment Insurance Program, 2.*
[8]*U.S. Department of Labor Office of Inspector General February 22, 2021 Alert Memorandum: The Employment and Training Administration Needs to Ensure State Workforce Agencies (SWA) Implement Effective Unemployment Insurance Program Fraud Controls for High Risk Areas. Report number: 19-21-002-03-315, 2.*

According to the OIG, it identified four areas where potential fraudulent benefits were paid. These areas included:

1. Multi-State Claimants – totaling $3.5 billion in UI benefits paid;
2. Social Security Numbers of Deceased Individuals – totaling $58.7 million in UI benefits paid;
3. Federal Prisoners – totaling $98.3 million in UI benefits paid; and
4. Suspicious Email Accounts – totaling $2 billion in UI benefits paid.[9]

According to the OIG, it identified four areas where potential fraudulent benefits were paid. These areas included: Multi-State Claimants, Social Security Numbers of Deceased Individuals, Federal Prisoners, and Suspicious Email Accounts.

This information presented from the OIG was presented in an alert memo in February 2021 and acknowledges that the information is only a subset of the potentially fraudulent UI activities from March 2020 through October 2020. The OIG acknowledges that the actual amount of potential fraud is much larger.

Regarding multi-state claimants, claims were being paid to individuals who filed in multiple states. The CARES Act required that anyone who became unemployed due to COVID-19 related reasons could only file for UI benefits in one state. The OIG identified one instance where a claimant used a social security number to file a claim in 40 states and received a total of $222,532 in UI benefits from 29 states.[10]

In relation to UI benefits being paid to incarcerated individuals, the California State Auditor estimated that approximately $810 million in UI benefits were paid to names of incarcerated individuals. This occurred because the California Employment Development Department had not developed the capacity to match data between its claims system and the data from state and local corrections facilities.[11]

States Did Not Conduct Required and Recommended Cross-matches to Detect and Recover Improper Payments for CARES Act Unemployment Insurance Programs

According to a survey of 50 states conducted by the OIG, 20 of the 50 states (40 percent) that responded did not perform all the required Benefit Payment Control cross-matches.

According to the OIG, the federal Employment and Training Administration, within the US Department of Labor, required states to perform certain Benefit Payment Control activities, along with other recommended activities to detect and recover improper payments for CARES Act unemployment insurance programs. The following three cross-matches were required for the PUA and PEUC programs (in the same manner as for the regular UI program). According to a survey of 50 states conducted by the OIG, 20 of the 50 states (40 percent) that

[9] *Ibid., 3.*

[10] *Ibid., 3.*

[11] *Auditor of the State of California Employment Development Department January 2021 report Significant Weaknesses in EDD's Approach to Fraud Prevention Have Led to Billions of Dollars in Improper Benefit Payments. Report 2020-628.2, 1-2.*

responded did not perform all the required Benefit Payment Control cross-matches.[12] These Benefit Payment Control cross-matches are as follows:

- National Directory of New Hires Cross-match – Cross-matches against employer-reported "new hires," including wage information, against UI benefit payment records to identify claimants who have failed to report earnings and therefore, may have been overpaid UI benefits;
- Quarterly Wage Records Cross-match – Compares state agency benefit payment records with wage records created from quarterly reports submitted by employers to determine if benefits were overpaid due to failure to report earnings; and
- Systematic Alien Verification for Entitlement – Automated and manual procedures by which states obtain information about an individual's immigration status that will allow the state to determine his/her eligibility for unemployment compensation.[13]

The OIG determined that 44 of the 50 states that provided information indicated that they did not perform all of the recommended Benefit Payment Control cross-matches.

In addition, the OIG determined that 44 of the 50 states that provided information indicated that they did not perform all of the recommended Benefit Payment Control cross-matches. The recommended cross-matches include:

- State Directory of New Hires Cross-match;
- Social Security Administration Cross-match;
- Interstate Benefits Cross-match;
- State Identification Inquiry and IB8606 enhancements made to the Interstate Connection network cross-match to prevent concurrent claim filing in multiple states;
- State Information Data Exchange System;
- Identity Verification;
- Incarceration Cross-match; and
- UI Integrity Center's Integrity Data Hub tools, including the Suspicious Actor Repository, Suspicious E-Mail Domains, Multi-State Cross-match, Foreign Internet Protocol Address Detection, and Fraud Alert application.[14]

Since the occurrence of fraudulent unemployment claims, WorkForce indicated that it has begun utilizing recommended systems such as the National Association of State Workforce Agencies (NASWA), the Integrity Data Hub, and the CATCH intelligence data science system.

Since the occurrence of fraudulent unemployment claims, WorkForce indicated that it has begun utilizing recommended systems such as the National Association of State Workforce Agencies (NASWA), the Integrity Data Hub, and the CATCH intelligence data science system.

[12]U.S. Department of Labor Office of Inspector General May 28, 2021 report COVID-19: States Struggled to Implement CARES Act Unemployment Insurance Programs, 9.

[13]Ibid., 8-9.

[14]Ibid., 25.

Additionally, on September 1, 2020, the Employment and Training Administration sent out a news release announcing $100 million in funding to support state efforts to combat fraud and recover improper payments in the UI program, including those programs created under the CARES Act. The purpose of these funds was for states to enhance their PUA and PEUC fraud prevention efforts and to work with the Employment

According to the Employment and Training Administration, West Virginia was to receive $1,020,600 to assist with the PUA program and $194,400 for the PEUC program.

and Training Administration and the Unemployment Insurance Integrity Center to use these resources to address fraud aggressively in these programs. According to the Employment and Training Administration, West Virginia was to receive $1,020,600 to assist with the PUA program and $194,400 for the PEUC program.[15]

The Joint Committee on Government and Finance Was Targeted by Unemployment Fraudsters

The Joint Committee on Government and Finance (Joint Committee) received 22 fraudulent unemployment claims filed in the names of current and former employees, and in names not associated with the agency. Three of the claims were filed in the name of the legislative auditor, one was filed in the name of the legislative auditor's current receptionist, and one was filed in the name of the Post Audit Division director. These claims represent 16 percent of the Joint Committee staff. These claims were filed as early as July 2020 through May 2021, each claiming unemployment status during the pandemic months of 2020.

The Joint Committee on Government and Finance (Joint Committee) received 22 fraudulent unemployment claims filed in the names of current and former employees, and in names not associated with the agency.

In one example, a current Joint Committee employee who had a fraudulent unemployment claim filed in his name, received a UI benefit debit card in the mail after unsuccessful attempts to notify WorkForce of the fraudulent claim. The employee contacted WorkForce by telephone but was unable to speak to someone or leave a voicemail message. Eventually, the Legislative Services Division contacted WorkForce on behalf of the employee to return the UI debit card. The Legislative Services Division received emails from WorkForce to resolve the fraudulent claims, and WorkForce acknowledged that it was "inundated" with fraudulent claims. The significant number of Joint Committee staff receiving fraudulent claims filed in their names emphasizes the need for a cross-matching procedure for WorkForce to identify current employees of state agencies.

[15]U.S. Department of Labor Employment and Training Administration September 1, 2020 news release: U.S. Department of Labor Provides $100 Million to States to Combat Unemployment Insurance Fraud.

WorkForce Has Also Developed Cross-matching Partnerships with West Virginia State Agencies

As previously stated, WorkForce did not have an automated fraud detection/prevention system prior to the COVID-19 pandemic. WorkForce did not employ cross-match mechanisms with other state agencies such as the Division of Corrections or the State Auditor's Office. There were no partnerships with the following state agencies that could have possibly helped with cross-matching information to identify fraudulent claims:

- State Auditor's Office – In order to see if state employees remain employed, and to cross-match other state agencies that do not utilize the West Virginia Our Advanced Solution with Integrated Systems (OASIS) such as the Parkways Authority and institutions of higher education;
- Division of Corrections – In order to cross-match WorkForce records against incarceration records to determine if individuals have active claims while incarcerated;
- Division of Motor Vehicles – To access to DMV records for WorkForce investigators and fraud team members to help investigate fraudulent unemployment claims; and
- State Law Enforcement Agencies – Such as the Attorney General, Homeland Security, and State Police in order to identify "bad actors" and assist with law enforcement.

Since the large occurrence of fraudulent unemployment claims paid, WorkForce indicated that it has developed partnerships with the Division of Corrections, the Division of Motor Vehicles, the Attorney General's Office, State Police, and Homeland Security to cross-match data and to identify "bad actors.

Since the large occurrence of fraudulent unemployment claims paid, WorkForce indicated that it has developed partnerships with the Division of Corrections, the Division of Motor Vehicles, the Attorney General's Office, State Police, and Homeland Security to cross-match data and to identify "bad actors." In addition, the agency has implemented other measures to help it detect and deter future payments of fraudulent unemployment claims. A few examples of these preventive measures include the following:

- The Fraud Unit – Identifies, prevents, and investigates identity theft fraud claims;
- The Cross-match Unit – Gathers relevant information and when possible, issues decisions for "New Hire" and "Quarterly Crossmatch" cases; and
- The Investigations Unit – Investigates claims wherein normal fact-finding efforts are not appropriate especially when there is potential criminal activity. It has the power to subpoena and investigate claimants or employers.

The State Unemployment Insurance Trust Fund Was Impacted by Nearly $800 Thousand for Regular Unemployment Fraudulent Claims

The PUA program is 100 percent federal dollars, and no state dollars are affected by this program. The nearly $800,000 paid for fraudulent regular unemployment claims in CY 2020 were paid out of the State Trust Fund. According to WorkForce, if an employer's account was charged for a fraudulent claim, that account will be credited for the charged amount during the next quarter. Ultimately, according to WorkForce, state employers are not negatively affected by fraudulent unemployment claims submitted against their account. **However, since the fraudulent charges came out of the State Trust Fund, it has lost those monies for future economic downturns.**

The PUA program is 100 percent federal dollars, and no state dollars are affected by this program. The nearly $800,000 paid for fraudulent regular unemployment claims in CY 2020 were paid out of the State Trust Fund.

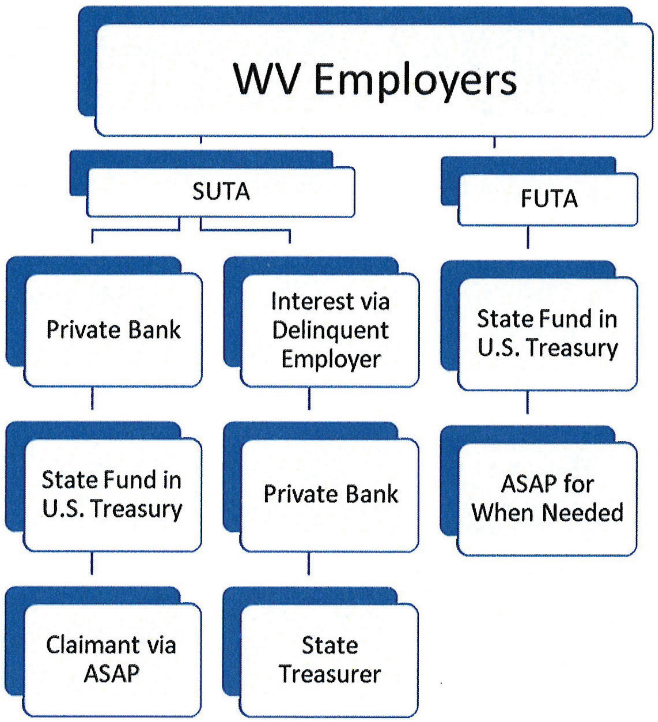
WorkForce is a stand-alone agency that is responsible for orchestrating the review and processing of unemployment claims in West Virginia. No receipts and/or payments used for unemployment claims go through any other state agency that could possibly conduct some form of cross-match in order to detect fraudulent unemployment claims.

According to WorkForce, the agency has two sources of revenue to pay unemployment compensation benefits. The first are federal funds, used to pay CARES Act benefits such as PUA and FPUC. WorkForce management computes an estimate of current cash needs weekly by summarizing administrative expenditures. It then electronically draws down the funds through the federal Payment Management System, in addition to the calculation of the amount of program expenditures compiled during the week.

According to WorkForce, state employers are not negatively affected by fraudulent unemployment claims submitted against their account. However, since the fraudulent charges came out of the State Trust Fund, it has lost those monies for future economic downturns.

The second source of revenue received is employer payroll tax contributions from the UI trust fund. These contributions consist of two types of revenue, the Federal Unemployment Tax Act (FUTA) funds and the State Unemployment Tax Authority (SUTA) funds. These contributions are specific employer assessments which must be paid on a quarterly basis. Figure 2 is a flow-chart of how revenue for unemployment compensation benefits is sourced from the claimant's employer to the individual claimant.

Figure 2:
Distribution Process of Unemployment Compensation Benefits



WorkForce is a stand-alone agency that is responsible for orchestrating the review and processing of unemployment claims in West Virginia.

Funds from FUTA are acquired from a nationwide payroll tax that is designed to help states pay unemployment benefits to individuals whose work contracts have been terminated. The funds are collected by the federal government which mandates what to do with the funds. The federal government sets aside the money for the state in the federal treasury as part of the state's federal unemployment trust fund. The state then draws down the amounts needed electronically via the Automated Standard Application for Payment (ASAP) system.

Each employer collects and deposits the contributions in a clearing account at Truist bank and when cleared, the funds are immediately transferred to a trust fund account in the U.S. Treasury to the credit of WorkForce. The funds are then drawn down from the trust fund to pay claimants' benefits electronically via the ASAP system.

There are two components to the SUTA funds. The first part holds all state unemployment taxes collected from employers. State and federal law restrict these receipts to be used only for payment of unemployment benefits. Each employer collects and deposits the contributions in a clearing account at Truist bank and when cleared, the funds are immediately transferred to a trust fund account in the U.S. Treasury to the credit of WorkForce. The funds are then drawn down from the trust fund to pay claimants' benefits electronically via the ASAP system. The second part of SUTA funds consists of interest collected from delinquent employers, where money is deposited into a clearing account at Truist bank and is transferred to the State Treasurer after the end of each month. This money belongs to the State and can be used by WorkForce at the Commissioner's discretion. Ultimately, this information is significant because it indicates that the funds that are processed by WorkForce for unemployment claims do not pass-through other state agencies which could possibly cross-match claimant information to help deter payment of fraudulent claims.

Ultimately, this information is significant because it indicates that the funds that are processed by WorkForce for unemployment claims do not pass-through other state agencies which could possibly cross-match claimant information to help deter payment of fraudulent claims.

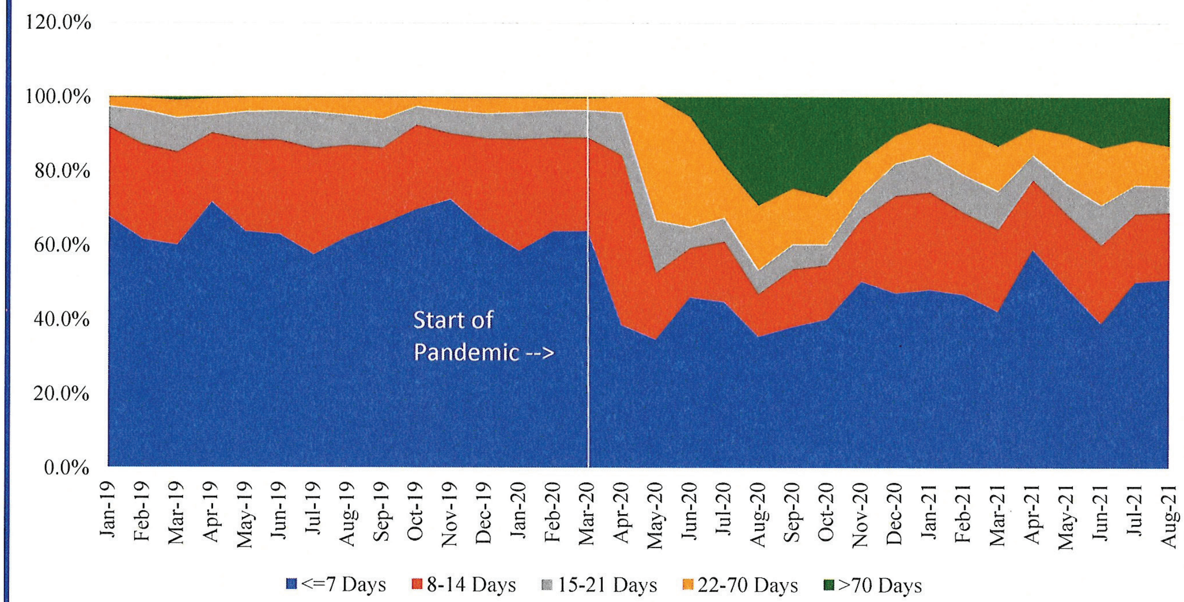
In regard to the funds that were paid for fraudulent claims, WorkForce stated that it has issued numerous demand letters for recoupment of fraudulent claims payments and is in various stages of the recoupment process. According to WorkForce, banks across the country are working to disentangle which state the recouped fraud dollars belong to as every state has been significantly affected by fraudulent activity. As of April 29, 2021, WorkForce indicated it has verified $121,986 as recouped. It expects another $3 million to $4 million to be returned in 2021.

Some Unemployment Claimants Experienced a Greater Than Normal Time-Lag in Receiving First-Time UI Payments

As a result of the COVID-19 pandemic and the surge in unemployment claims, some claimants experienced a greater than normal time-lag when receiving first-time regular unemployment payments. Figure 3 illustrates the percentage of claims processed by the number of days it took for WorkForce to distribute the initial payment for regular unemployment claims from January 2019 through August 2021. It further shows that at the initial time period of the COVID-19 pandemic, there was an increase in the average number of days it took to process and distribute the first payment for unemployment claims to claimants. Prior to the pandemic, the time it took WorkForce to process regular unemployment payments was fairly timely. From January 2019 through March 2020, WorkForce processed initial regular unemployment claim payments in 14 days or less, 88.5 percent of the time. In May 2020, that average dropped to 53 percent. Later, in August 2020, 29 percent of first regular unemployment payments for the month took more than 70 days to be processed. This lag in processing payments was the result of the overwhelming numbers of unemployment claims being received during the COVID-19 pandemic. According to a U.S. Department of Labor benchmark, states are expected to make a minimum of 87 percent of all regular unemployment first payments within 14 days.

From January 2019 through March 2020, WorkForce processed initial regular unemployment claim payments in 14 days or less, 88.5 percent of the time. In May 2020, that average dropped to 53 percent.

Figure 3
Percent First-Time Regular UI Payments
January 2019 through August 2021



Source: U.S. Department of Labor.

It should be noted that during the time period when there was a lag in the amount of time that some claimants had their first unemployment claim processed and distributed (between April 2020 and December 2020), WorkForce managed to maintain some efficiency by processing first payments in 14 days or less for 61.5 percent of claimants. The problem is that although WorkForce managed to process a large portion of payments in an appropriate timeframe, the agency may have been unknowingly processing fraudulent claims.

Table 4 illustrates the percent of first-time regular unemployment payments and the number of days to payment for the months of the pre-pandemic period to the months during the pandemic. Prior to the pandemic, 64.4 percent of first-time regular unemployment payments were processed in 7 days or less, and only 0.2 percent of first payments took longer than 70 days to process. However, during the peak months of the pandemic (April 2020 through December 2020), only 41.8 percent of claimants had their first payment processed in 7 days or less, and 14.6 percent of claimants had their payments processed and distributed in 70 days or more.

Table 4
Percent of First-Time Regular UI Payments
By Days to Payment
January 2019 through August 2021

	Pre-Pandemic	Pandemic	
Days to Payment	**Jan 2019 – Mar 2020**	**Apr 2020 – Dec 2020**	**Jan 2021 – Aug 2021**
<= 7 Days	64.4%	41.8%	48.2%
8-14 Days	24.1%	19.7%	20.7%
15-21 Days	7.4%	8.0%	8.9%
22-70 Days	3.9%	16.0%	11.5%
> 70 Days	0.2%	14.6%	10.7%

Source: U.S. Department of Labor.

Table 5 shows a breakdown of the average number of first-time payments for regular unemployment claims made in West Virginia during certain time periods of the COVID-19 pandemic and the amount of days needed to process payment for claimants from claim to payment. Table 5 indicates that during the pre-pandemic months from January 2019 to March 2020, WorkForce processed an average of 1,974 first-time payments for regular unemployment claims in 7 days or less, and only an average of 6 payments took 70 or more days to process during those months. However, during the peak months of the pandemic (April 2020 through December 2020), the average number of first-time regular unemployment payments processed by WorkForce in 7 days or less increased to 4,948, and the average number of payments processed after 70 days increased to an average of 491 payments for these months. **This information shows that WorkForce staff were overwhelmed by the large spike in claims they had to review and process during the pandemic.**

This information shows that WorkForce staff were overwhelmed by the large spike in claims they had to review and process during the pandemic.

Table 5
Average Number of First-Time Regular UI Payments By Days to Payment
January 2019 through August 2021

	Pre-Pandemic	Pandemic	
Days to Payment	**Jan 2019 – Mar 2020**	**Apr 2020 – Dec 2020**	**Jan 2021 – Aug 2021**
<= 7 Days	1,974	4,948	1,404
8-14 Days	761	4,108	625
15-21 Days	221	1,365	267
22-70 Days	114	1,710	325
> 70 Days	6	491	293

Source: U.S. Department of Labor.

Conclusion

WorkForce is learning, along with other states, from its experiences with the COVID-19 pandemic, and is developing proactive processes for addressing suspected fraud activity. The agency is developing and implementing procedures to enhance its fraud detection such as cross-matching, investigation units, and partnerships with NASWA and state agencies. These procedures should hinder future fraudulent unemployment payments.

Appendix A
Transmittal Letter

WEST VIRGINIA LEGISLATURE
Performance Evaluation and Research Division

1900 Kanawha Blvd., E.
Building 1, Room W-314
Charleston, WV 25305-0610
(304) 347-4890

John Sylvia
Director

November 18, 2021

Scott Adkins, Commissioner
Workforce West Virginia
1900 Kanawha Blvd. E,
Bldg. 3, Suite 300
Charleston, WV 25305

Dear Commissioner Adkins:

This is to transmit a draft copy of the special report on the fraudulent unemployment claims received during the COVID-19 pandemic. This report is tentatively scheduled to be presented during the December 5-7, 2021 interim meetings of the Joint Committee on Government Operations, and the Joint Committee on Government Organization. We will inform you of the exact time and location once the information becomes available. It is expected that a representative from your agency be present at the meeting to orally respond to the report and answer any questions committee members may have during or after the meeting.

We need to schedule an exit conference to discuss any concerns you may have with the report. We would like to have the meeting on Tuesday, November 23, 2021. Please notify us to schedule an exact time. In addition, we need your written response by noon on Tuesday, November 30, 2021 in order for it to be included in the final report. If your agency intends to distribute additional material to committee members at the meeting, please contact the House Government Organization staff at 304-340-3192 by Thursday, December 2, 2021 to make arrangements.

We request that your personnel not disclose the report to anyone unaffiliated with your agency. However, the Legislative Auditor advises that you inform any non-state government entity of the content of this report if that entity is unfavorably described, and request that it not disclose the content of the report to anyone unaffiliated with its organization. Thank you for your cooperation.

Sincerely,

John Sylvia

John Sylvia

c: Jeffery Green, Executive Deputy Director
Enclosure

Joint Committee on Government and Finance

Appendix B
Agency Response

WorkForce
WEST VIRGINIA

Scott A. Adkins, *Acting Commissioner*

December 1, 2021

John Sylvia, Director
1900 Kanawha Blvd., E.
Building 1, Room W 314
Charleston, WV 25305-0610

Dear Director Sylvia:

WorkForce WV has received and reviewed the PERD's report and approves of the findings within the report. We appreciate the opportunity to work with your office. Please let us know if we can be of further assistance.

Sincerely,

Scott Ad

Scott Adkins
Acting Commissioner

CC: Criss McCauley

1900 Kanawha Blvd. East * Building 3 Suite 300 * Charleston, WV 25305

An agency of the Department of Commerce
An equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities.
www.workforcewv.org
A proud partner of the AmericanJobCenter network

WEST VIRGINIA LEGISLATIVE AUDITOR
PERFORMANCE EVALUATION & RESEARCH DIVISION

Building 1, Room W-314, State Capitol Complex, Charleston, West Virginia 25305

telephone: 1-304-347-4890 | www.legis.state.wv.us /Joint/PERD/perd.cfm | fax: 1- 304-347-4939