Department of Workforce Development
Secretary's Office
201 E. Washington Avenue
P.O. Box 7946
Madison, WI 53707
Telephone: (608) 266-3131
Fax: (608) 266-1784
Email: sec@dwd.wisconsin.gov

STATE OF WISCONSIN
DWD
Department of Workforce Development

Tony Evers, Governor
Amy Pechacek, Secretary-designee

September 16, 2021

Senator Robert Cowles
Co-Chair, Joint Legislative Audit Committee
Room 118 South State Capitol
Madison, WI 53702

Representative Samantha Kerkman
Co-Chair, Joint Legislative Audit Committee
Room 315 North State Capitol
Madison, WI 53702

Dear Co-Chairs Cowles and Kerkman:

I am writing to update you on the status of the Department of Workforce Development's (DWD) efforts to implement the Legislative Audit Bureau's (LAB) recommendations contained in its review of the Unemployment Reserve Fund FY 2018-19 and FY 2019-20 in May 2021 (Report 21-9). Our efforts are outlined below.

Recommendation 1: DWD revise its procedures for calculating the benefits payable at the end of the fiscal year to ensure the effects of changes in circumstances, such as the backlog of claims that occurred in FY2019-20, are accurately reflected in the amount payable.

- ✓ DWD has revised its internal procedures. When financial statements are submitted to Department of Administration, DWD must note that there are a certain number of claims that relate to weeks before June 30 but are on hold. The UI Division does not estimate a liability for these claims because there is not sufficient information to do so. DWD will review actual benefit payments from September to November and submit a revised benefit payable amount if needed.

Recommendation 2: DWD continue to process and pay benefits under the federal programs included in the Continued Assistance Act (CAA) and the American Rescue Plan Act (ARPA) and report to Joint Legislative Audit Committee (JLAC) by September 16, 2021 on the status of its efforts to implement this recommendation.

- ✓ DWD has processed and paid benefits on all programs under CAA and ARPA, as well as previously under the Coronavirus Aid, Relief, and Economic Security (CARES) Act and the Presidential Memorandum on *Authorizing the Other Needs Assistance Program for Major Disaster Declarations Related to Coronavirus Disease* (issued on August 8, 2020) that created the Lost Wages Assistance (LWA) program. Since the start of the pandemic (the week ending March 21, 2020) through the week ending August 28, 2021, DWD has paid the following amounts per program:
  - Total Paid on all Programs: $6,939,851,360
  - Regular UI: $2,057,720,039
  - Federal Pandemic Unemployment Compensation (FPUC): $3,784,126,084
  - Pandemic Unemployment Assistance (PUA): $334,085,716
  - Pandemic Emergency Unemployment Compensation (PEUC): $515,506,451
  - Extended Benefits (EB): $9,258,061
  - Lost Wage Assistance (LWA): $229,448,400
  - Mixed Earners Unemployment Compensation (MEUC): $386,900

Recommendation 3: DWD determine the relief that will be provided to employers during the public health emergency including amounts that will be reimbursed by the federal government, amounts that will be charged to the solvency account, and amounts that will be charged to the interest and penalty account and report JLAC by September 16, 2021 on the status of its efforts to implement this recommendation.

✓ DWD is currently working to determine the relief that will be provided to employers, including the amounts that will be reimbursed by the federal government, the amounts that will be charged to solvency accounts, and the amounts that will be charged to the interest and penalty account. Given the surge in claims, since December 2020, DWD has been undertaking a project to automate the recharging process of nearly 700,000 benefit claims. DWD anticipates that the IT programing will be complete in October 2021 and the automated recharging of all the benefits will begin. It is expected that the automated recharging will be completed by the end of the year. Because of the antiquated IT system's limitations, even with updated automation, there will be some manual processing work that will have to be done throughout the beginning of next year to ensure that all employers' accounts are accurate and that they reflect all the relief provided by state and federal leaders.

Generally, employers' UI accounts are charged when a former employee is eligible for UI benefits. However, between several pieces of state (2019 Wisconsin Act 4 and 2021 Wisconsin Act 185) and federal (CARES Act, CAA, and ARPA) legislation and emergency administrative rules (EmR 2108, EmR 2112, and EmR 2118), Wisconsin's 150,000 employers have been relieved of approximately $1.7 billion of benefit charges from March 15, 2020 thru March 13, 2021. Reimbursable employers – those who typically pay for their employees' claims dollar-for-dollar – will receive about $150 million in direct benefit relief. Chargeable employers – those who pay UI taxes into the system – will see about $450 million in tax relief over three years. Exact amounts of direct and tax benefit relief will be determined after the recharging project is complete in early 2022.

Shifting the UI benefits from the employer reserve accounts to the UI balancing account during the pandemic also permanently lowered UI taxes due to the impact on employers' experience ratings. Tax rates for chargeable employers will also remain at the lowest tax rate until 2023, regardless of the UI Trust Fund balance.

To help avoid any negative impacts on employers while DWD completes the recharging project, three emergency rules were passed:

- Emergency Rule 2108 (*expires 9/26/21*) - Waives interest on reimbursable employers' bill.
- Emergency Rule 2112 (*expires 10/2/21*) - Provides all employers listed on UI claims relief of benefit charges.
- Emergency Rule 2118 (*expires 11/25/21*) - Prevents employers' 2022 tax rates from being higher than they should.

DWD has submitted a new emergency rule statement of scope—Statement of Scope 075-21 (published 8/30/21)—so employer interests are protected while the recharging project is completed. The proposed emergency rule will:

- Provide uniform charging relief for all employers when calculating their 2022 tax rate.
- Provide charging relief for all employers in the claim, not only the employer initiating the separation.

- Continue to waive interest on reimbursable nonprofit and governmental (including Tribal) employers' monthly bills for amounts that will later be charged to the state and federal government.
- Allow DWD enough time to correct the bills through the recharging process and provide additional time for employers to make payments without interest thereafter.

As of September 9, 2021, I have approved the statement of scope and DWD has commenced drafting the new emergency rule.

More information about the recharging project, the proposed emergency rule, and DWD's work to automate allocating benefit payments to applicable employer accounts with appropriate proportions was shared recently in a public briefing that DWD held on Tuesday, August 31, 2021. A video of this briefing can be found here: https://youtu.be/UNSImBV17Fg

Recommendation 4: DWD complete the reviews DWD identified to assess if payments were incorrectly provided and establish an overpayment amount, as appropriate, and report to JLAC by September 16, 2021 on the status of its efforts to implement this recommendation.

✓ Program integrity continues to be a top priority for DWD. As LAB Report 21-9 indicates, DWD deploys numerous scans and detection methods to help identify, mitigate, and prevent erroneous payments. The coronavirus pandemic created a unique scenario in which large sectors of the economy were unable to operate due to the public health emergency. The majority of claims filed were from individuals legitimately out of work through no fault of their own. Typically, overpayments occur when someone fails to properly report work and wages. DWD is continuing to monitor and review reports that come in and address discrepancies as appropriate. The process to correct records and identify overpayments after recession events typically takes years to complete, and adjustments will continue into the near future.

Thank you for your consideration.

Sincerely,

Amy Pechacek
Secretary-designee