



STATE OF WISCONSIN
Legislative Audit Bureau
NONPARTISAN • INDEPENDENT • ACCURATE

Report 21-11
July 2021

Fraud, Waste, and Mismanagement Hotline

Semiannual Report: January 2021 – June 2021



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The Legislative Audit Bureau supports the Legislature in its oversight of Wisconsin government and its promotion of efficient and effective state operations by providing nonpartisan, independent, accurate, and timely audits and evaluations of public finances and the management of public programs. Bureau reports typically contain reviews of financial transactions, analyses of agency performance or public policy issues, conclusions regarding the causes of problems found, and recommendations for improvement.

Reports are submitted to the Joint Legislative Audit Committee and made available to other committees of the Legislature and to the public. The Audit Committee may arrange public hearings on the issues identified in a report and may introduce legislation in response to the audit recommendations. However, the findings, conclusions, and recommendations in the report are those of the Legislative Audit Bureau.

The Bureau accepts confidential tips about fraud, waste, and mismanagement in any Wisconsin state agency or program through its hotline at 1-877-FRAUD-17.

For more information, visit www.legis.wisconsin.gov/lab

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July 30, 2021

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

Dear Senator Cowles and Representative Kerkman:

The Legislative Audit Bureau has operated the Fraud, Waste, and Mismanagement Hotline since April 2008. The hotline permits the public and individuals within state government to confidentially report alleged fraud, waste, and mismanagement within the scope of state government. Individuals may remain anonymous, and statutes require us to protect the identity of any individual making a report.

Hotline reports are received primarily through a toll-free telephone number (1-877-FRAUD-17), and they are also received by mail and a secure online form. We review each report to determine whether the allegation or concern can be addressed by staff in state agencies or through an independent review by Bureau staff.

From the inception of the hotline and through June 30, 2021, we received 1,362 reports. From January 1, 2021, through June 30, 2021, we received a total of 61 reports, including 45 that were state-related. We highlight findings related to selected reports that we have resolved since the publication of our last semiannual report (report 21-2).

We received 30 hotline reports related to the Unemployment Insurance (UI) program from January through June 2021 that raised concerns with payment delays, call center effectiveness, and appeal timeliness. We found that, from June 2020 through May 2021, the Department of Workforce Development (DWD) had not complied with federal regulations to issue appeal decisions in a timely manner. In July 2021, we recommended that DWD report by September 16, 2021, to the Joint Legislative Audit Committee on its plan to achieve compliance and the status of appeals as of August 31, 2021.

We appreciate the courtesy and cooperation of the various state agencies with whom we worked to resolve hotline reports.

Respectfully submitted,

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

Joe Chrisman
State Auditor

JC/SH/ss

Fraud, Waste, and Mismanagement Hotline

***The Bureau operates
a toll-free hotline
(1-800-FRAUD-17).***

As required by s. 13.94 (1) (br), Wis. Stats., the Bureau operates a toll-free hotline to confidentially report alleged fraud, waste, and mismanagement. Callers may remain anonymous, and statutes specifically require the Bureau to protect their identities even when other information related to calls is made public. A secure online form is also available to report concerns and is available at <http://www.legis.wisconsin.gov/LAB/>.

The hotline has been in operation since April 2008 and is primarily administered by certified fraud examiners. It does not duplicate or replace other government hotlines or complaint resources. We address hotline reports by:

- following up during the course of ongoing audit work;
- initiating interviews and documentation reviews with other state agencies;
- conducting audits or reviews in response to substantiated allegations and reporting our findings to the Joint Legislative Audit Committee; and
- making referrals, providing information, and correcting misinterpretations that result in allegations.

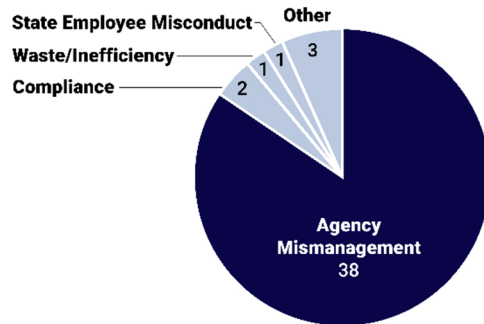
January through June 2021 Hotline Activity

From January through June 2021, we received a total of 61 reports.

Since the inception of the hotline, we have received 1,362 hotline reports alleging fraud, waste, and mismanagement. We received a total of 61 reports from January 1, 2021, through June 30, 2021. Of these 61 reports, 45 reports (73.8 percent) were state-related. As shown in Figure 1, the majority of such reports pertained to concerns about alleged agency mismanagement.

Figure 1

Reports of Fraud, Waste, and Mismanagement in State Government¹
January through June 2021



¹ Includes 45 state-related reports received from January 1, 2021, through June 30, 2021.

Of the 45 state-related reports we received, 30 related to the Unemployment Insurance program.

We note that 30 of the 45 state-related hotline reports (66.7 percent) received from January 1, 2021, through June 30, 2021, were related to the Department of Workforce Development’s (DWD’s) administration of the Unemployment Insurance (UI) program. These 30 reports are discussed in greater detail beginning on page 7.

We also note that 8 of the 16 nonstate-related reports received were related to elections administration in Wisconsin. These reports largely focused on local administration of elections. In February 2021, the Joint Legislative Audit Committee directed the Bureau to conduct an audit of elections administration in Wisconsin. The audit work is ongoing and will also consider allegations in these hotline reports.

We placed each state-related hotline report into one of three categories as of June 30, 2021. These categories are:

- resolved, which includes actions taken such as internally researching relevant information, conducting fieldwork with relevant agencies, or referring the matter for review by an agency;

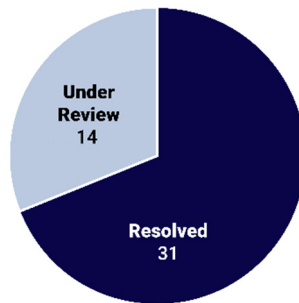
- unfounded/unsubstantiated or no action needed, which includes a determination that the reported allegation was untrue or limited information was provided to evaluate the concern; and
- under review, which includes hotline reports in which a review is ongoing and therefore remains confidential by law.

As of June 30, 2021, we had resolved 31 of the 45 state-related reports.

As of June 30, 2021, we had resolved 31 of the 45 state-related reports to the hotline, either directly or by referral, as shown in Figure 2. As of July 1, 2021, 14 of these reports remained under review.

Figure 2

Status of State-Related Hotline Reports¹
January through June 2021



¹ Status as of June 30, 2021, of the 45 state-related reports received from January 1, 2021, through June 30, 2021.



Unemployment Insurance Program

From January through June 2021, we received 30 hotline reports related to the UI program.

From March 2020 through June 2021, we received a total of 93 hotline reports related to the UI program, which is administered by DWD. We reviewed 63 of these reports and reported on the results in report 21-2. From January through June 2021, we received 30 hotline reports related to the UI program. These 30 reports included continuing concerns with payment delays, call center effectiveness, appeal timeliness, and other concerns. We identified that DWD did not comply with federal regulations because it did not resolve appeals in a timely manner from June 2020 through May 2021.

Unemployment Insurance Issues

The 30 reports received by the hotline included a total of 53 issues.

Many hotline reports include multiple issues. As shown in Table 1, the 30 hotline reports we received from January through June 2021 contained a total of 53 issues, including:

- payment delays, including concerns about individuals receiving eligibility determinations or benefit payments in a timely manner;
- call center effectiveness, including concerns related to wait times, insufficient assistance, or return calls that did not occur as scheduled;
- appeal delays, including concerns about the scheduling and resolution of appeal hearings in a timely manner;

- the timeliness of DWD’s implementation of extended federal UI programs during 2021; and
- other issues, such as compliance with statutes or federal program requirements.

Table 1

Unemployment Insurance Program Issues¹
January through June 2021

Category	Number of Issues
Payment Delays ²	16
Call Center Effectiveness	14
Appeal Delays	6
Federal Program Implementation	5
Other	12
Total	53

¹ The number of issues reported exceeded the number of hotline reports received, as some contained multiple allegations.

² Includes payment delays associated with multiple UI programs.

Our review of hotline reports related to UI program payment delays and call center effectiveness found similar issues to those we reported in report 21-2. These issues were also consistent with those we identified in *Unemployment Insurance Call Centers* (report 20-13), and *Processing Certain Unemployment Insurance Claims* (report 20-28).

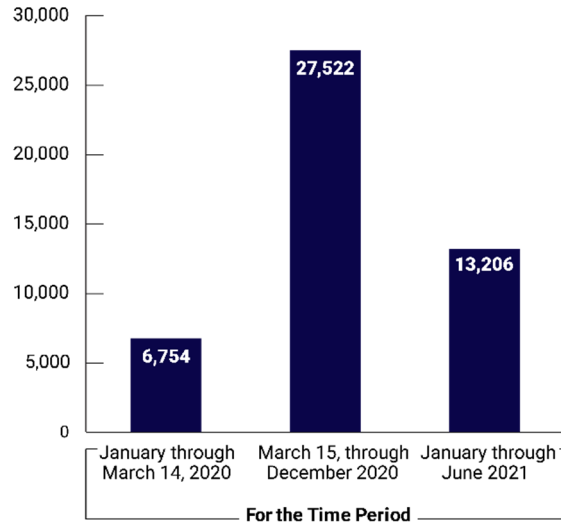
As a follow-up to these audits, DWD reported in January 2021 that it had used the analyses from these audits to help make more timely benefit determinations. DWD also indicated that, in December 2020, it had resolved or assigned all UI claims that had been awaiting adjudication for more than 21 days.

The average number of weekly initial claims filed from the period between January and June 2021 was lower than the period between March and December 2020.

We reviewed initial claims data that DWD reported to the federal government for weeks ending from January 2020 through June 2021. As shown in Figure 3, the average weekly initial claims filed from January 2021 through June 2021 was 13,206, which was lower than the average number that had been filed from March 15, 2020, through December 2020. We note, however, that average weekly initial claims remain higher than they were in early 2020 prior to the public health emergency, when average weekly initial claims were 6,754.

Figure 3

Average Weekly Initial Claims¹



Source: Initial claims data reported to the U.S. Department of Labor.

¹ Excludes federal pandemic unemployment insurance programs.

Delays in Resolving Appeals

An individual determined to be ineligible to receive UI benefits may file an appeal.

To determine whether individuals are statutorily eligible to receive UI program benefits, DWD relies on information provided by individuals and their employers. If an individual is determined to be ineligible to receive UI program benefits, the individual may file an appeal of the determination with DWD’s Bureau of Legal Affairs. An appeal hearing is a fact-finding process to determine how the law applies to the facts of an individual’s UI claim and whether an individual is eligible for UI benefits. Appeal hearings are administered by attorneys licensed to practice law in Wisconsin.

Federal regulations require states to issue appeal hearing decisions for at least 80 percent of appeals within 45 days.

As a condition of the federal funding the state received for the UI program, DWD is required to provide individuals denied UI benefits the opportunity to appeal benefit determinations and to issue prompt decisions related to these appeals. Under 20 CFR s. 650.04 (b), the federal government defines timeliness as issuing appeal hearing decisions for 60 percent of appeals within 30 days and for at least 80 percent within 45 days. The federal government also requires that each state report monthly on its appeal activities and uses these reports to monitor state performance. According to DWD, these reports do not include data on appeals for federal pandemic benefit programs. Further, ch. 140.06 (1), Wis. Admin. Code, requires that DWD schedule appeal hearings at “the earliest feasible time” after an individual files an appeal.

To assess whether DWD issued appeal hearing determinations in a timely manner, we reviewed data submitted by DWD to the federal

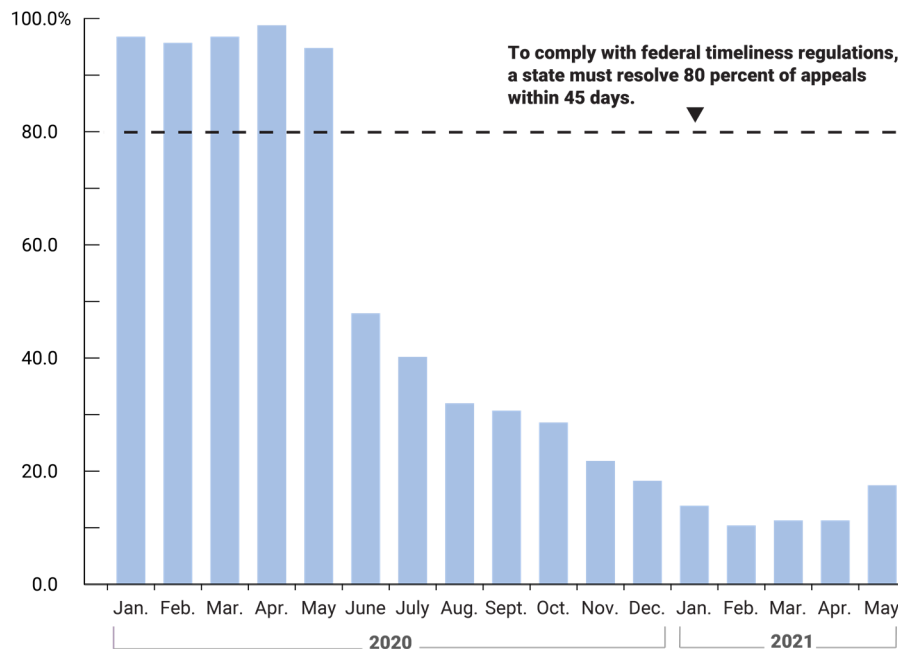
government from January 2020 through May 2021. In the first three months of 2020, an average of approximately 1,500 appeals were filed each month. However, this monthly average increased to more than 4,000 appeals between April 2020 and May 2021. Due to increases in initial claims filed during the public health emergency, it is not unexpected that appeals would also increase. According to DWD, the rate that benefit determinations were appealed also increased from approximately 10 percent of all UI claims to 20 percent during the public health emergency.

DWD did not comply with federal regulations to issue appeal decisions in a timely manner from June 2020 through May 2021.

Although DWD also reported increases in the number of appeals it resolved monthly since March 2020, we found that DWD did not comply with federal regulations to issue appeal decisions in a timely manner from June 2020 through May 2021, as show in Figure 4. For May 2021, DWD reported that of the 3,243 appeal decisions made, 17.5 percent were decided within 45 days, including 10.2 percent that were decided within 30 days. In addition, we also found that the average age of appeals outstanding increased from 12 days in March 2020 to 67 days in May 2021, when more than 14,500 appeals were awaiting a decision.

Figure 4

Percentage of Appeals Resolved within 45 Days¹



Source: U.S. Department of Labor

¹ Includes data related only to regular unemployment insurance claims for which appeal hearing determinations had been made in the reporting period, with time lapse measured from the date the appeal was filed to the date a determination on the appeal was made.

We reviewed UI program documentation for six individuals who reported UI appeal delays to the hotline between January and June 2021. Based on our review, we found appeal delays consistent with those reported by DWD to the federal government. For example, in September 2020, an individual filed an appeal of the determination that they were ineligible for Pandemic Unemployment Assistance (PUA) benefits. We found that an appeal hearing was not conducted until March 2021, which was approximately 26.5 weeks after the appeal was requested. Although the hearing partially reversed a determination that the individual was ineligible for benefits, DWD did not issue a payment until May 2021, which was approximately 6.5 weeks after the appeal hearing determination.

For May 2021, Wisconsin’s resolution of appeals within 45 days ranked third out of five Midwestern states.

We compared appeal determination data reported by Wisconsin to that of other Midwestern states, each of which administers its own UI program under the laws and regulations of that state. As shown in Table 2, and based on data reported to the federal government for May 2021, none of the four other states we reviewed met federal guidelines for issuing appeal decisions for 80 percent of appeals within 45 days. We found Wisconsin’s performance ranked third among these states. Among the 45 states and territories that reported appeals data in May 2021, DWD’s percentage of appeal determinations made within 45 days ranked slightly above the median. Only 2 of these 45 states and territories were in compliance with federal requirements for issuing appeal decisions in a timely manner.

Table 2

Appeals Timeliness, by State
For May 2021

State ¹	Total Decisions Completed	Within 30 Days	Within 45 Days ²
Illinois	2,921	41.1%	75.7%
Minnesota	2,248	44.9	71.2
Wisconsin	3,243	10.2	17.5
Indiana	2,906	2.6	4.0
Iowa	1,648	0.0	0.4

Source: U.S. Department of Labor

¹ This analysis excludes Michigan because comparable data for May 2021 were not readily available.

² The percentage of claims resolved within 45 days includes those that were resolved within 30 days.

DWD indicated it has taken steps to increase staffing assigned to the appeal hearing processes. We found that the majority of staffing changes have occurred since December 2020. For example, DWD indicated that it had hired 33 administrative law judges between December 2020 and March 2021 to administer appeal hearings. DWD indicated it also hired in early 2021 a total of 26 staff in positions supporting the appeals process.

In July 2021, we recommended that DWD assess the effect of hiring additional staff on the backlog of appeals, develop a plan to reduce the number of outstanding appeals, and comply with federal regulations to resolve appeals in a timely manner. We also recommended that DWD report by September 16, 2021, to the Joint Legislative Audit Committee on its plan and the status of appeals as of August 31, 2021. DWD accepted our recommendations.

Unemployment Insurance Benefit Administration Systems

The CARES Act created three temporary federal UI programs.

In response to widespread increases in unemployment as a result of the public health emergency, the Coronavirus Aid, Relief, and Economic Security (CARES) Act was signed into law on March 27, 2020, and created three temporary, federal UI programs, including the:

- Federal Pandemic Unemployment Compensation (FPUC) program, which provided an additional weekly benefit payment for individuals eligible for either regular or pandemic-related unemployment benefits;
- Pandemic Unemployment Assistance (PUA) program, which provided 39 weeks of benefits to individuals ineligible for regular unemployment benefits, and had a minimum payment amount of \$163 and a maximum payment amount of \$370; and
- Pandemic Emergency Unemployment Compensation (PEUC) program, which provided temporary funding of benefits for an additional 13 weeks of eligibility after claimants exhausted available UI benefits.

In December 2020, the Continued Assistance for Unemployed Workers Act (the Continued Assistance Act) was signed into law and extended the three federal UI programs first authorized under the CARES Act. In addition to these extensions, the Continued Assistance Act also authorized the Mixed Earners Unemployment Compensation (MEUC) program, which provides additional benefits to individuals with traditional W-2 wages and self-employment income.

In addition to extending the period of applicability for the three UI programs established under the CARES Act, the Continued Assistance Act also made amendments to each state’s administrative responsibilities for these programs. For example, amendments to the PUA program under the Continued Assistance Act established new requirements for claimants to submit weekly self-certification that their unemployment, partial unemployment, or inability or unavailability to work is specifically attributable to one or more of the COVID-19 related reasons specified in the CARES Act. These federal pandemic UI programs were further extended through September 6, 2021, and amended under the American Rescue Plan Act, which was signed into law on March 11, 2021.

DWD implemented extensions for three federal UI programs by April 2021 and implemented a new program in May 2021.

To successfully implement these extensions and program amendments, states rely on guidance from the federal government to determine how these program changes may apply under each state’s unique laws. Each state must then make changes to its information technology (IT) systems to implement requirements of new or modified federal programs. As shown in Table 3, DWD implemented extensions on the three federal pandemic UI programs by April 2021, and began accepting applications for the newly established MEUC program in May 2021.

Table 3

DWD’s Implementation of Federal Pandemic Programs¹
Under the Continued Assistance Act

Program	Date Implemented
Federal Pandemic Unemployment Compensation	January 15, 2021
Pandemic Emergency Unemployment Compensation	March 4, 2021
Pandemic Unemployment Assistance	March 30, 2021 ²
Mixed Earners Unemployment Compensation	May 19, 2021

Source: DWD website

¹ DWD indicated implementation was completed on the dates shown.

² Certain claims required special processing, for which programming was completed on April 21, 2021.

2021 WI Act 4 directed DWD to begin an IT modernization project.

We note that DWD has cited aging IT systems as a contributing factor for delays in processing UI benefit payments and implementing federal pandemic UI programs. In support of DWD's efforts to modernize its benefit administration systems, 2021 Wisconsin Act 4 directed DWD to begin an information technology UI modernization project, including by:

- issuing a request for proposals (RFP) by March 29, 2021;
- undertaking a modernization project by June 30, 2021; and
- reporting on the status of these efforts to certain legislative committees.

We reviewed DWD's March and April 2021 reports on the status of its IT modernization project. In March 2021, DWD solicited proposals to identify a vendor to implement cloud-based communication enhancements, which resulted in a June 2021 contract for these services. According to the contract, DWD anticipates the vendor will begin work on implementing new communication enhancements in August 2021. In June 2021, DWD also issued a request for proposals to develop a new UI benefit payment processing information system. DWD is currently evaluating the proposals. DWD will provide its next update to the Legislature on the status of the IT modernization project in July 2021 and then quarterly thereafter.

Detecting and Preventing Unemployment Insurance Overpayments

In report 21-9, we recommended that DWD complete outstanding reviews to assess if UI benefit payments were incorrectly provided and report to the Joint Legislative Audit Committee.

A report made to the hotline alleged potential delays in DWD's review of information to detect and prevent programmatic overpayments, including those that may be indicative of fraud. To conduct these reviews, DWD compares or cross-matches information provided by individuals with employment, immigration, and incarceration records. We released report 21-9, which included our opinion on the financial statements of the Unemployment Reserve Fund for FY 2018-19 and FY 2019-20. In report 21-9, we recommended that DWD complete outstanding reviews of the cross-matches it had identified to assess if UI benefit payments were incorrectly provided, either by error or fraud, and establish an overpayment amount, as appropriate. We also recommended that DWD report to the Joint Legislative Audit Committee by September 16, 2021, on the status of its efforts to implement this recommendation.

■ ■ ■ ■