



May 2014

A MANAGEMENT REVIEW OF THE DEPARTMENT OF EMPLOYMENT AND WORKFORCE

In this review, we found that:

- DEW has developed a plan that would allow it to pay current benefits, pay off the federal loans, and attain a positive balance of \$118 million by 2015. This will be the first positive reserve amount on the way to a reserve of \$400 million by 2017.
- In our review of 100 unemployment insurance claims files, we found that DEW needs to improve its processes in order to ensure that proper determinations are made in UI adjudications and that UI files include proper documentation. DEW made questionable determinations in 9 files (9% of our sample).
- We found that DEW could do more to assess the effectiveness of its reemployment services. We found a modest correlation between levels of staff-assisted service and increased earnings. However, we found that those receiving intensive services remained on unemployment longer than those receiving core services or no staff-assisted services.
- DEW can improve its fraud detection efforts by contacting employers with a high number of unreturned wage audit notices (WANS) to determine why the notices are not being returned. Also, DEW should implement the State Information Data Exchange system (SIDES) and not exclude employers from the WAN process without sufficient analysis. We estimate that approximately \$15 million in potential fraud or overpayments were not pursued as a result of the failure to receive the WAN from the employer.
- In a review of recommendations from our March 2012 report, we found that DEW has implemented 14 of the 24 recommendations directed to the agency.

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A MANAGEMENT REVIEW OF THE DEPARTMENT OF EMPLOYMENT AND WORKFORCE

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Introduction

Audit Objectives

Section 112 of Act 146 of 2010 requires the Legislative Audit Council to conduct periodic management audits of the Department of Employment and Workforce's (DEW) finances and operations. The audits are to include, at a minimum, the following objectives:

- Provide a detailed accounting of the revenues and expenditures from the Unemployment Insurance Trust Fund since 2000.
- Determine the adequacy of the process for notifying state officials of the financial status of the Unemployment Insurance Trust Fund.
- Assess alternatives for maintaining the solvency of the Unemployment Insurance Trust Fund.
- Examine the unemployment eligibility benefit process for efficiency and compliance with law and agency policy.
- Evaluate the effectiveness of the Department of Employment and Workforce's programs for assisting claimants in returning to work.

Scope and Methodology

The period of this review was generally 2011 through 2013 with consideration of earlier or later periods when relevant. Information used in this report was obtained from a variety of sources including:

- Interviews with DEW staff.
- DEW financial records and audited financial statements.
- State law and agency policy.
- Unemployment Insurance Trust Fund Annual Assessment reports.
- U.S. Department of Labor (USDOL) publications.
- Claimant records.

Criteria used to measure performance included state laws, agency policies, and United States Department of Labor guidance. We used several samples which are described in the audit report. We would like to acknowledge the assistance of the Budget and Control Board's Office of Research and Statistics for its help in analyzing DEW's reemployment services data. We reviewed agency internal controls in the area of overpayments and claimant fraud. Our findings are detailed in the report.

When addressing some of our objectives, we relied on computer-generated data maintained by DEW. Where possible, we compared this data to other agency records to determine its validity. When viewed in relation to other evidence, we believe the data used in this report is reliable.

We conducted this performance audit in accordance with generally accepted government auditing standards from 2007. Those generally accepted government auditing 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.

Background

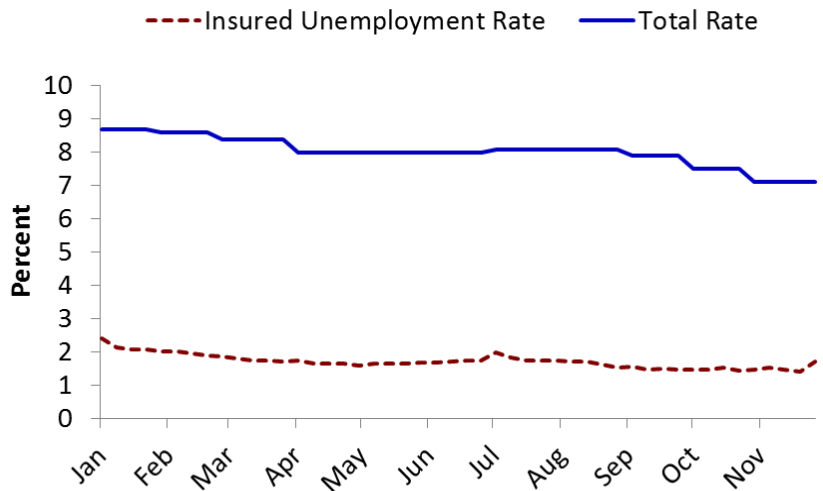
The South Carolina Department of Employment and Workforce (formerly the Employment Security Commission) was established in 1936. DEW is responsible for paying unemployment insurance (UI) benefits, collecting unemployment taxes, assisting individuals in finding employment, finding employees for companies, and collecting and disseminating state and federal employment statistics.

As of June 30, 2013, DEW had 793 employees, including 115 temporary employees. DEW has an annual operating budget of approximately \$167 million, most of which consists of federal funding. There are 56 SC Works Centers in the state. Effective July 1, 2011, DEW ceased to be the operator of South Carolina's workforce centers. Prior to 2011, DEW operated centers in 9 of South Carolina's 12 workforce areas. DEW determined that, because the Governor and Department of Employment and Workforce oversee the local workforce investment boards, DEW had an advantage when local workforce investment boards chose SC Works Centers' operators. Local workforce boards now select SC Works Center operators through a competitive process or through a non-competitive process, if the operator is a consortium of three or more SC Works Centers' partners, and DEW is no longer an operator option. However, DEW still has Workforce Investment Act (WIA), Wagner-Peyser, and unemployment insurance staff working at the SC Works Centers. Reemployment services such as education and training are offered through partners including the Department of Social Services, the Commission for the Blind and other private, nonprofit organizations.

Unemployment Rates

DEW measures the state's unemployment rate in two ways — the total unemployment rate, and the insured unemployment rate as shown in Chart 1.1 from January through November 2013. The insured unemployment rate is the number of South Carolinians receiving unemployment benefits divided by the number of employees in South Carolina covered by unemployment insurance. The total unemployment rate is the number of South Carolinians out of work who are seeking work divided by the total civilian workforce.

Chart 1.1: 2013 Unemployment Rates – CY 2013



Source: USDOL

Average Weeks and Benefit Amounts

The average number of weeks claimants spent on unemployment and their average weekly benefit amounts for the last three quarters of 2013 are shown in Table 1.2.

Table 1.2: Average Weeks of Unemployment and Benefit Amounts – CY 2013

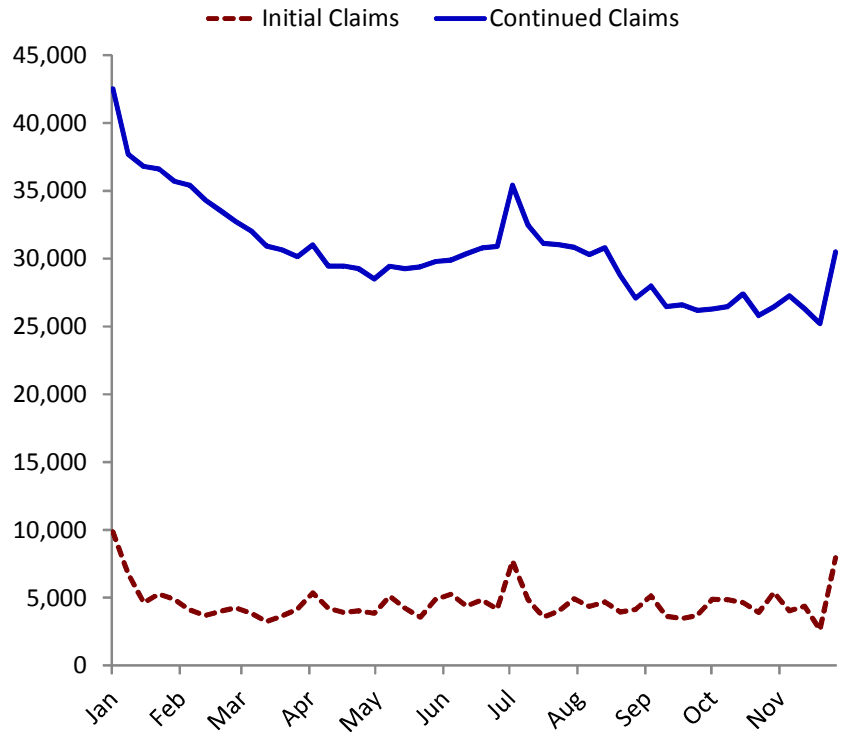
| 2013 QUARTER* | AVERAGE WEEKS | BENEFIT AMOUNT |
|---------------|---------------|----------------|
| 1 | 12.3 | \$244.80 |
| 2 | 12.3 | \$246.26 |
| 3 | 12.7 | \$247.15 |

*Quarterly numbers represent past 12 months.

Source: USDOL

The average number of initial unemployment claims and continued claims are shown in Chart 1.3.

Chart 1.3: 2013 Unemployment Claims – CY 2013



Source: USDOL

Unemployment Benefits

The maximum weekly benefit amount that claimants may collect in South Carolina is currently \$326. In 2011, the S.C. General Assembly passed a law to reduce regular benefits from 26 weeks to 20 weeks. The first 20 weeks of unemployment benefits are paid by unemployment taxes charged to South Carolina employers. In addition, the federal Emergency Unemployment Compensation (EUC) program, which provided up to 29 weeks of emergency unemployment compensation, expired on December 31, 2013. EUC benefits were 100% federally funded.

Eligibility

S.C. Code §41-35-110 states that in order for claimants to qualify for unemployment compensation, they must be registered for work, be able and available for work, and have been unemployed for a waiting period of one week. They also must be separated from their most recent employers, through no fault of their own, and participate in reemployment services if they have been determined to likely exhaust their benefits.

Claimants can make their initial claims for unemployment benefits online. DEW first reviews the claim to determine if the applicant qualifies monetarily. Claimants qualify monetarily by having unemployment taxes paid on their behalf in four out of the last five yearly quarters. State law was amended in 2010 to increase the minimum amount of earnings needed to qualify for benefits. In addition, state law was amended to adopt the alternate base period, which counts the most recent four quarters of wages, including the most recent quarter for those who did not qualify for benefits under the last four completed quarters prior to the most recent quarter.

After a claimant has been determined monetarily eligible, DEW determines if the individual meets other eligibility criteria needed to qualify for unemployment benefits. This consists primarily of ensuring that the worker has lost his job through no fault of his own. After the initial claim is filed, the employer is notified. Statements are taken from the applicant and the employer as to the reason for separation and DEW issues an eligibility determination. Either party who disagrees with the determination may initiate an appeal.

Continuing Eligibility

In order to continue receiving unemployment benefits, a claimant must contact DEW weekly by telephone or through DEW's online claim system and answer three questions:

- Did you work?
- Did you quit a job or were you dismissed from a job since you filed your claim?
- Were you able to work, available for work, and looking for work as instructed by the claims office?

State law requires claimants to actively seek work. The minimum requirement for job contacts, as determined by DEW, is four per week, with at least one taking place through DEW's SC Works Online System (SCWOS).

Reemployment Services

The Department of Employment and Workforce focuses on providing a variety of employment-related labor exchange services, including, but not limited to, job search assistance, job referral, and placement assistance for job seekers, re-employment services to unemployment insurance claimants, and recruitment services to employers with job openings. Services are delivered in one of three modes — self-assisted (in which the individual receives no staff assistance), basic core services, or intensive services. Depending on the needs of the labor market, other services such as job seeker assessment of skill levels, abilities and aptitudes, career guidance when appropriate, job search workshops, and referral to training may be available.

Employer Services

The services offered to employers, in addition to referral of job seekers to available job openings, include such things as working with employers to develop job opportunities, recruiting assistance, transitional assistance, and business tax credits. Additionally, employers have access to space at SC Works centers to conduct interviews and employment candidate screening.

Service Delivery and Performance Measures

DEW has undergone a major change in the way it provides services to unemployment insurance claimants. Beginning in June 2013, DEW ceased providing in-person assistance for claimants seeking unemployment insurance services. Currently, individuals who visit SC Works centers can receive assistance related to reemployment services such as resume writing, skills enhancement, and job search assistance. Claimants can use computers with which they can access the SC Works Online Services website, which has a variety of programs to assist in reemployment as well as a listing of employers seeking job applicants.

Although in-person assistance is available for reemployment services, claimants cannot generally receive in-person assistance regarding unemployment insurance. Claimants can file for unemployment insurance by using the computers at SC Works centers and they can receive a limited amount of in-person assistance in filing their initial claims. However, claimants cannot receive in-person assistance from SC Works center employees regarding questions about their individual claims. Instead, claimants seeking information about their unemployment insurance claims must use the self-service options on the DEW website or file by phone through the DEW unemployment insurance assistance hotline.

First Payment Promptness

This service delivery change has come at a time in which DEW is struggling to meet several of its federal unemployment insurance performance measures. The United States Department of Labor has several core performance measures that are applied to state unemployment insurance programs.

The performance measure for first payment promptness measures the percentage of all first payments made within 14 to 21 days after the week ending date of the first compensable week in the benefit year. The acceptable level of performance as determined by USDOL is 87%. DEW's rate of first payment promptness for FY 12-13 is 83.6%. DEW's first payment promptness for FY 12-13 represented an increase in promptness of 11.9% over FY 11-12 levels, and DEW estimates that it will meet or exceed federal requirements in 2014. DEW stated that their recent change in the service delivery system would help reduce backlogs and speed up payment promptness by allowing staff to review cases regardless of their location in the state.

Nonmonetary
Determination Time
Lapse

This performance measure requires DEW to make a nonmonetary determination within 21 days of the detection of any nonmonetary issue that has the potential to impact the claimant's benefit rights. The acceptable level of performance for this issue is 80%, and DEW's performance level for FY 12-13 was 74.3%. DEW states that the implementation of an automated fact finding system will result in a significant improvement of non-monetary timeliness.

Nonmonetary
Determination Quality for
Separations

The measure for nonmonetary separation quality examines the accuracy of determinations for the separations of employees from their employers in determining whether the employees are eligible for unemployment insurance. The acceptable level of performance for this measure is 75% of the determinations examined achieving a quality rating of 95 or above. DEW's performance level for FY 12-13 was 69.8%. In their response, DEW noted that they achieved a passing rate of 80% for the first quarter of 2013. DEW states that their recent service delivery changes should help increase the quality of their determinations by allowing them to more quickly obtain better and more complete information from employers and claimants.

Average Age/Timeliness
of Pending Lower
Authority Appeal

This measure is the sum of the ages, in days from filing, of all pending lower authority appeals divided by the number of lower authority appeals. The acceptable level of performance for this measure is less than or equal to 30 days. For FY 12-13, DEW's average appeal age was 57 days. Additionally, federal standards state that 60% of lower authority appeals should be decided within 30 days of filing and 80% should be decided within 45 days. For FY 12-13, 41.5% of appeals were decided within 30 days of filing and 65.5% were decided within 45 days.

DEW stated that these delays are a result of a spike in the number of appeals files due to increased claimant disqualifications and changes to DEW's work search requirements. Additionally, DEW had a loss of hearing officers. DEW has attempted to address its case aging system by training agency personnel on loan from other departments in DEW and hiring temporary hearing officers.

DEW stated that they have implemented a program to reduce their appeals backlogs. However, DEW did not provide us with a copy of their plan for reducing the backlog when requested.

Table 1.4: Summary of DEW Performance Measures FY 12-13

| MEASURE | FEDERAL ACCEPTABLE PERFORMANCE | DEW PERFORMANCE |
|---|---|--|
| First Payment Promptness | 87% | 83.6% |
| First Payment Promptness (Interstate Claimants) | 93% | 92.9% |
| Nonmonetary Determination Time Lapse | 80% | 74.3% |
| Nonmonetary Determination Quality for Separations | 75% | 69.8% |
| Average Age of Lower Authority Appeals | Less than or equal to 30 days | 57 days |
| Timeliness of Lower Authority Appeals | 60% decided within 30 days 80% decided within 45 days | 41.5% decided within 30 days 65.5% decided within 45 days |
| Average Age of Higher Authority Appeals | Less than or equal to 40 days | Average case age is below 40 days |
| Timeliness of Higher Authority Appeals | 50% decided within 45 days 80% decided within 75 days 95% decided within 150 days | Exceeded measures for all but one month |
| Establish Employer Accounts Promptly | 87.5% of status determinations within 90 days of the end of the first quarter in which liability occurred | 86.875% |
| Detection of Benefit Overpayments | Between 50% and 95% of detectable/recoverable overpayments are established for recovery | 42.07% |
| Reemployment of Unemployment Insurance Claimants | 64.7% | 58.5% |

Source: DEW and USDOL

Chapter 1
Introduction

Revenues and Expenditures, Solvency, and Notification Process

In this chapter, we discuss the revenues and expenditures of the Unemployment Insurance (UI) Trust Fund, assess alternatives for maintaining the solvency of the trust fund, describe the process for notifying state officials of the status of the trust fund, and address DEW's contingency assessment funding.

Trust Fund Revenues and Expenditures Since 2000

Section 112 of Act 146 of 2010 requires that we provide a detailed accounting of the revenues and expenditures of the South Carolina Unemployment Insurance Trust Fund since 2000. Table 2.1 shows the history of the trust fund from FY 00-01 through FY 12-13, based on the audited financial statements of DEW for the same time period.

For FY 11-12, just over \$381 million (36%) of the approximately \$1.06 billion in total benefit payments were for regular state-funded benefits, paid for by state taxes on contributory employers in the state. Nearly \$29 million of benefits paid were attributable to reimbursable employers. Reimbursable employers pay the actual cost of benefits paid to their employees and are not a part of the contributory tax system (see *Tax revenue from contributory employers*). The remainder of \$649 million was paid by the federal government, most of which is a result of federal extensions to pay benefits for claimants who exhausted their state benefits.

Table 2.1 reflects all activity of the trust fund, including federal, state, other states, and local government revenue and benefits paid and is, therefore, not limited to just the state-funded components. The table also includes adjustments and all related government transactions such as state budget appropriations.

DEW has not received any federal loans since April 2011 and has repaid just over \$545 million of the outstanding debt, which was a total of \$1,001,837,119, leaving a trust fund loan balance of approximately \$457 million as of October 2013. Table 2.2 reflects the most recent history of the loans and repayments affecting the solvency of the trust fund beginning with the highest loan balance in 2011. These payments have allowed the agency to avoid loss of the Federal Unemployment Tax Act (FUTA) tax credit since 2010 (see *FUTA Credit*).

Chapter 2
Revenues and Expenditures, Solvency, and Notification Process

Table 2.1: Financial History of the Trust Fund

| FISCAL YEAR | CONTRIBUTIONS/REVENUE | INTEREST EARNED | ADJUSTMENTS* | LESS: BENEFITS/EXPENSE | BALANCE** | LOANS*** |
|-------------|-----------------------|-----------------|---------------|------------------------|-----------------|---------------|
| 00-01 | | | | | \$783,127,019 | |
| 01-02 | \$375,147,580 | \$42,285,263 | (\$7,646,875) | \$526,885,659 | \$666,027,328 | |
| 02-03 | \$371,048,320 | \$33,361,075 | \$30,302 | \$546,319,189 | \$524,147,836 | |
| 03-04 | \$366,629,987 | \$23,411,433 | \$40,404 | \$493,549,031 | \$420,680,629 | |
| 04-05 | \$313,147,518 | \$13,465,859 | \$4,303,918 | \$366,581,162 | \$385,016,762 | |
| 05-06 | \$332,208,460 | \$13,718,890 | | \$364,828,359 | \$366,115,753 | |
| 06-07 | \$338,470,410 | \$12,621,783 | (\$604,927) | \$389,823,906 | \$326,779,113 | |
| 07-08 | \$341,698,171 | \$10,040,353 | | \$449,511,155 | \$229,006,482 | |
| 08-09 | \$783,340,333 | \$2,326,473 | \$386,917 | \$1,332,327,180 | (\$317,266,975) | \$344,881,505 |
| 09-10 | \$1,583,830,508 | | | \$2,027,711,376 | (\$761,147,843) | \$541,780,847 |
| 10-11 | \$2,344,115,627 | | | \$2,171,063,209 | (\$588,095,425) | \$115,174,767 |
| 11-12** | \$1,208,925,058 | | | \$1,059,341,778 | (\$438,512,145) | |
| 12-13** | \$852,370,532 | | | \$612,344,506 | (\$198,486,119) | |

* Between year adjustments consist of corrected balance forwards, immaterial transfers from the general fund, and a transfer of Reed Act money to operations (appropriated by the General Assembly).

** Includes state budget appropriations of \$146 million in FY 11-12 and \$77 million in FY 12-13.

*** Loans were obtained from the federal government to pay unemployment benefits because the Trust Fund was underfunded by employer contributions.

Source: Audited financial statements for UI Trust Fund

Table 2.2: Trust Fund Repayments and Loans After Highest Balance

| TRANSACTION | DATE | AMOUNT |
|----------------------|---------------|-----------------|
| Highest Loan Balance | 04/18/2011 | \$997,369,116 |
| Last Borrowing | 04/20/2011 | \$4,468,002 |
| FUTA Repayments * | by 06/17/2011 | (\$35,905,292) |
| Repayment | 09/15/2011 | (\$115,174,767) |
| Repayment | 11/07/2011 | (\$68,700,000) |
| Repayment | 08/20/2012 | (\$106,500,000) |
| Repayment | 05/31/2013 | (\$144,000,000) |
| Repayment | 09/19/2013 | (\$75,000,000) |
| Balance | 2013 | \$456,557,059 |

*Repayments due to loss of FUTA credit in 2010

Source: DEW

Revenue

Revenue for the trust fund is comprised of a number of different components:

Tax revenue from contributory employers.

This is the primary source of funds for the payment of state-funded benefits. Prior to January 1, 2011, when the tax system was changed and designed to have tax collections equal benefit payments plus funds required for solvency goals, there had been a significant difference between the amount of taxes collected from contributory employers and the amount of benefits paid (see Chart 2.3). This resulted in the state borrowing money from the federal government in order to pay state benefits. However, since benefits have decreased and taxes were increased, the state is paying off the debt in order to regain solvency in 2015.

Revenue from reimbursable employers.

Governments and non-profit organizations can choose to reimburse the UI trust fund for the actual cost of benefits paid to their employees.

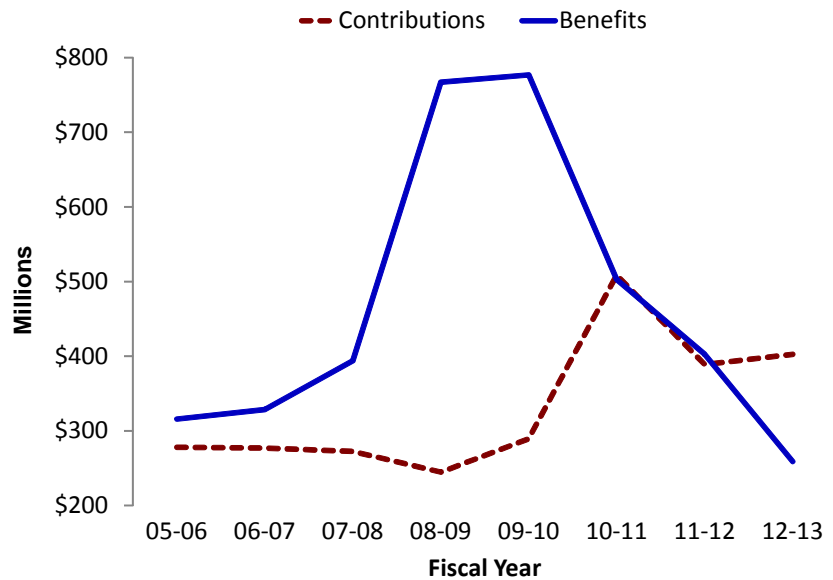
Federal Unemployment Tax Act (FUTA) tax revenue.

The state lost a portion of the FUTA tax credit in 2010 because it was unable to repay all of its federal loans (see *FUTA Credit*). This caused the federal UI tax on employers to be increased from 0.8%, the rate that year (subsequently changed to 0.6%), to 1.1% and resulted in \$35 million in additional revenue, which was used to pay down the federal loans for FY 10-11. However, since that time, the state has been able to pay enough on the loans each year to avoid loss of the FUTA credit resulting in the FUTA tax rate reverting to 0.6%.

Appropriated revenue.

For FY 11-12, the General Assembly appropriated \$146 million in state nonrecurring revenue to help reduce the taxes on contributory employers. This resulted in an approximately 23% reduction in the taxes paid by contributory employers. The General Assembly again appropriated state nonrecurring revenue in the amount of \$77 million for FY 12-13, resulting in a reduction in tax rates of 12% from the previous year.

Chart 2.3: Unemployment Tax Contributions and UI Benefits Paid, FY 05-06 – FY 12-13



Source: DEW

Expenditures

Expenditures from the trust fund are comprised entirely of UI benefits paid to claimants. These benefits consist of:

Regular UI benefits.

This consists of the first 20 weeks of UI benefits, and these benefits are paid entirely by the state.

Federal extensions of UI benefits.

The federal government has provided additional UI benefits to claimants who have exhausted the first 20 weeks of benefits through the federal Emergency Unemployment Compensation (EUC) program, a temporary program created to assist individuals who have exhausted regular state benefits. This program offers an additional 29 weeks of benefits and expired on December 31, 2013. These benefits were paid entirely by federal funds and have no impact on the balance of the trust fund.

Federal benefits for other types of claimants.

Federal funds are also used to pay 100% of benefits for certain claimants, such as ex-federal employees, ex-servicemen, and workers who have lost their jobs due to disaster or foreign trade.

Trust Fund Solvency

Section 112 of Act 146 of 2010 requires that we assess alternatives for maintaining the solvency of the South Carolina Unemployment Insurance Trust Fund. The primary methods used to affect trust fund solvency consist of raising UI taxes, decreasing UI benefits, or some combination of these two methods.

Currently, the trust fund is insolvent, and, as of November 2013, the state of South Carolina owed the federal government \$457 million for loans used to pay unemployment benefits. This balance reflects a reduction of total loan debt from just over \$1 billion, with total repayments of \$545 million. This balance includes repayments of \$144 million made in May 2013 and a repayment of \$75 million made in September 2013.

In order to be solvent, the fund must collect enough revenue to pay current benefits, pay off the federal loans (including any interest), and accumulate a statutorily-mandated reserve which would provide sufficient funds to weather a “moderate” recession. DEW has developed a plan that would allow it to pay current benefits and pay off the federal loans and attain a positive balance of \$118 million by 2015. This will be the first positive reserve amount on the way to a reserve of \$400 million by 2017, according to the plan (see Chart 2.7). The plan to enable the trust fund to achieve solvency considers both taxes and benefits.

Taxes

South Carolina’s tax structure, created by legislation enacted in 2010, is a tax array method of taxation in which employers are taxed to fund the trust fund used to pay unemployment benefits. Employers are ranked according to their benefit ratio. Benefit ratios were calculated using the last seven years of benefits paid, and are used to classify each employer into 1 of 20 rate classes based upon benefits paid to former employees divided by the employer’s total taxable wage base. Beginning in 2014, the benefit calculation will use the most current three years, making tax rates more sensitive to recent benefits paid by employers. The placement in the classes based on the employer ranking ultimately determines the amount of tax the employer pays for projected benefits, loans, and related interest due the federal government. Each class must contain approximately 5% of the total taxable wages, except for new employers with less than 12 months of accomplished liability, delinquent employers, and reimbursable employers. Each employer must be placed in the class that corresponds with the employer’s benefit ratio.

The main benefit of the array tax system is that the tax rates are reset each year and are designed to cover the funding needs of the trust fund as they are forecast for each year based upon benefit payment assumption tied to the unemployment rate. Each year the tax rates are set to generate enough revenue to cover the cost of UI benefits, which prevents the state from having to borrow federal funds. In addition, the rates raise sufficient revenue to pay enough on the federal loans to avoid a loss of the FUTA credit and pay incurred interest expense for the loans. Another major benefit of the system is that it allows DEW to set rates for employers that more accurately reflect the risk they pose to the trust fund.

Once the trust fund returns to solvency, DEW is required by §41-31-45(C) of the S.C. Code of Laws to promulgate regulations concerning the revenue needed to pay benefits every year and return the fund to an adequate level of reserve — defined as an average high cost multiple (AHCM) of 1.0, enough to weather a “moderate recession.”

South Carolina employers are taxed on a “wage base,” which is the amount of employee wages subject to taxation in each calendar year. Currently the wage base is \$12,000, up from \$7,000 prior to 2011. A change in South Carolina’s law requires incremental changes in the taxable wage base up to \$14,000 by 2015 (see *Table 2.9*).

In addition to paying the cost of benefits, the current tax rate has two additional components. First, there is a surcharge to collect funds to repay the federal loans and, once repaid, to create a reserve fund. This surcharge follows the same experience rating process as that of regular contributions and will continue to be assessed until an adequate reserve level has been reached.

Second, there is a surcharge to pay the interest cost on the federal loans. As required by state law, the interest surcharge is separately assessed and not commingled with other funds. Federal law prohibits interest payments on loans to states from being made from the state’s unemployment fund. Once the loans have been paid off, the interest surcharge will be discontinued. DEW recently estimated savings of \$1 million in interest expense because it was able to avoid those interest charges by making voluntary payments in 2013.

For 2011, the highest tax rates increased 43.1% from 2010 rates while the total cost per employee increased from \$427 per year to \$873 per year, or 104%. The increases are due to the increase in the rate as well as an increase in the taxable wage base from \$7,000 in 2010 to \$10,000 in 2011.

Tables 2.4 through 2.6 have rates for classes 1, 2, 19, and 20, extracted from the various years' complete rate tables, with calculations of the cost per worker in the two highest and two lowest tax classes and without the federal taxes. Rates are also compared to each prior year since the new tax system was implemented to demonstrate the change in taxes each year.

Table 2.4: 2011 – 2013 Tax Rates and Estimated Cost Per Worker (Not Including Federal Taxes)

| 2011* WAGE BASE \$10,000 | | | | | |
|--------------------------|-----------|--------------------|------------------------|----------------------|----------------------|
| TAX RATE CLASS | BASE RATE | INTEREST SURCHARGE | CONTINGENCY ASSESSMENT | TOTAL EFFECTIVE RATE | EST. COST PER WORKER |
| 1 | 0.000 | 0.043 | 0.060 | 0.103 | \$ 10.30 |
| 2 | 0.710 | 0.048 | 0.060 | 0.818 | \$ 81.80 |
| 19 | 7.360 | 0.494 | 0.060 | 7.914 | \$ 791.40 |
| 20 | 8.180 | 0.549 | 0.060 | 8.789 | \$ 878.90 |

* 2011 tax rates include the effects of a \$146 million appropriation from the General Assembly used to reduce the tax rates.

Source: DEW

Tax rate comparisons between 2011 and 2012 reflected a decrease in the tax rate by approximately 13% with the highest tax rate of 8.79% decreasing to 7.59%. However, total per-employee tax cost, for the highest rate, increased a little more than \$31, just over a 3.5% increase, due to the increase in the taxable wage base from \$10,000 to \$12,000 in 2012.

Table 2.5: 2012 Tax Rates and Estimated Cost Per Worker

| 2012** WAGE BASE \$12,000 | | | | | |
|---------------------------|-----------|--------------------|------------------------|----------------------|----------------------|
| TAX RATE CLASS | BASE RATE | INTEREST SURCHARGE | CONTINGENCY ASSESSMENT | TOTAL EFFECTIVE RATE | EST. COST PER WORKER |
| 1 | 0.000 | 0.038 | 0.060 | 0.098 | \$ 11.76 |
| 2 | 0.610 | 0.042 | 0.060 | 0.712 | \$ 85.44 |
| 19 | 6.340 | 0.437 | 0.060 | 6.837 | \$ 820.44 |
| 20 | 7.040 | 0.486 | 0.060 | 7.586 | \$ 910.32 |

** 2012 tax rates were reduced due to a \$77 million appropriation from the General Assembly.

Source: DEW

The 2013 tax rate increased approximately 3.5% from 2012 rates with the highest tax rate of 7.586% increasing to 7.855%, with a corresponding increase in total tax increase per employee of \$32.28. The taxable wage base remained \$12,000 for 2013.

Table 2.6: 2013 Tax Rates and Estimated Cost Per Worker

| 2013 WAGE BASE \$12,000 | | | | | |
|-------------------------|-----------|--------------------|------------------------|----------------------|----------------------|
| TAX RATE CLASS | BASE RATE | INTEREST SURCHARGE | CONTINGENCY ASSESSMENT | TOTAL EFFECTIVE RATE | EST. COST PER WORKER |
| 1 | 0.000 | 0.035 | 0.060 | 0.095 | \$ 11.40 |
| 2 | 0.640 | 0.039 | 0.060 | 0.739 | \$ 88.68 |
| 19 | 6.610 | 0.400 | 0.060 | 7.070 | \$ 848.40 |
| 20 | 7.350 | 0.445 | 0.060 | 7.855 | \$ 942.60 |

Source: DEW

FUTA Credit

In addition to state UI taxes, the federal government also imposes a federal unemployment tax, known as FUTA. All employers are subject to a federal tax that is currently 6.0% on the first \$7,000 of taxable wages. States in which employers pay their state unemployment taxes timely receive a 5.4% credit on the FUTA tax, making the effective rate 0.6%. However, when a state borrows federal funds and has an outstanding balance on January 1st for two consecutive years, and the borrowed funds are not repaid by November 10th of the second year, contributory employers lose 0.3% of their Federal Unemployment Tax Act (FUTA) tax credit each year the loan minimum amount remains unpaid.

South Carolina began borrowing federal money in 2008 and did not pay the loan amount required by November 10, 2010, resulting in a FUTA tax credit loss of 0.3% in 2010. That tax was collected from South Carolina employers in January 2011 to be used to reduce the outstanding federal loans. Since that time, DEW has avoided further FUTA credit losses. South Carolina would have incurred another 0.3% loss of FUTA credit had it been unable to pay the \$68.7 million plus the loans already obtained in 2011. To avoid the loss of the FUTA credit, DEW paid what would have been raised from a FUTA tax credit loss of 0.6%, which is approximately \$68.7 million, plus any amounts borrowed between January 1, 2011, and September 30, 2011, which totaled \$115,174,767. DEW met the deadline for paying \$183.9 million to avoid additional FUTA tax credit loss, which would have occurred on November 10, 2011. DEW avoided loss of the FUTA credit in 2012 by paying \$106.5 million and in 2013 by paying \$144.9 million.

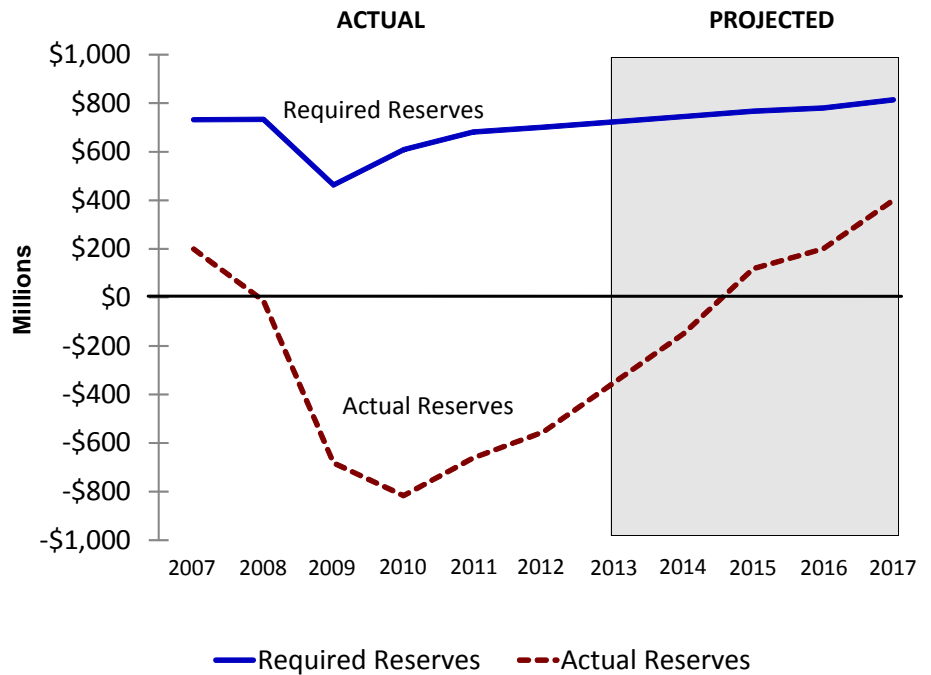
State General Fund Appropriations

In June 2011, the General Assembly appropriated \$146 million from state nonrecurring revenue in order to reduce the impact of the increase in unemployment taxes employers faced in 2011. A review of the DEW tax records indicates this reduced state unemployment taxes by approximately 23% for most employers for 2011. In 2012, the General Assembly appropriated another \$77 million in revenue to provide employer tax relief for 2012, which reduced taxes approximately 12% from those originally calculated.

Solvency Plan

DEW has developed a solvency plan extending through 2017. The plan considers projected benefits, loan repayments and related interest payments, Congressional Budget Office unemployment rate projections, adjustments for particular South Carolina unemployment rate correlations with national predictions, and solvency rebuilding needs of the trust fund. As shown in Chart 2.7, DEW's most current projections show the trust fund reaching greater solvency in 2015 than originally projected, by \$118 million. As indicated earlier, by state law, after the trust fund returns to solvency, DEW must promulgate regulations concerning the income needed to pay benefits in each year and return the fund to an adequate level of reserve. The adequate level of reserves is noted in Chart 2.7. DEW is projecting actual reserves of \$400 million in 2017 when the required reserves' benchmark is \$814 million.

Chart 2.7: Solvency Projections



Source: DEW's 2013 Assessment Report

Alternatives for Achieving and Maintaining Solvency

Taxes

As discussed, there are two main components affecting solvency of the trust fund — taxes and benefits. In 2011, only Colorado, Rhode Island, and South Carolina enacted legislation seeking to restore long-term trust fund solvency by addressing underlying program financing. Still, there are other options for consideration that may assist in restoring the trust fund to solvency and create sufficient reserves.

Indexing the Taxable Wage Base

States can index their taxable wage bases by tying the amount of the taxable wages to the level of total state wages. As wages rise, the weekly benefit amount also rises. Indexing the taxable wage base allows taxes to keep pace with rising wages and weekly benefit costs. Seventeen states have elected to index their taxable wage bases. South Carolina has elected to legislatively set the taxable wage base and incrementally increase it from \$7,000 in 2010, the lowest in the nation at the time, to \$10,000 in 2011, \$12,000 for 2012–2014, and \$14,000 beginning in 2015. Nationally, the state taxable wage bases ranges from \$7,000 (AZ) to \$39,600 (HI). Six states tie their wage bases to the balance of their trust funds.

Zero Tax Rate

We identified 22 states that have a zero tax rate when the trust fund is favorably funded. When trust fund balances are low, only 10 states have a zero tax rate. Allowing certain employers to pay a zero tax rate, particularly during times when the trust fund is insolvent, is not in keeping with the insurance concept behind the UI program.

Uncollected Taxes

As of January 7, 2013 DEW reported \$61.6 million in taxes billed as outstanding debt owed the trust fund. Nearly \$29.6 million was deemed uncollectible. The debt reported was established from 2000 to 2012. Debts of \$23.7 million and \$9.5 million were incurred in 2012 and 2011, respectively. For years 2006 through 2010 uncollected tax debt ranged from \$3 to \$4 million. For earlier years amounts varied from just over \$3 million to just \$12.

DEW's employer tax debt policy states that debt under \$150 is deemed uncollectible six months after a notice of assessment (NOA) is sent to the employer. A tax lien is issued at the time of the NOA for tax debt over \$150 and is deemed uncollectible if not paid within six months after the issuance of the lien. Debts with tax liens are written off 10 years from the uncollectible date. According to the agency's audited financial statement, all receivables over 24 months old are being allowed for as doubtful accounts.

However, all receivables under 10 years old, although classified as doubtful accounts, are left on the books as a receivable and the agency continues to pursue collection of them.

The agency could not provide a breakdown of how much debt was incurred and collected for each year or if any debt was written off. By not knowing how much debt was incurred each year and how much was collected each year, DEW cannot determine or show the effectiveness of its collection efforts. This lack of a proper accounts receivable aging report contributes to the potential of the agency not being able to properly manage the debt and to target the most collectible debt before it becomes uncollectible.

Employee Taxes

We identified three states where employees also pay UI taxes in addition to employers. The states are Alaska, New Jersey, and Pennsylvania.

Alternatives for Achieving and Maintaining Solvency

Benefits

Cause, Misconduct, and Gross Misconduct

The General Assembly has continued to define, in the law, when eligibility for benefits can be limited for employees terminated due to misconduct and gross misconduct.

DEW increased the penalties for those separated from employment for cause. Prior to 2010, DEW applied disqualification of benefits penalties from 5–26 weeks for employees terminated for cause. In 2010, legislation was passed to add the gross misconduct category, which was defined as eight specific offenses including:

- Willful or reckless damage to employer property of \$50 or more.
- Consumption of alcohol on employer property.
- Committing criminal assault or battery.
- Willful neglect of duty.

These and other egregious acts resulted in claimants being fully ineligible for benefits. The 2010 reforms also included the addition of a drug provision in which a claimant who was fired for failing or refusing to take a drug test would be deemed ineligible for benefits. Amendments to the law also added discharge for illegal drug use to the fully ineligible list. Under this new law, a worker discharged for illegal drug use is ineligible for benefits, and must return to work and earn wages equal to at least eight times the weekly benefit amount before becoming eligible.

In 2012, the General Assembly added the current misconduct law in which misconduct is defined as:

- Willful and wanton disregard of an employer's interests.
- Disregard of standards of behavior.
- Carelessness or negligence of such a degree or recurrence as to manifest equal culpability.
- Wrongful intent, or evil design, or to show an intentional and substantial disregard of the employer's interest or of the employee's duties and obligations to his employer.

Employees discharged for misconduct are disqualified for 20 weeks, the current maximum number of weeks of unemployment benefits available.

In 2012, DEW increased the minimum disqualification period to 16 weeks for persons separated from employment for cause, other than misconduct. Reasons for separation covered by this disqualification penalty are:

- Improper actions on the job, theft less than \$50.
- Absenteeism/tardiness.
- Poor attitude.
- Poor quality of work.
- Violation of company policy.
- Absenteeism for medical reasons, which carries a minimum disqualification period of 5 to 10 weeks.

Increasing the disqualification period reduces the benefits paid from the trust fund and ultimately can improve the solvency of the trust fund.

DEW estimated the new laws in 2010 regarding dismissal for gross misconduct and harsher penalties for simple misconduct have saved the trust fund approximately \$22.6 million for the period between April 1, 2010, and May 15, 2011. DEW reported contested claims in 2011 of 63,145 and 59,580 in 2012 (annualized data from the first 3 quarters of 2012), a decrease of 5.7%.

Benefit Weeks

Since 2011, the maximum payment period for regular UI benefits is 20 weeks. This change contributed to a significant reduction in state-funded UI benefits and, consequently, in the amount of taxes employers pay to fund these benefits.

Seasonal Workers

The General Assembly passed legislation in 2011 with the intention of preventing certain seasonal businesses' workers from receiving unemployment benefits during the "off season." However, the legislation was determined by USDOL to be out of compliance with federal law, and has not been implemented by DEW. The law did not employ a uniform charging method, as required by §3303(a)(1) of the Federal Unemployment Tax Act (FUTA), by charging seasonal employer accounts differently than all others. It is unclear if the law can be amended to accomplish the intended outcome of reducing out-of-season benefit payments to a particular segment of seasonal industries in South Carolina.

Currently, 16 states have seasonal restrictions of benefits in place. DEW's analysis indicates that the benefits of implementing seasonal restrictions may be outweighed by the cost. DEW provided a cost-benefit analysis showing a benefit savings from \$300,000 to \$3 million annually, at a cost of \$1.2 to \$1.4 million for IT and business process changes.

Recommendations

1. The Department of Employment and Workforce should employ a tracking and reporting system to identify and track all tax debt to assist in management of the debt by identification, age, and collection of the debt.
2. The General Assembly should amend state law relating to benefits for seasonal workers to bring this law into conformance with federal requirements.

Process for Notifying State Officials

Section 112 of Act 146 of 2010 requires that we "...determine the adequacy of the process for notifying state officials of the financial status of the Unemployment Insurance Trust Fund." We reviewed the notification process and found that DEW is making the required reports to the General Assembly and that these reports contain the information required by law. However, the notification process could be streamlined. In addition, the duties of the DEW Workforce Review Committee need to be clarified.

DEW provides various reports to the General Assembly concerning the status of the trust fund. S.C. Code §41-33-45 requires that DEW provide an annual trust fund assessment report to the General Assembly by October 1 of each year. The report must include:

- A trend chart concerning the trust fund's annual balance each year for at least the previous five years. The chart must compare the ending balance for each year with the minimum reserves needed to withstand an average recession and a severe recession.
- An analysis of the cost paid to beneficiaries and cost shifting, if any, from companies without a negative balance in their account funds to companies with a negative balance in their fund accounts.

In 2010, state law was amended to create a new tax structure based on a benefit ratio system rather than the previous reserve ratio system. This change eliminates the need to conduct a cost-shifting analysis.

S.C. Code §41-29-280 requires that DEW deliver a report no later than January 15 of each year to the Governor and the General Assembly covering the administration and operation of South Carolina's unemployment insurance program. The report is to include:

- DEW's recommendations for amending state law to improve the UI program.
- A balance sheet of the money in the fund which includes, if possible, the reserves needed to fund future liabilities.

We reviewed DEW's FY 2012 and FY 2013 annual trust fund reports and found they contain similar information. We found DEW complied with the law regarding reporting of trust fund performance. All four reports contain charts showing the trust fund balance and recommended reserves. The FY 2012 reports contained similar recommendations to continue to reset tax rates each year so that revenue more closely matches the needs of paying benefits, paying off outstanding loans and related interest, and restoring the trust fund to solvency in 2015. However, the FY 2013 reports contained no recommendations.

The solvency plan included in the FY 2012 reports also includes program integrity efforts designed to prevent, detect, reduce and recover improper payments in the UI program. These reports recommended the following:

- Legislation assigning new employers with no experience with the unemployment system to tax class 10, rather than tax class 12, as is now required by law. This action would more closely align new employers' tax rates with those of new employers in surrounding states.
- Allow the benefit charges "look back" period to remain at 10 years. The look back period will be, by law, reset to 3 years for CY2014.
- Legislation imposing progressively stronger penalties for individuals who repeatedly fraudulently claim unemployment insurance benefits.

In addition to the reports prepared by DEW, other entities are also charged with reviewing the trust fund and DEW's operations. S.C. Code §41-27-700 created the Department of Employment and Workforce Review Committee. Among its responsibilities are to annually evaluate DEW's performance and report the results to the Governor and General Assembly. The committee consists of nine members — three members of the House of Representatives, three members of the Senate, and three public members appointed by the Governor. The committee is also called the Committee to Investigate Candidates for the S.C. Department of Employment and Workforce. The Senate Labor, Commerce, and Industry Committee also has a labor and employment subcommittee which receives reports from DEW.

According to Senate staff, these two entities are effectively doing the work of the Workforce Review Committee. These committees are screening applicants for DEW's executive director position and conducting evaluations of DEW's performance. However, it is unclear if these committees are performing the other actions as required by South Carolina law as listed below:

- Assist in developing an annual workshop of at least six hours concerning ethics and the Administrative Procedures Act (APA) for DEW's employees.
- Make reports and recommendations to the General Assembly and Governor.
- Submit a letter to the General Assembly with the annual budget proposals of DEW indicating the committee has reviewed the proposals.

Recommendations

3. The General Assembly should amend S.C. Code §41-33-45 to remove the requirement for the Department of Employment and Workforce to report on cost shifting of unemployment benefits among employers in the agency's trust fund assessment report.
4. The General Assembly should amend state law to require only one trust fund report from the Department of Employment and Workforce each year.
5. The General Assembly should amend S.C. Code §41-27-720 to clarify what duties are to be performed by the Workforce Review Committee.

Contingency Assessment Funding

We reviewed contingency assessment funding and expenses in order to determine the amount of revenue being collected, how the funds are being used, and for compliance with a proviso contained in both the FY 12-13 and FY 13-14 appropriations acts. We found:

- Contingency assessment revenue increased \$2.8 million, approximately 45% from 2010 when the base wage subject to tax was \$7,000, to 2012 when the base wage subject to tax was \$12,000. Revenue increased by a total of \$4.8 million for FY 10-11 and FY 11-12.
- We cannot determine if DEW has complied with the provisos because the agency's financial system does not track the required expenses.
- In 2010, DEW did not comply with federal requirements when it used approximately \$445,000 in federal funds to help collect the contingency assessment funds. We found no evidence that DEW has reimbursed the federal government.
- The agency has continued to use contingency assessment funds for reemployment services activities. DEW has no metric for measuring service effectiveness.
- A significant portion of the revenue collected from the contingency tax is spent on collecting the tax.

The contingency assessment is a tax of 0.06% paid by employers on taxable wages which DEW uses to fund agency operations. In 2010, the S.C. General Assembly amended state law to increase the taxable wage base. This change also resulted in increased administrative funding for DEW because it increased the amount of contingency assessment funds DEW receives. DEW collected an additional \$2 million in 2011 and \$2.8 million in 2012 (see Table 2.8).

Table 2.8: Contingency Assessment Revenue

| FISCAL YEAR | ASSESSMENT REVENUE |
|-------------|--------------------|
| 09-10 | \$ 6,202,154 |
| 10-11 | \$ 8,206,459 |
| 11-12 | \$ 9,004,206 |

Source: DEW

Table 2.9 illustrates the impact of the increased tax on employers. S.C. Code §41-27-410 created an administrative contingency assessment of 0.06% on the taxable wages of employers. The tax is applied to the wages earned by employees each year up to the limit imposed by S.C. Code §41-27-380(B). The contingency assessment revenue generated per employee will have doubled by 2015. Table 2.9 shows the wage base for 2010–2015.

Table 2.9: Taxable Wage Base and Tax Per Employee

| TAX YEAR | BASE WAGES | TAX RATE | PER EMPLOYEE TOTAL TAX | INCREASE OVER BASE YEAR |
|----------|------------|----------|------------------------|-------------------------|
| 2010 | \$7,000 | 0.06% | \$4.20 | |
| 2011 | \$10,000 | 0.06% | \$6.00 | \$1.80 |
| 2012 | \$12,000 | 0.06% | \$7.20 | \$3.00 |
| 2013 | \$12,000 | 0.06% | \$7.20 | \$3.00 |
| 2014 | \$12,000 | 0.06% | \$7.20 | \$3.00 |
| 2015 | \$14,000 | 0.06% | \$8.40 | \$4.20 |

Source: S.C. Code §41-27-380(B); S.C. Code §41-27-410

Use of Funds

According to DEW officials, the contingency assessment was initially implemented in 1986 to offset cuts in federal funds. S.C. Code §41-33-710(B) specifies that the funds are to be used to:

- Assist with the reemployment of unemployed workers.
- Undertake a program or activity that furthers the goal of the department.
- Supplement basic employment security services with special job search and claimant placement assistance.
- Provide employment services, such as recruitment, screening, and referrals.
- Provide otherwise unobtainable information and analysis to the Legislature and program managers about issues related to employment and unemployment.

However, a proviso included in both the FY 12-13 and FY 13-14 appropriations acts directs DEW to spend 30% of the funds on items including:

- Eligibility reviews.
- Random verification of job contacts and wage cross matches.
- Seated meetings with claimants.
- Requiring and verifying that one of four job search contacts be conducted through DEW's SC Works Online System (SCWOS).

The agency must also inform claimants in advance that eligibility reviews and verification of job contacts will be used by the agency to ensure compliance.

We requested spending records so that we could determine if the agency is in compliance with spending provisions of the proviso. DEW was unable to provide records showing 30% of the contingency funding was spent on the activities listed in the proviso. DEW stated its financial system is not set up to easily track such expenses and doing so would be cost prohibitive.

Agency officials indicated they have a "proxy" agreement to transfer expenses to contingency assessment funds, normally used to promote agency employment services activities, to unemployment insurance activity expenses, in lieu of identifying the actual unemployment program activity expenses as listed in the proviso.

The agency estimated it would take 84 staff hours to provide us the documents to demonstrate that the funds were spent on the proviso items. A proxy transfer of funds does not ensure the UI functions listed in the proviso are actually being done.

We found the agency discontinued UI eligibility reviews for individuals receiving state unemployment in February 2013 and does not require claimants to come to the office for seated meetings or reviews, except for those claimants on federal UI extensions. The agency also stopped verifying job searches conducted through SCWOS until October 2013 and conducts limited verification of other job contacts. DEW's discontinuation of some of the elements required by the proviso and its inability to provide documentation showing funds are being spent on the specific UI functions listed in the proviso brings into question whether DEW is meeting the actual objective of the proviso.

Use of UI Grant Funds

The federal government prohibits UI grant funds from being used to collect non-UI taxes, such as the contingency assessment. To be in compliance with federal law, the agency must allocate the costs associated with the employees collecting the assessment so that no federal grant money is used to pay for that activity.

We found that, in 2010, DEW staff erred in the allocation of the cost to collect the contingency tax, which resulted in approximately \$445,000 in UI grant funds being used to collect the non-UI tax. This is in violation of the USDOL directive. According to agency officials, the misallocation was caused by a clerical error. However, no documentation was provided to substantiate this and we cannot be certain if it was not a result of a failed internal control. According to DEW, beginning in 2011, staff began submitting quarterly reports of all amounts transferred from the contingency assessment fund to the UI program so that any anomalies can be questioned and researched. We also found no evidence that DEW reimbursed the federal government for having used federal UI funds to collect the non-UI tax. In addition, DEW states that an adjusting entry is under review to correct the 2010 error, this year.

Conclusion

It is not clear that the General Assembly intended for DEW to receive this increase in funding. As a result of increasing the taxable wage base, employers must not only pay increased taxes to replenish the trust fund, but also must pay additional taxes to fund DEW's administrative operations.

Also, it is questionable whether there is a need for the increased assessment. We found that 22 states do not have a contingency assessment. In addition, a significant portion of the tax is used to cover the cost of collecting the tax, leaving less funding for actual services to claimants. Of the \$9 million in revenue collected for FY 11-12, DEW spent approximately \$2.1 million, 23% of total revenue, to collect the tax. DEW believes the cost to collect the tax will decrease in 2013 and beyond. DEW recently made changes in its delivery of employment services by downsizing those personnel from the service centers, developing a new employment services model, and by downsizing some reemployment and UI service personnel as well as tax department personnel, due to federal budget cuts. DEW has not reviewed its method of cost allocation for determining how much cost is appropriate for collecting the non-UC tax.

We requested information on how DEW planned to use the additional contingency funds. DEW provided us a list of all planned expenditures for the next two fiscal years totaling approximately \$25.7 million. They are:

| IN MILLIONS | PLANNED EXPENDITURES |
|-------------|--|
| \$ 4.0 | Collecting contingency tax. |
| 1.5 | Implement legislation regarding seasonal UI benefits. |
| 9.6 | Various capital improvements, miscellaneous items, and program enhancements designed to put people back to work. |
| 6.6 | UI activities as required by proviso 83.6 in the FY 13-14 appropriations act |
| 4.0 | Replace a cut in federal WIA funding. |
| \$25.7 | TOTAL |

DEW does not have a system in place for measuring the effectiveness of the additional funds it will receive as a result of the increase in the taxable wage base. Finally, DEW could not demonstrate it is in compliance with the appropriations act provisos concerning how contingency assessment funds are to be spent.

Recommendations

6. The General Assembly should examine the contingency assessment to determine if the tax rate should be maintained, eliminated or reduced.
7. The Department of Employment and Workforce should establish a system for monitoring the effectiveness of services paid by the contingency assessment funds and include a review to determine if the cost to collect the tax can be lowered so that more funds can be used for services to claimants.
8. The Department of Employment and Workforce should ensure it has controls in place to prevent unemployment insurance grant money from being used to collect the contingency tax.
9. The Department of Employment and Workforce should put in place a method to track expenses related to specific unemployment insurance program activities required by proviso 83.6 in the FY 13-14 appropriations act.

Unemployment Insurance Program

In this chapter, we discuss DEW's administration of unemployment insurance (UI). We found DEW has recently stopped conducting eligibility reviews and does not verify that claimants are actively searching for work. In addition, we found DEW needs to improve its processes to ensure that proper determinations are made in UI adjudications and that UI files contain proper documentation. We also found that in some rural areas of the state, claimants have limited nearby access to ATMs in order to access their unemployment compensation.

Eligibility Reviews

S.C. Code §41-29-120(D)(1) states that DEW must, to the fullest extent possible, "...increase eligibility reviews and investigations" regarding claimants' qualification for continuing unemployment insurance payments. However, DEW does not currently have an eligibility review program and does not currently verify that claimants are actively searching for work.

According to an agency official, prior to February 2013, DEW conducted eligibility reviews for claimants receiving unemployment insurance payments. These reviews required claimants to meet with a DEW employee at specified intervals during their benefit periods. The eligibility reviewer would ask the claimant a series of questions to ensure that the claimant was meeting his responsibilities in qualifying for unemployment benefits, examine the claimant's work search form, and advise the claimant regarding attempts to find employment. In February 2013, DEW reported that they suspended regular eligibility reviews for claimants receiving their first 20 weeks of benefits, except for Reemployment and Eligibility Assessment (REA) participants. DEW decided to cease providing in-person UI services as a part of a new delivery system implemented due to a lower South Carolina unemployment rate, a decrease in workload, and a decrease in federal funding. This action conflicts with a proviso in which the General Assembly requested that DEW hold seated meetings and eligibility reviews with UI claimants. It's not clear what effect this will have on DEW's mission to put people back to work.

DEW plans on resuming eligibility reviews at a date that has not yet been determined. DEW has also submitted a supplemental budget request for additional federal funding for an automated eligibility review system to replace in-person reviews. However, DEW has not provided a specific date by which they will be conducting automated reviews.

Other states continue to conduct eligibility reviews. Georgia conducts eligibility reviews by selecting to interview claimants who meet certain criteria, such as claimants who were former employees in an industry that is obsolete in their area. Indiana recently passed a law that requires all claimants to have in-person interviews regarding their work search records and an orientation to reemployment services after their fourth week of benefits.

Not conducting eligibility reviews also results in a lack of verification regarding claimants' attempts to conduct work searches. South Carolina law requires that claimants receiving unemployment insurance must be actively searching for work, and DEW requires that claimants keep records of their work searches. However, this work search is no longer examined at eligibility reviews for claimants in their first 20 weeks of benefits. Additionally, DEW does not have a program to audit work search records of claimants.

Recommendation

10. To ensure compliance with S.C. Code §41-29-120(D)(1) and relevant provisos, the Department of Employment and Workforce should implement an eligibility review program.
-

Work Search Requirements

We found that DEW has not promulgated regulations for policies that have general applicability to the public. Specifically, DEW's policies of requiring claimants to make four job contacts a week and requiring claimants to conduct at least one job contact a week on the SC Works website have not been put into regulations.

S.C. Code §41-29-110 states that DEW must promulgate regulations to carry out its duties. State law defines regulations as an agency "...statement of general public applicability that implements or prescribes law or policy or practice requirements of any agency."

State law requires claimants to actively seek work in order to be eligible for unemployment insurance benefits. DEW currently requires claimants to make four job contacts a week in order to be eligible for unemployment insurance payments. This requirement is DEW policy and is not a law or regulation.

Job contacts can include personal visits to prospective employers, sending out resumes, and making phone calls to businesses regarding available employment. Claimants who fail to make their weekly job contacts can be disqualified from receiving unemployment insurance payments.

Until 2011, DEW required claimants to make one job contact per week. That policy was changed to four job contacts in 2011. Also, in 2012, DEW created a requirement that claimants make at least one job search a week on the SC Works website. The SC Works website is a page operated by DEW that, among other services, provides job listings. According to DEW officials, the agency stopped verifying job searches conducted through SCWOS due to a lawsuit filed in February 2013 and resumed them in October 2013. Also, DEW states that it is penalizing claimants who are not meeting this job search requirement.

Although these policies have general applicability to the public, they have not been promulgated as regulations as required by the South Carolina Administrative Procedures Act. Instead, these rules are internal policies set by DEW that can be changed at any time. This is not the case in most states that have work search requirements. According to the United States Department of Labor, of the 33 states that specify minimum work search requirements, 26 have their work search requirements codified in law or regulation.

Putting work search requirements into regulations will help provide clarification to claimants, DEW staff, and the general public regarding DEW's work search requirements. Additionally, it will provide the public and the General Assembly an opportunity to comment on the policy. It will also provide consistency by requiring DEW to go through the regulatory process before changing its work search requirements. Finally, the regulatory approval process as set forth by the APA requires agencies to address the reasonableness and need for proposed regulations, as well as judgments relied upon in developing the regulation.

Recommendation

11. The Department of Employment and Workforce should promulgate regulations pursuant to the South Carolina Administrative Procedures Act regarding its minimum work search requirements.

Review of Claims Files

We examined the unemployment insurance eligibility process to check for efficiency and compliance with the law and agency policy. In our review of 100 unemployment insurance files, we found that DEW needs to improve its processes in order to ensure that proper determinations are made in UI adjudications and that UI files include proper documentation.

We found that DEW made questionable determinations in nine files that we examined. Additionally, we concluded that five files did not include proper documentation to support the adjudication. Finally, we found that, in nine files, there was not proper documentation of DEW attempting to contact employers regarding the claims made against their accounts. Five of those cases resulted in determinations in favor of the claimant.

Methodology

We conducted a review of a preliminary sample of 30 files from a week in March 2013. After reviewing those files, we determined a need to conduct a further sample of files. We received and examined 100 contested claims files from the week of April 14 through April 20, 2013. These files consisted of situations in which an employee quit or was discharged from his job and was seeking benefits. In the files we examined, DEW made the following determinations.

Table 3.1: Final Adjudication

| REASON TERMINATED | NUMBER OF CASES |
|-----------------------------|-----------------|
| Misconduct | 39 |
| Cause Other Than Misconduct | 10 |
| Quit | 25 |
| Drug Disqualification | 4 |
| Gross Misconduct | 2 |
| Eligible for Benefits | 19 |
| Unknown* | 1 |

*DEW did not provide the determination document for this case.

Source: DEW

Thirty-nine claimants were adjudicated to have been terminated for misconduct. S.C. Code §41-35-120(2)(a) defines misconduct as:

...conduct evincing such willful and wanton disregard of an employer's interests as is found in deliberate violations or disregard of standards of behavior which the employer has the right to expect of his employee, or in the carelessness or negligence of such degree or recurrence as to manifest equal culpability, wrongful intent, or evil design, or to show an intentional and substantial disregard of the employer's interest or of the employee's duties and obligations to his employer.

Claimants found to have been discharged for misconduct are disqualified from receiving benefits for 20 weeks. Additionally, the money associated with those weeks is made unavailable to the claimant.

Ten claimants were found to have been terminated for cause other than misconduct. Discharges for cause other than misconduct occur when individuals are fired for circumstances that do not give rise to the level of misconduct. S.C. Code §41-35-120(2)(b) requires DEW to disqualify claimants discharged for cause from receiving unemployment insurance benefits for no less than 5 and no more than 19 weeks. DEW's internal policy sets the minimum disqualification level for most claimants discharged for cause at 16 weeks. Additionally, DEW policy sets a maximum disqualification of 10 weeks for individuals discharged for medical reasons. In the files we examined, the claimants discharged for cause were all disqualified from receiving UI benefits for at least 16 weeks.

Twenty-five claimants were found to have quit without good cause and were disqualified indefinitely from receiving benefits. Four claimants were found to have been disqualified for drug-related reasons, which include failing a drug test and refusing to take a drug test. Those claimants were disqualified indefinitely. Additionally, two claimants were terminated for gross misconduct and received indefinite disqualifications. Claimants are determined to be disqualified for gross misconduct if they are found to have been terminated for certain actions specified in S.C. Code §41-35-120(4). Those claimants were also disqualified indefinitely. Claimants who are disqualified indefinitely for quitting, gross misconduct, and drugs can requalify for benefits if they return to work and earn eight times their weekly benefit amounts.

Nineteen claimants were found to be eligible for benefits. Claimants are eligible for benefits if the adjudicator determines that the claimant was terminated due to a lack of work or because the claimant was fired due to job-related inability, incapacity, or inefficiency. Additionally, claimants can be found to be eligible if the employer does not provide enough evidence to show that a claimant has been discharged for a disqualifying reason.

Questionable Determinations

In nine cases (9% of our sample), the adjudicator made a questionable determination regarding the relevant claim. Of the determinations we concluded were questionable, eight of them were cases in which the claimant was determined to be ineligible by the claims adjudicator. It should be noted that three of the adjudications we examined were overturned on appeal. The other cases were either not appealed or did not file a timely appeal. We questioned the following decisions:

- One case involved a claimant who was fired due to inability, incapacity, or inefficiency and was held to have committed misconduct. S.C. Code §41-35-120(2)(b) states that instances in which claimants are terminated for substandard performance, inability, incapacity, or inefficiency are not a basis for disqualification for benefits due to misconduct or cause. In this case, the claimant's employer described firing the claimant due to performance issues and the claimant's "inability" to do a particular job. However, the employer's response did not mention deliberate or careless acts on the employee's part that would have risen to the level of misconduct. Despite this, the claimant was determined to have committed misconduct and was disqualified from receiving benefits.
- One case involved a claimant who, according to his employer, was terminated for lack of work and performance-based issues. Claimants who lose their jobs due to lack of work and inability or incapacity are eligible for benefits, but this claimant was disqualified for 16 weeks.
- Three cases in which claimants were initially held to be ineligible were appealed to the appeal tribunal. The appeal tribunal found that the claimants should either be eligible or partially eligible. In those cases, the appeal tribunal found that there was insufficient evidence with which to hold that the claimant was discharged for misconduct. After examining the files of those cases, we agree with the tribunal.
 - An employee was initially disqualified for allegedly using profanity on the telephone with a customer. The claimant denied this allegation and the employer did not provide evidence of the claimant's alleged wrongdoing. The appeal tribunal found that the employer's burden to establish a discharge for cause was not met.

- A claimant was initially disqualified for misconduct for displaying an unsatisfactory attitude at work. The claimant denied receiving any warnings regarding her attitude and the employer provided no documentation of any prior warnings. The appeal tribunal determined that the employer did not meet its burden to establish a discharge for cause.
- A claimant was accused of consuming illegal drugs on company property by some co-workers and was initially disqualified. The appeal tribunal noted that the claimant passed a subsequent drug test and determined that the claimant was terminated for cause but not misconduct.
- There was one case involving a claimant who was terminated due to absences for medical reasons. DEW policy states that absences for medical reasons are terminations for cause but not misconduct and should not result in disqualification of more than 10 weeks. In this case, the employee claimed to have been terminated after missing work for a doctor's appointment. The employer responded by listing three dates on which the claimant missed work for medical reasons and one date with no reason listed. DEW asked the employer for further information but did not receive a detailed response. Despite the employee's claim of being discharged after a medical absence and a lack of information from the employer regarding the claimant's discharge, the claimant in this case was found to have been terminated for misconduct.
- Two cases included minimal evidence against the claimant and we concluded the claimant should have been determined to be eligible for benefits.
 - One of those cases involved a claimant who was determined to have been discharged for misconduct for allegedly asking fellow employees to provide him with a controlled substance. The claimant denied this allegation and the employer provided no documentation of the alleged incident. The claimant appealed the determination, but his appeal was denied due to being untimely.
 - A second case involved an employee who was disqualified for quitting due to not returning to work after a medical absence. The employee claimed to have been discharged after the end of his medical leave due to a lack of work. The claimant's employer stated that the claimant had an opportunity to return to work after the medical leave, but did not provide documentation regarding their statement and did not respond to a request for additional information. The claimant appealed the determination, but his appeal was denied due to being untimely.

- One of the questionable adjudications involved a claimant being found eligible. That case involved a claimant who told DEW that he quit in order to start his own business. There was no employer response, though a lack of employer response is not necessary to find a claimant ineligible. S.C. Code §41-35-120(1) states that claimants who leave work voluntarily without “good cause” are ineligible for benefits. Quitting for “good cause” can include circumstances such as relocating to avoid domestic abuse, quitting due to the illness of an immediate family member, and moving to follow a spouse who has relocated. Despite not quitting for “good cause,” this claimant was found to be eligible.

In addition to our review, we found that internal reviews by DEW for benefit timeliness and quality have also found issues with unemployment insurance claims files for cases involving a separation issue (i.e. a discharge or quit). Table 3.2 summarizes issues found during DEW’s benefit timeliness and quality reviews.

Table 3.2: DEW Benefit Timeliness and Quality Review Findings (By Quarter)

| | QUARTER | | | | | | | |
|---|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|
| | 1 st | 2 nd | 3 rd | 4 th | 1 st | 2 nd | 3 rd | 4 th |
| | 2012 | | | | 2011 | | | |
| Inadequate Information from: | | | | | | | | |
| Claimant and Employer | 0 | 5 | 4 | 5 | 3 | 4 | 3 | 5 |
| Employer | 3 | 5 | 0 | 2 | 6 | 4 | 0 | 5 |
| Claimant | 2 | 3 | 0 | 2 | 1 | 1 | 2 | 5 |
| Failure to Obtain Rebuttal from Employer or Claimant | 0 | 0 | 3 | 0 | 0 | 0 | 0 | 0 |
| Incorrect Application of Law and Policy | 0 | 0 | 1 | 1 | 0 | 0 | 0 | 0 |
| Inadequate Employer or Claimant Information and Wrong Written Determination | 0 | 0 | 0 | 1 | 3 | 0 | 0 | 0 |

Source: DEW

Thirty separation cases are reviewed each quarter. The federal standard for the quality of separation decisions is 75%. DEW's separation quality for the 4th quarter of 2012 was 63%. Its separation quality for the 3rd quarter of 2012 was 73%, and its separation quality for the 2nd and 1st quarters of 2012 was 65% and 83%, respectively.

It is important that DEW correctly adjudicate UI claims pursuant to law and policy. Incorrect adjudications can have a negative effect on claimants who should receive benefits and increase taxes on businesses who are improperly charged with a claim. Although claimants and employers have the right to appeal the initial determinations, it is more efficient for the initial determination be correct, as appeals can be costly and time consuming for the employer and claimant.

Documentation Issues

We also reviewed claims to determine if required documentation was included. We found 14 instances of claims files that included insufficient documentation, including cases in which there was not sufficient documentation of attempts by DEW to contact employers regarding claims against their accounts. The inclusion of sufficient documentation in claims files is necessary in order to establish the accuracy of a determination. Properly documenting employer contacts is also important because of S.C. Code §41-35-135(A), a law that was passed in 2013 which states DEW shall not charge the benefit ratio to an employer's account when it determines that the overpayment has been made to a claimant and that the overpayment occurred due to the employer's failure to timely or adequately respond to a request for information from DEW and a pattern of such responses is established. It should be noted that S.C. Code §41-35-135(A) was not in effect during the time period in which the files we reviewed were processed, but compliance with this law will be important as claims are adjudicated in the future.

Of the claims that had insufficient documentation, nine files did not have proper documentation of reasonable attempts to contact employers. DEW policy requires three reasonable attempts to contact an employer when a claimant makes a claim against his account. This policy is to ensure that claims are accurately and quickly adjudicated and to ensure that employers have a chance to respond to a claim against their accounts.

In addition to DEW policy, S.C. Code §41-35-135(B) states:

In all cases where the department contacts, or attempts to contact, an employer via telephone concerning a claim for benefits, it must document the contact, or attempt to contact, the employer and provide the documentation to the employer upon request. The documentation must contain the name of the department's staff contacting, or attempting to contact, the employer, the date, time, and whether the department's staff spoke with the employer, and the name of the person with whom the department's staff spoke, if anyone.

The files that had insufficient documentation of attempts to contact the employers included four cases in which the employer did not respond at all. The other five files included late employer responses that either had no documentation of attempts to contact the employer or documentation of attempts to contact the employer after the employer's initial response deadline had passed. Of the nine files that did not have sufficient documentation of employer contacts, five cases were determined in favor of the claimant and four cases were determined in favor of the employer.

Keeping a thorough record of attempts to contact employers regarding claims against their accounts is essential to ensure that DEW's fact finders and adjudicators have complied with DEW policy and South Carolina law. Additionally, documentation provides a record of attempts to contact the employer for the relevant parties to the case. It also provides a record for DEW management, the U.S. Department of Labor, and outside auditors which can be examined for compliance with DEW policy. Finally, proper documentation of attempts to contact employers may help DEW meet its performance measure goals for federal benefit timeliness and accuracy statistics.

We also found insufficient documentation regarding the evidence in certain files. One reason for disqualifying an individual for misconduct is to find that the individual violated a reasonable company policy and that the employee had knowledge of the company policy. We found two instances of claimants being held ineligible due to violations of company policies in which no copies of company policies were attached. Similarly, we examined one case in which a claimant was fired for allegedly not following company call-in procedures while ill. However, the employer did not respond to a request for its call-in procedures and the claimant was held ineligible. In cases in which a claimant is held ineligible for violating a known company policy, it is important that a copy of the company policy is documented in order to ensure a proper adjudication.

We also examined two files that did not have documentation of attempts to obtain medical information from claimants. DEW policy states that claimants who are discharged for medical absences are to be found discharged for cause and disqualified for no more than 10 weeks. Other claimants terminated for cause are to be disqualified for no less than 16 weeks. In one case, the claimant who said he was discharged for a medical absence was found to have been discharged for misconduct. However, the file did not have documentation of attempts to obtain evidence of the claimant's medical problem. Such evidence could have shown that the claimants were terminated for cause for medical reasons and reduced the number of weeks of disqualification.

Recommendations

12. The South Carolina Department of Employment and Workforce should ensure that adjudications of unemployment insurance claims, including those claims of individuals who are discharged for inefficiency, inability, and incapacity, are properly decided according to the evidence in each case and in accordance with state law and agency policy.
13. The South Carolina Department of Employment and Workforce should ensure that state law and agency policies for contacting employers regarding unemployment insurance claims are followed and that all reasonable attempts to contact employers are thoroughly documented.
14. The South Carolina Department of Employment and Workforce should ensure that unemployment insurance claims involving individuals who claim to have been terminated for health reasons are properly investigated, with proper documentation showing attempts to obtain medical information from the claimant.
15. The South Carolina Department of Employment and Workforce should properly document evidence and attempts to obtain evidence in its investigations of unemployment insurance claims, including the employer's policies.

Prepaid Debit Cards

When receiving unemployment benefits, claimants in South Carolina have the option of either receiving a direct deposit of the benefits to their bank accounts or receiving prepaid debit cards. Although the debit card program has advantages over the former system of mailing checks, some claimants live in counties that lack access to no-fee automatic teller machines (ATM).

The prepaid debit cards are similar to normal bank cards and can be used to purchase goods at stores with a credit/debit card option. They can also be used to withdraw funds from an ATM. The use of prepaid debit cards and direct deposit as a means of paying claimants their unemployment insurance benefits has resulted in the near elimination of paper checks as a means of delivering UI payments.

If a claimant does not use all of the money on their prepaid debit card, the excess funds are required to be reported to the Office of the State Treasurer's unclaimed property program as bank accounts after a five-year dormancy period. According to an official with the Office of the State Treasurer, the earliest remittance of unclaimed prepaid debit card funds would be in November 2015.

The prepaid debit cards have some advantages over the check cashing system. With the debit cards, claimants do not have to cash or deposit checks, can make purchases wherever debit cards are accepted, avoid carrying large amounts of cash after cashing a check, avoid stolen checks, and avoid check-cashing fees. Additionally, claimants have free access to account information and customer service regarding their cards and have purchase protection services.

Although the prepaid debit card has some advantages for claimants, we found that there could be issues for claimants who wish to access their accounts via an ATM in many areas of South Carolina. In order to access their funds via an ATM without paying a fee, claimants must use Bank of America ATMs. If a claimant makes a withdrawal from a non-Bank of America ATM, he will incur a fee of \$1.50 per transaction. These fees may also be greater in instances in which the non-Bank of America ATM charges an additional fee.

According to Bank of America's website, the county seats of 22 out of 46 South Carolina counties are over 10 miles away from the nearest Bank of America ATM. Of those counties, 6 are over 20 miles and 2 are over 30 miles from the nearest Bank of America ATM.

Table 3.3: Distance to Bank of America ATMs from County Seats

| DISTANCE FROM COUNTY SEATS TO BANK OF AMERICA ATMS | NUMBER OF COUNTIES |
|--|--------------------|
| Less Than 10 Miles | 24 |
| Over 10 Miles | 14 |
| Over 20 Miles | 6 |
| Over 30 Miles | 2 |

Source: Bank of America

According to information from the Department of Employment and Workforce, 1,977 claimants lived in counties in which the county seat was over 10 miles from the nearest Bank of America ATM in November 2013. Although Bank of America did not provide us with information on the amount of fees incurred by prepaid debit card customers or the counties in which those fees were incurred, it did provide information showing that 9% of ATM transactions in which a prepaid debit card was used in 2013 incurred a fee.

Currently, there are options for claimants without access to Bank of America ATMs that allow them to access their unemployment insurance compensation without accessing an ATM. Claimants can use their prepaid debit cards to purchase goods and services at establishments that accept credit and debit cards, and those transactions do not incur fees. Additionally, claimants can receive cash back at some establishments for no fee. Also, claimants using the prepaid debit card have access to one free teller cash transaction per week at banks that accept Visa cards.

Although these options provide ways that claimants can withdraw cash without incurring fees, there are some disadvantages. Claimants would be required to use cash at establishments that only accept cash. Also, claimants withdrawing cash at a bank could not access that service after business hours and would be required to carry large amounts of cash if they withdrew their entire account so as not to incur a fee.

The prepaid debit card program has many positive aspects for unemployment insurance claimants. Bank of America and DEW have worked together to lower some fees in the past. Additionally, Bank of America and DEW have a page on the DEW website clarifying which card-related services have fees and which do not. Also, the website mentions ways to avoid fees, such as purchasing from merchants that accept Visa debit cards and receiving cash back.

However, the fee for using non-Bank of America ATMs potentially impacts thousands of claimants who live in counties that do not have reasonable access to Bank of America's financial services. The U.S. Department of Labor guidance states that claimants should have reasonable access to the entire amount of the UI payment without cost. We identified 18 states that allow at least one free ATM withdrawal monthly.

Recommendations

16. The Department of Employment and Workforce should ensure that claimants in counties that do not have access to no-fee automatic teller machines are provided more options for minimizing potential fees.
17. The Department of Employment and Workforce should inform claimants in counties where they do not have access to no-fee automatic teller machines of potential withdrawal fees and inform claimants of the advantages of direct deposits to their non-Bank of America accounts.

Reemployment Services

In this chapter, we discuss the effectiveness of reemployment services, the proper documentation of files, and the quality of the reemployment data used and reported by DEW. We found problems with DEW reemployment data and as a result, DEW is unable to determine whether its REA program services are effective at returning people to work and reducing the cost of unemployment insurance.

The primary objective of providing employment services is to put people back to work. We found those receiving staff-assisted services had a modest increase in earnings after receiving reemployment services and in certain demographic categories, there was no increase in earnings. Also, we found that on average those receiving intensive services remained on unemployment longer than those receiving less intensive or no services.

Effectiveness of Reemployment Services

We reviewed the effectiveness of DEW’s programs in assisting people in finding employment and in increasing their earnings from what they had been earning prior to receiving reemployment services. We found that, while DEW has complied with the reporting standards required by the U.S. Department of Labor, it could do more to assess the effectiveness of its services on particular population groups, such as veterans, less-educated workers, and older workers.

We analyzed the impact of DEW’s reemployment services on wages pre- and post-unemployment. We found a modest correlation between levels of staff-assisted service and increased earnings. However, services do not appear to result in significantly increased earnings beyond what participants earned prior to receiving services. Moreover, even if services are associated with modest increases in earnings, these improvements do not extend to all categories of participants, especially those age 50 and older.

DEW reports data to the United States Department of Labor (USDOL) using three core measures of effectiveness — the entered employment rate, employment retention, and average earnings. The USDOL requires states to record total earnings from wage records for the 2nd and 3rd quarters prior to a “participant’s” enrolling in reemployment services programs and for the 1st, 2nd, and 3rd quarters after the exit quarter.

A “participant” is a job seeker who provides basic contact information and who receives any Wagner-Peyser, veterans employment and training services (VETS), or partner-funded employment service in a One-Stop career center, satellite center, a partner agency’s physical location, or via internet from a remote site.

A ‘service’ includes any of the Wagner-Peyser, VETS or partner-funded employment and workforce information services delivered via any of the three tiers of service delivery — self-help with no staff assistance; core, staff-assisted services; and intensive services. Intensive services are those services provided with more detail-oriented goals and services delivered via a case management model (i.e. individual employment plan, referral to training, etc.). Job seekers who receive services in a One-Stop career center or affiliate site, or remotely via the internet are considered participants. ‘Exiters’ are participants who exit from DEW’s program. Once a participant has not received any service funded by the program or partner program for 90 consecutive calendar days, then the date of exit is applied retroactively to the last day on which the individual received a service.

Analysis of Wage Data

In conjunction with the Office of Research and Statistics (ORS) of the Budget and Control Board, we analyzed wage data to determine the effect of DEW’s reemployment services on program participants’ earnings. Specifically, we analyzed whether participants earned more after receiving reemployment services than before. We focused on Wagner-Peyser program participants who had exited the program during calendar year 2011.

We analyzed the data based on age, education level, veteran status, disability status, and whether they were receiving unemployment insurance benefits at the time they were receiving Wagner-Peyser services. In order to measure the extent to which employment services are associated with earnings change we excluded those who had no earnings prior to participation.

Those receiving intensive services tend, on average, to benefit from higher percentage of earnings change than do core and self-service participants, whether the participants were receiving unemployment benefits or not. Those receiving services with the assistance of a work center staff are receiving core services. Self-service participants rely on no staff assistance at all. The change ranged from -0.2% to 7.1%.

Table 4.1: Earnings Change by Service Category and Participant

| SERVICE CATEGORY | ALL PARTICIPANTS | UI PARTICIPANTS | NON-UI PARTICIPANTS |
|------------------|------------------|-----------------|---------------------|
| Total | 2.6% | 1.6% | 3.5% |
| Intensive | 7.1% | 5.2% | 9.4% |
| Core | 4.0% | 2.2% | 5.6% |
| Self | -0.2% | -5.6% | 5.0% |

Total population = 116,668
 Did not receive UI benefits = 58,207
 Received at least one benefit payment during the year = 58,461

Source: LAC

Among those 50 and older, post-exit earnings fell an average of 6.3% over pre-participation earnings. However, those receiving intensive services had a smaller earnings decrease than those not receiving any services.

Table 4.2: Earnings Change by Service Category and Participant Over Age 50

| SERVICE CATEGORY | PARTICIPANTS OVER AGE 50 |
|------------------|--------------------------|
| Total | -6.3% |
| Intensive | -2.2% |
| Core | -5.4% |
| Self | -9.9% |

Source: LAC

There are many factors that can contribute to future earnings, including labor market conditions, the extent to which participants complete Wagner-Peyser services, especially those services aimed at improving job skills, and the willingness of some workers to accept lower wages in order to return to work.

WIA Participants

DEW analyzed earnings of two types of individuals enrolled in WIA, before and after receiving services. WIA participants may receive funding for occupational training, on-the-job training, or even academic degrees. The two types of participants analyzed are adult and dislocated workers. Dislocated workers are adults who have lost their jobs due to specific economic conditions, such as the permanent closure of a work facility or a profession that is no longer needed in the economy. DEW reported that WIA training resulted in increased earnings for WIA participants. However, the magnitude of the earnings change for dislocated workers enrolled in WIA and who had entered training was 10.5% — almost 8.3% less than the earnings improvement of 18.8% for WIA participants who had not entered training. For adult WIA enrollees, the earnings change for those who entered training was 67.6% — 5.9% less than the earnings improvement of 73.5% for those who did not enter training.

Table 4.3: Earnings Change Between WIA Enrollees Who Did Enter Training and Those Who Did Not

| WIA ENROLLEES | DID ENTER TRAINING | DID NOT ENTER TRAINING |
|-------------------|--------------------|------------------------|
| Adult | 67.6% | 73.5% |
| Dislocated Worker | 10.5% | 18.8% |

Source: DEW

According to DEW staff, while those WIA enrollees who entered training might not benefit from as much of an increase in earnings as those who did not enter training, those who enter training are more likely to find employment. In support of its position, DEW provided “entered employment” and employment retention” data for 2010 and 2011 for adult and dislocated worker WIA enrollees as shown in Table 4.4.

Table 4.4: Change in Entered Employment and Retention for Enrollees Who Did Enter Training and Those Who Did Not

| WIA ENROLLEES | PROGRAM YEAR 2010 | | PROGRAM YEAR 2011 | |
|----------------------------|--------------------|------------------------|--------------------|------------------------|
| | DID ENTER TRAINING | DID NOT ENTER TRAINING | DID ENTER TRAINING | DID NOT ENTER TRAINING |
| ENTERED EMPLOYMENT | | | | |
| Adult | 66.1% | 54.5% | 68.8% | 61.7% |
| Dislocated Worker | 72.7% | 63.8% | 76.5% | 66.6% |
| RETAINED EMPLOYMENT | | | | |
| Adult | 84.6% | 81.6% | 86.6% | 83.9% |
| Dislocated Worker | 89.7% | 86.9% | 91.7% | 90.9% |

Source: DEW

It is unclear why those who enter training are more likely to enter and retain employment but experience a smaller change in earnings improvement than those who do not enter training.

Conclusion

DEW can improve its evaluation of its services by examining earning pre- and post-unemployment and by segregating this data by various population groups. In addition, DEW needs to evaluate its WIA program to determine ways to improve the effectiveness of its training programs on participant earnings.

Recommendations

18. The Department of Employment and Workforce should incorporate a comprehensive wage analysis as part of its evaluation protocol for both Wagner-Peyser and Workforce Investment Act participants and publicize its findings annually.
19. The Department of Employment and Workforce should perform wage analysis on key population subgroups of its participant population, including veteran status, age, and disability status.
20. The Department of Employment and Workforce should analyze performance data for the WIA program in order to determine why certain participants who enter training earn less, on average, than those who do not.

Reemployment Services and Unemployment Duration

We conducted an analysis of all Wagner-Peyser participants receiving unemployment insurance benefits at least once between July 2011 and June 2012, in order to determine the effect receiving various levels of services had on participants' duration of unemployment insurance benefits (UI). We found that those receiving intensive services actually remained on unemployment longer, on average, than those receiving core services or no staff-assisted services. This is contrary to the expected result that providing reemployment services should shorten the duration of UI.

Intensive services are a higher tier of services which are more specialized and tailored to the individual. Intensive services include a comprehensive assessment, individual counseling and career planning, case management, group career workshops, and follow-up services. Core services include job search and placement assistance, labor market information, initial assessment of skills and needs, information about available services, and follow-up services for those who have been placed in jobs. The core services include services that users can access themselves online. We expected to find that those receiving intensive services would, on average, experience shorter periods of unemployment duration.

The Office of Research and Statistics of the Budget and Control Board assisted us in analyzing the duration of unemployment for those receiving employment services. Our overall results appear in Table 4.5.

Table 4.5: Unemployment Claims Duration by Service Type

| STAFF-ASSISTED SERVICES | NUMBER OF CLAIMANTS | AVERAGE UI DURATION |
|-------------------------|---------------------|---------------------|
| Intensive | 8,048 | 29.4 |
| Core | 43,855 | 27.7 |
| None | 43,596 | 18.2 |

Source: DEW

Claimants receiving intensive services remained on unemployment an average of 29.4 weeks as compared to those with core services who remained on unemployment for just 27.7 weeks. Claimants receiving no services remained on unemployment the least amount of time, an average of 18.2 weeks. This analysis indicates that providing intensive services has not decreased the average time a claimant remains unemployed.

Our findings confirmed what the Department of Employment and Workforce discovered when it conducted its own analysis during our review. DEW examined the average number of weeks individuals were paid unemployment insurance benefits by the category of services they received. DEW's analysis compared categories of staff-assisted services and UI duration by race, gender, and education levels of claimants who filed a claim between July 1, 2011, and June 30, 2012. For every claimant category, except two, "black males with college degrees" and "white females with college degrees," those receiving intensive services received unemployment longer than those receiving staff-assisted core services or no staff-assisted services. We found this same pattern when we looked at service level by age, gender, education level, and disability. Intensive services were associated with longer periods of UI duration.

According to DEW officials, those receiving intensive services with a longer UI duration could have more serious barriers to employment than those receiving less intensive services or those who receive services through no staff assistance at all. DEW's new service model emphasizes expanding its intensive services, particularly for those with certain deficiencies that undermine their marketability in the labor force. Without further analysis by DEW, it is unclear that the cost of the investment in intensive services is offset by the longer-term benefit of higher earnings and/or longer periods of sustained gainful employment.

Recommendations

21. The Department of Employment and Workforce should revise its evaluation of service recipients to determine if those receiving intensive services are retaining employment for longer periods than those receiving core or no staff-assisted services at all.
22. The Department of Employment and Workforce should analyze the duration of unemployment for Wagner-Peyser participants receiving core and intensive services. When the unemployment duration for those receiving services is longer than for those not receiving services, DEW should conduct analysis to determine the factors causing the longer duration.

Documentation of Wagner-Peyser Services

We reviewed the files of a sample of persons receiving Wagner-Peyser services in order to determine if the required documentation for staff-assisted services was found in those files. We found that case workers in the work centers were not adequately complying with DEW policy in documenting the services they administered. Overall, in approximately two-thirds of the cases reviewed, we either did not find the required documentation or found that the code for the service was incorrectly applied.

The absence of documentation limits DEW's ability to analyze service effectiveness because failure to document services means that the data in a participant's file may not provide a complete picture of the participant's experience with employment services. In addition, other staff accessing those files at a later date will be unaware if participants ever received or completed the service. This can result in participants receiving the same services multiple times.

With the assistance of the Department of Employment and Workforce, we identified a list of staff-assisted services for which documentation should exist in the file. We identified 10 staff-assisted services for which documentation should exist in the case notes or for which there are special instructions governing the appropriate use of that code. We selected a sample of 385 files from 41,932 cases and reviewed them with DEW staff in order to determine if the appropriate service codes had been applied correctly and if there was documentation in the case notes that a service that appeared to be offered to a participant was, in fact, performed. Table 4.6 summarizes our findings. Overall, we found that in 255 (66.2%) of the 385 cases, there was no documentation of the service in case notes or that the code was absent or incorrectly documented.

Service code 202, refers to "career guidance/planning/counseling," a service that provides a range of information, materials, or suggestions designed to assist the individual in making an occupational or career decision regarding employment and training opportunities. Files should contain case notes indicating the issues discussed, possible alternatives, next steps for the participant, and further services, if needed. Of the 180 files with that service code, 156 (87%) did not contain complete case notes.

Service code 190, referral to reemployment services, is used when a claimant is referred to job clubs, career counseling, interviewing workshops, or other services deemed necessary for the individual to return to work successfully. Of the 12 files with that service code, 9 (75%) did not have documentation of the referral in a case note.

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Table 4.6: Case Note Documentation

| SERVICE CODE | SERVICE TITLE | DESCRIPTION | FOCUS OF THE REVIEW | CASE NOTE DOCUMENTATION | | |
|--------------|---|--|--|-------------------------|------------|------------|
| | | | | YES | NO | TOTAL |
| 112 | EUC/RES/REA Waived Assessment | Used only when client meets requirements to be waived from participating in the EUC/RES/REA assessment. | Does the file contain the required case note defining all reasons for waiver? | 0 | 3 | 3 |
| 123 | Job Development Attempt/Contacts | Occurs when staff member works with both the participant and the prospective employer to develop a possible opportunity where no known job opportunity exists. | Does the file contain case notes indicating employer name, job title, result of the job development attempt (no opening, referral, etc.), and date of appointment, if applicable? Is there only one activity record per day for job developments? Does the file include information for all of the job developments in the case notes? | 12 | 18 | 30 |
| 132 | Workshops/Seminars | Seminar or workshop that can include resume writing, interviewing skills, telephone communications skills, and job acquisition and retention skills. | Is this code used for workshops/seminars other than Transition Assistance Program (TAP) workshops or UI profiling workshops as required. TAP services include providing employment and training information to armed forces members within 180 days of separation or retirement. | 30 | 32 | 62 |
| 190 | Referral to Reemployment Services | Services can include referrals to job clubs, career counseling, interviewing technique workshops, and job referral and placement assistance. | Document that referrals are included in case notes. | 3 | 9 | 12 |
| 202 | Career Guidance/Planning/Counseling | Service that provides range of information, materials, suggestions, or advice to assist individual in making an occupational or career decision regarding employment and training opportunities. | Does the file contain case notes? Do the case notes include as required, notes indicating the issues discussed, possible alternatives, next steps for participant, and further services as needed? | 24 | 156 | 180 |
| 203 | Comprehensive/Specialized Assessment | Assessment of skills and service needs of participant which might include an interview and testing. | Does the file contain case notes, as required, that include a summary of assessment results? | 3 | 2 | 5 |
| 204 | Testing | Testing to include aptitude, basic skills, or proficiency, provided by program staff. | Are assessment scores recorded in the assessment tab? | 5 | 4 | 9 |
| 205 | Development of Individual Employment Plan | Development of a plan that includes steps and timetables to achieve employment. | Does the file contain case notes, as required, which include the plan (steps and timetables to achieve employment)? | 47 | 7 | 54 |
| 210 | Referred To Educational Services | Referrals designed to develop competency in basic educational skills such as reading comprehension, math, writing, speaking, and reasoning and/or programs leading to education credentials (GED, high school diploma, or college degree). | Confirm that the education services are not federal, state, or locally-funded programs recorded under 208 or 209. | 4 | 22 | 26 |
| 312 | Enrolled In Federal Training | Staff refers individual to federally-funded program and verifies entry into training. (e.g., WIA, Job Corps, etc.) | Does the file contain case notes, as required, in which staff document the name of the federal program, the training provider, course of study, and the start date? | 2 | 2 | 4 |
| TOTAL | | | | 130 | 255 | 385 |

Source: LAC

We found 47 (87%) of the 54 files with individual employment plans (IEPs), containing documentation of an IEP in the case notes. However, the IEPs are required have plan goals, and steps and timetables to achieve employment. In 20 of those 47 cases (43%) even where an IEP existed and a goal statement was found, there were no tasks or timetables for completion listed. The absence of specific objectives, timetables, and benchmarks for completion undermines the utility of the IEP as a tool in assessing employment barriers, mitigating those barriers and preparing people for gainful employment.

Documentation is important to monitoring progress toward finding gainful employment. It also allows DEW to analyze the effectiveness of its services for all participants and especially those participants who have barriers to employment.

Recommendations

23. The Department of Employment and Workforce should takes steps to ensure that all services are properly documented.
24. The Department of Employment and Workforce should audit, on a quarterly basis, a sample of Wagner-Peyser files to determine if work center staff are adding the appropriate documentation to participants' files. The results should be shared with work center management and incorporated into follow-up training of work center staff.

Reemployment Data Quality

The Department of Employment and Workforce (DEW) assists individuals in finding employment and in finding employees for companies. During our review, we found that DEW has not yet corrected data issues associated with its Reemployment and Eligibility Assessment (REA) program. Thus, DEW is unable to determine whether its REA services are effective in returning people to work and reducing the cost of unemployment insurance. We also found that DEW was in the process of modifying its approach to service delivery.

Reemployment and Eligibility Assessment (REA) Program

According to reports DEW files with the United States Department of Labor (USDOL), most participants receiving REA services experienced longer periods of unemployment insurance (UI) duration than those in a comparison group who did not receive services. This conflicts with one of DEW's key strategic goals, which is to demonstrate shorter duration of UI benefits for claimants receiving REA services. We found that DEW has experienced data issues with its REA program. Consequently, the effectiveness of the REA program cannot be determined.

The REA program is a federally-funded grant program that combines one-on-one unemployment insurance eligibility reviews, labor market information (LMI), development of an individual reemployment plan, and referral to reemployment services and training. The goal is to return claimants to employment as quickly as possible, resulting in gainful employment for the claimant and savings to the state's UI fund.

Only those who apply for unemployment insurance benefits for reasons of "lack of work" are eligible for selection in the REA program. Those selected to receive REA services are to comprise no more than 80% of the claimants receiving UI within a given period of time. The remaining 20% are assigned to a comparison group, and performance outcome data are compared for claimants from each group. Assignments to one group or the other is determined by random selection.

In 2012, the U.S. Department of Labor questioned DEW's methodology for evaluating the effectiveness of its REA program. The problem centered on the characteristics of those selected for REA services and the fact that those selected for services were unemployed for "lack of work" while those with whom these participants were compared had become unemployed for a variety of reasons, including, but not limited to "lack of work." Therefore, the two groups were not comparable. This lack of comparability undermined any attempt to draw valid conclusions about the impact of the reemployment services.

DEW reported that in 2012 it revised its approach for selecting those with whom the employment outcomes of REA participants are to be compared to ensure that the two groups are comparable. However, as recently as December 2013, according to U.S. Department of Labor staff, DEW continues to have data issues that prevent drawing conclusions about the effectiveness of the program. DEW reportedly has relied on assignment by social security number rather than random selection.

DEW has experienced data issues with the REA in the past. In our 2012 review, DEW initially reported that for the first quarter of 2010, the average duration of UI benefits for REA participants was 17 weeks versus 18 weeks for those receiving services. DEW subsequently investigated this and found that there was a data error and reported a duration of 20.9 weeks for REA participants getting services versus 21.7 for those that did not.

For this review, we examined nine quarterly reports from 2010–2012 for the REA initiative. Quarterly reports in 2010 to the U.S. Department of Labor include as a performance measure the average duration of UI. Outcome data shows mixed results with no clear indication that reemployment services yield positive results for reemployment or UI savings.

Table 4.7: Average Weeks to Reemployment and Average Duration of UI Benefits for REA Participants and Comparison Group

| PERIOD ENDING | AVERAGE WEEKS DURATION OF UNEMPLOYMENT BENEFITS | |
|---------------|---|------------------|
| | COMPARISON GROUP | REA PARTICIPANTS |
| 03/31/2010 | 16.0 | 16.2 |
| 06/30/2010 | 15.2 | 15.0 |
| 09/30/2010 | 14.9 | 15.0 |
| 12/31/2010 | 14.7 | 15.0 |
| 03/31/2011 | 14.3 | 15.4 |
| 06/30/2011 | 12.4 | 13.8 |
| 09/30/2011 | 11.3 | 11.7 |
| 12/31/2011 | 10.9 | 11.9 |
| 03/31/2012 | 11.0 | 11.3 |

Source: DEW, USDOL

Due to the data issues discussed above, it is unclear if the REA program is effective. It remains unclear whether the REA services contribute to a more positive outcome than the outcome experienced by those not participating in REA.

4-R Pre-Assessment

In 2012, we reported that the Department of Employment and Workforce was in the process of implementing a system known as the “4-R” pre-assessment, the goal of which was to get UI claimants back to work as quickly as possible. The 4-R process gathers information from various sources and categorizes individuals who are filing for unemployment insurance benefits for reemployment planning purposes. The four categories identified as “Refer, Refresh, Retrain, and Remediate” are defined below. Using data from a UI claimant’s initial claim and wage records, such as education and work history, along with labor market information, workforce center staff can place UI claimants in one of the 4-R categories. This is intended to support staff in assisting the claimant in accessing a menu of employment services targeted to assist in overcoming the claimant’s most critical employment barriers.

Refer

Education ranging from HS diploma, GED, or higher.
Good work history with no lengthy gaps. Skilled in growing occupations.

Refresh

Education ranging from HS diploma, GED, or higher.
Good work history, but with some gaps and shorter than “Refer” category. Skilled in growing occupations.

Retrain

Education ranging from less than HS diploma or GED to higher.
Good work history and skilled, but in declining occupations.

Remediate

No diploma or GED. Little work history. Skills deficient.

DEW is currently in a period of transition in its service delivery. It is implementing a new service model emphasizing intensive services especially to those persons with educational or skill barriers to employment. According to senior DEW staff, the 4-R program “lost some traction during the agency’s restructuring efforts...” However, the occupational reports that are generated on UI claimants for the 4-R program are under review for use by workforce center staff operating under the new service model.

To date, the program is under review, and because the department began implementing a new service model on July 1, 2013, there is no evidence that the 4-R pre-assessment, with or without expansion, is effective in moving UI claimants into jobs more quickly than an alternative assessment approach or no pre-assessment at all. Until data quality issues are resolved, implementing the 4-R process within the new service model will be more difficult.

New Service Model

The new service model emphasizes services to those with educational barriers to employment. We reviewed the analysis that DEW conducted to determine its new service model.

DEW's analysis focused on South Carolina's labor supply and demand during the period from 8/17/2010 – 5/23/2013 and projected a surplus of low-skilled workers relative to demand for low-skilled jobs and a deficit of middle-skilled workers compared to the availability of middle-skilled jobs. Middle-skilled workers are those with a high school diploma or GED with some post-secondary education and training, as well as some on-the-job experience. Of the top 100 projected occupations in the state between 2010 and 2020, 45% are projected to require a minimum of at least a high school education or GED equivalent coupled with job experience, or additional post-secondary education. That compares to 33% for low-skilled employment, that requires no high school diploma or GED equivalent and less than one year of job experience, or 22% of the high-skilled employment which demands a bachelor's degree or higher.

As a result of this analysis, workforce centers are to be staffed with new positions including a resource specialist responsible for facilitating workshops and providing assistance with resumes, job searches, and interview techniques; a career development specialist responsible for delivering case management services to those with significant barriers to employment; and a recruiter responsible for matching qualified workers with open job orders.

We requested a copy of DEW's policies and procedures governing its new service model. DEW responded with a notebook containing inserts that included PowerPoint slides and handouts. We reviewed the material and found it contained no statement of purpose and had no table of contents or index to which workforce center or main office staff could easily refer in order to ensure efficient and effective implementation of reemployment services to those who need help finding employment.

Recommendations

25. The Department of Employment and Workforce should work with the United States Department of Labor to ensure that the data and methods used to measure the Reemployment and Eligibility Assessment program are valid and reliable.
26. Once the data and methodological issues have been addressed, the Department of Employment and Workforce should compare duration of unemployment insurance benefits between those participating in Reemployment and Eligibility Assessment and those not participating. If the duration is found to be longer for those receiving services than for those not receiving services, the department should evaluate its reemployment services to determine how they can be made more effective.
27. The Department of Employment and Workforce should develop policies and procedures governing its redesigned Wagner-Peyser service delivery model that allows users in the workforce center and in the main office to access key information necessary for implementation. At a minimum, the manual should include information on staffing and procedures for identifying and assisting those with barriers to employment.

Chapter 4
Reemployment Services

Fraud and Overpayments

In this chapter, we reviewed DEW's system for detecting fraud and overpayments. We found DEW can improve its fraud detection efforts by improving its wage audit notice process, thereby improving employers' responses to requests for wage information. DEW uses the responses to determine if claimants are receiving both wages and unemployment benefits at the same time. Also, DEW's cross-match of the unemployment benefits file with social security and inmate files could be more productive.

Fraud Detection Efforts

We found DEW could enhance its effort to prevent fraud and overpayments by implementing a USDOL-sponsored program, the State Information Data Exchange System (SIDES) that assists in the exchange of wage data between employers and the agency in an effort to prevent fraud and overpayments. We also found that DEW excluded the Defense Finance and Accounting Service (DFAS) from the WAN process without sufficient analysis. DEW's social security and inmate wage cross matches help detect if deceased individuals or inmates are collecting UI. However, the inmate cross match is not as productive as it could be due to data reliability issues.

Low Response Rate to Wage Audit Notice Requests

One important means of detecting fraud and overpayments of UI benefits is by cross matching claimant UI data with other databases in an attempt to determine if a claimant is both collecting UI benefits and also working and earning wages at the same time. One of the cross matches DEW runs is a quarterly wage cross match which compares the weekly unemployment payments to claimants with the quarterly wage payments reported by employers. Whenever there is a match between the databases, a Fraud-X score is assigned based on the number of weeks of unemployment claimed in the quarter and the amount of wages. The higher the number of weeks of unemployment and the larger the amount of wages, the higher the score and the greater the likelihood of fraud or overpayment. Because the amount of wages reported is the total amount for the quarter and is not broken down by week, DEW sends a Wage Audit Notice (WAN) to the employer requesting a breakdown, by week, of the wages paid during the quarter. This is then compared to the weeks for which the claimant received UI to determine if there is any overlap.

WANs are sent to the employer by U.S. mail. For calendar year 2012, DEW reported that approximately 44% of the WANs that were generated using the quarterly wage cross match were not returned. Without the wage information, DEW is unable to determine if an overpayment or fraud has occurred and no further action is taken. We estimate that, for 2012, approximately \$15 million in potential fraud or overpayments were not pursued as a result of the failure to receive the wage audit notice from the employer.

DEW does not send out additional follow-up notices. DEW estimated the postage cost for sending a second notice to be approximately \$42,000. Also, DEW has not contacted employers with a high number of unreturned WANs to determine why the WANs are not being returned. We contacted several employers with a significant number of unreturned WANs in an attempt to determine the reasons why the WANs were not being returned.

Defense Finance and Accounting Service

For 2012, the employer with the largest number of unreturned WANs was the Defense Finance and Accounting Service (DFAS) which handles payroll for the U.S. armed forces. DFAS did not return 1,717 WANs. According to DEW officials, DFAS historically has not responded to wage audit notices. Also, according to an official with On Point Technology, which runs DEW's Benefit Audit, Reporting, and Tracking System (BARTS), DFAS's failure to respond is not unique to South Carolina, but is also the experience in other states for which it provides services. DEW has not attempted to follow up with DFAS to determine why it has not responded to the 1,717 outstanding WANs even though DFAS was the single employer with the largest quantity of outstanding WANs. In addition, DEW, based on the recommendation of its BARTS contractor, decided to stop sending WANs to DFAS effective December 2011. However, an error occurred which resulted in DFAS being sent WANs in 2012. The contractor reports that of five states they provide services to, two exclude DFAS and three are still sending notices.

We contacted a DFAS official who indicated that DFAS was willing to work to resolve the issue of the outstanding WANs. The official reported that the WANs were mailed to DFAS offices which do not have access to the information needed to respond. Also, the official reported that DFAS could not locate any of the WANs that DEW had sent. It has been suggested that the WANs may be for UI claimants who are performing their guard or reserve duties for which they receive compensation and which would not be considered a fraud or overpayment. DEW stated it did not have the resources to resend all 1,717 WANs but, at the request of the LAC, DEW resent 35 of the 1,717 WANs to DFAS in an attempt to determine if there had been any

fraud or overpayments. As of November 2013, these WANS were still being researched and no determination had been made. We estimate there may be over \$1 million in potential fraud or overpayments associated with the 1,717 WANS.

On November 20, 2009, Presidential Executive Order 13520 was issued with the purpose:

...to reduce improper payments by intensifying efforts to eliminate payment error, waste, fraud, and abuse in the major programs administered by the federal government, while continuing to ensure that Federal programs serve and provide access to their intended beneficiaries.

Also in this order, the U.S. Office of Management and Budget (OMB) was directed to identify Federal programs in which the highest dollar value or majority of government-wide improper payments occur. As of November 2013, OMB had identified the unemployment insurance program as 1 of 13 “high error” programs in the federal government. By not responding to the WANS for state workforce agencies, DFAS may be allowing a significant amount of fraud and overpayments to go undetected and uncollected. It also is not supporting federal efforts to reduce fraud, waste and abuse. According to DEW officials, the U.S. Department of Labor (USDOL) is aware of this issue and is working to address it.

State Agencies Not Responding to WANS

We also found that state agencies were not responding to wage audit notices from DEW. We contacted three state agencies, the S.C. Department of Transportation (DOT), the S.C. Department of Corrections (SCDC), and Trident Technical College (TTC), which had a significant number of unreturned WANS. For 2012, DOT had 71 WANS which had not been returned. According to a DOT official, the WANS had been received at the agency and filled out and then placed in agency files but no copy was returned to DEW. SCDC officials reported they had returned all 101 of the WANS. However, DEW reported that it had no record of receiving them. An official at Trident Technical College reported that its 41 unreturned WANS were on the South Carolina Business One Stop (SCBOS) website, a DEW website designed specifically for South Carolina businesses’ use, but the college had not linked to the website and was unaware that the WANS were there.

We requested DEW resend the WANs to these agencies so the agencies could respond and a determination could be made as to fraud or overpayments. DEW resent the WANs to DOT and TTC but reported it did not have staff to resend the WANs to SCDC. According to DEW, monitoring these claims is a very manual process and requires resources DEW does not have. Of the 71 claims sent to DOT, DEW reported that eight resulted in overpayments or fraud totaling \$6,645. Two were found to involve fraud and six involved non-fraud overpayments. For TTC, 15 of the 41 claims resulted in overpayments or fraud totaling \$25,969. Seven were considered to rise to the level of fraud.

Failure to respond to a WAN can result in another employer's taxes increasing. The WAN is sent to the current employer, not the employer against whom the UI benefits are being charged. The WAN form itself notes that completion of the form can assist DEW in determining if, "potential credits may be due the charged employer." For the WANs that were initially not returned by the DOT and Trident Technical College, we attempted to determine the impact on the tax rate for the employers who had the overpayments charged against their accounts. According to DEW, the mainframe UI benefit system is programmed to automatically credit a charged contributory employer's account. DEW stated that a review of the 84 WANs from our sample indicated that no employers tax rate would have changed based on the overpayments in these cases. DEW did not provide documentation that would allow us to verify their review.

WANS Not Returned by Private Sector Employers/Third Party Administrators

We also reviewed WANs not returned by private sector companies. For 2012, Wal-Mart had 1,259 unreturned notices. As with DFAS, Wal-Mart's failure to return WANs is not unique to South Carolina. According to a DEW official, DEW contacted the state of Arkansas, the location of Wal-Mart's home office, for guidance on obtaining a response from Wal-Mart and was told that Wal-Mart does not respond in that state as well. During our review, we discovered that Wal-Mart has contracted with a third party administrator, TALX, to handle its payroll, including responding to wage audit notice requests from state workforce agencies. We found that TALX provided payroll services for 883 companies with 13,469 unreturned WANs for 2012. We estimate these unreturned WANs represent almost \$5 million in potential fraud and overpayments.

TALX utilizes the State Information Data Exchange System (SIDES) to respond to wage audit notices. DEW does not currently use the SIDES Earnings Verification Exchange module which has been approved by USDOL and which allows large employers and third-party administrators to process large quantities of WANs free of charge in a secure, electronic, and nationally-standardized format. Instead, DEW has implemented through BARTS an Internet Response Module for Employers (IRME) which would require TALX to bypass SIDES and have staff login to IRME and manually enter the required data for each WAN. In addition, TALX would have to create a separate sign-in for each of the companies for which it provides payroll services.

Inmate and Social Security Cross-Matches

We examined the inmate and social security cross-matches that DEW performs to check for fraud or overpayments to inmates or to deceased individuals. DEW performs cross-checks between new claimant data and the Social Security Administration (SSA) daily to verify that claimant names, Social Security numbers (SSN), and dates of birth match the record on file with the SSA. Additionally a cross-match is performed weekly for those claimants receiving UI benefits and social security to identify individuals who are deceased or where the SSA data no longer matches (such as a name change). UI compensation is immediately suspended if a claimant is identified during the weekly DEW/SSA cross-match.

When claimant data does not match during the initial cross-match, claimant data is rejected and the individuals are instructed to contact SSA to verify/correct the information. Following the necessary corrections, the claimants can resubmit for unemployment. Resubmissions are also subject to the same cross-match.

In April 2013, DEW and SCDC entered into an agreement that provides for computer matching between the SCDC and DEW data. Under the agreement, SCDC performed an initial cross-match of all inmates currently in the system and also runs a cross-match for all inmates entering the SCDC system on a weekly basis. The initial cross-match identified 53 cases of overpayments for approximately \$54,000. Of these cases, 26 were identified as fraudulent. Subsequent weekly cross-matches from April 1 to August 21 have produced an additional 7 overpayment cases of which none were identified as fraudulent.

Although DEW has identified cases of overpayment and fraud using the inmate cross-match, the agency reports that over 50% of the files cannot be matched with DEW files due to inmates using alias names, SSNs, and dates of birth. The names, SSNs, and dates of birth are those provided by the court system. Also, the crossmatch only includes inmates within the SCDC system and excludes those within municipal and county prison systems.

Conclusion

By analyzing why the WANs are not being returned, DEW could potentially identify and collect a much larger amount of fraud and overpayments. Also, DEW should not exclude employers who fail to respond without first making a diligent effort to determine why they have not responded. Efforts to educate employers on the importance of returning WANs should also be undertaken. S.C. Code §41-29-150 states:

The Department and the chairman of an appeal tribunal may require from an employing unit a sworn or unsworn report with respect to persons employed by it that he or it considers necessary for the effective administration of Chapters 27 through 41 of this title.

If the information is not provided, then DEW may, under the general penalty provision of §41-41-50 penalize employers for not responding. However, we found no evidence that DEW has penalized an employer for failure to respond to a WAN. In addition, there is no language in the WAN stating that an employer may be subject to a penalty for not responding.

Recommendations

28. The Department of Employment and Workforce should implement the Earning Verification Exchange module of the State Information Data Exchange System (SIDES).
29. The Department of Employment and Workforce should periodically analyze its unreturned wage audit notices to determine which employers are not returning the notices and the reasons for the failure to return the notices.
30. The Department of Employment and Workforce should not exclude employers from the wage audit notice process without contacting the employer to determine why the employer is not responding and if the failure to respond can be corrected.
31. The Department of Employment and Workforce should educate employers on the importance of returning wage audit notices.
32. The Department of Employment and Workforce should revise its wage audit notice form to include a statement that employers could be subject to a penalty for failure to return the notice.
33. The Department of Employment and Workforce should implement a system for penalizing employers for failing to return wage audit notices.

Chapter 5
Fraud and Overpayments

Follow-Up

The Legislative Audit Council released *A Management Review of the Department of Employment and Workforce* in March 2012, which included 36 recommendations. Since the publication of the report, we followed up on these recommendations to determine which have been implemented. DEW implemented 14 of the 24 recommendations directed to the agency.

| LAC RECOMMENDATIONS | |
|---------------------|----|
| Implemented | 17 |
| Not Implemented | 19 |
| TOTAL | 36 |

1. The General Assembly should amend state law relating to benefits for seasonal workers to bring it into conformance with federal requirements.

NOT IMPLEMENTED

Legislation passed by the S.C. General Assembly in 2011 restricting unemployment eligibility for seasonal workers was determined by the U.S. Department of Labor (USDOL) to be out of compliance with federal law, and has not been implemented by DEW.

Senate bills 478 and 1069 were introduced in the 2011-2012 legislative session. These bills included benefits for seasonal workers, but did not pass. No relevant legislation has been introduced for the 2013-2014 legislative session.

2. The Department of Employment and Workforce should implement a written policy regarding the disqualification periods for terminations for cause not involving gross misconduct. The department should also develop procedures to monitor to ensure compliance with the policy.

IMPLEMENTED

In 2010, the S.C. General Assembly defined gross misconduct to include several specific employee actions, and increased the penalties for those actions. By applying this law, DEW would be reducing the amount paid in unemployment benefits to claimants who were determined to have committed gross misconduct, which would result in substantial savings to the state and the trust fund.

DEW has implemented this recommendation. Since our 2012 audit, new South Carolina laws were passed addressing disqualification for unemployment insurance after termination involving misconduct. DEW then implemented a written policy, including disqualification periods for terminations not resulting from gross misconduct, and developed procedures to monitor compliance with the policy.

3. The Department of Employment and Workforce should monitor the U.S. Department of Labor's study of combined wage claims and revise its policies for charging employers for combined wage claims to ensure they are in accordance with federal requirements and state law.

NOT IMPLEMENTED

In our 2012 audit, we found that DEW was not properly charging combined wage claims back to South Carolina employers as instructed by the USDOL. The size of the trust fund was reduced as a result of this failure to recoup the cost of these interstate claims, and we noted that the failure could also result in charging all other South Carolina employers higher rates.

DEW stated that the USDOL was working with the National Association of State Workforce Agencies to issue new directives clarifying state agencies' responsibilities for charging employers for combined wage claims. According to the USDOL, there has been no change since our communication with USDOL during our 2012 audit, and South Carolina is still not complying with the USDOL's combined wage claims requirements to charge these claims back to employers.

4. The General Assembly should examine the contingency assessment to determine if it is still needed.

IMPLEMENTED

In 2010, the General Assembly amended state law to increase the taxable wage base, and resulted in increased contingency assessment administrative funding to DEW. It is not clear that the General Assembly intended for DEW to receive this increase in funding, and there is no system in place to measure the effectiveness of these funds used by DEW. There are 22 states that do not have a contingency assessment.

Senate bill 619 was introduced in April 2013. If passed, it would amend state law to eliminate the contingency assessment. It has been referred to the Senate Labor, Commerce, and Industry committee.

5. The General Assembly should examine the method used to fund the contingency assessment to determine if the assessment should be linked to the taxable wage base or funded in some other manner.

NOT IMPLEMENTED

In 2010, the General Assembly passed a law to incrementally increase the taxable wage base from \$7,000 in 2010 to \$14,000 in 2015. No new legislation has been introduced to revise the funding mechanism. However, as noted above, a bill has been introduced to eliminate the contingency assessment.

6. The Department of Employment and Workforce should establish a system for monitoring the effectiveness of services paid by the contingency assessment funds and include a review to determine if the cost to collect the tax can be lowered so that more funds can be used for services to claimants.

NOT IMPLEMENTED

DEW has not established a system for monitoring the effectiveness of these services, and has not reviewed whether this cost could be lowered (see *Contingency Assessment Funding*).

7. The General Assembly should amend S.C. Code §41-33-45 to remove the requirement for the Department of Employment and Workforce to report on cost shifting of unemployment benefits among employers in the agency's trust fund assessment report.

NOT IMPLEMENTED

No relevant legislation was introduced in the 2011-2012 or the 2013-2014 legislative sessions to address cost shifting.

8. The General Assembly should amend state law to require only one trust fund report from the Department of Employment and Workforce each year.

NOT IMPLEMENTED

In our 2012 audit, we found that this reporting process could be streamlined. No relevant legislation to combine the reports was introduced in the 2011-2012 or the 2013-2014 legislative sessions.

9. The Department of Employment and Workforce should publish the agency's annual trust fund report on the agency's website.

IMPLEMENTED

Since our 2012 audit, DEW has begun publishing its annual trust fund report on its website.

10. The Department of Employment and Workforce's annual trust fund report should include analyses and recommendations discussing various options for improving the solvency of the trust fund, addressing both benefits and taxes.

IMPLEMENTED

The agency's annual trust fund report includes analyses and recommendations that address benefits and taxes and discuss various options for improving solvency of the trust fund.

11. The General Assembly should examine whether the Workforce Initiative/Economic Development Research Committee is beneficial to the state, and if so, reconstitute the committee.

NOT IMPLEMENTED

In our 2012 audit, we found that state law created the Workforce Initiative/Economic Development Research Committee and made it responsible for examining the state's economy and making recommendations for improvement. The committee was to report by January 1, 2011, and then be abolished, but according to a DEW official, the committee never met or reported. No relevant legislation was introduced in the 2011-2012 or the 2013-2014 legislative sessions.

12. The Department of Employment and Workforce should monitor to ensure that eligibility reviews are being conducted at the intervals required by policy.

NOT IMPLEMENTED

DEW has not implemented this policy because eligibility reviews are not being conducted for UI claimants, except for Reemployment and Eligibility Assessment (REA) participants. DEW suspended its eligibility reviews in February 2013. According to a DEW official, DEW is in the process of implementing an automated system to conduct digital eligibility reviews for all UI claimants. However, there is no estimated date for this automated system to go into effect and for DEW to resume conducting eligibility reviews for all UI claimants.

S.C. Code §41-29-120(D)(1) states that DEW, to the fullest extent possible under state and federal law, is required to increase the eligibility reviews. In addition to not implementing this recommendation, DEW is also not in compliance with state law because it has decreased the number of eligibility reviews it conducts.

13. The Department of Employment and Workforce should implement a policy to periodically verify wage information during all eligibility reviews.

NOT IMPLEMENTED

In our 2012 audit, we found that DEW had not been verifying claimants' job search activities. DEW stated that it did not agree that using eligibility reviews for this purpose would be the best method of verifying the information, and that using BARTS would be better; therefore, DEW did not implement a policy as we recommended.

At this time, such a policy would not be applicable because DEW is currently not performing eligibility reviews for UI claimants, except for Reemployment and Eligibility Assessment (REA) participants. However, DEW has informed us that it will be reinstating eligibility reviews for all UI claimants when its automated system is completed. At that time, this recommended policy will again become applicable.

14. The Department of Employment and Workforce should analyze the eligibility review process to determine how the effectiveness of eligibility reviews can be improved.

IMPLEMENTED

Since our 2012 report, DEW has hired a company to perform an independent analysis of its UI business process for Unemployment Insurance as required by the USDOL. Findings and recommendations for that analysis were used by DEW to reorganize the delivery of UI services. This includes the transition to automated eligibility reviews, which we were told by a DEW official is underway, but no date for beginning these automated reviews has been decided.

15. The Department of Employment and Workforce should implement a system to verify a random sample of claimants' job contacts.

NOT IMPLEMENTED

A pending legal case against DEW alleges that the agency does not have the authority to enforce the current requirement of one SCWOS job contact per week, mainly because DEW decided on this policy internally without having a regulation passed. This lawsuit brought into question whether DEW has the authority to require the electronic search. According to an agency official, DEW still instructs UI claimants to conduct at least one job search per week through SCWOS as part of the requirement of four job contacts per week; however, DEW stated it discontinued verifying job searches through SCWOS until October of 2013.

16. The Department of Employment and Workforce should revise its work search form to require sufficient information to allow DEW to verify the claimant's job search effort and inform claimants that job contacts are subject to random verification.

IMPLEMENTED

DEW has revised its work search form to include this information.

17. The Department of Employment and Workforce should establish a mechanism for tracking how often claimants' benefits are stopped for failure to meet job contact requirements.

NOT IMPLEMENTED

In response to our 2012 report, DEW stated that it intended to monitor the frequency of benefits being stopped because of failure to meet job contact requirements through SCWOS. However, claimants are only required to conduct one of the four required weekly contacts through SCWOS. DEW has a mechanism in place to determine if a claimant has not performed a job search through SCWOS. However, DEW did not provide evidence it can monitor and detect the other methods of job searches performed by claimants. Also, DEW suspended verification of SCWOS job searches until October of 2013, and is not currently stopping benefits for failure to complete the required searches, due to pending legal action.

18. The Department of Employment and Workforce should use labor market statistics, surveys of SC Works Centers, and other data when deciding the appropriate number of job contacts required.

NOT IMPLEMENTED

Since our 2012 audit, DEW has not revised the number of job contacts required of claimants.

According to a DEW official, the agency still has no formalized procedures for setting or changing the number of job contacts required. We requested information regarding which DEW official(s) would be responsible for setting the required number of contacts, the process required to make this decision, and criteria required to be used in the agency's decision-making process. We were told that DEW's UI senior management would recommend a required number of contacts to the agency's executive director if the current requirement were to be changed, and that DEW does not plan to change the required number of work contacts.

A variety of information, such as the USDOL's "Guide to State and Local Workforce Data: For Analysis and Informed Decision Making," is readily available for state agencies to use when making policy decisions such as these.

19. The Department of Employment and Workforce should ensure that all communication with claimants regarding the number of required weekly job contacts is accurate and consistent.

IMPLEMENTED

DEW is consistently communicating its requirements for four job contacts per week, with one made via SCWOS. We found the same information on DEW's website and in the documents it provided to claimants.

20. The Department of Employment and Workforce should conduct impact studies on specific reemployment services in order to determine their effectiveness in assisting claimants. These studies should include comparing the outcomes of claimants who receive reemployment services with similarly-situated claimants who did not receive services in order to determine the effectiveness of the services.

NOT IMPLEMENTED

DEW does not report on the effectiveness of its reemployment services beyond the performance measures required to be reported to USDOL. During our current review, we found that DEW could improve its methods for analyzing the effectiveness of services (see *Effectiveness of Reemployment Services*).

21. The Department of Employment and Workforce should ensure that services provided to claimants are accurately recorded.

NOT IMPLEMENTED

We reviewed a sample of services to determine if they were being documented. We found that, overall, in approximately two-thirds of our sample, documentation was missing (see *Documentation of Wagner-Peyser Services*).

22. The Department of Employment and Workforce should continuously work to make the SCWOS more user-friendly and should add on its web pages a prominent, user-friendly tutorial to assist users.

IMPLEMENTED

Tutorials have been added to the site to help users navigate the site and use its features. The tutorials are prominently placed on the site and are user-friendly.

23. The Department of Employment and Workforce should monitor customer satisfaction with the SCWOS.

IMPLEMENTED

In our 2012 audit, we found that DEW had been using a customer satisfaction survey for SCWOS users statewide. The survey asked questions such as the reason for using SCWOS, whether SCWOS was easy to use, and whether it met the needs of the user. However, because of limitations in the survey, we stated that DEW should consider alternate monitoring methods to more accurately measure customer satisfaction with SCWOS.

DEW continues to monitor customer satisfaction with SCWOS by using essentially the same survey. We compared survey results we obtained from DEW during our current audit to the results we reviewed during our 2012 audit. We found the results from the two reports to be very similar, although there was a significant increase in the number of respondents for the more recent results. We encourage DEW to continue monitoring customer satisfaction with SCWOS through surveys and alternative methods that may produce more accurate results.

24. The Department of Employment and Workforce should clearly label the SCWOS as a service of DEW.

IMPLEMENTED

The site is now clearly labeled as a service of DEW.

25. The Department of Employment and Workforce should ensure that its SC Works Center staff who assist employers with job orders promptly respond to employers' requests for assistance.

NOT IMPLEMENTED

We called all SC Works Centers with contact information listed by DEW for employers to find assistance placing job orders. For centers we were able to contact, we asked basic questions that employers often ask to determine SC Works Centers' helpfulness in this process. We found the employees to be helpful and informative for those centers that we were able to contact. However, we were unable to contact an employee who could answer our questions for a large percentage of our calls. Table 6.1 shows specific data for these test calls.

DEW recently made a change in its delivery of UI services. As a result, UI claimants now must call a central number rather than individual SC Works Centers. However, according to a DEW official, DEW's UI call center wait queue is programmed to not allow callers into the queue if the estimated wait time is more than 15 minutes.

Table 6.1: Test Call Results of SC Works Centers Contacted for Employer-Related Questions

| TEST CALL RESULT | NUMBER OF WORKS CENTERS | TOTAL NUMBER POSSIBLE | PERCENTAGE WITH RESULT |
|--|-------------------------|-----------------------|------------------------|
| Answered our call | 25 | 55 | 45% |
| Did not answer our call | 30 | 55 | 55% |
| No one answered; voicemail reached | 13 | 55 | 24% |
| Had telephone numbers listed by DEW that were incorrect or disconnected | 15 | 55 | 27% |
| Unable to reach due to busy signal or no one answered | 12 | 55 | 22% |
| Answered our questions (during original call or the center's return call) | 22 | 25 | 88% |
| Calls answered, but referred to other SC Works Center because center called didn't provide service as listed by DEW in contact information | 3 | 25 | 12% |
| Did not have functioning voicemail (of those that did not answer our call) | 17 | 30 | 57% |
| Voicemail reached but unable to leave message due to full mailbox | 1 | 13 | 8% |
| Able to leave and left a voicemail message where voicemail was reached | 11 | 12 | 92% |
| Returned our call after voicemail message | 5 | 11 | 45% |

Source: LAC

26. The Department of Employment and Workforce should regularly evaluate the systems it uses to identify fraud and overpayments to ensure they are operating correctly.

IMPLEMENTED

DEW obtained an evaluation of its BARTS system from the BARTS vendor, On Point Technology, Inc., in order to analyze the agency's use of the software. However, during the course of our review, we found that DEW's system for identifying and collecting fraud and overpayments could be improved (see *Fraud Detection Efforts*).

27. The Department of Social Services should work with the Department of Revenue and the Department of Employment and Workforce to develop an outreach program to inform employers in the state about the State Directory of New Hires' requirement.

IMPLEMENTED

The Department of Social Services (DSS), the Department of Revenue (DOR), and DEW have implemented this recommendation. According to a DSS employee, the agency has been mailing notices to employers informing them of directory requirements. The number of employers registered on the state's new hire directory site has increased almost 90% in the last two years. DOR includes a brochure for the business seminars it conducts. It also uses a slide presentation about the directory, prepared by DSS, in its employer seminars and presentations. DOR also includes directory information on its SCBOS website. The DEW website has a link to the state new hire directory on its employer information page. DEW has also provided information about the directory in its e-newsletter for employers. A variety of outreach techniques have been suggested by the U.S. Department of Health and Human Services Office of Child Support Enforcement or implemented by other states. South Carolina could consider using some of the techniques it has not already tried.

28. The Department of Social Services should implement the enforcement methods specified in state law to compel employers to report new hires.

NOT IMPLEMENTED

Federal law allows states to fine and/or impose nonmonetary penalties on employers who fail to report new hires to the state new hire directory. South Carolina has passed a state law reiterating the state's ability to impose these penalties. However, South Carolina has not penalized any employers for failure to report new hires.

29. The Department of Social Services should improve the accuracy of the State Directory of New Hires.

IMPLEMENTED

We reviewed federal exception reports and compared them to the same reports we analyzed in our 2012 audit. The results from these reports show improvement in the collection of information on new hires. However, there are still a significant number of new hires not being reported (see Table 6.2).

**Table 6.2: Data Comparison —
1st Quarter 2011 and
4th Quarter 2012**

| | 2011 1 ST QUARTER | 2012 4 TH QUARTER | PERCENTAGE CHANGE |
|---|---------------------------------|---------------------------------|----------------------|
| Total S.C. New Hires | 1,577,580 | 1,680,048 | Increase of 6% |
| S.C. Employers Not Reporting at Least 50% of New Hires | 27,777 | 21,254 | Decrease of 23% |
| S.C. Employees Not Appearing in New Hire Directory, but Had Quarterly Wages With New Employer | 151,373 | 129,746 | Decrease of 14% |
| New Hires Not Reported, Employed by State of S.C. | 9,154 | 2,627 | Decrease of 71% |

Source: U.S. Dept. of Health and Human Services, Office of Child Support Enforcement

30. The Department of Social Services should revise the agency's policy of data purging to match the two-year requirement of the National Directory of New Hires.

NOT IMPLEMENTED

DSS has not revised its data purging to match the two-year requirement of the National Directory of New Hires. According to a DSS official, the agency has not followed our recommendation because there is no federal requirement that states must purge this data every two years.

31. The General Assembly should amend §43-5-598 of the S.C. Code of Laws to require all employers to submit the date of hire with other required State Directory of New Hires information.

NOT IMPLEMENTED

No relevant legislation was introduced in the 2011-2012 or the 2013-2014 legislative sessions.

32. The Department of Employment and Workforce should take steps to ensure that claimants are not overpaid on claims involving multiple benefit years.

IMPLEMENTED

DEW reports that it installed an edit on its system to prevent these overpayments from occurring.

33. The Department of Employment and Workforce should ensure that information it presents through any type of media is up-to-date, accurate, and complete to meet the needs of unemployment insurance claimants, job seekers, and other affected individuals or entities.

IMPLEMENTED

The information we reviewed since the 2012 audit, regardless of media type used, was accurate and sufficient to meet the needs of those who need to use it. For example, forms on DEW's website have been updated to reflect current job contact policy. The claimant handbook on DEW's site has also been updated.

34. The Department of Employment and Workforce should ensure that its SC Works Centers provide a reliable means of contact by telephone including a functioning voicemail system.

IMPLEMENTED

DEW recently made a change in its delivery of UI services. As a result, UI claimants now must call a central number rather than individual SC Works Centers.

35. The General Assembly should amend §41-29-300 of the S.C. Code of Laws to clarify the Department of Employment and Workforce's oversight role concerning the Workforce Appellate Panel.

NOT IMPLEMENTED

No relevant legislation was introduced in the 2011-2012 or the 2013-2014 legislative sessions.

36. The Department of Employment and Workforce should review all agency processes for effectiveness and compliance with law and policy.

IMPLEMENTED

DEW has taken significant action to review many agency processes for effectiveness and compliance with law and policy. For example, since our 2012 audit, the agency's internal audit department has chosen to review a number of agency areas across multiple department divisions. DEW also revised its UI service delivery system after seeking an independent analysis of its UI business processes. We also found that since our 2012 audit, DEW has sought various agency improvements through the procurement process, such as debt collection services, evaluation of SC Works Centers against certification standards, a separate analysis of the UI claims process, and a more efficient fraud detection and overpayment system. DEW has implemented a training and certification program for its staff who work directly with agency customers. In addition, it has analyzed the effectiveness of its BARTS software.

Chapter 6
Follow-Up

Agency Comments

P.O. Box 995
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Nikki R. Haley
Governor

Cheryl M. Stanton
Executive Director

May 20, 2014

Mr. Perry K. Simpson, Director
Legislative Audit Council
1331 Elmwood Avenue, Suite 315
Columbia, SC 29201

Dear Mr. Simpson:

It is a new day at the South Carolina Department of Employment and Workforce (DEW). The Unemployment Insurance Trust Fund is on a path to solvency in 2015 and more South Carolinians are employed now than ever before in the Palmetto State's history. In the last four measured quarters, 179,909 individuals entered employment using DEW and its workforce partners' services.

When I began my service as Executive Director on June 22, 2013, I immediately began to develop a strategic plan for the agency. Part of developing that strategic plan included personally meeting with the Legislative Audit Council (LAC) to get a better understanding of previous audits and their suggestions for framing the agency moving forward. Since that time, the agency has implemented a number of strategic initiatives to better serve South Carolinians both through reemployment services and the delivery of unemployment insurance benefits.

During my meetings with the LAC, I was assured that a draft of the second audit would be available by September 2013. Unfortunately, that draft was not provided until April 2014, and both the length of time it took to produce a final report as well as the amount of resources deterred from key strategic initiatives to respond to additional requests which were not included in that same final report was disappointing.

Under Section 112 of Act 146 of 2010, "The Legislative Audit Council shall contract for three independent management audits of the department's finance and operations. This first audit must be completed by July 1, 2011, the second audit must be completed by July 1, 2013, and the third audit must be completed by July 1, 2018."

As DEW responds to this final report, you will notice numerous instances where the LAC either appeared not to understand or not to consider the responses provided by the agency. To that end,

we have provided clarification. We appreciate the work of the LAC and look forward to continuing to implement solutions to better serve the businesses and citizens of South Carolina.

SOLVENCY AND NOTIFICATION PROCESS

On top of the recommendations included in this report, DEW also has many accomplishments to celebrate. One of those accomplishments includes DEW making, for the past three years, early repayments on the Trust Fund loan further saving the state (and ultimately its businesses) interest costs. These early repayments occurred both because South Carolina's economy improved more rapidly than expected and because of the great efforts taken by the Governor, General Assembly and DEW to protect the integrity of the Trust Fund.

In fact, to date, South Carolina has repaid more than \$580 million of the \$977 million borrowed from the federal government. The Trust Fund is on a path to solvency in 2015 and the outstanding balance stands at less than \$400 million.

Since becoming a borrowing state, South Carolina has been the only state to receive a waiver to avoid higher federal unemployment taxes for businesses for three consecutive years, saving South Carolina employers hundreds of millions of dollars.

ALTERNATIVES FOR ACHIEVING AND MAINTAINING SOLVENCY

Tax Debt

DEW issued a Request for Information (RFI) in October 2013 to collect information from interested parties regarding options for a vendor to effectuate prompt collection of employer liabilities owed to DEW. The agency has submitted to the Budget and Control Board a Request for Proposal (RFP) to solicit external debt collection vendors to assist with recovering delinquent tax payments. As part of that process, DEW is developing a debt aging report to assist both the outside vendors and the Finance Department in their annual financial audits. DEW currently tracks the age of delinquent taxes in our tax system by reviewing the outstanding balance summary of each delinquent account which indicates the date the debt was issued.

Benefits

DEW provided analysis to the LAC that the estimated cost savings from seasonal restrictions for unemployment insurance benefits was about 0.05 percent of benefit payments (or \$150,000 per year if benefit payments were \$300 million). To achieve \$3 million in savings from seasonal restrictions as calculated by the LAC, benefit payments would need to be in the range of \$6 billion per year – which has never happened in South Carolina. The highest DEW has ever paid annually in benefits is slightly more than \$900 million. Thus, the estimate of \$300,000 to \$3 million in savings is inaccurate. The cost to implement such changes are preliminarily estimated to be at least \$1.2 to \$1.4 million.

Contingency Assessment

DEW provided supporting documentation to the LAC showing that South Carolina is one of 49 states relying on either an administrative tax, or on general appropriation/other non-federal funds to supplement the declining federal funding for Unemployment Insurance (UI), Employment Services (ES), Workforce Investment Act (WIA), and other state-administered activities. In fact, a study by the National Employment Law Project (released in November 2013) explains that the federal government has neglected to adjust state administrative funding for inflation, employment growth, or the need for continuing capital investments such as information technology infrastructure upgrades. Moreover, one estimate is that the federal government has cut ES, WIA and Wagner Peyser funding in half over the past 10 years. Unfortunately, it appears none of this information was considered by the LAC as it finalized its report.

South Carolina has relied, in large part, on the contingency fund to provide the supplemental funding needed to ensure that South Carolinians continue to receive the services they need and deserve. South Carolina is not alone in this approach – approximately 30 states assess an administrative tax to offset declining federal funding for UI, ES, WIA, and other state-administered activities. Such an administrative tax has consistently represented the largest category of supplementary dollars used by similar workforce agencies in other states according to the NASWA State Supplemental Funding Survey (issued in February 2014).

In addition, the LAC report overlooks the statistics published in reports provided to the LAC, which show that 19 other states use either appropriated general funds or other non-federal funds to supplement grant dollars. DEW has not requested any general funds to supplement UI, ES, or WIA programs, but would be forced to do so if the contingency fund was either eliminated or altered in a manner materially impacting current and future projected revenues.

A recent example of the necessity of the contingency fund to ensure continued operations is DEW's use of contingency funds to purchase and install a generator to back up DEW's mainframe system for the UI claims information technology system. When an outside contractor inadvertently damaged the backup battery used to power the mainframe, DEW was forced to use the generator during the 16 days that it took the manufacturer to properly rebuild the backup battery. Had DEW not had that generator in place, no claims would have been processed and no benefits would have been paid during the 16 day period. Without the ability to use the contingency funds to purchase the generator, DEW would not have had the resources available, and UI service would have been disrupted to all South Carolinians for more than two weeks.

Furthermore, DEW continuously monitors the costs of collecting all taxes, and made significant process and staffing changes to reduce tax collection costs from approximately \$2.1m in FY12 to \$1.6m in FY13 (representing a 25 percent decrease). For FY13, the cost to collect the

contingency tax decreased to approximately 15 percent of contingency revenues. Unfortunately, the LAC failed to include these important facts and improvements in this report.

DEW also requested that the LAC report note that Proviso 83.6 actually reduces the amount of contingency funding available to facilitate services to claimants by requiring additional portions (30 percent currently) be used for UI integrity initiatives. DEW determined its safe harbor for compliance was to ensure that 30 percent of all contingency revenues were transferred to the UI program to reduce the administrative expenses normally funding these (and all other) UI activities. This ensures the UI program has the maximum amount of contingency dollars available to perform the functions listed in the proviso.

It is important to note that the use of federal funds to help collect contingency funds as mentioned in the report was caused by a clerical oversight in 2010, and an adjusting entry is under review to correct the error during the current year. This mistake occurred prior to the hiring of the current Chief Financial Officer in 2011. Interestingly, two prior LAC audits issued in 2010 and 2012 failed to identify this anomaly. Since the new CFO began, accounting staff submit a quarterly report of all amounts transferred from the contingency fund to the UI program for him to review and question any anomalies.

DEW also requested that certain language in the report under ‘Use of UI Grant Funds’ be reworded, to reflect that LAC audit staff did, in fact, apply the same audit procedures to fiscal years subsequent to FY10. No additional anomalies were found when performing these analytical procedures, which supports the agency’s assertion that the 2010 anomaly was caused by a one-time clerical error, and was not a result of a failed internal control. Unfortunately, the final report language still conveys a high level of uncertainty as to the cause of the error.

UI ELIGIBILITY AND CLAIMS

Eligibility Reviews

While regularly scheduled in-person eligibility reviews (ERs) were suspended for intrastate claimants in February 2013 as part of the agency’s changing service delivery model, ERs continued as part of the interstate claimant system and as part of both the Emergency Unemployment Compensation (EUC) program and the Reemployment and Eligibility Assessment (REA) program. DEW has received funding from the Department of Labor to automate the ER process, and that project has started with an anticipated launch date of third quarter 2014.

While Proviso 83.6 does mention seated eligibility reviews as part of a laundry list of exemplary integrity initiatives, DEW believes the purpose of the proviso is to ensure the integrity of the unemployment insurance system. The agency is committed to preventing, detecting, and

collecting improper payments and over the past several years has made significant progress in all of these areas.

Weekly Work Search Requirements

The statement that DEW does not currently verify that claimants are actively searching for work is inaccurate. DEW has consistently advised the LAC that its recommendation regarding work searches actually conflicts with a 2012 LAC finding, as well as the existing budget Proviso 83.6 as enacted by the General Assembly. DEW currently requires four work searches be conducted each week, one of which must be completed through the SC Works Online System (SCWOS).

First, promulgating a regulation to define the number of job contacts would limit DEW's ability to implement the LAC's 2012 finding that DEW require minimum work searches based on local labor market conditions.

Second, the General Assembly directed DEW through budgetary provisos to enforce one work search online per week: Provisos 67.7 and 83.6 require DEW to spend funds enforcing 41-35-110(3) and 41-35-120(5) by specific acts, including "requiring that one of the four job search contacts required per week be conducted through SCWOS so that it can be electronically verified." In the event the General Assembly chooses not to reaffirm this proviso, DEW will take the appropriate actions to address this issue, but until then, such proviso supersedes any regulation as long as the proviso is in effect.

Further and more importantly, the LAC mentions that DEW discontinued enforcement of the work search requirement due to a lawsuit. This is inaccurate. While the work search lawsuit was a factor in the decision to suspend penalties for those failing to complete at least one online job search per week, it was not the only consideration. As part of the change in DEW's service delivery model, the agency removed in-person unemployment insurance services from many rural offices in February 2013 and moved the services online and to a virtual call center to more efficiently and effectively serve claimants. Previously, claimants could only resolve an issue on an unemployment claim by driving to a local office to give a fact finding statement on the reason for failure to do a search. Because many claimants may live up to 50 miles from the nearest workforce center, DEW did not feel it was an adequate use of a claimant's time to drive considerable distances only to provide a statement. Because DEW's new service delivery model relies more efficiently on technology, DEW established a way for individuals to resolve their work search issue over the phone through the call center or online through the MyBenefits web portal. Claimants are informed of the work search requirements when they initially apply for benefits as well as through printed and electronic materials. It is important to note that since November 17, 2013, the online work search requirement penalties were reinstated and 32,097 weeks have been disqualified as of April 11, 2014. The claimant is denied benefits for only the week the search is not conducted. The claimant remains eligible to receive the maximum amount

of benefits to which the claimant otherwise is eligible. Thus, failing to search for work during one week may extend the number of weeks it takes to receive the full benefit entitlement from 20 weeks to 21 weeks but does not reduce the total amount received by claimants (if they claim until they exhaust benefits).

Review of Claims Files

DEW disagrees with the LAC findings as it relates to the nine "questionable" claims. DEW records indicate that of these nine claims, six of these decisions were not overturned on appeal. DEW believes that of the 100 total cases the LAC reviewed, only three claims or 3 percent could be considered questionable.

On March 28, 2014, DEW issued an RFP for an unemployment insurance consultant to provide comprehensive analysis of the unemployment insurance claims process. DEW unequivocally agrees that UI claims should be adjudicated pursuant to law and policy. We also recognize that improvements can be made to the current process to better serve both claimants and employers. To that end, DEW already has begun the process of having a full third-party review of the process to determine which areas need improvement.

REEMPLOYMENT SERVICES

DEW agrees that overall, more data analysis is needed. As a demand driven workforce system, the usage of comprehensive analyses will ensure that business processes and resource investments equate to minimal durations of unemployment for all population groups. DEW recognizes that once developed, comprehensive analyses should be coupled with reporting performance against the U.S. Department of Labor's standards and help drive system enhancements.

DEW acknowledges that while significant gains have been realized from the service model delivery roll-out last year, there is always room for improvement, operationally, in the services that are offered.

There are three types of job seekers. All job seekers face one challenge: they need a job. The first type of job seeker is one who has found themselves in the job market with minimal barriers, meaning they may have the required education, training, or work experience needed to look for work independently of any assistance. This type of job seeker rarely seeks assistance in their quest for employment.

The second type of job seeker may be an individual that has some barriers, such as not having written a resume in a long time or they are unfamiliar with the technological advances associated with job placement services; however, they do have a marketable job experience or educational background that will be appealing to an employer. This job seeker would utilize Core Services at an SC Works Center. They need assistance in getting started in the process, but have a good chance of obtaining employment, if it is available and they accept the opportunity.

The third type of job seeker possesses the greatest number of barriers, not always through any fault of their own. They may find themselves without the skills, experience, or education/training to apply for available jobs. This job seeker requires a greater degree of attention and time from DEW and WIA staff. Intensive Services is a comprehensive process to address more complex issues of job seekers who face the greatest number of challenges to job placement, whether lack of education, training, and work experience. The services provided are inherently complex and require a one-on-one approach that can take time to ensure the client has the greatest chance for success at the end of the process. Their timeline will typically be longer because they need the greatest amount of assistance.

DEW agrees that earnings increases are important and that further analysis can be conducted regarding post-program earnings. However, the focus of all workforce programs is employment, and the data must be analyzed according to each of the three types of job seekers, rather than treating all of the job seekers the same.

The conclusions identified in the report assume that all job seekers are the same, and that those participants in WIA who received training should have increased earnings compared to those participants who did not receive training. In WIA, not all participants require training to obtain employment. For example, Dislocated Workers served in WIA represent a population with years of employment history and associated wage gains during their careers. Within this population, there are those who possess in-demand skills and are able to re-enter the job market, often at similar or higher wage rates, after receiving only intensive services. For those determined to be unable to obtain employment, due to obsolete skills and/or educational barriers, training is needed for reemployment. Training services in WIA must be directly linked to the employment opportunities either in the local area or in another area to which an individual is willing to relocate. All training in demand occupations will not result in increased earnings. However, such training does provide gainful employment, often with career ladder potential. For Program Years 2010 and 2011, the report identified an increased employment percentage for both Adults and Dislocated Workers receiving training as compared to those who did not receive training. This data holds true for the most recent year as well.

| WIA Program Year 2012 Entered Employment Rate | Did Receive Training | Did Not Receive Training |
|---|----------------------|--------------------------|
| Adults | 72.5% | 68.4% |
| Dislocated Workers | 77.6% | 72.4% |

FRAUD AND OVERPAYMENTS

DEW recently worked with an outside vendor to revamp and re-engineer our entire benefits audit, prevention, detection and collection processes.

To date, through this process and with some of the new tools put into place such as the State and Federal Debt Offset programs and involuntary wage withholdings, the agency has already collected almost \$16 million in overpayments in calendar year 2014. We recently debuted the iClaim mobile application to further assist with detecting fraud, and have issued several RFIs from a variety of vendors that would allow us to have the greatest return on investment in terms of collection. Another initiative will allow us to perform a cross match with detention centers, allowing DEW to know if claimants are in fact “able and available for work.”

DEW has launched a number of initiatives in order to educate employers on the importance of responding to the agency’s Wage Audit Notices, an action that can result in lower unemployment insurance taxes. DEW also added language to the Wage Audit Notices mailed to employers stating that “failure to return this information to SCDEW within 10 business days may subject you to civil and/or criminal penalties.”

In addition, the Fraud, Investigation, Recovery & Enforcement (FIRE) Unit was created under the Division of Organizational Integrity with an increased focus on audit/detections, investigations and overpayment collection recovery efforts.

Furthermore, the LAC has consistently been reminded that DEW uses the State Information Data Exchange System (SIDES) to obtain separation information from employers and third-party administrators. DEW is also developing a new benefits system through, the Southeast Consortium of Unemployment Benefits Integration (SCUBI) that will provide DEW with the ability to interface with other modules (including SIDES) more quickly and with greater efficiency. DEW employs the Benefit Audit Reporting and Tracking System, or BARTS, to audit unemployment insurance claims. Each year, DEW receives an annual evaluation from its audit software vendor (On Point Technology) to assess DEW’s performance over the previous year. This evaluation identifies the unreturned Wage Audit Notice population and determines whether any of the unreturned population is specific to an employer or a third party administrator for a specific employer. With the LAC’s assistance in identifying a DFAS contact, DEW submitted 35 second request audits to the identified contact within DFAS in August 2013; however, none of the 35 second requests have been returned to DEW.

CONCLUSION

This report indicates that DEW has implemented 14 of the 24 recommendations directed to the agency in the *Management Review of the Department of Employment and Workforce* in March

2012. DEW provided documentation to the LAC illustrating that we believe 17 of the 24 recommendations have been implemented.


For recommendation three, which LAC states has not been implemented, DEW notes that South Carolina is following the current state and federal laws regarding employer charging. South Carolina is charging employers on combined wage claims in the same manner as Georgia and does not believe that the LAC's recommendation for changing the charging is in line with current law or the will of the General Assembly. If a claimant is eligible for benefits, for example, in North Carolina due to a combined wage claim with South Carolina, it is unclear whether or not that person would have been eligible under South Carolina laws and policies for that benefit or for the same amount of benefit. It is unfair to South Carolina employers to be charged for a claim that may or may not have been valid in South Carolina and at potentially higher benefit amounts than are currently allowed in South Carolina. However, this is a policy decision set by legislation, and DEW will adhere to the direction provided by the General Assembly.

Recommendation six, which LAC states has not been implemented, has already been addressed in DEW's response -- DEW does have a system in place to monitor the effectiveness of services paid by the contingency assessment funds. We believe this recommendation has been implemented.

Finally, for recommendation 15, which LAC states has not been implemented, DEW does have a system in place to verify job contacts. Since November 2013, DEW has reinstated the penalties for failing to complete at least one online job search per week. As of January 2014, that applied to all current UI claimants. Additionally, during the time that the online work search requirement penalties were suspended, DEW continued to complete periodic checks of work searches on individuals who were selected for either the regular REA program or the EUC RES/REA program. Furthermore, when an individual fails to complete the proper number of job searches each week, the individual is denied benefits for only the week the search is not conducted. The individual remains eligible to receive the maximum amount of benefits to which the claimant otherwise is eligible.

While we celebrate many successes of the agency, we also recognize the need to continually seek ways to better deliver services to our customers. DEW appreciates the work of the LAC to help in identifying strategic areas for improvement.

Sincerely,



Cheryl M. Stanton

DSS

Serving Children and Families

LILLIAN B. KOLLER, J.D.
STATE DIRECTOR

NIKKI R. HALEY
GOVERNOR

May 14, 2014

Mr. Perry K. Simpson, Director
Legislative Audit Council
1331 Elmwood Avenue
Suite 315
Columbia, South Carolina 29201

Dear Mr. Simpson:

The purpose of this letter is to respond to three recommendations related to the Department of Social Services (DSS) contained in the Legislative Audit Council's (LAC) recent review of the Department of Employment and Workforce (DEW). Your agency followed up on findings and recommendations made in its 2012 report concerning DEW.

Recommendation 28

LAC Recommendation 28 states, "The Department of Social Services should implement the enforcement methods specified in state law to compel employers to report new hires." State law (SC Code Section 43-5-598(G)) sets the amount of fines that DSS can assess against non-compliant employers and gives the Family Court the power to enforce the fines (SC Code Section 63-63-7-530(A)(43)). DSS has not used the resource-intensive and time-consuming statutory tool for enforcement. Instead, DSS has properly and effectively pursued employers who failed to report and secured their cooperation. According to officials at the Federal Office of Child Support Enforcement, only two states, Utah and North Dakota, are attempting to impose fines on companies failing to report new hires to the State New Hire Database (SDNH) in each state. In both states, the effort is labor intensive, requiring mail-outs, processing of responses and follow-up with those not responding.

DSS is bringing employers into voluntary compliance rather than petitioning the court for enforcement of a fine. Since the LAC's 2012 report on DEW, DSS has utilized the Employer Participation Project report provided by the National Directory of New Hires to identify and notify possible non-compliant employers of their requirements to report to the SDNH. The outreach efforts (along with those outreach efforts of DEW) appear to be effective. The number of registered employers on the scnewhire.com website has increased from 13,098 on October 24, 2011 to 28,050 on March 20, 2014. So, for the first 12 years of the website's existence, 13,098 employers registered on the database while in the last 27 months, 14,032 additional employers have registered.

Taking employers through the process of imposing a fine in South Carolina is complicated and costly. Before DSS could assess the fines, it must investigate and determine liability. This

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process is made more complicated because of problems with matching processes used to detect failure to report new hires at the national level. The National Directory of New Hires (NDNH) acknowledges that enforcement is difficult because there are no quantitatively reliable methods for identifying non-compliant employers. After investigation, DSS would issue notice to the employer of the amount of the fine and notice that DSS would take the matter before the Family Court to prove that the fine must be enforced. Once a fine is imposed and collected, 66% of the amount collected must be forwarded to the Federal government and the remaining 34% would be retained by DSS. Therefore, the time and effort needed to enforce compliance through fines is not economically efficient. The cost overwhelmingly outweighs the return. The results achieved by voluntary compliance demonstrate that success is not dependent on utilizing fines and judicial enforcement.

Recommendation 30

LAC Recommendation 30 states, "The Department of Social Services should revise the agency's policy of data purging to match the two-year requirement of the National Directory of New Hires." The two-year retention policy imposed by the federal government on NDNH is not a requirement imposed on the states for their SDNH. DSS transmits the SDNH data to DEW twice per week; DEW may store this information for any length of time DEW considers necessary for its purposes. DSS' internal policy is to purge SDNH data after six months. This policy allows DSS to minimize data storage costs while maintaining the data needed to accomplish its goals. The NDNH is populated by twice weekly transmissions from SDNH to NDNH; DEW and DSS have access to the records retained by the NDNH throughout the two-year retention period.

Recommendation 31

LAC Recommendation 31 states, "The General Assembly should amend Section 43-5-598 of the S.C. Code of Laws to require all employers to submit the date of hire with other required State Directory of New Hires information." DSS supports this recommendation and agrees that no action has been taken by the General Assembly.

Again, thank you for the opportunity to respond to these portions of the report. Should you have additional questions, please feel free to contact me or Katie Morgan.

Sincerely,



Lillian B. Koller, J.D.
State Director

LBK:wm

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