

# OFFICE OF THE STATE AUDITOR

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# DIANA DIZOGLIO

Official Audit Report – Issued December 12, 2024

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## Executive Office of Labor and Workforce Development—Department of Unemployment Assistance

For the period March 12, 2020 through December 31, 2021



# OFFICE OF THE STATE AUDITOR

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# DIANA DIZOGLIO

December 12, 2024

Lauren Jones, Secretary  
Executive Office of Labor and Workforce Development  
1 Ashburton Place, Suite 2112  
Boston, MA 02108

Dear Secretary Jones:

I am pleased to provide to you the results of the enclosed performance audit of the Executive Office of Labor and Workforce Development. As is typically the case, this report details the audit objectives, scope, methodology, findings, and recommendations for the audit period, March 12, 2020 through December 31, 2021. As you know, my audit team discussed the contents of this report with agency managers. This report reflects those comments.

I appreciate you and all your efforts at the Executive Office of Labor and Workforce Development. The cooperation and assistance provided to my staff during the audit went a long way toward a smooth process. Thank you for encouraging and making available your team. I am available to discuss this audit if you or your team have any questions.

Best regards,



Diana DiZoglio  
Auditor of the Commonwealth

cc: Katie Dishnica, Director of the Department of Unemployment Assistance

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## LIST OF ABBREVIATIONS

CARES	Coronavirus Aid, Relief, and Economic Security
CTR	Office of the Comptroller of the Commonwealth
DOL	US Department of Labor
DUA	Department of Unemployment Assistance
EOLWD	Executive Office of Labor and Workforce Development
ETA	Employment and Training Administration
OIG	Office of the Inspector General
PUA	Pandemic Unemployment Assistance
UI	unemployment insurance
UITF	Unemployment Insurance Trust Fund

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## EXECUTIVE SUMMARY

In accordance with Section 12 of Chapter 11 of the Massachusetts General Laws, the Office of the State Auditor has conducted a performance audit of the Executive Office of Labor and Workforce Development (EOLWD) for the period of March 12, 2020, through December 31, 2021.

The purpose of the audit was to determine what type of system controls the Department of Unemployment Assistance (DUA) had in place to identify potential fraud within expanded programs related to the COVID-19 pandemic. We looked at certain areas where we believed it would be easier for DUA to determine whether fraud occurred—areas where state government already has sufficient data in its possession to identify potential fraud—and whether DUA used this information to look for and identify such activity. In order to do this, we examined the following:

- whether DUA ensured that incarcerated individuals did not receive Pandemic Unemployment Assistance (PUA) benefits in accordance with the US Department of Labor’s (DOL’s) Employment and Training Administration’s (ETA’s) Unemployment Insurance Program Letter No. 23–20, dated May 11, 2020;
- whether DUA ensured that Commonwealth of Massachusetts employees did not receive PUA benefits in accordance with DOL’s ETA’s Unemployment Insurance Program Letter No. 23–20, dated May 11, 2020;
- whether DUA investigated and reported all overpayments over \$10,000 to the DOL Office of the Inspector General (OIG) in accordance with DOL’s ETA’s Unemployment Insurance Program Letter No. 04–17 (Change 1);
- whether DUA updated its internal control plan to address the COVID-19 pandemic in accordance with the Office of the Comptroller of the Commonwealth’s (CTR’s) “COVID-19 Pandemic Response Guidance,” dated September 30, 2020;
- whether DUA submitted annual, quarterly, and monthly Unemployment Insurance Trust Fund (UITF) reports to the Legislature in accordance with Section 14F of Chapter 151A of the General Laws.

Below is a summary of our findings, the effects of those findings, and our recommendations, with links to each page listed.

<b>Finding 1</b> <b>Page <u>11</u></b>	DUA incorrectly paid PUA benefits on behalf of individuals while they were incarcerated.
<b>Effect</b>	If DUA does not perform its due diligence to ensure that all benefit recipients are eligible, DUA may not be managing taxpayer funds effectively, which may result in less money being available for other services and programs and the premature exhaustion of money from the UITF.
<b>Recommendation</b> <b>Page <u>12</u></b>	DUA should review the design of its incarceration crossmatch process to detect all instances of incarcerated individuals applying for unemployment insurance (UI) benefits (or their identifications being used by others to do so) to ensure that those ineligible individuals do not receive UI benefits from the Commonwealth.
<b>Finding 2</b> <b>Page <u>13</u></b>	DUA incorrectly paid PUA benefits on behalf of then-current Commonwealth of Massachusetts employees who were not eligible to receive these benefits.
<b>Effect</b>	If DUA does not perform its due diligence to ensure that all benefit recipients are eligible, DUA may not be managing taxpayer funds effectively, which may result in less money being available for other services and programs and the premature exhaustion of money from the UITF.
<b>Recommendations</b> <b>Page <u>14</u></b>	<ol style="list-style-type: none"> <li>1. DUA should implement an effective crossmatch process to detect all instances of Commonwealth employees applying for UI benefits.</li> <li>2. DUA should coordinate with CTR to gain access to an up-to-date list of Commonwealth employees.</li> </ol>
<b>Finding 3</b> <b>Page <u>15</u></b>	DUA did not report overpayments made to incarcerated individuals to DOL OIG for further investigation.
<b>Effect</b>	Because DUA did not report the overpayments to DOL OIG, DOL OIG was not able to investigate the causes of these overpayments and potentially prosecute any offenders.
<b>Recommendations</b> <b>Page <u>16</u></b>	<ol style="list-style-type: none"> <li>1. DUA should develop and implement effective policies and procedures to ensure that it investigates overpayments over the \$10,000 threshold to determine whether any of these claims are fraudulent.</li> <li>2. DUA should ensure that it reports overpayments to DOL OIG where it determines fault that meets required reporting thresholds.</li> </ol>
<b>Finding 4</b> <b>Page <u>16</u></b>	EOLWD's Department of Economic Research did not submit all UITF reports or ensure that they were submitted by required due dates.
<b>Effect</b>	Untimely or missing UITF reports can delay legislative oversight, accountability and decisions related to the UITF. In this instance, the failure to issue timely UITF reports coincided with an estimated \$2.5 billion in being overdrawn by the Commonwealth from the UITF. These overpayments may need to be repaid by businesses, taxpayers, and state government. Failure to submit these reports in a timely manner also prevented policymakers, including the Legislature, from participating in the process of identifying and implementing solutions to this issue, potentially resulting in a larger overspending than otherwise would have occurred.
<b>Recommendations</b> <b>Page <u>17</u></b>	<ol style="list-style-type: none"> <li>1. EOLWD should determine the causes of and address the inconsistencies in its accounting system.</li> <li>2. EOLWD should submit UITF reports to the Legislature by required due dates.</li> </ol>

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## OVERVIEW OF AUDITED ENTITY

The Executive Office of Labor and Workforce Development (EOLWD) is authorized by Section 1 of Chapter 23 of the Massachusetts General Laws and operates under the direction of the Secretary of Labor and Workforce Development, who is appointed by the Governor. EOLWD comprises six departments and three organizations that offer a wide range of programs and resources for employers and job seekers: the Department of Unemployment Assistance (DUA), the Department of Labor Standards, the Department of Industrial Accidents, the Department of Economic Research, the Department of Family and Medical Leave, the Department of Labor Relations, the Division of Apprentice Standards, the MassHire Department of Career Services, and the Council on the Underground Economy. EOLWD also oversees Commonwealth Corporation, which offers programs and services to help citizens of the Commonwealth secure employment.

The federal Social Security Act of 1935 created the unemployment insurance (UI) program as a joint federal-state partnership, with each state responsible for designing its own program within broad federal guidelines. The US Department of Labor (DOL) oversees the federal program, and DUA administers the Commonwealth's UI program. The UI program provides temporary income assistance to eligible workers in Massachusetts and determines and collects employer contributions to the UI program. The Commonwealth provides up to 30 weeks of UI benefits to individuals who meet the initial and ongoing eligibility requirements during a period when they are unemployed.

DUA's federally funded budget for its UI program was \$62.9 million in fiscal year 2020, \$62.0 million in fiscal year 2021, and \$62.0 million in fiscal year 2022. As of January 2022, Massachusetts had received over \$26.5 billion in pandemic-related unemployment funds to administer from the Families First Coronavirus Response Act and the Coronavirus Aid, Relief, and Economic Security (CARES) Act.

DUA told us that it had approximately 200 employees before the start of the COVID-19 pandemic, but this number fluctuated throughout the audit period, with the ebb and flow of benefit claims—with the highest staffing level exceeding 2,000 individuals. These individuals consisted of DUA employees, employees from other Massachusetts agencies who were loaned to DUA, and third-party call center employees.

## **Pandemic Unemployment Assistance Program**

The CARES Act was enacted on March 27, 2020, and the American Rescue Plan Act was enacted on March 11, 2021. These laws created numerous federal unemployment benefit programs to combat the historically high number of individuals who were unemployed because of the COVID-19 pandemic. Following the passage of the CARES Act and the American Rescue Plan Act, DUA implemented three new federally funded programs: the Federal Pandemic Unemployment Compensation program, the Pandemic Emergency Unemployment Compensation program, and the Pandemic Unemployment Assistance (PUA) program.

The PUA program was available to individuals whose incomes were affected by the COVID-19 pandemic and who were self-employed, seeking part-time employment, or otherwise would not qualify for UI benefits or qualify for extended benefits under state or federal law. Through multiple extensions, and the ability for individuals to submit benefit claims retroactive to February 2, 2020, the PUA program provided up to 79 weeks of benefits before being officially terminated September 4, 2021.

There were limitations within the system DUA used to administer UI benefits. Because of these limitations, DUA worked with a third-party contractor to implement a new system specifically designed to administer the PUA program. DUA used this PUA claim system to process PUA claims and document which individuals requested, received, and were denied PUA benefits.

## **Unemployment Insurance Trust Fund**

According to Section 904(a) of the Social Security Act of 1935, the Secretary of the Treasury receives UI funds from states and holds these funds in the federal Unemployment Trust Fund. The funds, collected and deposited by states, come from employer contributions under the Federal Unemployment Tax Act and the State Unemployment Tax Act. Massachusetts collects these funds in the Unemployment Insurance Trust Fund (UITF). The UITF funds UI benefits paid by the state, while DUA's administrative costs are paid directly by the federal government from Federal Unemployment Tax Act contributions.

Public and private for-profit employers in Massachusetts are subject to a contributory funding method where DUA calculates each employer's contribution rate using factors such as whether it is a new or



established employer,<sup>1</sup> the employer's account balances and activity over the previous 12 months, employee wages, and more. These employers make their contributions quarterly.

Government and nonprofit employers in Massachusetts may choose to reimburse DUA for the full amount of UI benefits paid to their former employees instead of making quarterly contributions using the above contributory method. Under the reimbursement method, DUA sends an employer a bill for any month in which there were charges to their account from unemployment benefit claims from former employees.

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1. Employers pay the new employer rate for three years before being considered established employers.

## AUDIT OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Section 12 of Chapter 11 of the Massachusetts General Laws, the Office of the State Auditor has conducted a performance audit of certain activities of the Executive Office of Labor and Workforce Development (EOLWD) for the period March 12, 2020 through December 31, 2021.

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

Below is a list of our audit objectives, indicating each question we intended our audit to answer; the conclusion we reached regarding each objective; and, if applicable, where each objective is discussed in the audit findings.

Objective	Conclusion
1. Did the Department of Unemployment Assistance (DUA) ensure that incarcerated individuals did not receive Pandemic Unemployment Assistance (PUA) benefits in accordance with the US Department of Labor's (DOL's) Employment and Training Administration's (ETA's) Unemployment Insurance Program Letter No. 23-20, dated May 11, 2020?	No; see Finding <u>1</u>
2. Did DUA ensure that Commonwealth of Massachusetts employees did not receive PUA benefits in accordance with DOL's ETA's Unemployment Insurance Program Letter No. 23-20, dated May 11, 2020?	No; see Finding <u>2</u>
3. Did DUA investigate and report all overpayments over \$10,000 to the DOL Office of the Inspector General (OIG) in accordance with DOL's ETA's Unemployment Insurance Program Letter No. 04-17 (Change 1)?	No; see Finding <u>3</u>
4. Did DUA update its internal control plan to address the COVID-19 pandemic in accordance with the Office of the Comptroller of the Commonwealth's (CTR's) "COVID-19 Pandemic Response Guidance," dated September 30, 2020?	Yes
5. Did DUA submit annual, quarterly, and monthly Unemployment Insurance Trust Fund (UITF) reports to the Legislature in accordance with Section 14F of Chapter 151A of the General Laws?	No; see Finding <u>4</u>

To accomplish our audit objectives, we gained an understanding of the aspects of DUA's internal controls that we deemed relevant to our objectives by reviewing agency policies and procedures and by

interviewing DUA staff members and management responsible for the administration and management of the areas under audit.

To obtain sufficient, appropriate evidence to address our audit objectives, we performed the procedures described below.

## **Benefits Paid to Incarcerated Individuals**

To confirm that DUA ensured that incarcerated individuals did not receive PUA benefits in accordance with the requirements of DOL's ETA's Unemployment Insurance Program Letter No. 23-20, dated May 11, 2020, we took the following actions:

- DUA provided us with a list from its PUA system, with data originating from the Massachusetts Parole Board, of individuals incarcerated in Massachusetts during the audit period. We also reviewed DUA's PUA claim system.
- We selected a random, statistical<sup>2</sup> sample of 103 from the population of 7,102 claims filed for PUA benefits by individuals who were identified by the Massachusetts Parole Board as having been incarcerated during the audit period, using a 95% confidence level,<sup>3</sup> a 50% expected error rate,<sup>4</sup> and a 20% desired precision range.<sup>5</sup>
- Using DUA's PUA claim system, we identified, for each of the 103 sampled claims, each filing individual's claim status for each week that they filed for PUA benefits, the date each claim week (which is a week for which a claimant requested benefits) was filed, the amount paid and the payment date, and the dates of their incarceration and release. For each claim in our sample, we compared the filing individual's identified dates of incarceration, according to data from the Massachusetts Parole Board, to the dates that they received PUA benefits to determine whether DUA made any payments to individuals who were incarcerated four or more days during the week for which they received benefits.
- For each claim in our sample, we compared the dates the filing individual was incarcerated to the weeks they submitted claims for PUA benefits. We also reviewed the Benefits Issues tab within DUA's PUA claim system to determine whether the claim had an incarceration issue noted in the

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2. Auditors use statistical sampling to select items for audit testing when a population is large (usually over 1,000) and contains similar items. Auditors generally use a statistics software program to choose a random sample when statistical sampling is used. The results of testing using statistical sampling, unlike those from judgmental sampling, can usually be used to make conclusions or projections about entire populations.
  3. Confidence level is a mathematically based measure of the auditor's assurance that the sample results (statistic) are representative of the population (parameter), expressed as a percentage.
  4. Expected error rate is the number of errors that are expected in the population, expressed as a percentage. It is based on the auditor's knowledge of factors such as prior year results, the understanding of controls gained in planning, or a probe sample.
  5. Desired precision range is the range of likely values within which the true population value should lie; also called confidence interval. For example, if the interval is 90%, the auditor will set an upper confidence limit and a lower confidence where 90% of transactions fall within those limits.

system and, if so, the date documented within the system that the incarceration was initially detected.

- We reviewed the detailed information within DUA's PUA system for weeks that each individual claimed PUA while they were reported by the Massachusetts Parole Board as incarcerated to determine whether DUA paid PUA benefits while each individual was incarcerated.

See Finding 1 for issues we identified with DUA paying incarcerated individuals PUA benefits.

## **Benefits Paid to Commonwealth Employees**

To confirm that DUA ensured that Commonwealth of Massachusetts employees did not receive PUA benefits in accordance with DOL's ETA's Unemployment Insurance Program Letter No. 23–20, dated May 11, 2020, we took the following actions:

- DUA provided us with the list of Commonwealth employees during May 2020 that it originally received from CTR. We also reviewed DUA's PUA claim system.
- We selected a random, statistical sample of 80 from a population of 5,488 claims filed for PUA benefits by individuals who were reported by CTR as having been Commonwealth employees at that time, using a 95% confidence level, a 25% expected error rate, and a 20% desired precision range.
- Using DUA's PUA claim system, we identified, for each sampled claim, the filing individual's claim status for each week they filed, the date each claim week was filed, the amount paid and the payment date, and the dates between the payment and the date a denial was assessed by DUA, if any. We also reviewed the CTHRU website, the Commonwealth's statewide payroll open records system, to determine whether the claimant was listed on the website as having earnings from the Commonwealth of Massachusetts in 2019, 2020, or 2021.
- For each claim sampled, we determined whether there were any instances where an active Commonwealth employee was paid a claim for PUA benefits.

See Finding 2 for issues we identified with DUA paying PUA benefits on behalf of Commonwealth employees.

## **Reporting of Overpayments**

To determine whether DUA investigated and reported all overpayments over \$10,000 to DOL OIG in accordance with DOL's ETA's Unemployment Insurance Program Letter No. 04–17 (Change 1), we took the following actions:

- We exported from the DUA's PUA claim system a report of all existing overpayments with an account type of "PUA—Massachusetts," a receivable type (in this case, the specific pandemic

unemployment program) of “Pandemic Unemployment Assistance,” and an impact type (in this case, the reason the claim was denied) of “Incarceration Denial.”

- Overpayments in excess of \$10,000 must be reported to DOL. To determine whether DUA reported overpayments to DOL, we requested, from DUA, evidence for the entire population of 50 existing PUA overpayments in excess of \$10,000 that were related to an incarceration denial.

See Finding 3 for issues we identified with DUA reporting overpayments exceeding \$10,000 to DOL.

## **Internal Control Plan Updates**

To determine whether DUA updated its internal control plan to address the COVID-19 pandemic in accordance with CTR’s “COVID-19 Pandemic Response Guidance,” dated September 30, 2020, we took the following actions:

- We requested, and DUA provided us with, its internal control plan that was in effect during the audit period.
- We reviewed this plan and its attachments and inspected each to determine whether it was updated to reflect the impact of the COVID-19 pandemic on DUA’s business and operating processes.

Based on our testing, DUA prepared an internal control plan that reflected the impact of the COVID-19 pandemic on its business and operating process.

## **UITF Reporting**

To determine whether DUA submitted annual, quarterly, and monthly UITF reports to the Legislature in accordance with Section 14F of Chapter 151A of the General Laws, we took the following actions:

- We received from EOLWD’s Department of Economic Research 15 UITF reports generated during the audit period and the associated emails for the submission of each to the Legislature.
- We inspected the dates and recipients of each email to determine whether EOLWD submitted each UITF report to the Legislature by the required due date.

See Finding 4 for issues we identified with DUA’s UITF reports.

We used statistical sampling methods for testing; however, we did not project the results of our testing to any population.

## **Data Reliability Assessment**

To determine the reliability of the data from DAU’s PUA system, we took the following actions:

- We interviewed DUA employees and Massachusetts Parole Board employees who were knowledgeable about the data. We also reviewed DUA policies over its information system controls.
- We reviewed the System and Organization Control reports<sup>6</sup> that covered the periods November 1, 2019 through April 30, 2020; May 1, 2020 through April 30, 2021; and May 1, 2021 through April 30, 2022. We verified that the System and Organization Control reports described testing of certain information system general controls (access controls, configuration management, contingency planning, and segregation of duties) and that they were tested without exceptions.
- We performed electronic testing by reviewing the data for blank fields and duplicate entries, and we ensured that all required fields contained appropriate information (for example, date fields reported valid dates).
- To verify that the first names, last names, Social Security numbers, dates of birth, commitment numbers, and commitment dates matched the information recorded in DUA's PUA claim system, we traced this information from a random sample of 35 individuals from each of the nine incarceration batch files,<sup>7</sup> which were provided to us by DUA but originated from the Massachusetts Parole Board.

Based on the results of the data reliability assessment procedures described above, we determined that the information we obtained was sufficiently reliable for the purposes of our audit.

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6. A System and Organization Control report is a report, issued by an independent contractor, on controls about a service organization's systems relevant to security, availability, processing integrity, confidentiality, or privacy.

7. DUA provided us with nine separate files, which we used to compile our list of individuals who were reported by the Massachusetts Parole Board as being incarcerated in Massachusetts during the audit period.

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## DETAILED AUDIT FINDINGS WITH AUDITEE'S RESPONSE

### 1. The Department of Unemployment Assistance incorrectly paid Pandemic Unemployment Assistance benefits on behalf of individuals while they were incarcerated.

The Department of Unemployment Assistance (DUA) paid Pandemic Unemployment Assistance (PUA) benefits, totaling \$155,903, to 32 of the 103 incarcerated individuals in our sample. We noted the following:

- DUA paid PUA benefits to 28 of the 32 incarcerated individuals in our sample whose claims for benefits were labeled with incarceration denials for the weeks that they claimed benefits. The other 4 of these 32 incarcerated individuals in this sample did not have an incarcerated denial recorded; which is why, DUA paid the PUA benefits.
- We found that DUA did not record incarceration denials for 19 of the 103 incarcerated individuals in our sample for weeks that the individual was incarcerated while applying for PUA benefits. Of these 19 incarcerated individuals, 15 had their benefits denied for other reasons, and 4 received PUA benefits.

If DUA does not perform its due diligence to ensure that all benefit recipients are eligible, DUA may not be managing taxpayer funds effectively, which may result in less money being available for other services and programs and the premature exhaustion of money from the Unemployment Insurance Trust Fund (UITF).

### Authoritative Guidance

Authoritative guidance on this issue is set forth in the US Department of Labor's (DOL's) Employment and Training Administration's (ETA's) Unemployment Insurance Program Letter No. 23-20, which states, "The temporary programs enacted by the [Coronavirus Aid, Relief, and Economic Security] Act operate in tandem with the fundamental eligibility requirements of the federal-state [unemployment insurance] program."

These "fundamental eligibility requirements" include the following:

- Section 6 of Chapter 151A of the Massachusetts General Laws, which states, "The term 'employment' shall not include: . . . (v) Service performed in a custodial or penal institution by an inmate of said custodial or penal institution."
- Section 24 of Chapter 151A of the General Laws, which states, "An individual, in order to be eligible for benefits under this chapter shall . . . (b) Be capable of, available, and actively seeking work in his usual occupation or any other occupation for which he is reasonably fitted."

- Section 25 of Chapter 151A of the General Laws, which states,

*No benefits shall be paid to an individual under this chapter for . . .*

*(e) The period of unemployment next ensuing and until the individual has had at least eight weeks of work and has earned an amount equivalent to or in excess of 8 times the individual's weekly benefit amount after the individual has left work. . . (3) because of conviction of a felony or misdemeanor.*

## Reasons for Issue

DUA officials told us that the manual process to crossmatch claims for PUA benefits against the list of incarcerated individuals was introduced in June 2020, and an automated process was introduced February 2021. Incarceration denials were noted in DUA's PUA claim system. In some instances, PUA benefits were already paid out to individuals before DUA received data on these incarcerated individuals from the Massachusetts Parole Board and ran the crossmatch on incarcerated individuals.

## Recommendation

DUA should review the design of its incarceration crossmatch process to detect all instances of incarcerated individuals applying for unemployment insurance (UI) benefits (or their identifications being used by others to do so) to ensure that those ineligible individuals do not receive UI benefits from the Commonwealth.

## Auditee's Response

*On 6/02/2020, the Department of Unemployment Assistance (DUA) introduced a process to manually create availability issues on claims when DUA received notification from law enforcement agencies about a claimant's incarceration. An availability issue would stop payment on a claim while DUA contacted the claimant via fact finding for the purposes of investigating the issue. Once the problem was discovered regarding incarcerated individuals filing for benefits, it took several months to determine which law enforcement agency would best be able to provide us with the most accurate and complete prisoner data.*

*Development of an incarcerated prisoner crossmatch process began in December of 2020 and went into production on 02/02/2021. This automated process involved crossmatching claimant records against data provided by the Parole Department. The automated crossmatch ran daily with the nightly batch process and a new parole file was received and processed every Monday from 02/02/2021 until 3/18/2022 when the Pandemic Unemployment Assistance (PUA) program sunset. Overpayments related to Incarceration denials currently make up .69% of the existing PUA overpayments. The automated process placed incarceration issues on claims that DUA received matches for via the crossmatch process. An Incarceration benefit issue prevented payment while DUA gave the claimant the opportunity to respond to DUA's findings. When the PUA program*



*sunset, claimants were no longer filing new PUA claims or filing weekly certifications for benefits so there was no need to continue the automated incarcerated prisoner crossmatch.*

### **Auditor's Reply**

Based on its response, there was no preexisting system at DUA to ensure that incarcerated individuals did not receive benefits from any type of UI programs prior to the pandemic. While we applaud the efforts detailed in its response to set up this automated crossmatch, it did take DUA almost a year into the pandemic to develop and implement it. Benefit payments were already made during this time period, improperly, on behalf of individuals who were incarcerated. It also did not appear to catch all instances of an incarcerated individual claiming UI benefits, as our audit noted in four instances.

We reiterate our recommendation that DUA should review the design of its incarceration crossmatch process to detect all instances of incarcerated individuals applying for UI benefits (or their identifications being used by others to do so) to ensure that those ineligible individuals do not receive UI benefits from the Commonwealth. Although this audit was of the PUA program, DUA could also apply this recommendation to current UI programs it operates.

## **2. The Department of Unemployment Assistance incorrectly paid Pandemic Unemployment Assistance benefits on behalf of then-current Commonwealth of Massachusetts employees.**

DUA made PUA benefit payments totaling \$315,340 on behalf of 22 of the 80 sampled individuals who, during our audit period, were reported by the Office of the Comptroller of the Commonwealth (CTR) as Commonwealth employees at the time they received unemployment benefits.

If DUA does not perform its due diligence to ensure that all benefit recipients are eligible, DUA may not be managing taxpayer funds effectively, which may result in less money being available for other services and programs and the premature exhaustion of money from the UITF.

### **Authoritative Guidance**

Authoritative guidance on this issue is set forth in DOL's ETA's Unemployment Insurance Program Letter No. 23-20, which states, "The temporary programs enacted by the CARES Act operate in tandem with the fundamental eligibility requirements of the federal-state UI program."

These “fundamental eligibility requirements” include the following:

- Section 25 of Chapter 151A of the General Laws, which states, “No benefits shall be paid to an individual under this chapter for . . . (j) Any week in which the individual fraudulently collects benefits while not in total or partial unemployment.”
- DOL’s ETA’s Unemployment Insurance Program Letter No. 23–20 referenced Unemployment Insurance Program Letter No. 16–20, which states,

*Individuals who meet the following criteria are not eligible for PUA:*

- a. Individuals who have the ability to telework with pay. When addressing issues about the availability of paid telework, the state must determine whether the claimant has been offered the option of continuing to work for pay by teleworking. If so, and claimants were offered to continue to work the same number of hours, claimants are not eligible for PUA.*

## Reasons for Issue

DUA did not implement a process to crossmatch the names of Commonwealth employees with CTR data until May 21, 2020. DUA paid PUA benefits that were submitted before it implemented the crossmatch process.

Additionally, DUA used the same list of Commonwealth employees provided to them by CTR for the entire duration of the program. DUA did not update this list of Commonwealth employees to ensure that it had been crossmatched against current lists of Commonwealth employees.

## Recommendations

1. DUA should implement an effective crossmatch process to detect all instances of Commonwealth employees applying for UI benefits.
2. DUA should coordinate with CTR to gain access to an up-to-date list of Commonwealth employees.

## Auditee’s Response

*The PUA system was introduced in Massachusetts on 4/21/2020. DUA received a list of state employees by the Comptroller’s Office and loaded that data into the PUA system on 6/21/2020.*

*Thereafter, Identity Verification issues were added to claims when there was a crossmatch with the state employees list, triggering further review of initial claims to confirm valid identity. Any instance of a crossmatch with then-current Commonwealth of Massachusetts employees was flagged and benefits were not issued.*

## Auditor's Reply

While DUA did get the state employee crossmatch implemented two months into the PUA program, improper payments were already paid on behalf of current state employees, as noted in the above finding. We reiterate our recommendation that an effective crossmatch should be implemented to detect instances when the identity of a current state employee is being used to claim benefits for any UI program. We also reiterate our recommendation that DUA should use an up-to-date list of Commonwealth employees to do this crossmatch to capture changes in employment over time.

### **3. The Department of Unemployment Assistance did not report overpayments made to incarcerated individuals to the US Department of Labor Office of the Inspector General for further investigation.**

DUA did not investigate any of the 50 overpayments that were over \$10,000 that were made to incarcerated individuals, totaling approximately \$604,000. DUA also did not report these improper payments to the DOL Office of the Inspector General (OIG) for further investigation.

Because DUA did not report the overpayments to DOL OIG, DOL OIG was not able to investigate the causes of these overpayments and potentially prosecute any offenders.

## Authoritative Guidance

DOL's ETA's Unemployment Insurance Program Letter No. 04-17 (Change 1) states,

*Administrators or their designees report the following to the DOL-OIG:*

- A. Suspected or alleged illegal or fraudulent activity with a loss in excess of \$10,000 from the following categories will be reported to the DOL-OIG . . . Disaster Unemployment Assistance (DUA); and Any temporary UC program enacted by Congress.*

## Reasons for Issue

DUA officials told us in an email on June 7, 2023, "Because the total number of overpayments was so large, we did not make an effort to refer overpayments that would have only consisted of approximately 10 weeks of paid benefits." Additionally, DUA officials told us that DOL would not have been interested in the claims because DUA did not denote overpayments made to incarcerated individuals as "at fault" or fraudulent. DUA did not conduct investigations to determine fault because of a lack of staff members available to conduct a proper investigation.

## Recommendations

1. DUA should develop and implement effective policies and procedures to ensure that it investigates overpayments over the \$10,000 threshold to determine whether any of these claims are fraudulent.
2. DUA should ensure that it reports overpayments to DOL OIG where it determines fault that meets required reporting thresholds.

## Auditee's Response

*DUA provides the US Department of Labor Office of the Inspector General (OIG) a list of every claim filed with associated social security numbers, quarterly.*

*Specific to federal incarceration data, DUA now receives Prisoner Update Processing System (PUPS) data. DUA Program Integrity Staff review PUPS data and where necessary create an availability issue where there is a match with claimant information in the UI Online system.*

## Auditor's Reply

As noted above in the above finding, we were told by a DUA official that "because the total number of overpayments was so large, [DUA] did not make an effort to refer overpayments that would have only consisted of approximately 10 weeks of paid benefits."

DUA officials did not make us aware of, or provide us with, the quarterly reports filed with DOL OIG in connection with the PUA program. Therefore, we cannot comment on whether this quarterly report includes any of the 50 overpayments of PUA claims exceeding \$10,000, which DUA insinuates with its response to this finding. Therefore, we reiterate our recommendations regarding this finding.

## **4. The Executive Office of Labor and Workforce Development's Department of Economic Research did not submit all Unemployment Insurance Trust Fund reports or ensure that they were submitted by required due dates.**

The Executive Office of Labor and Workforce Development's (EOLWD) Department of Economic Research did not ensure that all UITF reports due to the Legislature during the audit period were submitted on time, or at all in some cases. Five reports were not transmitted at all, and four reports were submitted after the due date. For two of the reports, we were not provided support to determine when they were submitted.

Untimely or missing UITF reports can delay legislative oversight, accountability and decisions related to the UITF. In this instance, the failure to issue timely UITF reports coincided with an estimated \$2.5 billion in being overdrawn by the Commonwealth from the UITF. These overpayments may need to be repaid by businesses, taxpayers, and state government. Failure to submit these reports in a timely manner also

prevented policymakers, including the Legislature, from participating in the process of identifying and implementing solutions to this issue, potentially resulting in a larger overspending than otherwise would have occurred.

## Authoritative Guidance

Section 14F of Chapter 151A of the General Laws states the following:

*On or before the fifteenth day of October of each year, the commissioner is hereby authorized and directed to file with the house and senate committees on ways and means and the clerks of the house of representatives and the senate and the joint committee on commerce and labor a report which contains a proposal of an adequate and proper average balance to be maintained and credited to the commonwealth's account in the Unemployment Trust Fund during the ensuing calendar year and a statement of the actual balance then projected to be credited to the commonwealth's account during such year. . . .*

*On or before the fifteenth day of every month of the calendar year next following the submission of the report required by the first sentence hereof, the commissioner is hereby further authorized and directed to file with the chairman of said committees an updated report detailing the most recently available statement of the actual balance then credited to the commonwealth's account in the Unemployment Insurance Trust Fund together with a revised statement of the actual balance then projected to be credited to the commonwealth's account during such year.*

## Reasons for Issue

EOLWD officials told us there were inconsistencies in the accounting system and they found it necessary to temporarily suspend UITF reporting to effectively address these inconsistencies and undertake reconciliation efforts during the audit period.

## Recommendations

1. EOLWD should determine the causes of and address the inconsistencies in its accounting system.
2. EOLWD should submit UITF reports to the Legislature by required due dates.

## Auditee's Response

*In 2021, the Executive Office of Labor and Workforce Development (EOLWD) identified inconsistencies with the Unemployment Insurance Trust Fund (UITF) which prompted the agency to conduct a full reconciliation of the UITF. To ensure accurate reporting for these months, the Department of Economic Research (DER) and EOLWD determined that it would be most prudent to temporarily suspend/pause reporting while reconciliation efforts remained ongoing. Subsequently, it was determined that it would not be feasible to go back and supply the missing reports because it is not possible to project against future risk; as a result, reports were not filed*

*between July 2021 to November 2021. Submission of reports was reinstated by the Department of Economic Research in December 2021.*

### **Auditor's Reply**

EOLWD identified inconsistencies in the UITF that were significant enough to require it to suspend reporting to the Legislature for a five-month period. EOLWD states in its response that a reconciliation was performed, and it began filing reports upon its completion, which presumably identified issues in why they could not provide accurate reports on the activity of the fund. We reiterate our recommendation that EOLWD should determine the causes of these inconsistencies in their accounting system and address them.

Based on its response, EOLWD explained why it did not file unsubmitted reports. However, we identified four reports that were submitted late. We reiterate our recommendation that EOLWD should ensure that its UITF reports are submitted to the Legislature by required due dates.