PERFORMANCE AUDIT

Office of the Washington State Auditor
Pat McCarthy

Washington's Unemployment Benefit Programs in 2020:

Understanding improper payments and service delays during the COVID-19 pandemic

April 13, 2021

Report Number: 1028078

A note about data involved in this audit

In January 2021, the State Auditor's Office was alerted to a potential cybersecurity incident involving its third-party file transfer service. Among the files that may have been compromised was a set of data files provided by ESD containing personal information of people who received unemployment benefits in the 2017 to 2020 time period. The data files were provided as part of our series of audits of the Unemployment Insurance program. We worked collaboratively with ESD to assess the information included in the files so we could notify those people whose personal information may have been compromised. The effort to address the cybersecurity incident involving the data files was handled separately from the audits themselves, and it did not affect the findings, conclusions or recommendations of any of the audits.

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Executive Summary

A note regarding the term "fraud"

The legal term "fraud" describes specific types of criminal acts, and whether an act constitutes fraud is a legal determination that is made in a court of law. Our use of the term "fraud" in this report is not meant to imply an actual legal determination. Rather, we use the term to be consistent with how the issues with the state's unemployment program have been described among the public in various media reports.

Background (page 7)

The novel coronavirus quickly became a global pandemic in 2020. In March 2020, Congress passed the CARES Act to help provide support for those affected by the pandemic. Washington's Employment Security Department administers the state's unemployment compensation program. From early in the pandemic, news organizations reported on customer service delays and fraud in Washington's Unemployment Insurance program. This audit examines the scope of and reasons behind substantial fraud and customer service delays in the state's unemployment benefits program during the COVID-19 pandemic.

The economic effects of the COVID-19 pandemic dramatically increased unemployment claims, and efforts to help unemployed workers led to massive fraud totaling at least $647 million (page 12)

Efforts to slow the spread of COVID-19 affected businesses and their workers, causing unemployment claims to surge exponentially within weeks of the first statewide lockdown. Bad actors exploited the spike in unemployment claims and policies intended to quickly distribute relief funds to commit massive imposter fraud using stolen personal information. As of December 2020, ESD had identified

$647 million in fraudulent payments made during the pandemic, but the total is likely greater. The unemployment insurance fraud could impose some costs on businesses. Washington was not the only state to experience widespread imposter fraud in its Unemployment Insurance program during the pandemic.

ESD's pre-pandemic fraud detection and prevention portfolio was not capable of combating a large, sophisticated imposter fraud (page 24)

Prior to the pandemic, ESD lacked a robust anti-fraud unit and the tools necessary to respond to widespread imposter fraud. Compounding the problem, some tools within the fraud-prevention portfolio were not working in the first part of 2020. ESD has since taken steps to resolve many of the issues it faced at the start of the pandemic.

The explosion of unemployment insurance claims during the pandemic strained ESD's ability to maintain its previous level of customer service

(page 29)

High volumes of claims and efforts to limit fraud caused long delays in benefit payment times. The need for customer assistance grew as the number of unemployment claims increased. As the number of claims grew exponentially, so did the number of customer calls – and the agency still struggles to respond to them. Other states also struggled to deliver customer service in their unemployment programs during the pandemic.

State Auditor's Conclusions (page 40)

COVID-19 and the efforts to control its spread created an unprecedented surge in unemployment claims, both in Washington and nationwide. State unemployment agencies across the country were overwhelmed by the volume of claims, and Washington's Employment Security Department (ESD) was no different. In the early stages of the unemployment surge, ESD's primary focus was on paying claims quickly in an effort to provide financial relief to Washingtonians who had been affected economically by the pandemic.

By the middle of May 2020, ESD realized that bad actors had capitalized on the surge in claims, the state's efforts to pay those claims quickly, and looser requirements for a new federal unemployment benefits program. These factors led to a massive imposter fraud unlike anything Washington had ever seen. When ESD implemented new controls to detect suspicious claims, it helped control the fraud but also significantly increased the time it takes to provide benefits.

A year into the pandemic, ESD still is struggling to manage the customer service demands it faces. Since late fall of 2020, ESD's call center has only been able to handle a small share of the volume of calls it has received from Washingtonians trying to get answers about their claims. ESD officials have said they are taking steps to address this, but it has not been enough. With more federal funds for COVID relief on the way in 2021, another wave of claims seems likely and the agency's ability to handle the volume of calls is of concern. Improvements to the customer service experience are necessary to restore public confidence in the benefit system.

Recommendations (page 41)

ESD has already taken steps to restructure and expand its fraud program and to hire additional staff to address concerns about customer service. We make no additional formal recommendations, but strongly encourage ESD to continue its efforts to address these issues.

Next steps

Our performance audits of state programs and services are reviewed by the Joint Legislative Audit and Review Committee (JLARC) and/or by other legislative committees whose members wish to consider findings and recommendations on specific topics. Representatives of the Office of the State Auditor will review this audit with JLARC's Initiative 900 Subcommittee in Olympia. The public will have the opportunity to comment at this hearing. Please check the JLARC website for the exact date, time and location (www.leg.wa.gov/JLARC). The Office conducts periodic follow-up evaluations to assess the status of recommendations and may conduct follow-up audits at its discretion. See **Appendix A**, which addresses the I-900 areas covered in the audit. **Appendix B** contains information about our methodology.

Background

The novel coronavirus quickly became a global pandemic in 2020

The novel coronavirus designated COVID-19 was first identified in Wuhan, China, in December 2019. The virus spread to the United States early in 2020, and became a global pandemic. Countries around the world were faced with the greatest health crisis in a century, while efforts to contain it closed workplaces and put millions of people out of work. In the U.S., Washington recorded the nation's first documented case of COVID-19 in January 2020, and the first coronavirus-related death the following month.

The virus had a substantial impact on Washington residents throughout the year. In mid-March, Governor Jay Inslee closed schools and limited large gatherings; he later directed Washingtonians to stay at home and closed all non-essential businesses to help prevent the spread of the virus. Beginning in May, the governor began allowing some businesses to reopen with safety protocols in place.

Washington, like other states, continued to make adjustments throughout the year, allowing some businesses to remain open while trying to manage the spread of COVID-19. However, after a large spike in infections in the fall, the governor signed another order in November to restrict some business activities.

In March 2020, Congress passed the CARES Act to help provide support for those affected by the pandemic

As the number of people filing for unemployment benefits nationwide grew at an unprecedented rate and soon hit record highs, the federal government approved nearly $2 trillion in aid for states. The federal aid package, known as the Coronavirus Aid, Relief, and Economic Security (CARES) Act, was designed to provide support to struggling businesses and nonprofits and funding for vaccine development and public health measures. It also expanded safety net programs that supported states' efforts to help workers affected by the pandemic, including those not typically eligible for unemployment benefits. Washington received more than $11 billion in CARES Act funding.

The CARES Act created the Pandemic Unemployment Assistance (PUA) program. This program offered unemployment assistance to classes of workers not normally eligible for regular unemployment compensation, such as those who were self-employed or worked part time. PUA allowed eligibility for those people if they were not considered able and available to work for reasons related to the coronavirus pandemic, without some of the typical verifications required for regular unemployment benefits.

The CARES Act expanded unemployment benefits in some other important ways as well. The Federal Pandemic Unemployment Compensation (FPUC) program allowed people receiving regular unemployment or PUA benefits to have their weekly benefit amount increased by $600. The Pandemic Emergency Unemployment Compensation (PEUC) program allowed people who had exhausted their unemployment benefits to claim benefits for an additional 13 weeks. **Exhibit 1** summarizes the various unemployment programs mentioned in this report.

Exhibit 1 – Unemployment programs and abbreviations in this report

Regular unemployment compensation – Benefits payable to eligible unemployed workers under state law.

Pandemic Unemployment Assistance (PUA) – Federal unemployment compensation for unemployed workers not typically eligible for regular unemployment benefits.

Pandemic Emergency Unemployment Compensation (PEUC) – A temporary federal program for workers whose regular unemployment benefits have expired, providing up to 13 weeks of additional benefits.

Federal Pandemic Unemployment Compensation (FPUC) – Expands certain benefits to eligible people by adding an extra $600 in federal benefits each week.

Lost Wages Assistance – The FPUC program expired in July 2020, leaving many claimants with weekly benefit amounts that could not support their needs. From September 2020, the Lost Wages Assistance program added $300 per benefit week to restore the lost income.

Within a few weeks of Congress passing the CARES Act, state workforce agencies worked quickly to introduce these programs in addition to their regular unemployment insurance programs, so that people could receive emergency relief payments as soon as possible. Washington was among the first states to implement the CARES Act programs and start paying these new benefits.

Washington's Employment Security Department administers the state's unemployment compensation program

The regular unemployment compensation program is a joint federal-state program providing assistance to eligible unemployed people. Each state establishes its own laws to administer the program while following uniform guidelines established by federal law. For example, states set eligibility requirements, benefit amounts and the length of time that benefits can be paid. The U.S. Department of Labor's Employment and Training Administration is responsible for providing program direction and oversight. Unemployment benefits are funded by state employer taxes, with administrative costs paid by the federal government.

In Washington, the Employment Security Department (ESD) manages the state's unemployment program. ESD collects unemployment taxes from Washington's businesses and pays benefits to its eligible unemployed workers. When the CARES Act programs were created, those federal funds were added to the unemployment taxes collected by ESD.

Workers who are unemployed through no fault of their own file claims for unemployment benefits through an online application or by telephone. They receive benefits through prepaid debit cards or by direct deposit to their bank accounts. Once unemployed workers file for unemployment benefits, they may be referred to as "claimants." Claimants must submit weekly claims for each week they are unemployed to continue receiving benefits.

In Washington, as in most states, claimants are not paid during their first week of unemployment benefit eligibility; this period is called the "one-week waiting period." While not mandated by federal requirements, the waiting period is a longstanding practice in unemployment insurance programs. In Washington, however, the waiting period is required by statute.

From early in the pandemic, news organizations reported on customer service delays and fraud in Washington's unemployment program

Close on the heels of the governor's first stay-at-home order, news organizations began to report on customer service delays in Washington's Unemployment Insurance program. In April and May 2020, the media reported on the problems people had in filing for unemployment and getting their questions answered. People told reporters they had trouble accessing ESD's website after the agency implemented the new CARES Act programs.

Then, in early May, news reports began to emerge about fraud in the unemployment program, including unemployment claims filed using the personal information of people who were actually employed. By mid-May, journalists reported that ESD had experienced "imposter fraud" by a Nigerian fraud ring known as Scattered Canary, using personal information likely stolen through data breaches that occurred before the pandemic. Using that information, bad actors posed as legitimate unemployed people and filed fraudulent claims in record numbers. As a result, the media reported that those who did file legitimate claims encountered difficulties receiving their unemployment benefits payments. Some claimants even reported that banks had frozen their bank accounts.

"Imposter fraud" is the term for fraud conducted by one person posing as another, using illegally obtained personal data.

Well into the fall, media reports continued to document the ongoing difficulties many people experienced while trying to get their questions answered and problems with their claims resolved, sometimes waiting several months to receive payments.

This audit examines the scope of and reasons behind substantial fraud and customer service delays in the state's unemployment benefits program during the COVID-19 pandemic

This audit seeks to understand the reasons behind both the payments on fraudulent claims and the difficulties some legitimate claimants experienced in receiving timely payments and customer service. The audit also examined whether Washington has opportunities to learn from these experiences to help avoid problems that result from a sudden surge in unemployment claims in the future.

This audit answered the following questions:

- What led to the state's substantial payments to fraudulent unemployment claimants during the pandemic?
- What was the extent of customer service difficulties for unemployment claimants during the pandemic, and what were the factors that contributed to them?
- How did ESD's pandemic response compare to other states' workforce agencies?

This report addresses the first two questions by examining the circumstances affecting unemployment relief offered to Washingtonians through both the state's regular Unemployment Insurance program and the federal pandemic-specific programs in place from mid-April onward. These circumstances, and the decisions ESD officials made to try and address them, are discussed over the three sections of this report:

- The economic effects of the COVID-19 pandemic dramatically increased unemployment claims, and efforts to help unemployed workers led to massive fraud totaling at least $630 million
- ESD's pre-pandemic fraud detection and prevention portfolio was not capable of combating a large, sophisticated imposter fraud
- The explosion of unemployment insurance claims during the pandemic strained ESD's ability to maintain its previous level of customer service

In each section, we also compare Washington's experience to that of other states.

Audit Results

The economic effects of the COVID-19 pandemic dramatically increased unemployment claims, and efforts to help unemployed workers led to massive fraud totaling at least $647 million

Results in brief

Efforts to slow the spread of COVID-19 affected businesses and their workers, causing unemployment claims to surge exponentially within weeks of the first statewide lockdown. Bad actors exploited the spike in unemployment claims and policies intended to quickly distribute relief funds to commit massive imposter fraud using stolen personal information. As of December 2020, ESD had identified $647 million in fraudulent payments made during the pandemic, but the total is likely greater. The unemployment insurance fraud could impose some costs on businesses. Washington was not the only state to experience widespread imposter fraud in its Unemployment Insurance program during the pandemic.

Efforts to slow the spread of COVID-19 affected businesses and their workers, causing unemployment claims to surge exponentially within weeks of the first statewide lockdown

Measures to control the spread of the virus meant businesses had to shut down, and in some cases close permanently

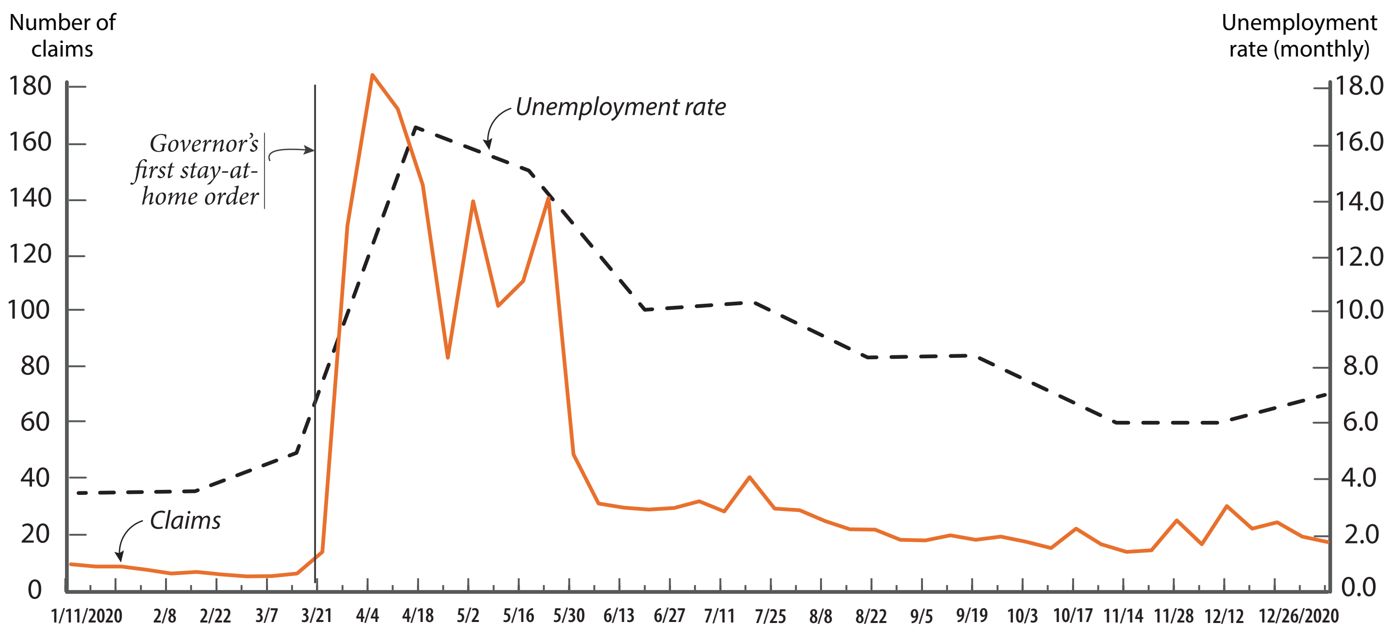
The pandemic created the world's largest health and economic crisis in a century. The urgent need to control the spread of the disease forced Washington's leadership into making some difficult decisions. The first steps taken were Governor Inslee's mid-March proclamations closing schools as well as all restaurants, bars and entertainment and recreational facilities for two weeks. They were followed on March 23 by the "Stay Home, Stay Healthy" order, which prohibited Washingtonians from leaving their homes except for essential activities. In addition, it required all non-essential businesses to close their doors. Over the course of 2020, the governor relaxed some of the requirements, allowing business openings and gatherings, but often maintaining restrictions in different parts of the state. In November, however, as the fall weather drove more people indoors and caused cases of the coronavirus to climb, the governor signed another order limiting business activities. These orders took a toll on Washington's residents and businesses, and ultimately, the state's unemployment rate.

In Washington, as happened almost everywhere, many businesses struggled or closed in the wake of the pandemic. The National Academy of Sciences conducted a survey of small businesses in May 2020, and reported that as early as a few weeks into the pandemic, mass layoffs had already taken place. It also reported that effects of layoffs varied across industries, with arts and entertainment, food services and hospitality being among the hardest hit. The survey estimated more than 50 percent of workers in those industries lost their jobs. In Washington, the state's tourism and entertainment industries were hit particularly hard. The Washington Hospitality Association estimated that the impact of COVID-related restaurant closures cost the state's restaurant industry alone approximately $10 billion in 2020.

In Washington, unemployment claims skyrocketed to levels never before seen

As a result of the pandemic and the state's efforts to manage its spread, unemployed workers filed unemployment insurance claims in record numbers. Within weeks of the governor's stay-at-home orders, the numbers of unemployed people and applications for unemployment benefits began a swift and steep climb. In one week in late March, unemployment insurance claims reached more than 180,000. As a comparison, weekly claims in 2019 exceeded 10,000 only four times all year. As **Exhibit 2** shows, the unemployment rate in Washington spiked to more than 16 percent by April, up from around 4 percent just two months earlier.

Exhibit 2 – Number of new unemployment claims and unemployment rate in Washington in 2020
Number of claims weekly in thousands; Unemployment rate monthly



Source: Data provided by Employment Security Department.

The unemployment rate decreased through the remainder of 2020 after its April spike, but at no point did it drop to levels seen before the pandemic.

Bad actors exploited the spike in unemployment claims and policies intended to quickly distribute relief funds to commit massive imposter fraud using stolen personal information

As unemployment soared in Washington and claims for unemployment benefits reached record levels, a number of factors converged to allow bad actors unprecedented access to the state's unemployment benefits.

Bad actors impersonated eligible claimants using personal information likely stolen in previous data breaches

Bad actors were able to take rapid action to craft fraudulent unemployment claims due to the widespread availability of people's stolen personal information on the so-called "dark web." The dark web allows people to use private computer networks to communicate and conduct business – including the selling and buying of stolen data – without divulging any identifying information, such as a user's location.

Since 2017 alone, a number of high-profile, widely reported data breaches have compromised the personal information of millions of people. Among the most prominent was the 2017 cyber-attack on the credit reporting agency Equifax, in which hackers gained access to data that compromised the personal information, including Social Security numbers, of 145 million Americans. Corporations are not the only target for bad actors seeking data: since 2016, 11 local governments have reported breaches to the Washington State Attorney General. Such data breaches made volumes of personal information available to bad actors for any variety of cyber-crimes, likely including the unemployment insurance fraud perpetrated during the pandemic.

Because Washington was ground zero in the U.S. for COVID-19, and took aggressive public health measures to help prevent its spread, the state's Unemployment Insurance program was rapidly swamped with applications, and thus a tempting target for imposter fraud. From the first weeks of the stay-at-home orders, ESD faced an exponential climb in both unemployment insurance claims and calls for customer assistance. As we discuss later (on page 35) in this report, calls into ESD's call center spiked to unprecedented levels. ESD investigators were diverted to help answer the telephones, as were other staff throughout the agency.

Then, in late April, an investigator in ESD's fraud detection unit learned from staff at a federal agency that unemployment claims had been made in the names of people currently employed by the City of Seattle. As the investigator had been asked to help answer phone calls from claimants, the fraud manager assigned the issue to a different staff person to investigate. Over the next few days, the same federal contact reached out to ESD with new reports of what appeared to be similar imposter fraud claims.

Because ESD management's attention was focused on answering phones and processing the flood of unemployment claims, it took several weeks for them to understand the breadth and severity of what was happening. Over the first two weeks of May, ESD's fraud unit received more and more reports of imposter fraud, reported by both federal and Washington state agency sources. As reports came in, they were assigned to fraud unit staff on the basis of their availability.

As the number of reports rose, the gravity of the situation became increasingly clear to ESD management. On May 14, the U.S. Secret Service released an informational alert regarding imposter fraud targeting unemployment programs in Washington and other states. The alert specifically mentioned a Nigerian fraud ring; however, it is likely that other sophisticated and well-organized bad actors also participated in the attack. By impersonating legitimate claimants, bad actors submitted fraudulent claims during the tidal wave of applications submitted by real people affected by the pandemic.

On May 14, the day of the alert, ESD announced that it was suspending payments for two days to help "validate claims as authentic." The announcement also apologized to valid claimants, and provided information about unemployment imposter fraud and how people should report it if they thought they were victims.

Directives in the federal CARES Act – such as self-certification of employment and required backdating of claims for Pandemic Unemployment Assistance funds – contributed to fraudulent claims

Federal programs aimed at providing relief to workers affected by the pandemic also played a key role in enabling the imposter fraud. When Congress passed the Coronavirus Aid, Relief, and Economic Security (CARES) Act, it provided coverage through the Pandemic Unemployment Assistance (PUA) program to some people not normally eligible for regular unemployment insurance benefits, such as self-employed workers and those who work part time. Applicants for PUA funds did not undergo the employment scrutiny that a person applying for regular unemployment undergoes. In fact, the CARES Act specifically allowed self-certification of employment as sufficient for eligibility. This means self-employed people applying for PUA could self-certify their employment or attest that they were able and available to work but unemployed due to COVID-19 simply by checking a box on the application.

A person applying for regular unemployment compensation in Washington undergoes a much more rigorous screening. For example, ESD automatically verifies the applicant's wages, hours and employer at the time of separation using records employers submit to ESD for tax purposes. In addition to verifying wages and hours, ESD sends the employer a request for confirmation of the claimant's reason for separation within one day of receiving the application.

With PUA's negligible requirements around certifying employment, bad actors could easily submit fraudulent claims through the PUA program. The U.S. Department of Labor's Office of Inspector General recognized this risk and issued an alert memorandum in late May, warning that the self-certification provision of the CARES Act would likely increase the risk of fraud. The memorandum pointed out conflicting interpretations of the self-certification requirements and asked Congress to clarify them. Guidance from the Department of Labor urged states to implement proactive measures such as cross-matching employment and wage data to detect and prevent improper payments and fraud. ESD already had some of these measures in place before the pandemic and added other measures once the magnitude of the fraud became known.

An audit of all states conducted by the Inspector General in October 2020 confirmed the risks it previously identified. State workforce agencies reported that the self-certification provision of PUA was indeed a top fraud vulnerability. When Congress extended the PUA program at the end of December 2020, it revised the policy, requiring all PUA claimants to provide documentation of their employment, such as pay stubs or tax records.

Another provision of the CARES Act that exposed even greater sums of money to the risk of fraud was its requirement that all PUA claims be backdated to the date of reported termination. When an individual files for regular unemployment benefits, he or she may request that the claim be backdated to an earlier time when the person was eligible but did not file a claim. Under state law, this can only be done if the claimant can show good cause for why they could not file during that earlier time of unemployment. Backdating on claims for regular unemployment compensation is not automatic, and typically requires an unemployment insurance specialist to review the information and apply the backdate manually. In the case of PUA claims, however, the claimant automatically received payment for all unemployed days back to the self-certified date of unemployment caused by COVID-19. Like the self-certification of employment, required backdating likely made fraudulent payments higher than they would have been.

The CARES Act gave states a financial incentive to eliminate the one-week waiting period for regular unemployment benefits, likely increasing the dollar value of fraudulent payments

In announcing federal assistance to states during the pandemic, Congress urged states that use a "one-week waiting period" for regular unemployment compensation to waive it, in an effort to provide relief to affected workers more quickly. The one-week waiting period means that a claimant does not receive payment at the end of the first week of eligibility: that first payment occurs after the *second* eligible week. Claimants do not exactly lose that week of benefits, but rather, it will take that person one extra week to be paid their full allowable amount. For example, in Washington, the law allows unemployment benefits to be paid for a maximum of 26 consecutive weeks. This means a person must be unemployed and eligible for 27 weeks to receive the entire 26 weeks of allowed benefit payments.

As an incentive for states to waive their waiting week, the CARES Act authorized full federal funding for that first week of payment – effectively, all a state had to do to receive the money was sign an agreement with the U.S. Department of Labor. The CARES Act meant that regular unemployment claimants were paid immediately – in the first week of eligibility. In Washington, it meant that a claimant needed to be eligible and unemployed for only 26 weeks to receive the 26-weeks of maximum allowed benefits, with the first week paid with federal funding.

The waiting week is not a federal requirement, although it is a common practice in state workforce agencies. Washington, however, codified it as a requirement in the 1940s.

The waiting week serves several purposes. First, it serves as a cost-saving measure to the state's unemployment program. When an unemployed worker goes back to work at any time before receiving the maximum benefits, they are paid for one week less than the duration of their eligible unemployment benefits. For example, a person returning to work after 15 weeks of unemployment insurance eligibility will have collected payments for only 14 of those weeks. Second, the waiting week can allow a state workforce agency additional time to conduct data matches and apply other tools to verify claims for benefits. This helps the agency identify and respond to a fraudulent claim before issuing the claimant's first benefit payment.

Governor Inslee had already issued an emergency proclamation authorizing ESD to temporarily waive the waiting period on March 18, 2020, nine days before the CARES Act was signed into law.

Waiving the waiting week in Washington likely was not a key factor affecting the *number* of fraudulent claimants that received benefit payments. The primary way that waiving the one-week waiting period would affect the number of paid fraudulent claimants in a state's unemployment program is that it reduces the time a workforce agency has to apply its fraud detection tools. In the case of ESD, one key factor—the ability of ESD's pre-pandemic fraud detection and prevention tools—contributed to our conclusion that waiving the waiting week likely was not a key factor affecting the number of paid fraudulent claimants.

ESD uses various tools to help assess a claimant's eligibility, including the tools it uses to help detect and prevent fraud. The tools ESD had in place at the start of the pandemic were simply not able to detect and prevent the imposter fraud that occurred. The bad actors conducting the fraud used stolen personal information to file for benefits in the unemployment insurance system as legitimate unemployed workers. They targeted their claims using information about people in sectors of the economy that had likely never been laid off and therefore never applied for benefits. In addition, the tactics they used to apply were sophisticated, such as hiring people to type information into the system rather than populating application information automatically. As a result, the applications could have avoided detection with or without the waiting week.

Identifying imposter fraud is extremely difficult even with the best online tools. ESD has made strides in doing so, as discussed later in this report.

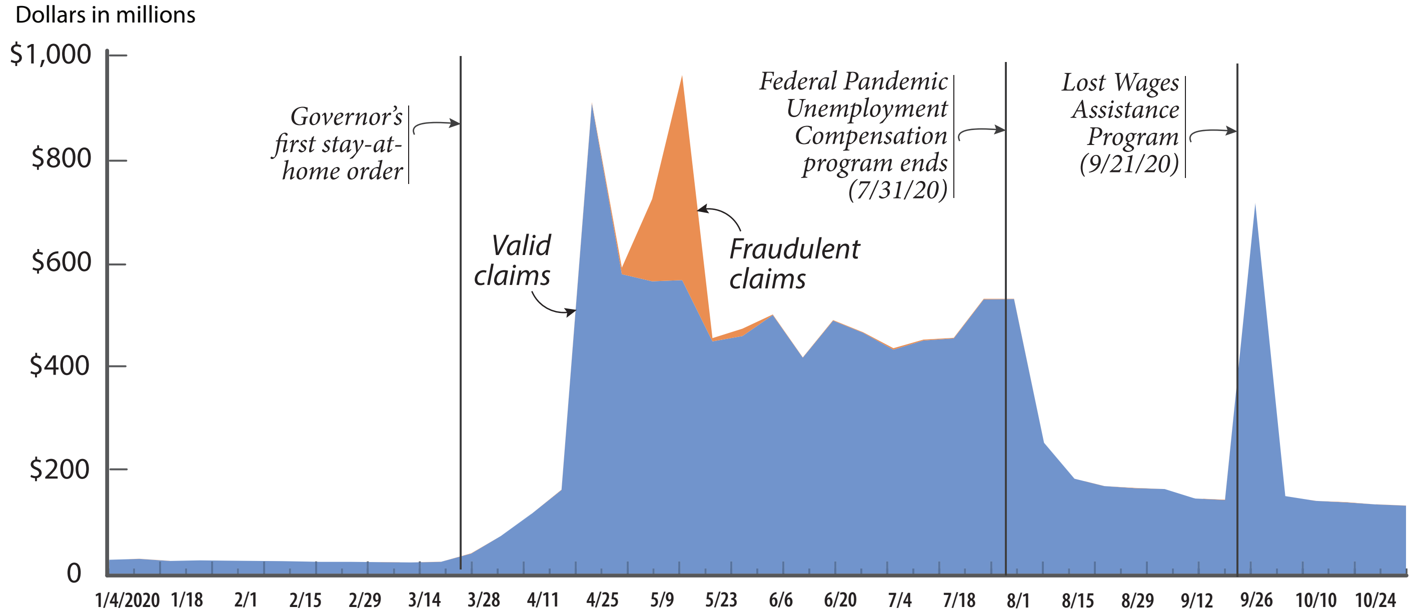
Waiving the waiting week likely did affect the *dollar value* of fraudulent payments made by ESD. The CARES Act and the governor's orders ensured that all claimants were paid during the first week of eligibility. Had the waiting week been in place, all claimants, including fraudsters, would have waited until their second week of eligibility to receive their first benefit payment. This means that fraudulent claimants received more money – at least one week's worth – than they otherwise would have.

As of December 2020, ESD had identified $647 million in fraudulent payments made during the pandemic, but the total is likely greater

ESD analyzes claims submitted through its electronic software system for possible fraudulent activity. The agency conducts further analysis in the form of matching submitted claimant information to various external data sources. For example, it checks for specific indicators of fraudulent activity, such as multiple claims sharing the same contact information or bank account. For claims submitted by telephone, ESD said that in addition to the normal fraud checks, it verifies the person's identity at the time of the call.

Between January and December 2020, ESD estimated it paid $647 million in what it determined were fraudulent claims. During the weeks of May 9 and 16, the agency identified more than $570 million, or about 90 percent of the total $647 million, in fraudulent payments. The roughly $570 million paid during that two-week period was spent on more than 100,000 claims. **Exhibit 3** shows that the wave of fraudulent payments was made when ESD was already struggling to manage the first wave of pandemic-related claims. The graph also shows that ESD did not make significant payments to fraudsters after that time despite high demand for unemployment assistance throughout 2020.

Exhibit 3 – Total payments on unemployment insurance claims compared to payments on fraudulent claims



Source: Data provided by Employment Security Department.

The actual dollar value of the fraud is likely to be greater than the reported amount

While the amount of fraudulent payments during the pandemic was substantial, the actual size of the fraud is likely even greater, as ESD may not have caught all of the fraudulent activity that occurred early in the pandemic. Numerous times throughout 2020, the agency improved the fraud detection tools it uses in its claims processing software. Those improvements likely helped ESD stop additional fraud, particularly that which would have been caused by imposters.

However, staff did not run earlier claims through the improved tools once they were implemented. ESD managers said the agency does not currently have a mechanism in place to do so easily. Even if such a process were in place, staff said it could flag accounts that had already been investigated and cleared as not fraudulent.

Furthermore, claimant records are fluid, meaning that a claim has information added or changed many times over its lifetime. For that reason, ESD officials said, it would be difficult to replicate old claims as they stood on any given day and apply new tools to those claims. Presuming ESD could determine which payments were likely fraudulent, the agency would still need to investigate the claims. Finally, even if an old claim is determined to be fraudulent, tracking down and recovering the money would be extremely difficult so many months after the claim was paid.

The unemployment insurance fraud could impose some costs on businesses

As of March 2021, ESD had recovered $370 million in known fraudulent payments

Fraudulent payments can result in increased taxes to businesses if ESD has not detected them. Recoveries of known stolen funds can reduce the amount the state may need to collect from businesses. ESD has recovered about 57 percent of the $647 million in known fraudulent payments it made in 2020. As of March 2021, the agency had recovered $370 million in known fraudulent payments and an additional $4 million that had not yet been applied to individual accounts.

ESD's primary method of retrieving fraudulent payments has been via checks returned by financial institutions. A bank may return an unemployment insurance payment before it can be deposited if, for example, it is in the name of a person not listed on the account. Banks may also freeze a transaction if they believe it is suspicious. Retrieving funds from frozen transactions could increase collections even further. However, according to ESD, some banks have been reluctant to return the funds from frozen transactions for fear of liability if the transaction is not fraudulent. ESD is continuing to work with financial institutions at a national level and estimates that it may take at least until summer 2021 before any additional funds are returned from these accounts.

A secondary method for ESD to recover fraudulent payments is through the efforts of law enforcement agencies. ESD staff said that the FBI, Secret Service and other agencies are working to track down and seize additional fraudulent payments, but the agency has not yet received such money. They estimate the amount that could be recovered through law enforcement to be at least $3 million.

Finally, ESD staff said that a handful of people have come forward directly to ESD to return fraudulently obtained funds.

Acknowledging that these are unprecedented times, ESD estimates it could recover about 13 percent of the remaining fraudulent payments through these three methods. Officials base that estimate on the percentage of inappropriate payments the agency typically recovers.

Although the federal government has not confirmed whether it will seek to recoup fraudulent payments from states, ESD does not expect it will be required to pay them back

Most of the fraud loss that occurred during the pandemic likely came from federal CARES Act money. Overall, from March 8 to the end of November 2020, ESD paid $12.5 billion in unemployment benefits, of which about $4 billion was drawn from the state's Unemployment Insurance Trust Fund. The CARES Act created several entirely federally-funded programs that brought a large infusion of federal money into the unemployment system, exposing primarily federal dollars to the imposter fraud. The PUA program, which provided unemployment benefits to workers not typically eligible for unemployment, was entirely federally funded, as was the Federal Pandemic Unemployment Compensation program, which added $600 to each unemployment claim. In addition, through the agreement to waive the waiting week, federal funds paid for the first week of all regular unemployment benefits.

Federal regulations for unemployment insurance programs in place before the pandemic require state workforce agencies to recover and return overpayments and improper payments from federal programs "to the extent possible." No existing regulations explicitly say that states are required to repay the federal government for any amount that they cannot recover. Because the loss of federal funds during the pandemic was so high, the federal government may or may not adhere to its previous policies. The federal government has not yet released guidance on recovering overpayments and improper payments specific to the CARES Act, but ESD officials said that, based on prior practice, the agency does not expect it will be required to pay back any federal funding it cannot recover.

Washington's lawmakers have already acted to mitigate the impact of the pandemic on future business tax rates

Unemployment insurance is funded through taxes paid by employers. These business taxes are based on three components: an experience rating, a social tax and a solvency surcharge.

- The **experience rating** charges employers for the claims made by their employees.
- The **social tax** portion of the rate is the shared statewide cost of benefits paid that cannot be attributed to specific employers, typically because some businesses close permanently and cannot be charged for their experience rating. Prior to the 2021 legislative session, the social tax rate was projected to be set at its statutory maximum of 1.22 percent.
- The **solvency surcharge** adds a charge for all businesses to keep the Unemployment Insurance Trust Fund solvent when it has less than seven months of reserves remaining. In mid-December 2020, Governor Inslee waived the solvency surcharge for businesses.

Prior to the 2021 legislative session, ESD estimated that businesses would pay higher unemployment insurance taxes as a result of the pandemic. However, during its 2021 session, Washington's Legislature passed and the governor signed into law a bill to help limit the extent of those tax increases. The bill, ESSB 5061, reduced taxes on employers over the next few years relative to what they otherwise would have been, and expanded benefits for unemployed people. The specific provisions of the legislation that provide relief to businesses include:

- Reducing the statutory maximum social tax rate from 1.22 percent to 0.5 percent in 2021, scaling up to 0.9 percent in 2025
- Suspending the solvency surcharge through 2025
- Prohibiting ESD from charging businesses for benefits claimed during a waiting week partially or fully reimbursed by the federal government
- Allowing employers to request that temporary layoffs or curtailed operations resulting from the presence of any dangerous, contagious or infectious disease that is the subject of a public health emergency not count against their experience rating

Washington was not the only state to experience widespread imposter fraud in its Unemployment Insurance program during the pandemic

While Washington was the first state to report massive unemployment insurance fraud during the pandemic, many other states also experienced fraud in their programs. In January 2021, California's Employment Development Department reported that it had paid more than $11 billion in fraudulent unemployment insurance payments during the pandemic. As of November 2020, Massachusetts identified more than 170,000 fraudulent unemployment claims and reported it recovered more than $242 million of fraudulent payments. Michigan's workforce agency reported that unemployment fraud is likely to be in the hundreds of millions of dollars. Colorado and Hawaii have reported losing between $35 million and $40 million each.

Some states have reported the number of fraudulent claims they stopped, but not the fraudulent payment amounts. Other states may have also experienced fraud in their unemployment programs, but have chosen not to discuss their losses publicly. The U.S. Department of Labor's Office of Inspector General estimates that the total value of fraud during the pandemic is at least $63 billion nationally as of the end of 2020.

States responded to fraud in their unemployment insurance programs by increasing their staffing and investing in additional tools to combat fraud. For example, several states added employees dedicated to processing claims and investigating potentially fraudulent claims. More than 20 have implemented ID.me – an online portal that allows people to securely prove and share their identities – to verify the identities of claimants. Hawaii adopted a location app to verify that claims are filed by people living in the state. Some states have also started using artificial intelligence to identify emerging fraud trends.

Washington also increased its staffing and added new tools to combat imposter fraud, as discussed in the next section of this report.

ESD's pre-pandemic fraud detection and prevention portfolio was not capable of combating a large, sophisticated imposter fraud

Results in brief

Prior to the pandemic, ESD lacked a robust anti-fraud unit and the tools necessary to respond to widespread imposter fraud. Compounding the problem, some tools within the fraud-prevention portfolio were not working in the first part of 2020. ESD has since taken steps to resolve many of the issues it faced at the start of the pandemic.

Prior to the pandemic, ESD lacked a robust anti-fraud unit and the tools necessary to respond to widespread imposter fraud

ESD's pre-pandemic fraud detection unit was focused primarily on investigating *claimant fraud*

As 2020 opened, ESD's internal anti-fraud unit, the Office of Special Investigations and Collections, was not capable of many essential aspects of identifying and preventing fraud before it happened. The office structure was split between fraud investigations and collections of fraudulently made payments. The office was composed of one manager, four supervisors and 44 full-time staff. Two of the supervisors and 20 full-time staff were assigned to the fraud detection and prevention unit; two supervisors and 24 full time staff worked in the collections unit.

Fraud investigators focused primarily on claimant fraud. In claimant fraud, the person filing for benefits is who they say they are but intentionally misreports or withholds information to receive benefits he or she is not entitled to. Examples of claimant fraud include knowingly submitting false information, continuing to collect benefits when no longer eligible, or collecting full benefits while not reporting other wages or income. ESD considered this type of fraud its highest risk, as it had historically been the most common type in the state's Unemployment Insurance program. Investigators examined potentially fraudulent claims as they became known, either through the tools the agency used at the time or from information provided by tipsters.

Although ESD had some tools to detect *imposter fraud*, it was unprepared for the massive imposter fraud that occurred in 2020

Whereas claimant fraud involves a legitimate person trying to get benefits they are not entitled to, imposter fraud involves a person filing an unemployment insurance claim under someone else's stolen identity. Benefit payments are usually diverted to existing or new accounts in the name of the stolen identity but controlled by the bad actor. In 2014, following some imposter fraud that occurred in other states, ESD staff said it improved its software tools to help detect that type of fraud specifically. However, the agency was wholly unprepared for the massive degree of imposter fraud committed in 2020. Its existing tools were simply not able to prevent or even detect the fraud from the outset.

By late August 2020, the national scale of the unemployment insurance fraud prompted the U.S. Department of Labor (DOL) to remind states of its fraud management requirements and the tools, strategies, and services available to states. DOL emphasized that some of the most effective tools against fraud are contained in the National Association of State Workforce Agencies' Integrity Data Hub. This multi-state data system allows participating state unemployment agencies to submit claims for cross-matching, provides a national fraud alert system to states, and supports data analytics on multi-state claims.

However, when the agency considered joining the Data Hub prior to 2020, there were few other participating states. Participation is free but involves data-sharing agreements. ESD said that the complexity of integrating the Data Hub with its unemployment benefits system prevented the agency from participating until the fall of 2020.

ESD also lacked a consistent process for monitoring trends that could have alerted it to widespread imposter fraud

Aside from the existing software tools' inability to detect or prevent the sophisticated imposter fraud, ESD's fraud unit lacked employees dedicated to conducting data analytics that might have alerted the agency to the emergence of a broader fraud attack. Data mining – the process of identifying trends in data using computer science and statistical methods – can be used to spot patterns of suspicious behavior, including those that suggest fraudulent activity. Over time, information gained from data mining exercises can also help inform the agency about new types of fraud, allowing it to improve its software tools proactively.

Compounding the problem, some tools within the fraud-prevention portfolio were not working in the first part of 2020

Until mid-May, when the imposter fraud became evident, the software tools ESD used to identify suspicious claims did not run until the day after the agency made payments on many of those claims

Up until the imposter fraud become known, the results of the electronic software tool designed to help ESD identify fraudulent activity in the unemployment insurance system were not completed until the day after an individual filed a claim. One component in the software tool, which the agency felt was critical, required information that took a full day to obtain. When the waiting week was in place, an eligible claimant was not typically paid within that time, so the next-day completion was not a concern.

However, when the waiting week was eliminated on March 18, it became feasible that some claims could be paid as early as the day following the date of an application. For those claims, the results of the fraud detection tool were not known until after the claim had already been paid. ESD management did not recognize this risk until mid-May; in response, the agency revised its system to complete the fraud detection tool's analysis on the same day a claim was filed. By that time, however, some payments had already been made to an unknown number of fraudulent claimants.

Similarly, ESD did not use tools that cross-match unemployment claims to records of people incarcerated in Washington for 2019 and most of 2020

Many states cross-match people applying for unemployment benefits to people in jails and prisons; the latter may not be able and available for work and so should not receive these benefits. The identities of those incarcerated can also be stolen and then used by imposters. California, one of the states that has not historically conducted such a match, reported in 2020 that people committing fraud primarily from inside the state's prisons may have stolen more than $1 billion dollars from the state's unemployment insurance program.

Unlike California, ESD has typically performed such a cross-match. However, beginning in late 2018, a change in the format of data the agency used created problems with match software and ESD stopped performing this match through 2019 and 2020. ESD did conduct the cross-match once, in late 2020, and found that over the nine-month period evaluated, around 1,500 incarcerated people received unemployment benefits they may not have been eligible for. We conducted comparable analysis and found similar results, validating ESD's match.

ESD employees said they are in the process of investigating those 1,500 claims to determine whether claimants were eligible to receive benefits or were victims of imposter fraud.

The state disabled some additional controls temporarily to speed claims processing, but these changes do not appear to have significantly affected the fraud

Delinking Social Security numbers in Secure Access Washington (SAW). SAW is a centralized portal that allows individuals to access online services at a number of state agencies, including unemployment benefits through ESD. SAW is managed by the state's consolidated technology services agency, WaTech. Once a person enters through SAW, ESD's system for submitting unemployment benefit claims only allows a person with one SAW account associated with one Social Security number to apply.

Beginning in March 2020, many people were unable to access their SAW accounts, primarily because those people had forgotten their login credentials. The unprecedented volume of unemployment benefit claims meant that many of those people were unable to reach ESD's customer service phone lines to help them resolve the issue. From April 7 until May 7, 2020, ESD adapted its benefit payment system to temporarily allow people with an existing unemployment insurance account filing for new benefits to create another SAW account to access their existing account. In other words, ESD "de-linked" Social Security numbers in SAW.

Delinking the Social Security numbers created the potential for additional fraud because it allowed bad actors to file an unemployment claim in someone else's name as long as they knew that person's Social Security number, even if that person already had an account. ESD's auditors conducted an analysis to determine whether the vulnerability created by the temporary fix was a significant factor in the fraud. The ESD auditors' analysis concluded that it was not a significant factor, based primarily on two findings. First, the analysis showed that the bulk of the known fraud took place in the weeks of May 16 and May 23, after the control on SAW accounts had been restored and the vulnerability no longer existed. Second, the auditors reviewed a sample of known or suspected fraudulent claims and found that only about 2 percent of them were associated with accounts that had been created when the Social Security numbers were delinked.

Disabling multi-factor authentication (MFA). WaTech typically requires users to log in to SAW accounts through MFA, which provides greater assurance that the user is not an imposter. WaTech requires a user to authenticate their identity on a separate device, such as through a text message sent to a cellphone number that issues the user a verification code. In March, the volume of claims at ESD was so high that it was slowing down the SAW system's ability to send those codes. WATech reported that many users, not just those applying for unemployment benefits through ESD's system but also those trying to access programs in other agencies, did not receive the MFA messages until after the code had already expired. As a result, everyone trying to access a SAW account found it difficult or impossible to do so. In response to the problem, WaTech temporarily disabled MFA for ESD on March 27.

It appears unlikely that disabling MFA contributed significantly to the imposter fraud, primarily because the tool is designed to protect existing accounts rather than prevent the creation of new accounts. In the case of imposter fraud, when bad actors create new accounts using stolen personal information, they can circumvent MFA by having the authentication code sent to their own device. For that reason, it appears unlikely that leaving MFA enabled would have significantly reduced the amount of imposter fraud that happened.

ESD has since taken steps to resolve many of the issues it faced at the start of the pandemic

By December 2020, ESD had already taken a number of steps to resolve many of the issues that it faced at the pandemic's outset. Beginning in May, shortly after the agency gained a better understanding of the scale of the imposter fraud, ESD hired a consultant to help it improve its fraud detection and prevention portfolio. As part of that contract, ESD updated and improved its electronic tools numerous times throughout the year. ESD also hired another contractor to determine whether its online benefits system itself had been breached, and learned it had not.

ESD is in the process of building a more robust anti-fraud staffing structure that will include a Fraud Chief, an Operations Manager and an Analytics Manager, as well as more than doubling the number of employees in that office. The agency also recently added a data analytics unit to look for patterns and trends in claims that may signal additional indicators of potential fraud.

As already discussed, the agency is now running same-day analytics on claims to prevent payments prior to the application of its electronic software tools.

Finally, as the Integrity Data Hub has increased the number of participating states and continues to add new tools available to states, ESD is now a participating member, allowing access to a broader range of multi-state matches and alerts, as the Department of Labor recommended all states do.

The explosion of unemployment insurance claims during the pandemic strained ESD's ability to maintain its previous level of customer service

Results in brief

High volumes of claims and efforts to limit fraud caused long delays in benefit payment times. The need for customer assistance grew as the number of unemployment claims increased. As the number of claims grew exponentially, so did the number of customer calls – and the agency still struggles to respond to them. Other states also struggled to deliver customer service in their unemployment programs during the pandemic.

High volumes of claims and efforts to limit fraud caused long delays in benefit payment times

Benefit payment times can vary for a number of reasons

Payment times for unemployment insurance benefits vary depending on many factors. Payment time refers to the time elapsed between when a claimant files an initial claim and when he or she receives the first benefit payment. When claimants provide complete and accurate information and ESD claims processors can easily verify the claimant's identity and wages, initial claims can be processed promptly. In these cases, claims can be paid within a week. If questions arise about a claimant's eligibility for benefits after the first payment has been made, and the issues do not involve the claimant's identity, ESD will continue to make "conditional payments" until it resolves the issue.

However, when questions around eligibility arise during the initial application process, payments on the claim are delayed. Questions about a claimant's identity also delay payment until an investigator can examine and resolve them. The duration of an investigation depends on the total number of claims flagged for investigation at any given time and the availability of investigators.

During the early months of the pandemic, ESD did not have enough trained staff to meet the unprecedented spike in workload brought about by the high number of eligibility issues and suspected imposter fraud. Staff efforts to investigate claims were soon overwhelmed, which led to long payment delays. In late May 2020, ESD enacted an emergency rule to allow suspension of payments pending an investigation if it suspects the claimant is an imposter, even if the first payment has already been made.

Some cases may require adjudication to resolve the claim. Adjudication refers to a formal and detailed review of the claim, often involving requests for additional information from the claimant to determine eligibility. The time it takes for the claimant to respond or the quality of the information he or she provides can affect how quickly the claim is paid. Adjudication results in the approval or denial of the claim. When the claim is denied, the claimant can file an appeal, likely delaying payment even further. Appeals are handled by the Office of Administrative Hearings, where parties can provide evidence and make a case for their viewpoints.

Payment times were actually *faster* during the early weeks of the pandemic, in large part because the state eliminated the waiting week

In 2019, the year prior to the pandemic, claimants filing initial claims for regular unemployment compensation waited an average of 35 days for their first payment, including the one-week waiting period. In that year, less than 20 percent of claims took more than 49 days to be paid, and at least 60 percent were paid in less than 21 days.

After ESD enacted the governor's one-week waiting period waiver on March 18, claimants generally began receiving their initial payments more quickly. Claimants who were paid the week ending March 14 waited an average of 34 days for their payments. The following week, the average payment time fell to 19 days. By the time ESD saw its highest volume of claims, during the week of March 28, payment times had dropped to an average of just nine days. These fast payment times were temporary: Once the fraud was exposed in mid-May and ESD put new controls in place, average payment times began to slow once again.

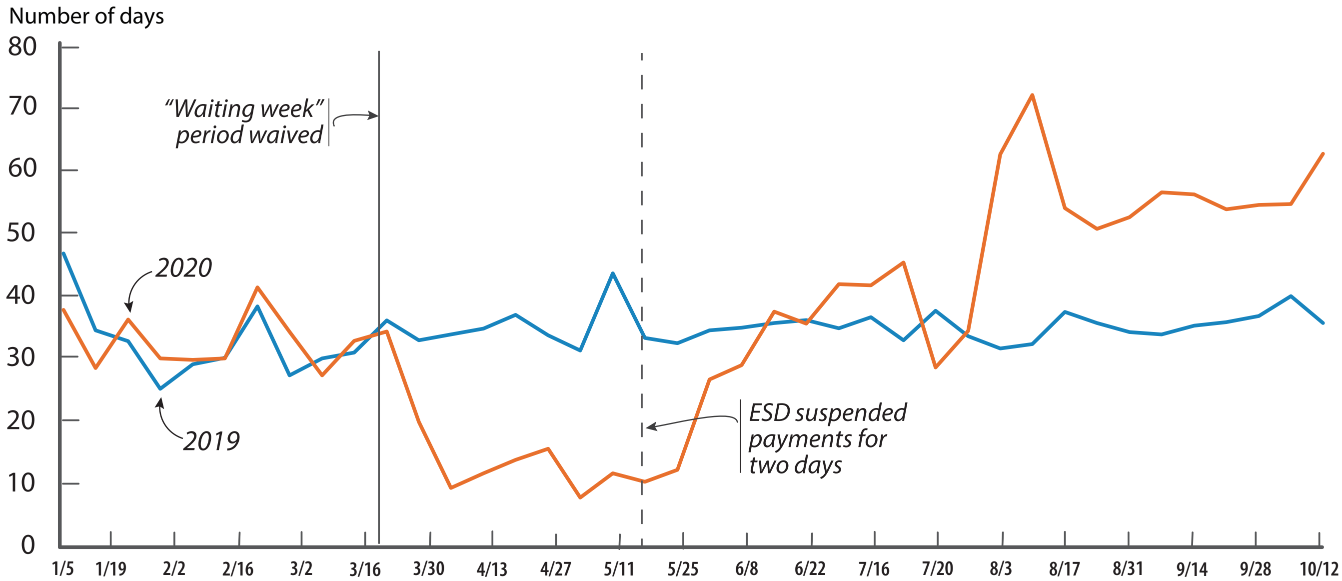
As the scale of fraud was revealed, the additional controls ESD put in place slowed payment times

Once ESD recognized the magnitude of the imposter fraud, the actions the agency took to control the fraud had the effect of slowing payment times. On May 12, ESD temporarily suspended payments on all claims for two days to allow agency officials time to gain control of the fraud. Two weeks later, on May 29, ESD again imposed a two-day hold on all claims before paying them to provide time to check claims for potential fraud.

Another action that affected payment times was that on May 26, ESD began conducting fraud reviews on all backdated claims before payment. As discussed on page 16 of this report, PUA claims are automatically backdated to the date of reported termination. Backdating on claims for regular unemployment compensation is not automatic, and typically requires an unemployment insurance specialist to review the information and apply the backdate manually. The fraud reviews allowed ESD to more carefully scrutinize backdating requests before paying them but also had the effect of slowing payment times.

As **Exhibit 4** shows, by the first week of June, average payment times had returned to their pre-pandemic average of 30 to 40 days. Payment times then grew steadily longer, so claimants receiving payments in early August had waited an average of 70 days or longer. These very long payment times were associated with applications filed in mid-May, a time when claims were filed in record numbers and the agency had put its additional fraud prevention controls in place. Although ESD continued to hire staff to deal with the backlog of claims, it nonetheless took time and training to bring them up to full capacity. As a result, average payment times remained higher than 50 days in August and September, with about one-third of those claims being paid after more than 70 days.

Exhibit 4 – Washington average time between initial claim and payment, 2019 compared to 2020
January through mid-October



Source: Data provided by Employment Security Department.

Although the average payment time was 22 days during the height of the pandemic, 13 percent of the claims took longer than 49 days

Between April and October 2020, the average unemployment claim was resolved fairly quickly and was paid within 22 days. However, some claims took longer to resolve: 13 percent took longer than 49 days, and 8 percent took longer than 70 days.

To get a better understanding of why some claims take several months to be completed, we reviewed in detail two claims that took longer than 70 days to be paid. The first was delayed because the claimant reported being "suspended" from work when the person was actually laid off due to suspended operations. This triggered a question about the reason for separation, and the claimant took a long time to respond to questions about the issue. In the end, this claim took nearly 200 days before it was finally resolved.

The second claimant had been denied benefits multiple times following numerous rounds of adjudication. During the final appeal, the claimant provided new evidence that conclusively resolved the case with an approval and eventual payment after more than 220 days. In both of these examples, payment was significantly delayed because there was a dispute about the claimant's eligibility that ESD and the claimant worked through to resolve.

Washington's average payment times throughout the pandemic were largely consistent with those in states processing comparable numbers of claims

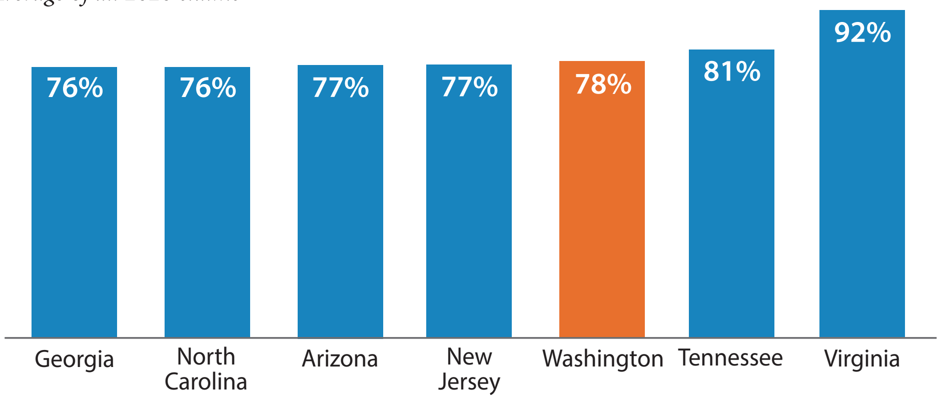
Using regular unemployment compensation data collected from all states by the U.S. Department of Labor, we compared Washington's benefit payment times during the pandemic with those in other states. We selected six states (listed in the sidebar) with total monthly unemployment claims similar to Washington's during 2020. Washington processed nearly 700,000 claims during that time; the other six states ranged from 340,000 to 1 million claims. DOL's data were limited to regular unemployment claims and did not include Pandemic Unemployment Assistance claims. We also did not take into consideration the various laws and regulations related to unemployment programs in the other states, which certainly could affect their payment times.

The six comparison states

Arizona, Georgia, North Carolina, New Jersey, Tennessee, Virginia

Overall, Washington's benefit payment times for initial regular unemployment insurance claims during 2020 were similar to those of the other six states, as shown in **Exhibit 5**. Washington paid about the same percentage of initial claims in 21 days or less – around 75 percent – as most states in the sample. On the other hand, Washington had a slightly higher rate of initial claims paid in more than 70 days than comparison states, 6 percent versus 2 percent to 4 percent (not shown in the exhibit). In Washington, it took at least 70 days to pay more than 30,000 regular unemployment claims.

Exhibit 5 – Percent of regular unemployment claims paid within 21 days by state
Average of all 2020 claims



Source: U.S. Department of Labor.

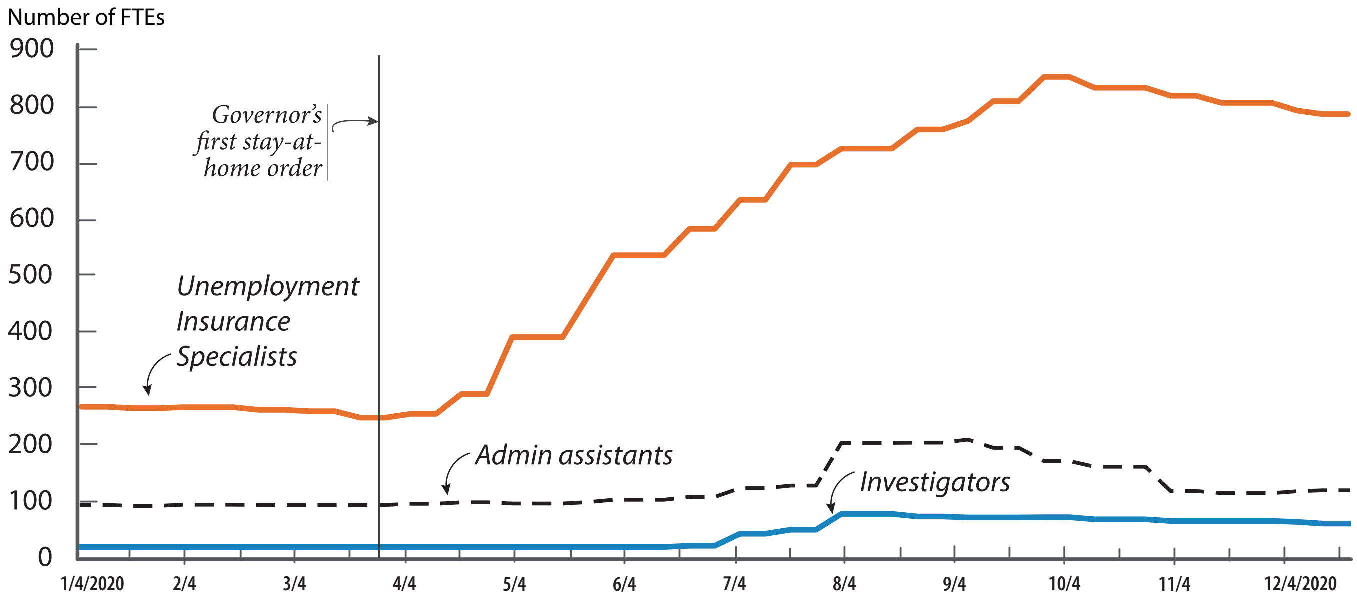
The need for customer assistance grew as the number of unemployment claims increased

ESD responded by mobilizing existing employees and hiring new ones to handle claims processing and customer support

ESD responded to the flood of claims by moving staff from other divisions, hiring new permanent and temporary staff, hiring contractors, bringing back retired staff, and even borrowing people from other agencies and the National Guard. Overall, from early March to early October, ESD increased its total staffing by more than 50 percent, from about 1,600 full time equivalent (FTE) employees to more than 2,500. Some 2020 hiring was unrelated to the pandemic surge in claims: ESD had already planned to hire new staff as it prepared to implement the Paid Family Medical Leave program. Nevertheless, the greater part of ESD's hiring was focused on handling the surge of unemployment claims and the fraud.

As **Exhibit 6** shows, from March to October 2020, ESD tripled the number of Unemployment Insurance Specialists, responsible for processing claims, from about 250 to around 850, and quadrupled the number of investigators from 18 to 75. However, hiring and training new employees takes time, so the benefit gained by additional staffing was gradual. ESD said it also faced challenges in onboarding new employees for teleworking, revising training programs for telework and working with the union.

Exhibit 6 – Changes in ESD staffing levels over 2020 for three relevant positions: Unemployment Insurance Specialists, administrative assistants, investigators



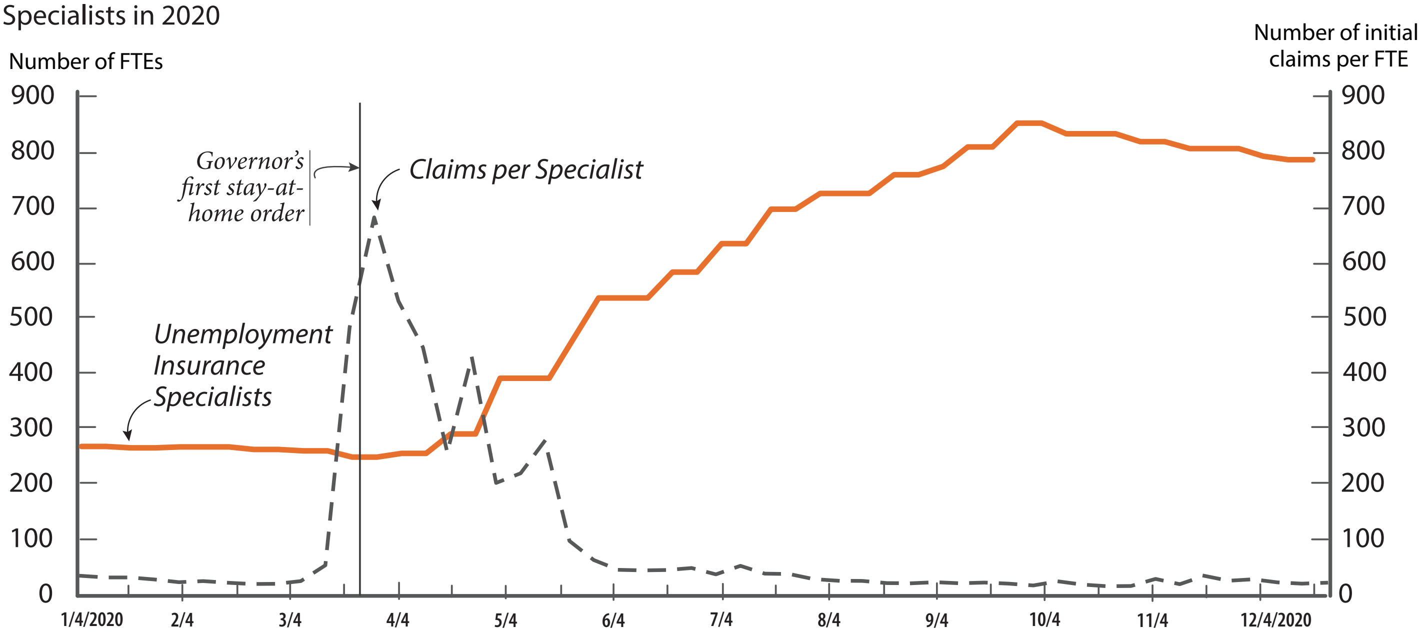
Source: Data provided by Employment Security Department.

Aside from hiring additional staff, ESD also dramatically increased its use of overtime, which rose agency wide by more than tenfold from late March to August. Although the use of overtime declined through the end of the year, it still remained more than five times its pre-pandemic level.

The number of initial claims each unemployment insurance specialist had to process increased by nearly 30 times during the early stages of the pandemic

The staggering increase in claims had a profound effect on the workload of those Unemployment Insurance Specialists tasked with processing them. Prior to the pandemic, ESD received roughly 23 initial unemployment claims per Specialist each week. The week of March 28, 2020, initial unemployment claims increased beyond 180,000, translating to roughly 684 initial claims per Specialist. Over the following months, initial unemployment claims dropped somewhat but remained high as ESD rushed to add staff. By June, the additional employees and decreasing number of initial claims combined to return the per-Specialist workload to close to previous levels (shown in **Exhibit 7**).

Exhibit 7 – Number of new unemployment claims per Full Time Equivalent (FTE) Unemployment Insurance Specialists in 2020



Source: Data provided by Employment Security Department.

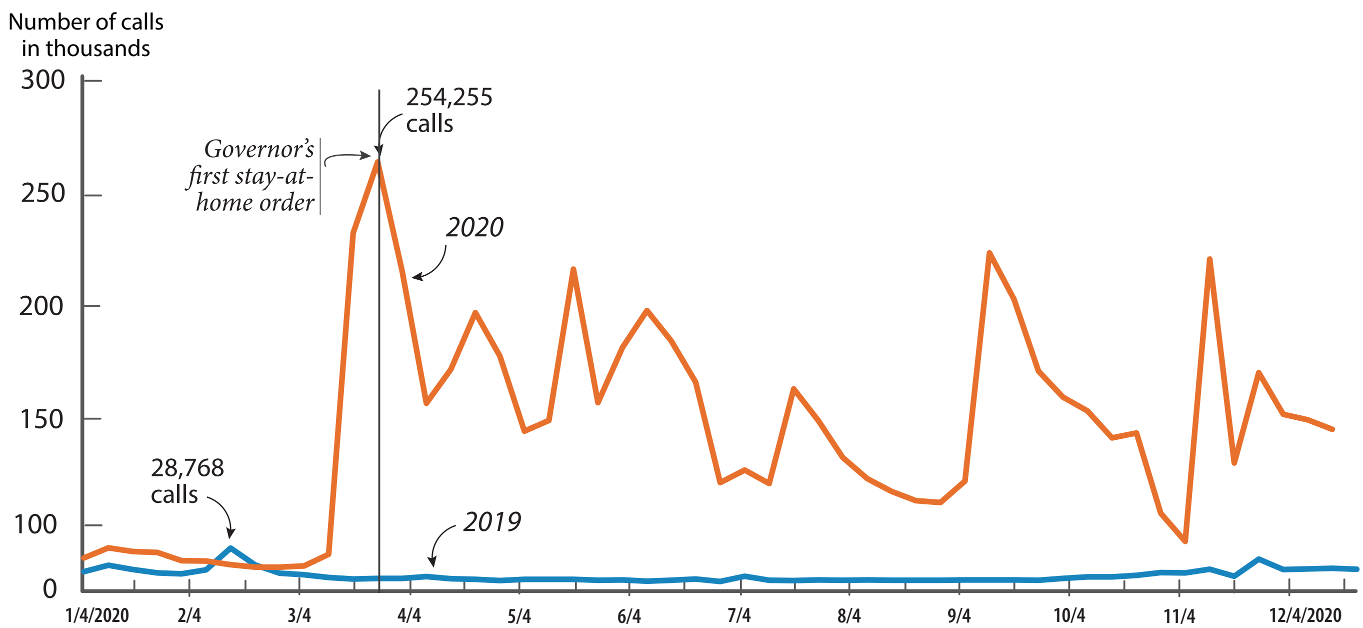
As the number of claims grew exponentially, so did the number of customer calls – and the agency still struggles to respond to them

Weekly customer calls to ESD's call center exceeded a quarter of a million at one point during the pandemic

ESD runs a call center to answer claimants' questions about their unemployment situation or their claims. Prior to the pandemic, the call center averaged 13,000 calls a week. As the number of initial unemployment claims soared in the early days of the pandemic, so did the number of calls.

As **Exhibit 8** shows, the center received more than 250,000 calls during the week of March 28. The number of calls likely represents fewer callers, as one person may make multiple calls, particularly if their first call was not answered. The number of calls varied widely throughout 2020, although the number each week diminished into September. Calls spiked again in late September and December, as people responded to different assistance programs and restrictions on businesses. To help with the volume of calls, ESD said it implemented several strategies, such as extending weekday hours and adding hours on Saturday.

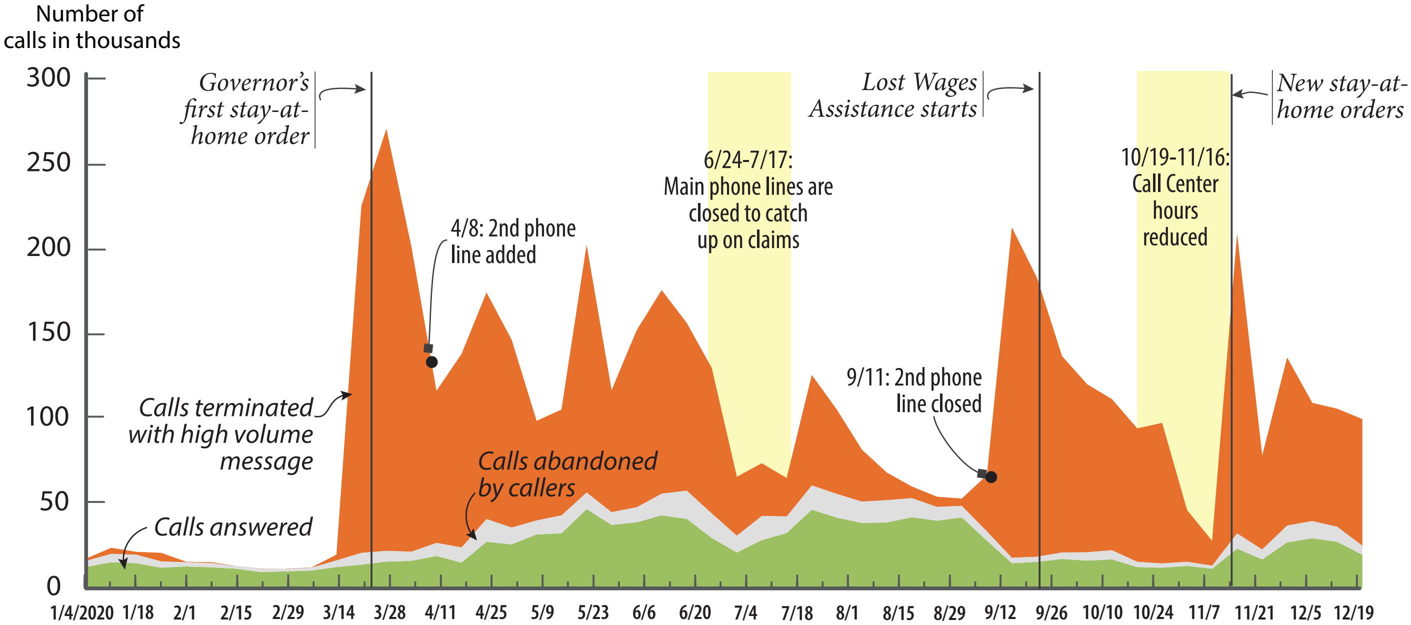
Exhibit 8 – Total calls received weekly at ESD's call center, 2019 compared to 2020
Number of calls weekly in thousands, showing peak calls in each year



Source: Data provided by Employment Security Department.

Exhibit 9 shows the effect these key events had on the ability of ESD staff to respond to calls. In particular, it shows the number of calls abandoned by callers rose sharply in periods closely related to these events.

Exhibit 9 – Total calls to ESD call center by outcome: Answered, abandoned, terminated with high volume message



Source: Data provided by Employment Security Department.

In early April, ESD set up a secondary call line to quickly help callers with fairly simple questions. That line was staffed by contractors and some ESD employees. If the caller's question was more complicated, he or she would be transferred over to phones through the main call center. This secondary call center was open from April 8 to September 11.

Just a few weeks after ESD closed the secondary call line in early September, the federal Lost Wages Assistance program was launched. This program replaced some of the federal unemployment compensation for programs that had expired. Once the new funding became available, calls began rising almost immediately and quickly reached nearly 200,000 a week. Through the end of the year, call volume varied considerably but remained at an elevated level. Call volume again reached nearly 200,000 calls in late November after the governor announced new restrictions on gatherings, travel and businesses to prevent the spread of COVID-19 around the holiday season.

ESD's main call center is staffed by the same people who processed unemployment insurance claims. The more calls these people answered, the less time they had to process claims. To give staff time to catch up on claims, ESD decided to shut down the main call center to incoming calls from June 24 to July 17. Other lines, including the secondary call line and the Secure Access Washington accounts help line, remained open. ESD took a similar measure in October, when it reduced call center hours to allow staff to work on processing claims.

To mitigate some of these issues, ESD added a "request callback" option to its call center. This feature allowed call center staff to offer callers who needed complex assistance the opportunity to request a callback later. The number of people offered this was capped at 500 requests a day. This feature allowed more people to get through by slightly reducing the time other callers remained on hold.

ESD opened a new claims center in November. Managers said they moved some existing specialists from the other claims centers to work in the new center. In addition, they hire new staff every two to four weeks. The Consolidated Appropriations Act, 2021 (also known as the CARES Act 2), which was passed by Congress on December 21, 2020, means ESD expects to see call numbers once again spike and then fall.

At the same time, online queries through the ESD website increased by more than 30 times

ESD also operated a web message service to help people who could not reach an agent by telephone. Mirroring the increase in calls, the volume of incoming web messages increased by more than 3,000 percent from March 7 to April 25. By late August, web message response times exceeded 60 days, meaning that the average message responded to on August 22 had been sent to ESD in late June.

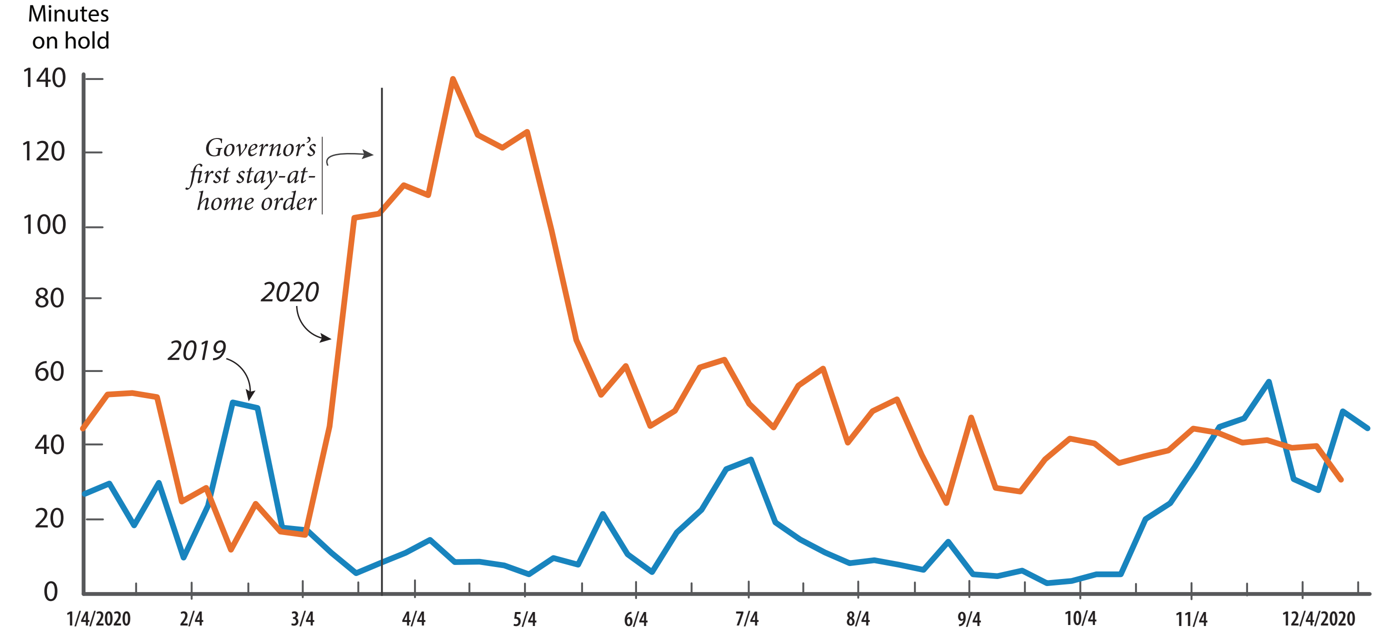
The huge increase in call volume caused long hold times or prevented telephone access entirely

Hold times were long through most of 2020

The increase in call volume led to long hold times and limited people's ability to reach ESD to ask their questions. Average hold times for weeks in 2019 and early 2020 were typically around 15 minutes, though there was considerable variance; weekly average hold times ranged from two minutes to nearly 60 minutes. From March 7 to 21, hold times increased nearly 600 percent to an average of more than 100 minutes. Hold times continued to rise for several weeks afterward before peaking at 140 minutes – just over two hours – on April 18.

As **Exhibit 10** on the following page shows, hold times eventually returned to more normal levels at the end of the year, and were actually less than the same period in 2019 in early December. However, this was not necessarily because fewer people called, but because ESD chose to prioritize shorter hold times over the number of calls actually getting through to an agent. ESD sets an algorithm for the call center based on the number of people answering phones, and adjusts that ratio periodically to either increase or decrease the number of calls the system will allow into the hold queue. While this resulted in shorter hold times for those who got through, it meant fewer people got into the queue.

Exhibit 10 – Average time customers spent on hold at ESD Call Center, 2019 compared to 2020



Source: Data provided by Employment Security Department.

However, because the number of calls exceeded the call center's technical capacity, most calls in early and late 2020 were never answered

High call volumes also led to a huge drop in the percentage of callers who were actually able to speak to an agent. Some callers simply gave up and abandoned the call. Most calls resulted in a recorded message informing the caller that ESD was experiencing high call volumes and could not take their call. The answered-call rate dropped from around 85 percent in early March to only 6 percent by March 21. As ESD increased staffing and the number of incoming calls fell, the answered-call rate rose through the summer, but it dropped again from September through the end of the year. This coincided with ESD's decision to prioritize shorter hold times and elimination of the secondary call center.

The majority of callers who were unable to speak to an agent were not placed in a queue because the number of callers exceeded the capacity of ESD's call center holding queue. The number of callers placed into the queue is determined by how many staff are available to handle calls and the duration of calls. During some of the peak periods, more than 90 percent of all calls resulted in people not able to get through at all. Even as ESD increased staffing, its preference for managing wait times held the answered-call rate down. Further affecting the issue of unanswered calls, ESD had begun returning staff who do not usually work on claims out of the call center back into their normal jobs by the late fall.

ESD said the agency is continuing to hire staff as long as the need exists. However, because new employees process claims in addition to answering calls, it takes time to ensure they have the knowledge and expertise to give claimants correct information about new or changing programs.

Other states also struggled to deliver customer service in their unemployment programs during the pandemic

Many other states also experienced dramatic increases in the number of calls as the number of unemployed people skyrocketed. Many states reported insufficient resources to handle the volume of claims when the surge in claims began. For example, calls to Iowa's state workforce agency rose from 800 to 28,000 a day over the course of March, while Michigan's agency received 150,000 calls a day at its peak. An audit in Wisconsin found that less than 1 percent of the 41 million calls to its workforce agency call centers were answered.

States responded to the increase in demand for help by adding more staff, expanding call center hours, using virtual assistant tools, and asking customers to call on certain days. Some implemented callback systems to have their employees call claimants with complex issues directly. They did so to ensure that experienced employees were devoted to processing claims, allowing newer staff to focus on more basic tasks that could be completed quickly.

State Auditor's Conclusions

COVID-19 and the efforts to control its spread created an unprecedented surge in unemployment claims, both in Washington and nationwide. State unemployment agencies across the country were overwhelmed by the volume of claims, and Washington's Employment Security Department (ESD) was no different. In the early stages of the unemployment surge, ESD's primary focus was on paying claims quickly in an effort to provide financial relief to Washingtonians who had been affected economically by the pandemic.

By the middle of May 2020, ESD realized that bad actors had capitalized on the surge in claims, the state's efforts to pay those claims quickly, and looser requirements for a new federal unemployment benefits program. These factors led to a massive imposter fraud unlike anything Washington had ever seen. When ESD implemented new controls to detect suspicious claims, it helped control the fraud but also significantly increased the time it takes to provide benefits.

A year into the pandemic, ESD still is struggling to manage the customer service demands it faces. Since late fall of 2020, ESD's call center has only been able to handle a small share of the volume of calls it has received from Washingtonians trying to get answers about their claims. ESD officials have said they are taking steps to address this, but it has not been enough. With more federal funds for COVID relief on the way in 2021, another wave of claims seems likely and the agency's ability to handle the volume of calls is of concern. Improvements to the customer service experience are necessary to restore public confidence in the benefit system.

Recommendations

ESD has already taken steps to restructure and expand its fraud program and to hire additional staff to address concerns about customer service. We make no additional formal recommendations, but strongly encourage ESD to continue its efforts to address these issues.

Agency Response

STATE OF WASHINGTON

April 12, 2021

The Honorable Pat McCarthy
Washington State Auditor
P.O. Box 40021
Olympia, WA 98504-0021

Dear Auditor McCarthy:

Thank you for the opportunity to review and respond to the State Auditor's Office performance audit report on Washington's Unemployment Benefit Programs in 2020: Understanding improper payments and service delays during the COVID-19 pandemic. The Employment Security Department (ESD) and Office of Financial Management (OFM) worked together to provide this response.

We appreciate that the performance audit report recognizes the extreme scope, scale and complexities of challenges the pandemic posed for unemployment insurance systems across the country. We also appreciate that the audit team spent considerable time and effort to fully understand the difficult situation the pandemic created here in Washington.

Some of the factors that contributed to the fraud were unintended consequences of decisions made to help those in need of relief – such as using the financial incentives provided in the federal CARES Act that required payment of pandemic unemployment assistance (PUA) upon claimants' self-certification and without documentation.

As the report acknowledges, while Washington was the first state to report massive UI fraud, many other states experienced fraud in their programs. Some states only reported the number of claims stopped, and not the fraudulent payment amounts. Other states chose not to discuss their losses publicly at all.

We are proud of the transparency ESD has provided throughout this crisis — to the public and to the SAO, the U.S. Department of Labor and its Office of Inspector General (OIG), the Social Security Administration's OIG, the Federal Bureau of Investigation, the Washington State Attorney General's Office, the National Association of State Workforce Agencies, and financial institutions in Washington and across the country. As your previous audit noted, ESD played a national leadership role both in preventing further unemployment fraud loss in Washington and in assisting the federal government and other states in preventing the loss of billions of dollars in benefits.

It's also important to note that, as we review what took place and take corrective actions, our estimates of how much money was stolen through fraudulent claims and how much was recovered will continue to change. In addition, while the report also states that the unemployment insurance fraud could create some costs for businesses, we believe that is unknown at this point.

And while we may have different assessments on some items — for example, the role the waiting week played in the overall fraud — we generally agree on the conclusions. The controls, countermeasures and steps the department has taken to adapt to this ever-changing crisis and address the unprecedented impostor fraud attack were the right ones. We will continue to review and improve these measures. These steps have limited the fraud and improved the customer experience for people filing unemployment claims, who continue to be our highest priority.

Cabinet Response to SAO Performance Audit
April 12, 2021
Page 2 of 2

Please thank your team for their collaborative approach throughout this performance audit.

Sincerely,

Cami Feek
Acting Commissioner
Employment Security Department

David Schumacher
Director
Office of Financial Management

cc: Jamila Thomas, Chief of Staff, Office of the Governor
Kelly Wicker, Deputy Chief of Staff, Office of the Governor
Keith Phillips, Director of Executive Policy Office, Office of the Governor
Patricia Lashway, Deputy Director, Office of Financial Management
Christine Bezanson, Director, Results Washington, Office of the Governor
Tammy Firkins, Performance Audit Liaison, Results Washington, Office of the Governor
Scott Frank, Director of Performance Audit, Office of the Washington State Auditor
Phil Castle, Interim Deputy Commissioner, Employment Security Department

Appendix A: Initiative 900 and Auditing Standards

Initiative 900 requirements

Initiative 900, approved by Washington voters in 2005 and enacted into state law in 2006, authorized the State Auditor's Office to conduct independent, comprehensive performance audits of state and local governments.

Specifically, the law directs the Auditor's Office to "review and analyze the economy, efficiency, and effectiveness of the policies, management, fiscal affairs, and operations of state and local governments, agencies, programs, and accounts." Performance audits are to be conducted according to U.S. Government Accountability Office government auditing standards.

In addition, the law identifies nine elements that are to be considered within the scope of each performance audit. The State Auditor's Office evaluates the relevance of all nine elements to each audit. The table below indicates which elements are addressed in the audit. Specific issues are discussed in the Results and Recommendations sections of this report.

I-900 element	Addressed in the audit
1. Identify cost savings	**No.** While this audit did not estimate potential cost savings, it does help to inform the Employment Security Department (ESD) of ways to prevent the loss of funds in the future.
2. Identify services that can be reduced or eliminated	**No.** Unemployment benefits are a federal requirement and cannot be eliminated.
3. Identify programs or services that can be transferred to the private sector	**No.** The audit identified factors contributing to delayed and improper payments, but did not perform an entire program review or make recommendations that programs or services be transferred to the private sector.
4. Analyze gaps or overlaps in programs or services and provide recommendations to correct them	**Yes.** Although the audit did not issue recommendations, it reviewed agency policies and procedures to identify gaps and overlaps that contributed to fraudulent unemployment payments.
5. Assess feasibility of pooling information technology systems within the department	**No.** The audit is focused on a specific and unique program, which uses one large IT system to manage operations.

I-900 element	Addressed in the audit
6. Analyze departmental roles and functions, and provide recommendations to change or eliminate them	**No.** The audit did not address roles or functions of the Unemployment Insurance program.
7. Provide recommendations for statutory or regulatory changes that may be necessary for the department to properly carry out its functions	**No.** The audit does not make recommendations; rather, it provides a discussion of the causes of the fraud and customer service delays that occurred in the Unemployment Insurance program during the pandemic.
8. Analyze departmental performance data, performance measures and self-assessment systems	**Yes.** The audit examined customer service data to understand delays in payments and call center responses.
9. Identify relevant best practices	**No.** The audit did not look at best practices to improve agency efficiency or effectiveness.

Compliance with generally accepted government auditing standards

We conducted this performance audit under the authority of state law (RCW 43.09.470), approved as Initiative 900 by Washington voters in 2005, and in accordance with generally accepted government auditing standards as published in *Government Auditing Standards* (July 2018 revision) issued by the U.S. Government Accountability Office. 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.

The mission of the Office of the Washington State Auditor

To provide citizens with independent and transparent examinations of how state and local governments use public funds, and develop strategies that make government more efficient and effective. The results of our work are widely distributed through a variety of reports, which are available on our website and through our free, electronic subscription service. We take our role as partners in accountability seriously. We provide training and technical assistance to governments and have an extensive quality assurance program. For more information about the State Auditor's Office, visit www.sao.wa.gov.

Appendix B: Scope, Objectives and Methodology

Scope

This audit evaluated the response of the Employment Security Department (ESD) to the surge in unemployment claims that occurred during the COVID-19 pandemic. In particular, we focused our analysis on the large scale fraud that occurred, and the customer service response to an unprecedented volume of claims beginning in March 2020.

The audit period included March to December 2020, and we obtained information and data from calendar year 2019 for comparison purposes. Our audit evidence came from data analysis, interviews, and review of documents provided by ESD.

Objectives

This audit sought to understand the reasons behind both the payments on fraudulent claims and the difficulties some claimants experienced in receiving timely disbursements and customer service. The audit examined whether Washington has opportunities to learn from these experiences to help avoid problems that result from a sudden surge in unemployment claims in the future. The audit answered the following questions:

1. What led to the state's substantial payments to fraudulent unemployment claimants during the pandemic?
2. What was the extent of customer service difficulties for unemployment claimants during the pandemic, and what were the factors that contributed to them?
3. How did ESD's pandemic response compare to other state workforce agencies?

Methodology

Objective 1: What led to the state's substantial payments to fraudulent unemployment claimants during the pandemic?

To address this objective, we sought to understand what tools ESD had in place before, during and after imposter fraud was discovered, any changes to those tools made during the audit period, and the extent of imposter fraud that occurred. To do this, we completed the following tasks.

- To understand what controls were in place before, during and after imposter fraud, we conducted interviews with ESD and file reviews.
- We reviewed state and federal guidance during the audit period that affected ESD's controls to prevent and detect fraud.
- We analyzed data provided by ESD on known and probable fraudulent payments from March through November 2020. We also analyzed data from January 2019 through February 2020 to compare the amount of fraud that occurred prior to and during the audit period.

Objective 2: What was the extent of customer service difficulties for unemployment claimants during the pandemic, and what were the factors that contributed to them?

To address this objective, we looked at ESD's staffing, call center data, and claims data. We sought to understand how adequately ESD was staffed to handle the surge in claims, what customers experienced when they called in for help with their filings, and the time it took for ESD to make payments.

To understand how adequately ESD was staffed, we conducted interviews with ESD leadership to understand how staff were shifted around the agency and borrowed from other agencies to respond to the surge in claims and fraud in 2020 and how decisions were made on staffing. We also analyzed state human resources data to understand how extensively ESD used overtime and new hires. We used that same human resources data to determine which job types ESD increased hiring in, including both job classes and the distribution of temporary and permanent staff. We also compared those staffing levels to publicly available information on the total number of new claims to estimate the workload per employee.

To understand the operations of the call center, we interviewed ESD staff who run the call centers, and asked ESD for its data representing the number of calls made to ESD, the number answered, and the hold times that customers experienced. These were weekly totals and do not reflect what may have been the case at any given moment. We also acquired information on the web messages sent and received and the time of the average responses for each week.

To understand how quickly ESD made payments to recipients, we acquired data similar to data that ESD had sent to the U.S. Department of Labor for payment times that included the dates of the first payment made and the date that the person applied for unemployment. We calculated the days between those two dates and categorized each claim into a payment week to determine how many fell into payment time categories consistent with categories used by the Department of Labor. Unlike the information put out by the Department of Labor, this included Pandemic Unemployment Assistance (PUA) payments. We observed that some of this data included payments that appear to have been made prior to the application. This was because when a person's claim changes from one program or claim to another, the ESD claims management system moves the initial claim date to the date of the reclassification. Because of this, we dropped the negative payment times from the analysis. This constituted less than 1 percent of claims. We also observed that this happened in some claims that had positive payment times. We cannot, however, be certain of the full extent of this issue on the overall dataset because we could not identify all the claims that were reclassified. As part of this analysis, we also interviewed ESD staff about the reasons that some claims take a long time and the types of factors that can slow down the payment of a claim.

Objective 3: How did ESD's pandemic response compare to other state workforce agencies?

To address this objective, we sought to understand how other states were affected by increasing claims, imposter fraud and customer service issues during the pandemic. To do this, we reviewed media articles on other state unemployment insurance programs from March through December 2020. We also analyzed data from the Department of Labor to understand how increasing claims affected payment timeliness in Washington and other states.

Work on internal controls

Internal controls were significant for only Objective 1. For that objective, we looked at the various tools ESD uses to detect and prevent fraud in its Unemployment Insurance program. We found these internal controls to be insufficient to combat imposter fraud as described on pages 24-28. Additional internal control work relevant to this audit objective was addressed by our IT Audit team; their report will be published in spring 2021.

Reporting confidential or sensitive information

We have excluded some details of the fraud controls ESD uses to detect and prevent fraud, including additional measures the agency added after discovering widespread imposter fraud. This information was excluded from the report to avoid potential vulnerabilities that could be exploited by bad actors. The exclusion of these details should not have a significant effect on readers' interpretations of the evidence or the conclusions they might draw.

"Our vision is to increase **trust** in government. We are the public's window into how tax money is spent."

– Pat McCarthy, State Auditor

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